

**CITY OF NEW BERLIN
PROCEEDINGS OF THE COMMON COUNCIL MEETING
Tuesday, January 17, 2006**

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

Mayor Jack F Chiovatero called the City of New Berlin Special Called Common Council Meeting to order at 7: 00 PM.

This meeting was noticed on January 16, 2006 in accordance with the Open Meeting Law.

Those present recited the Pledge of Allegiance.

ROLL CALL: Present were Aldermen Hopkins, Augustine, Gallagher, Harenda, Hegeman, Moore and Ament. Also present were: City Attorney Mark Blum, City Clerk Marilyn Gauger and Planning Services Manager Nikki Jones.

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, 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 the rezoning petition of Crossroads Community Church.

Motion by Alderman Hegeman to go to Closed Session at 7:03 PM. Seconded by Alderman Moore and carried unanimously by roll call vote.

Motion by Alderman Ament to reconvene to Open Session at 7:15 PM. Seconded by Alderman Hegeman and carried unanimously.

City Attorney Mark Blum indicated since the last Council meeting where we went into a second Closed Session, we have received an objection to the validity of that action and as a result of that and after review of the objection I have advised the Mayor and also the Council that we – in order for there to be no question with respect to the validity of the actions taken that the appropriate course of action would be to have another special Council meeting to deal with the matters that took place after the second closed session. So for purposes of the discussion of this evening those matters that were taken at the meeting last Tuesday subsequent to the second closed session, are for purposes of the actions of the City, void and therefore we are picking up with the matters that are before you following the second closed session from last Tuesday's agenda.

OPEN SESSION

Discussion and possible action on the following items:

TABLED ITEM:

Referral of Ordinance No. 2293 to rezone the property known as Crossroads Community Church to the Plan Commission and staff to assist the church with building the church within our codes and ordinances.

Motion by Alderman Moore to remove the referral to Plan Commission from the table. Seconded by Alderman Hegeman and carried unanimously.

Following is the original motion that was tabled:

Motion by Alderman Harenda to refer Ordinance No. 2293 to rezone the property known as Crossroads Community Church to the Plan Commission and staff to assist the church with building the church within our codes and ordinances. Seconded by Alderman Ament.

Upon voting motion failed with Alderman Harenda voting yes.

RECONSIDERATION

Waiver of the requirement in Council Rule #29 that motions to reconsider be conducted at the next regular Council Meeting to allow for a vote of reconsideration at this meeting.

Motion by Alderman Gallagher to waive the requirement in Council Rule #29 for this matter only. Seconded by Alderman Hopkins and carried unanimously.

Request by Alderman Harenda to reconsider his vote with respect to the approval of Ordinance No. 2293.
Motion by Alderman Harenda to reconsider his vote. Seconded by Alderman Hegeman and carried unanimously.

The Council did not go into this second Closed Session therefore Open Session continued.

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 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 the rezoning petition of Crossroads Community Church.

OPEN SESSION

Ordinance #2293 that approves the rezoning of property known as Crossroads Community Church located at 4315 S Moorland Rd from R-3 to I-1.

Motion by Alderman Hegeman to adopt Ordinance No. 2293. Seconded by Alderman Hopkins and carried with Alderman Ament voting no.

Note: A super majority vote (6 of the 7 Aldermen vote in the affirmative) was required for the rezoning to pass. The rezoning passed with a 6 to 1 vote.

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CONSENT AGENDA

Motion by Alderman Ament to approve the following consent agenda items. Seconded by Alderman Augustine and carried unanimously.

MINUTES – December 13, 2005

UTILITY AND FINANCE

From December 28, 2005

Approval of Water Utility claims in the amount of \$520,525.33 Sewer Utility claims in the amount of \$346,864.08, of that amount \$285,042.09 represents payment to MMSD and Bi-weekly claims in the amount of \$384,963.21 all of which represents payment to vendors. Also, there are tax overpayments in the amount of \$54,892.79.

For January 11, 2006

Approval of Water Utility claims in the amount of \$16,144.98 Sewer Utility claims in the amount of \$10,784.91 and Bi-weekly claims in the amount of \$501,824.36 all of which represents payment to vendors. Also, there are tax overpayments in the amount of \$121,566.20.

LICENSES/PERMITS

Bartender Licenses

Approval of Bartender License for the year 2005-2007 for Nicole Marie Van Scoy, Tanya Marie Phillips, Ilene Marie Ramirez, Nicole Lelah Mesich, Tanya Marie Mena, Troy Matthew Windorff, Charles Glen Ziemer, Marjorie A Bukiewicz, Kevin Michael Boger, Josie Anne Peterson, Sarah E. O'Keefe, Kyle A. Ervin and Joe John Filip.

MISCELLANEOUS

Resolution No. 06-01 TRANSFER FUNDS FROM THE CONTINGENCY ACCOUNT TO THE STREET DEPARTMENT CALCIUM CHLORIDE/SALT ACCOUNT. *(No action taken and removed from the agenda)*

Resolution No. 05-56 RESOLUTION VACATING AND DISCONTINUING BLOM STREET IN THE CITY OF NEW BERLIN.

Public Hearing date of Tuesday, February 14, 2006 at 7:00 PM for the vacation and discontinuing of the emergency access way in the Karrington Woods Subdivision.

Reassignment of Water Resource Management Division (Utility) from Department of Utilities and Streets to Department of Community Development.

Dedication/use of land for Veterans Memorial at the northeast corner of Casper Drive and National Avenue.

Public Hearing date for Monday, February 6, 2006 at 6:00 PM before Plan Commission for a petition to rezone property located at 2815 South Calhoun Road and 17301 W Cleveland Avenue from O-2 & R-3 to M-1.

DEFERRED/TABLED ITEMS

None.

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ITEM/S REMOVED FROM CONSENT AGENDA

Direct Sellers Permit

Motion by Alderman Hopkins of an appeal of denial pursuant to Section 152-5 F of the Municipal Code/Michael Stempel for Weather Tight Corp and direct the City Clerk to issue the license. Seconded by Alderman Hegeman and carried with Alderman Gallagher and Alderman Ament voting no.

Declaration of Official Intent for the 2006 CIP Debt Issue

Motion by Alderman Augustine to authorize the Director of Finance and IT to sign the Declaration of Official Intent for the 2006 CIP Debt Issue. Seconded by Alderman Moore and carried with Alderman Hegeman voting no.

ORDINANCES/RESOLUTIONS

Ordinance No. 2291 Ordinance to Amend Section 152-15(B)(2) Alarm Systems – Permit Fee (3rd reading)

Motion by Alderman Hegeman to adopt Ordinance No. 2291. Seconded by Alderman Harenda and carried with Alderman Ament voting no.

Ordinance No. 2292 Ordinance to Amend Section 267-10(A)(1) and (2) Utility Service Standards of the Municipal Code of the City of New Berlin (3rd reading)

Motion by Alderman Ament to remove the last sentence in Section 1. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Hopkins to adopt Ordinance No. 2292. Seconded by Alderman Hegeman and carried with Alderman Moore voting no.

Ordinance No. 2297 Ordinance to Amend Chapter 198-1 of the Municipal Code of the City of New Berlin (Disposal of Abandoned Property) (1st reading)

Mayor Chiovatero indicated this is the 1st reading.

DEPARTMENT OF HUMAN RESOURCES

Ratification of the New Berlin Professional Police Association contract.

Motion by Alderman Hegeman to approve the ratification of the New Berlin Professional Police Association contract. Seconded by Alderman Hopkins and carried unanimously.

ADJOURN

Motion by Alderman Ament to adjourn 7:44 PM. Seconded by Alderman Hopkins and carried unanimously.

Respectfully submitted:

Marilyn Gauger, CMC
City Clerk