

**COMMON COUNCIL****OFFICIAL JOURNAL**

Justin M. Nickels, Mayor

May 17, 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, May 17, 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, Scott McMeans, James N. Brey, Christopher Able, Matt Kadow, Jason Sladky, Alex J. Olson, Nicholas P. Levendusky, Allan Schema and Dave Soeldner.

Absent: None.

Pledge of Allegiance.

Invocation.

Minutes of the regular session of May 7, 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 May 17, 2010 Common Council agenda.

Mayor Nickels presented proclamation declaring June 1 - June 7, 2010 as International Pickleball Week.

Resolution (10-266) accepting the Preliminary Plat of Popp Subdivision No. 3, was referred to Streets and Sanitation Committee.

Personnel Committee returned ordinance (10-209) to repeal in its entirety Section 20.01(3) of the Municipal Code regarding residency requirement for Department Heads, recommending placing on file. Motion by Able, second by McMeans, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Council President Dave Soeldner submitted the following appointment and requested Council confirmation:

**PERFORMANCE EVALUATION REVIEW COMMITTEE** Jill Hennessey Term expiring 5/2/11

Motion by Soeldner, second by Able, and unanimously carried to confirm the appointment. Ayes, 10. Nays, none.

Moved by Alderperson Soeldner, seconded by Alderperson Able, to nominate Alderperson James Brey as the Council member to serve on the City Plan Commission for the ensuing one year term from April 20, 2010, through April 18, 2011.

It was then moved and unanimously carried to close nominations and cast a unanimous ballot for Alderperson Brey. Ayes, 10. Nays, none. Mayor declared Alderperson James Brey elected to serve on the Plan Commission.

Mayor submitted the following Council representative appointments for the term of April 20, 2010, through April 18,

2011, and Weed Commissioner appointments, and requested Council confirmation:

**CABLE TELEVISION COMMISSION**

Chair, Public Utilities & Licensing

Jill Hennessey

**CEMETERY COMMISSION**

Member, Streets & Sanitation

David Soeldner

**CITIZENS ADVISORY COMMITTEE**

Common Council Representative

Christopher Able

**CITIZENS PHYSICAL & SENSORY DISABILITY COMMISSION**

Common Council Representative

Scott McMeans

**CODE REVIEW COMMITTEE**

Member, Streets and Sanitation

Chair, Public Utilities & Licensing

Jason Sladky

Jill Hennessey

**COMMUNITY DEVELOPMENT AUTHORITY**

Common Council Representative

Common Council Representative

Alex Olson

Matthew Kadow

**CRIME PREVENTION COMMITTEE**

Common Council Representative

Alex Olson

**DIVERSITY ADVISORY COUNCIL (Ad Hoc)**

Common Council Representative

David Soeldner

**ECONOMIC DEVELOPMENT CORPORATION OF MANITOWOC COUNTY**

Common Council Representative

(Place of Dean Graunke)

Unexpired term ending 2/3/11

Jill Hennessey

**BOARD OF ETHICS**

Common Council Representative

Allan Schema

**HARBOR COMMISSION**

Member, Public Utilities & Licensing

Jason Sladky

**LIBRARY BOARD**

Council Representative (7/1/10 - 7/1/13)

Matthew Kadow

**MANITOWOC INDUSTRIAL DEVELOPMENT CORP.**

Common Council Representative

Common Council Representative

James Brey

David Soeldner

**MANITOWOC PUBLIC UTILITIES COMMISSION**

Chair, Public Utilities & Licensing

Jill Hennessey

**MARITIME METRO TRANSIT TRANSPORTATION  
DEVELOPMENT PROGRAM REVIEW COMMITTEE**

Council Representative

Allan Schema (Term Indefinite)

**MUNICIPAL TREE COMMISSION**

Member, Parks & Recreation

Nicholas Levendusky

**PERFORMANCE EVALUATION REVIEW COMMITTEE**

Chair, Personnel Christopher Able

**BOARD OF PUBLIC WORKS**

Chair, Streets & Sanitation David Soeldner  
Co-Chair, Streets & Sanitation James Brey

**RAHR-WEST ART MUSEUM BOARD**

Chair, Public Utilities & Licensing Jill Hennessey

**RECREATION BOARD**

Chair, Parks & Recreation Nicholas Levendusky

**TAX INCREMENTAL FINANCING PROJECT REVIEW COMMITTEE**

Chair, Finance Scott McMeans

**WASTEWATER TREATMENT FACILITY BOARD**

Co-Chair, Streets & Sanitation James Brey

**WISCONSIN MARITIME MUSEUM BOARD**

Common Council Representative Nicholas Levendusky

**ZOOLOGICAL BOARD**

Co-Chair, Parks & Recreation Jason Sladky

**WEED COMMISSIONERS**

Randall Junk  
1 yr. term exp. 4/30/11  
Chad Scheinoha  
1 yr. term exp. 4/30/11

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

Mayor requested Council confirmation to dissolve the following ad hoc committee:

Subdivision Committee (Ad Hoc)

Motion by Soeldner, second by Brey, and unanimously carried to confirm the dissolution of the committee. Ayes,  
10. Nays, none.

Ordinance (10-256) to amend Section 3.13 of the Manitowoc Municipal Code regarding the Safety, Traffic and Parking Commission was referred to Public Property and 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.

Committee of the Whole returned communication (10-213) from Mayor Bob Ryan, City of Sheboygan, inviting City

of Manitowoc to join in with a simple, non-motorized mileage challenge - the City's residents who log the most non-motorized miles as a ratio of the number of the City's total population, wins, recommending placing on file. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Committee of the Whole returned communication (10-253) from the Manitowoc Sustainability Committee requesting the Council to consider a member of the Common Council as a liaison to the Manitowoc Sustainability Committee, recommending granting request. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned contract (10-250) 2010 Wisconsin Community Development Block Grant Public Facilities Grant Contract between the Wisconsin Department of Commerce and the City of Manitowoc, recommending accepting grant and placing on file. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned notice of Claim and Claim (10-144) of Marjean Wachowski of March 18, 2010, Claim File No. 10-1041, recommending approval of the claim. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned proposal (10-246) from Herald Times Reporter to publish council proceedings, legal notices, display ads and ordinances, for the contract year beginning June 1, 2010, recommending acceptance of the bid. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned request (10-247) from Salomon King for refund of building permit, recommending approval of the request. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned request (10-251) from Seiler Bros. Construction for refund of a permit, recommending approval of the request. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned notice of claim (10-230) and claim from Bay Title & Abstract, Inc., Fleet Claim File No. 10-188, recommending denial of the claim. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Parks and Recreation Committee returned communication (10-217) from O'Connor's Concessions to do business in Manitowoc park system for the 2010 season, recommending approval of request subject to City policy. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Parks and Recreation Committee returned communication (10-216) from Joseph Loor to sell from ice cream truck at Manitowoc parks during 2010 season, recommending approval of request subject to City policy. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Parks and Recreation Committee returned contract (10-252) Beverage Distribution Agreement between Lakeside Bottling company and city of Manitowoc for Park & Recreation Department, recommending entering into agreement. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Parks and Recreation & Public Property and Safety Committees returned special events request (10-229) from Mainly Manitowoc to host River Rendezvous festival in downtown Manitowoc on Saturday, June 26, and Sunday, June 27, 2010, requesting the use of various parks, parking lots, city equipment and city staff as detailed therein, along with an extension of the noise ordinance to 11 p.m., jointly recommending approval of request subject to City policy and subject to meeting needs of Police, Fire and DPW. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property and Safety Committee returned ordinance (10-256) to amend Section 3.13 of the Manitowoc Municipal Code regarding the Safety, Traffic and Parking Commission, recommending adoption of the ordinance. Motion by Brey, second by McMeans, and unanimously carried to suspend the rules to take immediate action on this ordinance. Ayes, 10. Nays, none. Motion by Brey, second by McMeans, report accepted and ordinance adopted. Ayes, 10. Nays, none.

Public Property and 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 approval of the request but charging the yearly rate divided by 12. Motion by Brey, second by McMeans, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property and Safety Committee returned ordinance (10-170) to amend Section 14.221 of the Manitowoc Municipal Code, Smoking and Tobacco Products, adopting the State Smoking Ban, recommending adoption of the ordinance. Motion by Brey, second by McMeans, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property and Safety Committee returned license agreement (10-243) with Titan Public Safety Solutions LLC and Manitowoc Municipal Court, recommending entering into agreement. Motion by Brey, second by McMeans, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property and Safety Committee returned system support agreement (10-242) with Titan Public Safety Solutions, LLC for Municipal Court System, recommending entering into the agreement. Motion by Brey, second by McMeans, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property and Safety Committee returned special events request (10-249) from Wagner's RV Center Inc. for special events request and waiver of the noise ordinance for Campfest Customer Appreciation Campout at the County Expo, September 10 - 12, 2010, recommending approval for the extension of the noise curfew for Campfest to be held at the Manitowoc County Expo complex Sept. 10-12, 2010. Motion by Brey, second by McMeans, and unanimously carried to

accept the Committee's report. Ayes, 10. Nays, none.

Public Property and Safety Committee returned agreement (10-255) between Manitowoc Fire Department and Dean Dworak d/b/a Century Holding Group to hold harmless, assumption of risk and indemnification to conduct fire training activities on property located at 934 South 25 Street, Manitowoc, WI, recommending entering into the agreement. Motion by Brey, second by McMeans, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Property and Safety and Public Utilities and Licensing Committees returned special events request (10-254) from the Fat Seagull to close off the street in front of their establishment & extend their premise for May 30, June 5, July 31, August 14, & Sept 5, 2010, jointly recommending denial of the request. Motion by Brey, second by McMeans, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Utilities and Licensing Committee returned first amendment (10-177) to 2009 Section 5311 ARRA Capital Assistance Contract between State of Wisconsin and City of Manitowoc, recommending entering into the agreement. Motion by Hennessey, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Utilities and Licensing Committee returned Maritime Metro Transit Paratransit Plan (10-210) for the years 2010 - 2014, recommending to accept and place on file. Motion by Hennessey, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned resolution (10-266) accepting the Preliminary Plat of Popp Subdivision No. 3, recommending adoption of resolution. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned communication (10-259) from Manitowoc Eagles Aerie 706 requesting a conditional use permit for 823 Hamilton Street, Manitowoc, WI, recommending referral to Plan Commission. Motion by Soeldner, second by McMeans, and carried by acclamation to accept the Committee's report. Ayes, 9. Nays, none. Abstained, 1.

Streets and Sanitation Committee returned special events request (10-244) from Cheese Wheel 450 for a police escort on August 7, 2010, as detailed therein, recommending granting request subject to City policy. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned communication (10-245) from Tony Bugarino relative to street sweeping violation, recommending placing on file. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned Sidewalk Privilege Agreement (10-176) to authorize the placement of five (5) private signs in the public right-of-way for Parker Hannifin Corporation, and report (10-261) of City Plan Commission recommending that Council not approve the SPA and that a new SPA be prepared with corrections described within the report and accept the Plan Commission report, recommending acceptance of report (10-261) and adoption of

recommendations and placing agreement (10-176) on file. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned report (10-262) of Plan Commission regarding request of Bank First National for assignment of Adaptive Reuse Conditional Use Permit previously issued to Keith Gauthier pursuant to Section 15.37(29) at 1402 Clark Street, recommending assignment of the adaptive re-use CUP, recommending acceptance of report and place on file. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned report (10-263) of City Plan Commission relative to request for sidewalk privilege agreement for location of a business identification sign within the public right-of-way of Woodland Drive, recommending acceptance of report and adoption of recommendations. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned communication (10-208) of SMI representing Popp Enterprises, owners of Popp Subdivision No. 3 requesting approval of preliminary plat of said subdivision, and report (10-265) of City Plan Commission recommending approval of preliminary plat subject to attached conditions, recommending acceptance of report (10-265) and place on file and place communication (10-208) on file. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned communication (10-207) of SMI representing Merwynn Trade Group, LLC requesting temporary access easement on the unimproved right of way of So. 39th Street, recommending placing on file. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned report (10-264) of City Plan Commission relative to Merwynn Trade Group LLC request for easement over unopened So. 39<sup>th</sup>, south of Dewey Street, recommending acceptance of report and adoption of recommendations. Motion by Soeldner, second by Brey, and carried by acclamation to accept the Committee's report. Ayes, 9. Nays, none. Abstained, 1.

Public Utilities & Licensing Committee returned applications #1-4 for 2010 Bowling Alley license; #22A for 2009 Class "A" Retail Fermented Malt Beverage; #1-19 for 2010 Class "A" Retail Fermented Malt Beverage license; #1-8 2010 Combination "Class A" Retail Intoxicating Liquor & Fermented Malt Beverage license; #1 6-Month Class "B" Retail Fermented Malt Beverage license; #1-4 for 2010-11 Class "B" Retail Fermented Malt Beverage license; Amended #54 for 2009-10 "Class B" Retail Intoxicating Liquor & Fermented Malt Beverage license; #1-58 for 2010-11 "Class B" Retail Intoxicating Liquor & Fermented Malt Beverage license; #1 for 2010-11 "Class C" Retail Wine license; #33 for 2009-10 Near Beer license; #1-26 for 2010-11 Near Beer license; #392 - 394 for 2009-10 Two Year Operator's license; #38-53 & 55 for 2010-12 Two Year Operator's license; #1 for 2010-11 Wholesalers Fermented Malt Beverage license; recommending

granting the various licenses, as shown on the committee's report. Motion by Hennessey, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, 0. Public Utilities & Licensing Committee returned application 54 for 2010-2012 Two Year Operator's license, recommending denial of the license, subject to a non-renewal hearing, based upon the recommendations from the Chief of Police or designee. Public Utilities & Licensing Committee returned communication (10-234) from Gary Fechner surrendering the Class "A" Retail Fermented Malt Beverage license #22 for premise at 808 Memorial Dr. effective 5/18/10. Motion by Hennessey, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Committee of the Whole returned General City Claims (10-268) in the amount of \$1,242,957.91 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 Soeldner, second by Brey, report accepted. Ayes, 10. Nays, none.

Moved by Alderperson Olson, seconded by Alderperson Sladky, and unanimously carried, Common Council adjourned at 8:00 o'clock P.M. Ayes, 10. Nays, none.

Respectfully submitted

Jennifer Hudon  
City Clerk