

**CITY OF NEW BERLIN  
PROCEEDINGS OF THE COMMON COUNCIL  
Tuesday, August 26, 2008**

**Please note: Minutes are unofficial until approved by the Common Council at the next regularly scheduled meeting.**

Mayor Jack F Chiovaturo called the City of New Berlin Common Council Meeting to order at 9:58 PM after Committee of the Whole and Privilege of the Floor.

**ROLL CALL:** Present were Aldermen Hopkins, Wysocki, Seidl, Harenda, Poshepny, Moore and Ament. Also present were: City Clerk Marilyn Gauger, City Attorney Mark Blum, Human Resource Director Tami Potkay, Community Development Director Greg Kessler, Fire Chief Ed Dobernig, Assistant Fire Chief Fred Schultz, Planning Services Manager Nikki Jones and Associate Planner Amy Bennett.

Those present recited the Pledge of Allegiance and stood for a moment of silence.

**REPORTS**

City Clerk – The Partisan Primary Election is Tuesday, September 9<sup>th</sup>. If you need to register or desire to absentee vote please come to the City Clerk's office by Friday, September 5.

Council President - Budget meetings will be confirmed for sometime in September.

Mayor - none

City Attorney - none

**COMMUNICATIONS - none**

**PLAN COMMISSION**

**Ordinance No. 2391 that approves the rezoning of property known as TDB LLC Town Realty located at 16415 W. Beloit Road**

Motion by Alderman Ament to adopt Ordinance No. 2391 that approves the rezoning of property known as TDB LLC Town Realty located at 16415 W. Beloit Road from R-4 to M-1 and accepts the Plan Commission Report. Seconded by Alderman Wysocki.

City Attorney Blum indicated a Protest Petition was filed by 3 individuals regarding the rezoning. One of the three individual owns 33.2% which exceeds the 20% which triggers the requirement of 6 affirmative votes required to adopt the ordinance for rezoning.

Upon voting the motion carried with Alderman Moore voting no.

**Ordinance No. 2392 that approves the rezoning of the property known as Jodi Kornak & Chris White located at 13335 W. Eagle Trace**

Motion by Alderman Ament to adopt Ordinance No. 2392 that approves the rezoning of the property known as Jodi Kornak & Chris White located at 13335 W. Eagle Trace from R-3 and C-2 to R-3 and C-2 to field delineate the wetlands and accept the Plan Commission Report. Seconded by Alderman Moore and carried with Alderman Wysocki voting no..

**Public hearing on September 15, 2008 before the Plan Commission regarding the new FEMA adopted base flood elevation maps and FIS**

Motion by Alderman Ament to Direct the Department of Community Development, City Attorney and Mayor hold a public hearing on September 15, 2008 before the Plan Commission regarding the new FEMA adopted base flood elevation maps and FIS and accept the Plan Commission Report. Seconded by Alderman Harenda and carried unanimously.

**UTILITY COMMITTEE**

**First Amendment to the Water Service Agreement and the Intergovernmental Agreement**

Discussion and possible action on the resolution to accept the recommendation of the Utility Committee and to approve the First Amendment to the Water Service Agreement and the Intergovernmental Agreement with the City of Milwaukee to provide Lake Michigan water to the extended lake water service area.

Motion by Alderman Harenda to approve Resolution No. 08-26 (which approves both agreements). Seconded by Alderman Hopkins and carried unanimously.

**FIRE DEPARTMENT**

**Award 8 sub-contracts for construction of fire station on Racine Avenue: Site Utilities, Earthwork & Site Clearing, Paving, Site Concrete, Building Concrete, Masonry, Structural & Miscellaneous Steel and Rough Carpentry**

Motion by Alderman Harenda to defer these items to gather additional information. Seconded by Alderman Moore and carried unanimously.

**MAYORAL APPOINTMENTS - none**

**DEFERRALS, REFERRAL & TABLED ITEMS**

**Resolution No. 07-29 to approve SEWRPC's Year 2035 Transportation Plan for the region and accept the Plan Commission Report/TABLED 11-13-07**

*No action taken.*

**Resolution No. 08-24 Adopting the Salary Range Assignments for Civil Service and Non- Represented Positions/REFERRED TO CIVIL SERVICE COMMISSION/8-12-08**

*Resolution No. 08-24 originally had three (3) positions included. They were: Administrative Services Manager – Fire Department; Deputy Assessor and HR/Safety Administrator. One (1) of the positions, HR/Safety Administrator was removed and Resolution No. 08-24 was approved at Council on August 12, 2008. The position that was removed, HR/Safety Administrator was referred back to Civil Service Commission.*

*The recommendation from Civil Service Commission for that one (1) position: HR/Safety Administrator came forth as Resolution No. 08-27.*

Motion by Alderman Harenda to approve Resolution No.08-27. Seconded by Alderman Hopkins and carried unanimously.

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**CONSENT AGENDA**

Motion by Alderman Seidl to approve all of the following items listed on the amended Consent Agenda. Seconded by Alderman Moore and carried unanimously.

**MINUTES** - Common Council minutes from August 12, 2008

**UTILITY AND FINANCE**

- Water Utility claims in the amount of \$90,051.58, Sewer Utility claims in the amount of \$38,297.77, and Bi-weekly claims in the amount of \$788,742.81, all of which represents payment to vendors

**LCENSES & PERMITS**

**Bartenders**

- Bartender License for the year 2008-2010 to Brian Bennewitz, Chelsea Hermann, Peggi Johnson, Richard Schemberger, and Pauline Utpatel.

**MISCELLANEOUS**

**Resolution from Finance**

- Resolution No. 08-25 A Resolution Transferring Funds From Contingency to Fire Department Accounts

**Reconsideration of Sidepath and Trail Inspection and Maintenance Policy**

- Reconsideration of approval of the revised Sidepath and Trail Inspection and Maintenance Policy with the following amendments: Section A. page 6: change 24 hours to 72 hours; the last sentence to read as follows: "However, single family homeowners shall not be required to clear snow and ice from sidepaths that abut their property lines if they pre-existed prior to the enactment of Ordinance No. 2367; and eliminate Section D/Alderman Moore. **The reconsideration of this motion did not change the approval.**

**DEFERRED, REFERRED & TABLED ITEMS**

- Common Council approves any pay or benefit increases before they go into affect. Instruct the City Attorney to draw up a resolution or ordinance (whichever is appropriate) to be approved at the next Common Council meeting/REFERRED TO FINANCE COMMITTEE/5-13-08
- Refer The Changing Of The Regular BPW Monthly Meeting Date And Time From The First Monday Mornings Of The Month At 8:00AM To The Evening Of The 3<sup>rd</sup> Wednesday Of The Month At 6:00PM To The BPW For Their Discussion And Recommendation Back To The Common Council/Alderman Ament/REFERRED TO BOARD OF PUBLIC WORKS/8-12-08
- Adoption of Water and Sewer Urban Service Area Boundaries/REFERRED TO PLAN COMMISSION/8-12-08
- Adoption of "Three-Quarters" Majority Vote For Any Future Extension of Water and Sewer Outside Established New Berlin Urban Service Area Boundary (NBUSAB). These Boundaries Are To Be Adopted Within The Next 60 Days By The New Berlin Common Council/TABLED 8-12-08

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**ITEM/S REMOVED FROM CONSENT AGENDA**

**Bartenders**

Motion by Alderman Hopkins to approve the Appeal of 2008-2010 Bartender License denial for Justin Thelen. Seconded by Alderman Seidl and carried with Aldermen Wysocki, Poshepny and Moore voting no.

**Extension of Premise for Mustang Shelly's**

Motion by Alderman Hopkins to approve the Extension of Premise for Mustang Shelly's Roadhouse Ltd at 18540 W National Avenue for Saturday, October 11, 2008 for a Garden Tractor/ATV Pull from 9AM to 6PM and outdoor drinking from 9AM to 10PM. Seconded by Alderman Harenda and carried with Alderman Moore voting no.

**Early Retirement Package for Civil Service employees**

Motion by Alderman Hopkins to approve the Early retirement package for civil service employees that retire between September 15, 2008 and December 31, 2008 with specific criteria. Seconded by Alderman Moore and carried with Aldermen Wysocki and Ament voting no.

**Direct the City Attorney to Prepare the Final Resolution for the Howard Avenue Special Assessment Sewer Project**

Motion by Poshepny to direct the City Attorney to prepare the Final Resolution for the Howard Avenue Special Assessment Sewer Project using the Assessed Value Land method; waiving the connection fee of \$2,204 basis was the waiver of the connection fee of the Beloit Road Sewer Project; and amend the approval of the Engineer's Report to provide for a total assessment of \$24,294.95 which would include the assessments shown on page 4 under Section D of the policy which would be the ones listed that Alderman Poshepny read previously plus the lateral assessment of \$1,815 per parcel and in addition a 1% administration fee would be added to that total and that total then would be the assessment that may be paid under ten (10) annual equal installments at the rate of 5% per annum after the 1<sup>st</sup> ninety (90) days. Seconded by Alderman Moore and carried with Aldermen Poshepny and Moore voting no.

Motion by Alderman Wysocki to continue the meeting for 30 minutes per Council Rules. Seconded by Alderman Seidl and carried unanimously.

**ORDINANCES/RESOLUTIONS - none**

*City Clerk Gauger read the following:*

**CLOSED SESSION**

**The basis for the items to be discussed in Closed Session are as enumerated in Section 19.85 (1) (g) of the Wisconsin State Statutes.**

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**Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, more specifically:**

- **Barrett Landfill vs City of New Berlin**
- **Daniel Williams Claim**

Motion by Alderman Wysocki to go to Closed Session at 11:21 PM. Seconded by Alderman Seidl and carried unanimously.

Motion by Alderman Wysocki to reconvene to Open Session at 11:36 PM. Seconded by Alderman Hopkins and carried unanimously.

**RECONVENE TO OPEN SESSION**

**Discussion and possible action on Daniel Williams Claim**

Motion by Alderman Seidl to approve the Daniel Williams Claim in the amount of \$150.12. Seconded by Alderman Wysocki and carried unanimously.

**ADJOURN**

Motion by Alderman Seidl to adjourn at 11:37 PM. Seconded by Alderman Wysocki and carried unanimously.

Respectfully submitted:

Marilyn Gauger, MMC/WCMC  
City Clerk