

COMMON COUNCIL

OFFICIAL JOURNAL

Justin M. Nickels, Mayor

April 5, 2010

Jennifer Hudon, City Clerk

The Common Council of the City of Manitowoc, Wisconsin, met in regular session at the Council Chambers in City Hall, on Monday, April 5, 2010. Said meeting was duly called, noticed, held and conducted in the manner required by the Common Council and the pertinent Wisconsin Statutes.

Mayor Justin M. Nickels called the meeting to order at 7:00 p.m. and on roll call the following members were present: Alderpersons Jill Hennessey, Jason Sladky, Dean W. Graunke, Nicholas P. Levendusky, Scott McMeans, Christopher Able, James N. Brey, Raymond T. Geigel, Dave Soeldner and Eric J. Sitkiewitz.

Absent: None.

Pledge of Allegiance.

Invocation.

Minutes of the regular session of March 15, 2010 were approved as distributed by the City Clerk.

City Clerk announced that the various documents have been referred to the appropriate committees as shown on the April 5, 2010 Common Council agenda.

Presentation of 2010 Manitowoc/Two Rivers Discovery Guide by Kathleen Galas, President, Manitowoc Area Visitor and Convention Bureau.

Mayor Nickels presented proclamation declaring April 11-17, 2010 as "Week of the Young Child" in Manitowoc and encourages all citizens to work to make a good investment in early childhood.

Mayor Nickels presented proclamation declaring April 24, 2010 as "Walk MS Day" in Manitowoc.

Mayor Nickels made a presentation to Brian Ruechel, Finance Director/Treasurer, October 11, 1999 - April 9, 2010.

Mayor declared the meeting open for a public hearing for the purpose of hearing any and all interested parties in the matter of a proposed change to the Official Map to eliminate a portion of So. 22nd Street located north of Washington Street (USH 151).

Mayor declared the meeting open for a second public hearing for the purpose of hearing any and all interested parties in the matter of a proposed vacation of a portion of So. 22nd Street public right-of-way located north of Washington Street (USH 151).

City Planner David Less gave an overview of the proposed change to the Official Map as well as the proposed vacation of a portion of So. 22nd Street.

City Planner reported that the notice of the hearings was published in the Herald-Times-Reporter on March 15,

March 22 and March 29, 2010. (Proof of publication is on file in the City Clerk's office.)

No interested parties appeared.

Mayor declared the public hearings closed. (A tape recording of the entire hearing is on file in the City Clerk's office.)

Resolution (10-159) authorizing various appropriations which were budgeted in 2009 for the departments listed therein to be carried forward into the respective 2010 departmental budgets effective as of December 31, 2009, was referred to Finance Committee.

Mayor submitted the following appointments and requested Council confirmation:

Crime Prevention Committee

Donald Stefancic
(Place of L. Scheinoha)
Rick Sieracki, Law Enforcement Officer
(Place of J. Link)

Term

Indefinite

Indefinite

Citizens Physical & Sensory Disability Commission

Pradeep Giriappa, M.D.
(Place of R. Hansen)

Term

Term ending 6/1/2012

Motion by Sitkiewitz, second by Graunke and unanimously carried to confirm the Mayor's appointments. Ayes, 10. Nays, none.

Ordinance (10-153) to amend Section 3.07 of the Manitowoc Municipal Code regarding Board of Public Works, was referred to Streets & Sanitation Committee.

Ordinance (10-170) to amend Section 14.221 of the Manitowoc Municipal Code, Smoking and Tobacco Products, adopting the State Smoking Ban, was referred to Public Property & Safety Committee.

Mayor declared the meeting open for public input. In accordance with policy, the public input portion of the meeting is not made a part of the official record.

Prior to going into recess, Mayor publicly announced that during the recess the standing committees of the Common Council, as well as the Committee of the Whole, will meet in the Common Council Chambers to discuss and act upon some of the matters which have been discussed or referred at this Common Council meeting.

Recess.

Call back to order.

Finance Committee returned resolution (10-159) authorizing various appropriations which were budgeted in 2009 for the departments listed therein to be carried forward into the respective 2010 departmental budgets effective as of December 31, 2009, recommending adoption of the resolution. Motion by Brey, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned the following claims recommending placing on file:

Claim (01-168) from Greg Schmitt of February 28, 2001, Claim File 01-876; Claim (02-291) from M&I Bank v. City

of Manitowoc et al, Claim File 02-892; Communication (02-422) from SBC Ameritech of June 2, 2002, Claim File 02-899; Claim (02-543) from Alfred J. Gonnella II of July 12, 2002; Notice of circumstances of a claim (02-618) of Samuel J. Huston by Attorneys Habush, Habush & Rottier S.C., Claim File 02-906; Claim (03-054) from Brenda L. Oseseck of January 20, 2003, Claim File 03-914; Claim (03-174) from American Family Insurance Group relative to their insured, Garfield Gardens, Claim File 03-918; Claim (03-472) from Jeff Leifer of July 16, 2003, Claim File 03-923; Claim (03-560) from Acuity regarding their insured, Thomas & Karen McIlrtah, Claim File 03-926; Claim (03-565) from Rick Manlick of August 21, 2003, Claim File 03-928; Claim (03-838) from Ellen Johnson of December 10, 2002, Claim File 02-912; Claim (03-851) from Jeanette Peterson of December 30, 2002; Notice of claim (04-114) of February 27, 2004, on behalf of David and Marcia Keil, Claim File 04-935; Notice of claim (04-391) from Beverly Hynek of June 11, 2004, Claim File 04-939; Claim (04-526) from Margaret Luisier of August 4, 2004, Claim File 04-942; Notice of claim (05-299) from Cross Law Firm S.C., Atty. Douglas J. Carroll, Jr. in behalf of Ms. Aeder Gort; Notice of claim (04-813) from The Cincinnati Companies in behalf of their insured, Ruth Stroshane, Claim File 04-952; Notice of claim (06-568) from American Family Insurance Group relative to a claim of their insured, Linda Buschmann, Claim File 06-974; Notice of Claim (07-502) of Alice Strzalka of August 30, 2007, Claim No. 07-994; Notice of Claim (07-810) from Ralph & Karen Kriescher of January 4, 2007; Notice of Claim (08-549) from Habush Habush & Rottier S.C. on behalf of Tara M. Novak, Fleet Claim No. 08-169; Notice of Claim (09-069) of Jane Barton received January 21, 2009, Claim File No. 09-1015; Notice of Claim (09-194) from Ciro Mares of March 26, 2009, Claim File No. 09-1017; Notice of Claim (09-310) of Brenda Schermetzler of May 22, 2009, Claim No. 09-1020; Notice of Claim (09-337) of Deborah Kerr dated May 30, 2009, Claim File No. 09-1021; Notice of Claim (09-390) of Michael K. Augustine of June 26, 2009, Claim File No. 09-1024; Notice of Claim (09-635) from Armond Kueter of October 30, 2009, Claim File No. 09-1031; Notice (09-705) of Event giving rise to claim from D.T. Kedingler of December 10, 2009, Claim File No. 09-1036; Notice of Claim (09-751) from Jeanette Kakuk of December 30, 2009, Claim File No. 09-1038; Notice of Claim (00-719) from Quesco Turbomachinery Services to the Manitowoc Public Utility and City of Manitowoc, Claim File 00-859; Notice (99-716) that MMR Constructors, Inc. has commenced an action to determine its right to a lien and to monies in question with respect to the public work or improvement located at 5740 West Custer, Manitowoc, WI; Dispute of Claim (00-55) from prime contractor, Quesco Turbomachinery Services, to the claim made by Graybar Electric Company, Inc.; Notice of bringing claim (00-127), Summons, and Complaint relative to Petrotech, Inc. vs. City of Manitowoc & Manitowoc Public Utilities et al; Answer (06-628) of West Bend Mutual Insurance Company and Ellen G. Blahnik regarding Charles Rasmussen et al vs. State Auto Ins. Co. of Wisconsin et al; Amended Summons and Amended Complaint (06-542) of PHH Mortgage Corp. v. William P. Bieberitz and City of Manitowoc, et al; Summons and Complaint (06-797) from U.S. Bank, National Association, et al. vs. Catherine L. Thomas et al., Case No. 06 CV 0655; Summons and Complaint (07-543) of U.S. Bank vs. Bula and City of Manitowoc, Case No. 07 CV 552; Summons (08-094) and Complaint relative to Wells Fargo Bank v. Brooks, City of Manitowoc, et al, Case No. 08-CV-0090; Amended Summons (08-092) and Complaint relative to

Wells Fargo Bank v. Burbach, Associated Bank, Community Development Authority, et al, Case No. 07-CV-0210; Summons (08-093) and Complaint relative to Washington Mutual Bank v. Smits, City of Manitowoc et al, Case No. 08-CV-0003; Summons (08-407) and Complaint relative to Wallace & Heather Petri v. Boonperm, City of Manitowoc et al, Case No. 08 CV 425; Amended Summons and Complaint (08-541) between PHH Mortgage Corp. v. Michael A. and Lisa M. Schroeder et al, Case No. 07-CV-0167; Summons and Complaint (08-641) Wells Fargo Bank, N.A. vs. Schultz and City of Manitowoc, Case No. 08 CV 683; Summons and Complaint (08-679) between State of Wisconsin ex rel David Bender v. Manitowoc Public Utilities, Nilaksh Kothari and City of Manitowoc; Notice of Injury (08-678) and Circumstance of Claim relative to Karl Puestow, 1423 N. 3rd Street; Amended Summons and Complaint (09-105) between MTGLQ Investors and Radke et al; Summons and Complaint (09-459) between M&I Marshall & Ilsley Bank v. Herman/Knox et al; Summons and Complaint (09-498) from BAC Home Loans Servicing, L.P. v. Eric J. & Kristin N. Hrudka et al, Case No. 09CV622.

Motion by Brey, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned notice of claim and claim (09-707) from Dawn Herzog of December 16, 2009, Claim File No. 09-1037, recommending denial of claim. Motion by Brey, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none. *(Council rescinded this action at 4/19/10 meeting).*

Public Property & Safety, Streets & Sanitation, Parks & Recreation and Public Utilities & Licensing Committees returned special events request (10-151) from Tom Drill for the use of the City Hall parking lot and various equipment for Showtime 2010 scheduled August 12 & 13, 2010, recommending granting request per City policy. Motion by Sitkiewitz, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property & Safety Committee returned ambulance service agreement (10-160) between Eastern Wisconsin Stock Car, Inc. and City of Manitowoc for the term April 30 - September 5, 2010, recommending entering into agreement per City policy. Motion by Sitkiewitz, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property & Safety Committee returned special events request (10-145) from Manitowoc Eagles Aerie #706 relative to their annual picnic on July 17 & 18, 2010 and bands playing, as detailed therein, recommending granting request per City policy. Motion by Sitkiewitz, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property & Safety Committee returned request (10-148) from Dermatology Associates of Wisconsin, S.C. to rent 15-20 parking stalls from the City on a month-to-month basis at \$15.00 per stall, per month, beginning May 1 through project completion, recommending referral to Safety, Traffic & Parking Commission. Motion by Sitkiewitz, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property & Safety Committee returned request (10-143) from Curt Drumm, Thunder on the Lakeshore Airshow Chairman, for permission for the 2010 Manitowoc Airshow to be held at the airport during the weekend of June

5-6, 2010, and various city services, as detailed therein, use of the bandshell and other necessary equipment, recommending granting per City policy. Motion by Sitkiewitz, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property & Safety Committee returned report (10-157) of City Planner David Less relative to proposed acquisition of land in Manitowoc Industrial Park from Dowco Inc. for the siting and construction of a storm water pond, recommending acceptance of report, adoption of recommendations and place on file. Motion by Sitkiewitz, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned landscaping agreement (10-161) with Lake Shore Cleaners, Inc. for landscape services located at South 30th Street Storm Water Detention Pond area, recommending entering into agreement. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned communication (10-156) from S.M.I. on behalf of Manitowoc Tool and Machining LLC requesting the vacation of a portion of a 10 foot drainage easement as shown on the attached map, recommending referral to Plan Commission. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned application (10-162) from Paul Reiser, for a change in zone from B-3 General Business District to C-1 Commercial District for property located at 2410 Marshall Street, recommending referral to Plan Commission. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned communication (10-155) from Scott McMahon d/b/a Sticky's Tattos requesting a conditional use permit to operate a tattoo and body piercing business at 2203B N. Rapids Rd., recommending referral to Plan Commission. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned communication (10-149) from Seiler Bros. Construction, Inc. on behalf of Salvation Army, 411/415 N. 6th Street, to concrete the terrace in front of their office and daycare to facilitate the drop-off of children at the curb, recommending granting request and place on file. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned communication (10-166) from David Naidl requesting permission to erect three crosses on the southeast hillside of Evergreen Cemetery from March 27 through April 5, 2010, recommending granting request and place on file. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned report (10-167) of Board of Public Works of bids received for 2010 Asphaltic Concrete Paving, Project WS-10-4, recommending awarding to low bidder, Northeast Asphalt, Inc. in the amount

of \$276,416.30. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned special events request (10-090) from Leukemia & Lymphoma Society to hold Scenic Shore 150 Bike Tour through the City, as detailed therein, on July 24 & 25, 2010, recommending approval of request subject to current City policy. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned resolution (10-073) that seal coating be placed on the streets listed therein in 2010, and assessments be made against the abutting property owners for the cost on a front foot basis, recommending adoption of resolution. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned communication (10-150) from Walter J. Specht requesting permission to sell American flag pins and give out 4" x 6" flags on Memorial Day, as detailed therein, recommending approval of request. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned correction instrument (10-163) with Menard, Inc. relative to utility easement east of Dufek Dr. and north of Calumet Ave., recommending referral to Plan Commission. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Personnel Committee returned resolution (10-128) appointing Anthony Scherer as Interim Finance Director/Treasurer due to the retirement of Finance Director/Treasurer Brian Ruechel and establishing a salary, recommending approval of the resolution. Motion by Able, second by Sitkiewitz, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Personnel Committee returned ordinance (10-127) amending Section 20.03 of the Municipal Code regarding hire or promotion of close relatives, recommending approval of the ordinance. Motion by Able, second by Sitkiewitz, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Utilities & Licensing Committee returned applications #6 for Temporary Class "B" Beer license; #2 for Temporary Class "B" Wine license; #3 for 2010 Mobile Home Park license; #40-44 for 2009-10 Temporary Operator's license; #362-373 for 2009-11 Two Year Operator's license; #1-15 for 2010-12 Two Year Operator's license; #1 for Stock Car Races, Racing Exhibitions, Etc. permit; recommending granting the various licenses, as shown on the committee's report. Motion by Graunke, second by Soeldner, and carried to accept the Committee's report. Ayes, 10. Nays, 0. (Ayes, 9. Nays, 1 for #1 Stock Car Races permit only).

Public Utilities & Licensing Committee returned communication (10-165) from Walgreen Co., 2702 Calumet Ave., advising that the corporation has made a change of agent to Donna Gebhart, effectively immediately, recommending acceptance. Motion by Graunke, second by Soeldner, and unanimously carried to accept the Committee's report. Ayes,

10. Nays, none.

Committee of the Whole returned General City Claims (10-168) in the amount of \$1,118,398.46 enumerated on list thereof, recommending that the claims be allowed and ordered paid and Mayor, Clerk and Finance Director/Treasurer are instructed to issue the necessary order. Motion by Sitkiewitz, second by Graunke, report accepted. Ayes, 10. Nays, none.

Moved by Alderperson Sitkiewitz, seconded by Alderperson Graunke, and unanimously carried, Common Council adjourned at 8:15 o'clock P.M. to Monday, April 12, 2010 at 5:00 p.m. Ayes, 10. Nays, none.

Respectfully submitted

Jennifer Hudon
City Clerk