

COMMON COUNCIL**OFFICIAL JOURNAL**

Justin M. Nickels, Mayor

May 18, 2009

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, May 18, 2009. 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, Christopher Able, James N. Brey, Raymond T. Geigel, Dave Soeldner and Eric J. Sitkiewitz.

Absent: None.

Pledge of Allegiance.

Invocation.

Mayor announced that the Council will conduct the election of a successor to fill the vacancy for the District 2 Alderperson position. It was moved by Alderperson Brey, seconded by Alderperson Sitkiewitz and unanimously carried to fill the vacancy for the District 2 Alderperson for the period 5/18/09 to 4/18/11. Ayes, 9. Nays, none.

Moved by Alderperson Sitkiewitz, seconded by Alderperson Geigel and unanimously carried to open nominations for the District 2 Alderperson vacancy. Ayes, 9. Nays, none. Alderperson Brey nominated Jerry Gospodarek. Alderperson Sitkiewitz nominated Robert Cavanaugh, Alderperson Sladky nominated Scott McMeans and Alderperson Able nominated Kevin Schmidt. There were no other nominations from the floor, and it was then moved by Alderperson Sitkiewitz, seconded by Alderperson Geigel and unanimously carried to close nominations. Ayes, 9. Nays, none.

Each candidate introduced themselves and spoke briefly.

Upon roll call vote, McMeans received 4 votes, Gospodarek received 3 votes, Schmidt received 1 vote and Cavanaugh received 1 vote. Upon second roll call vote, McMeans received 5 votes and Gospodarek received 4 votes. Scott R. McMeans was declared elected as District 2 Alderperson and took his oath of office and assumed the seat of District 2 Alderperson.

Minutes of the organizational session of April 21, 2009 and the regular session of May 4, 2009, were approved as distributed by the Deputy City Clerk.

Deputy City Clerk announced that the various documents have been referred to the appropriate committees as shown on the May 18, 2009 Common Council agenda.

Presentation of 2009 MAVCB Annual Report by Kathleen Galas, President, Manitowoc Area Visitor and Convention Bureau.

Curt Drumm of Lakeshore Aviation Resources, Inc. gave a presentation regarding 2009 "Thunder on the Lakeshore" air show scheduled for the weekend of June 6-7, 2009.

Mayor submitted the following 2009-10 Standing Committee appointments and requested Council confirmation:

Scott McMeans	Public Property and Safety
Scott McMeans	Public Utilities and Licensing
Scott McMeans	Personnel

Moved by Sitkiewitz, second by Graunke, and unanimously carried to confirm the Mayor's appointments. Ayes,

10. Nays, none.

Mayor submitted Council representative appointment for the term through April 19, 2010:

CITIZENS PHYSICAL & SENSORY DISABILITY COMMISSION (Sec. 3.15)	
Council Representative	Scott McMeans

Moved by Sitkiewitz, second by Graunke, and unanimously carried to confirm the Mayor's appointments. Ayes,

10. Nays, none.

Mayor submitted the following appointments and requested Council confirmation:

Committee on Aging

Ruth Mahl Zahn
Mary Schultz

Term

3 year term expiring 6/1/12
3 year term expiring 6/1/12

Cemetery Commission

Dennis Harrigan
Dennis Schneider

Term

4 year term expiring 4/30/13
4 year term expiring 4/30/12

Citizens Advisory Committee

Grace T. Brandl
Janet Breuer
Gerald Censky
Patricia Chermak
Roger Drape
Pastor Faiv Neng Her
Anthony Mack
Edward Rappe
Frank Rodriguez
Lorraine Schuette
William Thompson
Rich Wagner
Richard Weber
Robert Elfner
(Place of A. Yaggie)
Gloria Wallace
(Place of A. Herzog)

Term

3 year term expiring 6/1/12
3 year term expiring 6/1/12
3 year term expiring 6/1/11
3 year term expiring 6/1/12
3 year term expiring 6/1/12
3 year term expiring 6/1/12
3 year term expiring 6/1/12
3 year term expiring 6/1/12
3 year term expiring 6/1/12
3 year term expiring 6/1/12
3 year term expiring 6/1/12
3 year term expiring 6/1/11
Unexpired term expiring 6/1/11
3 year term expiring 6/1/11

Citizens Physical & Sensory Disability Comm.

Neil Halonen
Joanne Vogds

Term

3 year term expiring 6/1/12
3 year term expiring 6/1/12

Code Review Committee

James Check
 Dan Luisier
 Brandon Bartow
 Jeffery Check
 Gene Maloney

Term

1 year term expiring 1/1/10
 1 year term expiring 1/1/10
 1 year term expiring 1/1/10
 1 year term expiring 1/1/10
 1 year term expiring 1/1/10

Board of Electrical Examiners

Leroy H. Zill
 James Check
 James Sommers
 Mark DeZeeuw

Term

2 year term expiring 6/30/11
 2 year term expiring 6/30/11
 2 year term expiring 6/30/11
 2 year term expiring 6/30/11

Handicap Appeal Commission

Ald. Jason Sladky (Council Repr.)

Term

Indefinite

Harbor Commission

Jim Ruffolo
 Jack Resch

Term

3 year term expiring 6/1/12
 3 year term expiring 6/1/11

Municipal Tree Commission

Glenn Pfeffer
 Rick Schwarz

Term

2 year term expiring 6/1/10
 2 year term expiring 6/1/10

Safety, Traffic & Parking Commission

Lindley DeNamur
 Paul Kohlmeier
 Ann Schneider-Allen
 August Schuette
 Richard D. Weber
 Jay Xiong
 Joseph Zimmer

Term

3 year term expiring 6/1/12
 3 year term expiring 6/1/11
 3 year term expiring 6/1/11
 3 year term expiring 6/1/12
 3 year term expiring 6/1/12
 3 year term expiring 6/1/12
 3 year term expiring 6/1/12

Wastewater Treatment Facility Board

Dale Zahn

Term

3 year term expiring 6/1/12

Zoning Board of Appeals

Donald T. Orth
 Paul Steinbrecher
 Joseph Mrotek
 Frank Rodriguez

Term

3 year term expiring 6/1/12
 3 year term expiring 6/1/12
 3 year term expiring 6/1/12
 3 year term expiring 6/1/12

Zoological Board

Roy Berres
 Doug Koch
 Edward Vetting

Term

1 year term expiring 6/1/10
 1 year term expiring 6/1/10
 1 year term expiring 6/1/10

City Plan Commission

Steve Alpert
 Daniel Hornung
 Dolly Stokes

Term

3 year term expiring 5/1/10
 3 year term expiring 5/1/11
 3 year term expiring 5/1/12

Cable Television Commission

Derek Muench, Transit Manager
 (Pl. of J. Lee)

Term

Unexpired term ending 6/1/10

Community Development Authority**Term**

Ald. James Brey (Council Repr.)	1 year term expiring 4/19/10
Emil Roth	4 year term expiring 6/1/13
James Noffke	4 year term expiring 6/1/12
Gene Maloney	4 year term expiring 6/1/12

Board of Ethics

Gary Bendix

Term

3 year term expiring 6/1/12

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

Resolution (09-289) to create Ward 39, population 4, for the Interstate #14 annexation area, as described therein and shown on the attached map, and that Ward 39 be combined with Wards 17, 18, 22, 24, 25, 26, 28, 29, 30, 32, 36 and 38, for voting purposes and use a common polling place as established for the 9th Aldermanic District, was referred to Committee of the Whole.

Resolution (09-298) authorizing submittal of an application with the U. S. Environmental Protection Agency Targeted Brownfields Assessment Program for services to be rendered at the 1512 Washington Street property, was referred to Streets & Sanitation Committee.

Resolution (09-301) to approve AECOM's final Site Investigation Update and Remedial Action Plan Report relative to the former Town of Newton Gravel Pit and have them submit to the Dept. of Natural Resources, was referred to Streets & Sanitation Committee.

An ordinance (09-288) to annex territory known as Interstate #14 Annexation Area from the Town of Manitowoc Rapids to the City of Manitowoc, as part of the 9th Aldermanic District and 39th Ward, to be zoned "R-4" Single and Two Family Residential District, as described therein and shown on the attached map, was referred to Committee of the Whole.

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.

Committee of the Whole returned communication (09-303) from Kevin Schmidt expressing interest in filling vacancy for Alderperson in District 2 for one-year term expiring 4/19/10; communication (09-281) from Scott Russell McMeans expressing interest in filling vacancy for Alderperson in District 2 for one-year term expiring 4/19/10; communication (09-247) from Jerry "Gus" Gospodarek expressing interest in filling vacancy for Alderperson in District 2 for one-year term expiring 4/19/10; and communication (09-248) from Robert Cavanaugh expressing interest in filling

vacancy for Alderperson in District 2 for one-year term expiring 4/19/10, recommending placing all communications on file. Motion by Sitkiewitz, second by Graunke, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned resolution (09-216) requesting modification to Governor Doyle's proposed biennial state budget, AB 75, to ensure that all government activities that are exempt from federal prevailing wage requirements also be exempt from state requirements, 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 resolution (09-217) relative to funding solutions for local infrastructure needs in light of 18 years of frozen shared revenue aids and state's own fiscal condition, 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 resolution (09-218) urging governor and Legislature to exempt all grants from the limits of the Expenditure Restraint Program and establish a 3% floor on the inflation factor as well as allowing non-property tax sources of revenue for local governments in Wisconsin, as detailed therein, 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 proposal (09-274) from the Herald Times Reporter to publish Council proceedings, legal notices, display advertising and ordinances for the year beginning June 1, 2009, and ending May 31, 2010, recommending acceptance of the proposal. Motion by Brey, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned report (09-254) from Asst. City Attorney Kathleen McDaniel with Order Confirming Sale and Satisfying Judgment of Foreclosure relative to Wis. Housing and Economic Development Authority v. Patricia A. Dehne, et al, Case No. 08-CV-732 recommending acceptance of report and placing on file the documents relative to this matter, recommending placing on file. Motion by Brey, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned claim (09-157) of Todd Blashka received March 3, 2009, Claim File No. 09-1016, recommending payment of the claim for the amount of \$891.31. Motion by Brey, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property and Safety Committee returned special events request (09-279) from Spielbauer Fireworks Co. to use parcel of City's land during a fireworks display on June 6, 2009 in conjunction with a wedding reception, as detailed therein, recommending granting request per City policy. Motion by Sitkiewitz, second by Soeldner, and carried by acclamation to accept the Committee's report. Ayes, 8. Nays, 2.

Public Property & Safety, Parks & Recreation and Streets & Sanitation Committees returned request (09-282) from Curt Drumm, Thunder on the Lakeshore Airshow Chairman, for permission for the 2009 Manitowoc Airshow to be held at the airport during the weekend of June 6-7, 2009, and various city services, as detailed therein, as well as requesting the closing of Quay Street, use of the bandshell and other necessary equipment for the annual Balloon Glow to be held in downtown Manitowoc on Friday, June 5, 2009, 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 ordinance (09-269) to create section 14.07 of the Manitowoc Municipal Code regulating underage possession and consumption of alcohol at private residences located in the City, recommending adoption of ordinance. Motion by Sitkiewitz, second by Brey, and carried by acclamation to accept the Committee's report. Ayes, 6. Nays, 4.

Public Utilities & Licensing Committee returned application (09-287) from Ben Cress, River Bank Partners LLC, of April 14, 2009, for Sidewalk Cafe Permit at 902 Jay Street, recommending issuing the permit. Motion by Graunke, second by Soeldner, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned temporary Access Easement Agreement (09-283) on unimproved right-of-way to Mike Check Builders for property located at 2727 Red Fox Lane, 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 report (09-261) of Board of Public Works of April 29, 2009, of quotes received for two new identical 2009 36,000 G.V.W. single axle dump trucks with plows & patrol wings (body & equipment), QE-09-3, for Dept. of Public Works, recommending awarding bid to Olson Trailer & Body LLC in the amount of \$95,670.00 subject to receipt of certified check. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned report (09-258) of Board of Public Works of April 29, 2009, of quotes received for two new identical 2009 36,000 G.V.W. single axle dump trucks with plows & patrol wings (truck chassis), QE-09-3, for the Dept. of Public Works, recommending awarding bid to Packer City International in the amount of \$131,611.00 subject to receipt of certified check. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned report (09-259) of Board of Public Works of April 29, 2009, of quotes received for two new identical 2009 58,000 G.V.W. tandem axle dump trucks with plows and patrol wings (body & equipment), QE-09-2, for the Dept. of Public Works, recommending awarding bid to Monroe Truck Equipment in the amount of \$86,850.00 subject to receipt of certified check. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned report (09-260) of Board of Public Works of April 29, 2009, of quotes received for two new identical 2009 58,000 G.V.W. tandem axle dump trucks with plows and patrol wings (truck chassis), QE-09-2, for Dept. of Public Works, recommending awarding bid to Packer City International in the amount of \$150,400.00 subject to receipt of certified check. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned Agreement (09-302) with Steinbrecher & Meneau, Inc. (SMI) to design a 20' x 20' "Traditional Gothic" open air stone chapel to be constructed at Evergreen Cemetery, as detailed therein, 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 report (08-322) of City Plan Commission recommending Council place communication from Ronald F. DeMark requesting that the City vacate a proposed street east of 2014 Lexington Dr., on file, recommending acceptance of report 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 resolution (09-298) authorizing submittal of an application with the U. S. Environmental Protection Agency Targeted Brownfields Assessment Program for services to be rendered at the 1512 Washington Street property, recommending introduction and 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 ordinance (09-271) to amend Section 7.285(2) regarding the ten year installment plan payments for special assessments, recommending adoption of ordinance. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned communication (09-265) from Bartow Builders requesting a delay in the street improvements to Executive Estates, Woodridge #8 past 2010 due to economic instability, 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 report (09-290) of City Plan Commission recommending that Council approve the issuance of an adaptive reuse CUP, subject to the attached conditions, for Clarkbridge Hall located at 1402 Clark St., formerly the "Old Vocational School". Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned request (09-253) from Popp Enterprises LLC to have Flambeau Street from So. 23rd to So. 19th Street paved next year, 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 report (09-291) of City Plan Commission relative to temporary access

easement on right-of-way of So. 30th St. requested by Merwynn Trade Group, recommending that Council authorize the City Attorney to negotiate and prepare the document which is to be reviewed by the Plan Commission, as detailed therein, recommending acceptance of report and adoption of recommendations. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned report (09-293) of City Plan Commission advising the Council that the annual compliance review of the 2007 Thuermer/Baas conditional use permit for the adaptive reuse of property at 630 N. 10th Street to operate a theater produced no negative findings, recommending acceptance of report 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 (09-292) of City Plan Commission advising the Council that the annual compliance review of the 2005/2006 Michels Corporation/City Centre conditional use permit for operation of a stone transloading operation on So. 16th Street produced no negative findings, recommending acceptance of report 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 (09-297) of City Plan Commission authorizing a Sidewalk Privilege Agreement for property at the northwest corner of Waldo Blvd. and Fleetwood Dr. for an existing fence line in the public right-of-way, as detailed therein, recommending acceptance of report and adoption of recommendations. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation Committee returned professional services agreement (09-305) Amendment No. 1 relative to Preliminary Engineering Stormwater Management Facility Design North 12th Street and Waldo Blvd. Project with AECOM Technical Services, Inc., 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 resolution (09-301) to approve AECOM's final Site Investigation Update and Remedial Action Plan Report relative to the former Town of Newton Gravel Pit and have them submit to the Dept. of Natural Resources, recommending approval of report and authorize submittal to the Department of Natural Resources. Motion by Soeldner, second by Geigel, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets & Sanitation, Parks & Recreation and Public Utilities & Licensing Committees returned request (09-244) from Mainly Manitowoc to use various city equipment and City Hall parking lot, close a portion of Quay St. and a portion of So. 8th St., a waiver of the noise ordinance and various other requests as outlined therein for River Rendezvous on June 27, 2009, with alternate plan attached, and communication (09-299) from Mainly Manitowoc urging the Council to

grant request to close Quay Street from 8th Street to 7th Street on June 27, 2009 for the River Rendezvous festival, jointly recommending granting request to close Quay St. between So. 8th and So. 6th Street subject to coordination with appropriate City departments and the Farmers' Market, and subject to usual City policy and place (09-244) on file. Motion by Soeldner, second by Brey, to accept the Committee's report. Ayes, 5. Nays, 5. The tie vote was broken by Mayor Nickels who voted aye. Committee's report was accepted. Ayes, 6. Nays, 5.

Personnel Committee returned Labor Agreement (09-242) between City of Manitowoc and City of Manitowoc Police Patrolmen for 2009, 2010 and 2011 with Side Letters of Agreement attached, with a minority report recommending approval. Motion by Able, second by Sitkiewitz, to accept the Committee's report. Ayes, 2. Nays, 7. Abstained, 1. Motion failed.

Public Utilities & Licensing Committee returned applications #1-3 for 2009-2010 Bowling Alley license; #1-20 for 2009-10 Class "A" Retail Fermented Malt Beverage license; #1-8 for 2009-10 Combination "Class A" Retail Intoxicating Liquor & Fermented Malt Beverage license; #1-7 for 2009-10 Class "B" Retail Fermented Malt Beverage license; #1 for 6 month 2009-10 Class "B" Retail Fermented Malt Beverage license; #1-37, 39-53 for 2009-10 "Class B" Retail Intoxicating Liquor & Fermented Malt Beverage license; #1-3 2009-10 "Class C" Retail Wine license; #7-8 Pawnbrokers license; #1-27 2009-10 Near Beer (Non-Intoxicating Beverage) license; #423-424 2008-2010 Two Year Operator's license; #33-57 2009-11 Two Year Operator's license; and #1 Wholesalers Fermented Malt Beverage license; recommending granting the various licenses, as shown on the committee's report. 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 (09-304) in the amount of \$1,050,787.20 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 9:20 o'clock P.M.

Respectfully submitted

Deborah A. Neuser
Deputy City Clerk