

CITY OF NEW BERLIN  
PROCEEDINGS OF THE COMMON COUNCIL  
Tuesday, June 13, 2006

**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 8:15 PM after the Committee of the Whole and Privilege of the Floor.

***This meeting was noticed on Thursday, June 8, 2006 in accordance with the Open Meeting Law.***

Those present recited the Pledge of Allegiance.

#### **REPORTS**

City Clerk – none

Council President – none

Mayor – Spoke of the Mayor's Conference he attended last week. There were over 300 mayors and the agenda was 44 pages long which kept them very busy. He worked with 5 other mayors from Wisconsin plus other mayors across the country. He met with vendors and obtained information on tazers for the Police Department. He is on 2 committees: Energy and Tourism.

City Attorney - none

#### **COMMUNICATIONS**

Christine Chialiva – referred to City Attorney

#### **PLAN COMMISSION**

**Ordinance No. 2316 that denies the rezoning of property known as Tiziani located at 4485 S. Racine Avenue to amend the previously approved Q-1/PUD Ordinance No. 1046 to more accurately reflect the legal description of the property and to include additional permitted uses for Lot 1 only with the Q-1/PUD for Parcel No. 1231.996.003**

Motion by Alderman Ament to adopt Ordinance No. 2316 and accept the Plan Commission Report. Seconded by Alderman Harenda.

Motion by Alderman Gallagher to refer back to Planning. Seconded by Alderman Moore and carried with Alderman Harenda and Alderman Ament voting no.

**Ordinance No. 2317 that approves the rezoning of property known as TRD Real Estate located at 17910 W. Observatory Road from R-1/R-2 & C-1 to R-1/R-2 & C-1 to remove and field delineate the C-1 Zoning District**

Motion by Alderman Ament to adopt Ordinance No. 2317 and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

#### **Ridgeview Estates Extraterritorial Plat in the Town of Vernon**

Motion by Alderman Ament that there is no objection to the Ridgeview Estates Extraterritorial Plat and accept the Plan Commission Report. Seconded by Alderman Augustine and carried with Alderman Harenda voting no.

#### **Certified Survey Map for the property located at 12705 W. Forest Drive**

Motion by Alderman Ament to approve the 2-lot Certified Survey Map and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

**Ordinance No. 2318 that approves the rezoning of property known as Honeyager Farrell PUD-Deer Creek Preserve located at 3949 S. Honeyager Lane, 14201 W. Farrell Drive, and 14300 W. Howard Avenue to delineate the wetlands and snake habitat**

Motion by Alderman Ament to adopt Ordinance No. 2318 and accept the Plan Commission Report. Seconded by Alderman Hegeman and carried unanimously.

#### **One-year extension for "Farrell Meadows" Planned Unit Development Ordinance No. 2211 and accept the Plan Commission Report**

Motion by Alderman Ament to approve a one-year extension and accept the Plan Commission Report. Seconded by Alderman Hopkins and carried unanimously.

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### **SPECIAL PROJECTS COMMISSION**

#### **New Berlin 4<sup>th</sup> of July Commission Grant request of \$7,500**

Motion by Alderman Harenda to approve. Seconded by Alderman Hegeman and carried unanimously.

#### **New Berlin Chamber of Commerce Grant request of \$7,500**

Motion by Alderman Hopkins to approve. Seconded by Alderman Hegeman and carried with Alderman Ament abstaining.

#### **New Berlin Historical Society Grant request of \$1,000**

Motion by Alderman Moore to approve. Seconded by Alderman Hegeman and carried unanimously.

#### **NB Parks and Recreation Grant request for "Fright Nite Teen Halloween Party"**

This request was withdrawn and should not be on the agenda per Greg Kessler, Director of Community Development.

### **UTILITY COMMITTEE**

#### **Engineering Agreement for the design, agency approval and project administration services for the radium treatment work to meet the Radium Consent Order**

Motion by Alderman Gallagher to approve the Engineering Agreement with Ruekert & Mielke for the design, agency approval and project administration services for the radium treatment work to meet the Radium Consent Order to reconstruct the City of New Berlin Wells #3, #5 and #7. Seconded by Alderman Harenda and carried unanimously.

### **SAFETY COMMISSION**

#### **Ordinance No. 2313 To Change the Parking Restrictions at Glen Park Elementary School**

Motion by Alderman Hegeman to adopt Ordinance No. 2313. Seconded by Alderman Hopkins and carried with Alderman Ament voting no.

Motion by Alderman Harenda to rescind the above motion. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Hegeman to waive 2<sup>nd</sup> and 3<sup>rd</sup> readings because this was taken up by the Safety Commission. Seconded by Alderman Hopkins and carried with Aldermen Gallagher, Moore and Ament voting no.

Motion by Alderman Hegeman to adopt Ordinance No. 2313. Seconded by Alderman Harenda and carried unanimously.

#### **Ordinance No. 2319 Amend Section 261-2 Vehicles and Traffic of the Municipal Code of the City of New Berlin Regarding the Speed Limit on Barton Road**

Motion by Alderman Hegeman to adopt Ordinance No. 2319. Seconded by Alderman Harenda.

Alderman Hegeman withdrew his motion and Alderman Harenda withdrew his second.

Motion by Alderman Harenda to waive 2<sup>nd</sup> and 3<sup>rd</sup> readings because it was taken up by the Safety Commission. Seconded by Alderman Hegeman and carried with Alderman Gallagher voting no.

Motion by Alderman Hegeman to adopt Ordinance No. 2319. Seconded by Alderman Harenda and carried unanimously.

### **MAYORAL APPOINTMENTS**

#### **Safety Commission**

Motion by Alderman Hegeman to approve the re-appointment of Paul J Rozek with term expiring 4-30-08. Seconded by Alderman Ament and carried unanimously.

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**Youth Advisory Board**

Motion by Alderman Augustine to approve the re-appointment of Elizabeth Carnahan with term expiring 5-31-08. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Gallagher to approve the re-appointment of Danielle Stanczak with term expiring 5-31-08. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Hegeman to approve the re-appointment of Kim Perla with term expiring 5-31-08. Seconded by Alderman Ament and carried unanimously.

Motion by Alderman Ament to approve the appointment of Jennifer Gradel with term expiring 5-31-08. Seconded by Alderman Hegeman and carried unanimously.

**DEFERRALS, REFERRAL & TABLED ITEMS**

**Sts Constantine and Helen Greek Orthodox Church /TABLED 3-15-05**

No action taken. See below.

**Resolution No. 06-11 Establishing Policies For The Use of City Hall Facilities/DEFERRED 3-28-06/TABLED 4-11-06/REFERRED TO COMMUNICATIONS COMMITTEE 4-25-06/ RECONSIDERATION 5-23-06**

Motion by Alderman Harenda to approve Resolution No.06-11. Seconded by Alderman Hopkins.

Motion by Alderman Moore to amend to approve the redline copy (this copy was requested by Alderman Moore and handed out tonight by City Attorney Blum) of the Use of City Hall Facilities Policy. Seconded by Alderman Augustine and failed with Aldermen Augustine, Hegeman and Moore voting yes.

An amendment to the motion was made by Alderman Harenda. After discussion Alderman Harenda withdrew motion.

Upon voting the original motion (to approve the resolution that approves the Policy in Council packet). Motion carried with Aldermen Augustine, Hegeman and Moore voting no.

**Placement of a temporary block or gate at Cottonwood Drive and Wilbur Drive/REFERRED TO BPW AND PLAN COMMISSION**

No action taken. This will be on the next Board of Public Works agenda.

**Award Engineering Agreement for the design work to reconstruct Wells Nos. 3, 5 & 7 to comply with the Radium Consent Order/TABLED 5-23-06**

Motion by Alderman Hopkins to remove from the table. Seconded by Alderman Hegeman and carried unanimously.

Motion by Alderman Hopkins to remove from the agenda (action taken above under Utility Committee). Seconded by Alderman Gallagher and carried unanimously.

**Resolution No. 06-23 To Change The Parking Restrictions At Glen Park Elementary School/TABLED 5-23-06**

Motion by Alderman Hegeman to remove from the table. Seconded by Alderman Harenda and carried unanimously.

Motion by Alderman Hegeman to remove from the agenda (action taken above as an ordinance under Safety Commission). Seconded by Alderman Augustine and carried unanimously.

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**CONSENT AGENDA**

Motion by Alderman Ament to approve the following items listed on the Consent Agenda. Seconded by Alderman Harenda and carried unanimously.

**MINUTES** - Common Council minutes from May 23, 2006.

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**UTILITY AND FINANCE**

Water Utility claims in the amount of \$79,519.09, Sewer Utility claims in the amount of \$16,295.57 and Bi-weekly claims in the amount of \$765,187.96, all of which represents payment to vendors.

**LICENSES/PERMITS**

**Bartender Licenses**

Bartender Licenses for the year 2006-2008 per list as presented.

Bartender Licenses for the year 2006-2008 to Roul Sotero Cirilo, Bethany J. Conn, Emily Ann Kilps, Nicole Colleen Martin, Kari Marie Murphy and Tracy Lynne Zahn.

Renewals from 7-1-06 to 6-30-07 for the following per list as presented: Archery Range, Entertainment – Class A, Entertainment – Class B, Wholesale Beer , Class "A" Malt , "Class A" Retailer, Class "B" Malt, "Class B" Retailer, Theater, Trapshooting.

**MISCELLANEOUS**

Discussion on Greenfield Avenue reconstruction project/no action taken.

Resolution No. 06-15 Amended Resolution in Accordance With Wisconsin Statute Section 66.0703 Authorizing the Levying of a Special Assessment Against Benefited Properties in the Moorland Road Water and Sewer Special Assessment District (*This resolution amends Resolution No. 05-36 per the Public Hearing held 5-23-06*)

Resolution No. 06-22 Amending the 2006 City of New Berlin Operational Budget To Increase the Grant Revenue and Expenditure Accounts Within the Police Department Budget

Resolution No. 06-26 Supporting Agreements Between The City of New Berlin and the Wisconsin State Elections Board Regarding Use of the Statewide Voter Registration System (SVRS)

Resolution No. 06-28 Amending the 2006 City of New Berlin Operational Budget Relating to Wage and Benefit Adjustments For AFSCME, Professional Police Association and Civil Service Employees

Waive the interest and penalties for Gerald A Dlapa for Parcel #'s 1173.060, 1173.061 and 1174.012 (vacant lots).

Resolution No. 06-29 A Resolution Amending the 2006 Approved Operating Budget To Transfer Funds From The Contingency Account to the City Clerk Election Supplies Account.

Contract for Purchase of HAVA compliant voting machines (7) subject to final approval by City Attorney.

Contract for Election Hardware Maintenance of HAVA compliant voting machines (7) subject to final approval by City Attorney.

**DEFERRED/TABLED ITEMS**

**Amendment to "Class B" Retailers License/Extension of Premise and Loud Speaker Permit**

Approved with conditions (see 6-13-06 Committee of the Whole minutes): Jennifer Jones, co-owner of Calhoun Station at 1849 S Calhoun Road and Kevin Larsen, owner of Senor Lunas at 1901 S Calhoun Road for Saturday, September 2, 2006 from 12 Noon to 11 PM and Sunday, September 3, 2006 from 12 Noon to 11 PM for an outdoor music festival with food, beer and liquor and carnival type concessions on the property.

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**ITEM/S REMOVED FROM CONSENT AGENDA**

**Waive the interest and penalties for Gerald A Dlapa for Parcel #'s 1173.060, 1173.061 and 1174.012 (vacant lots).**

Motion by Alderman Gallagher to waive the interest and penalties. Seconded by Alderman Harenda and carried with Alderman Ament voting no.

**ORDINANCES/RESOLUTIONS**

**Ordinance No. 2312 To Amend Section 152-18 Licenses And Permits Of The Municipal Code Of The City Of New Berlin Related To Massage Establishments (2nd reading)**

Mayor Chiovatero indicated this is the 2<sup>nd</sup> reading.

**Ordinance No. 2314 Amend Section 152-1 (D) Licenses And Permits Of the Municipal Code of The City of New Berlin Pertaining To License Fees (1<sup>st</sup> reading)**

Mayor Chiovatero indicated this is the 1<sup>st</sup> reading.

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**Ordinance No. 2315 Create Section 152-20 Licenses And Permits of the Municipal Code of The City of New Berlin Concerning Amusement Devices, Coin Machines and Amusement Distributor/Vendor (1<sup>st</sup> reading)**

Mayor Chiovero indicated this is the 1<sup>st</sup> reading.

**Resolution No. 06-27 Establishing License Fees For Amusement Devices, Coin Machines and Amusement Distributor/Vendor**

Motion by Alderman Moore to table. Seconded by Alderman Harenda and carried unanimously.

**Ordinance No. 2320 To Create Section 124-12 (l) (6) Fire Prevention of the Municipal Code of the City of New Berlin Concerning Restrictions on Property Owners Use of Fireworks (1<sup>st</sup> reading)**

Motion by Augustine to waive the 2<sup>nd</sup> and 3<sup>rd</sup> readings. Seconded by Alderman Hopkins.

Alderman Augustine withdrew his motion. Alderman Hopkins withdrew his second.

*City Clerk Gauger reading 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; Sts Constantine & Helen Greek Orthodox Church and ANR Pipeline for Inez Drive Project Claim.

Motion by Alderman Augustine to go to Closed Session at 10:16 PM. Seconded by Alderman Moore and carried per roll call vote unanimously.

Motion by Alderman Hopkins to reconvene in Open Session at 10:40 PM. Seconded by Alderman Ament and carried unanimously.

**OPEN SESSION**

**Sts Constantine and Helen Greek Orthodox Church/TABLED 3-15-05**

No action taken.

**ANR Pipeline for Inez Drive Project Claim**

Motion by Alderman Harenda to authorize the City Attorney to settle the ANR Pipeline Claim for the Inez Drive Project in an amount not to exceed \$12,586.78. Seconded by Alderman Augustine and carried with Alderman Moore voting no.

**ADJOURN**

Motion by Alderman Augustine to adjourn at 10:43 PM. Seconded by Alderman Hegeman and carried unanimously.

Respectfully submitted:

Marilyn Gauger, CMC/WCMC  
City Clerk