

**COMMON COUNCIL  
OFFICIAL JOURNAL**

Justin M. Nickels, Mayor

Jennifer Hudon, City Clerk

Monday, July 15, 2013

The Common Council of the City of Manitowoc, Wisconsin, met in regular session at the Council Chambers in City Hall, on Monday, July 15, 2013. 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 7:03 p.m. and on roll call the following members were present: Alderpersons Dave Soeldner, Jim Brey, Alan Schema, Mike Howe, Christopher Able, Jason Sladky, Scott McMeans, Eric Sitkiewitz, Tyler Martell and Jill Hennessey.

Absent: None.

Pledge of Allegiance.

Invocation.

Minutes of the regular session of July 1, 2013, 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 July 15, 2013 Common Council agenda.

Resolution (13-388) to vacate a portion of So. 19<sup>th</sup> Street, north of Summit Street and south of Dewey Street, was referred to Licensing, Permits & Inspections Committee.

Resolution (13-383) modifying Addendums "A", "B" and "C" of the Employee Policy Manual relative to new hires being paid 85% of the specified rate of pay, was referred to Personnel Committee.

Resolution (13-384) modifying Addendum "C" to increase the hourly rate of pay for the Recreation Team Leader, was referred to Personnel Committee.

Resolution (13-385) that the position of Plumbing Inspector be increased from a half-time position to a full-time position at the rate of \$31.12 per hour, according to the Employee Policy Manual, effective upon approval by the Common Council, was referred to Personnel Committee.

Resolution (13-368) to calculate the yearly General Transportation Aids for Rapids Road (CTH "R") project from Broadway Street to Custer Street and bill the County accordingly, was referred to Public Infrastructure Committee.

Resolution (13-378) authorizing the Director of Public Infrastructure to submit an application to the Department of Natural Resources for the purpose of planning, constructing or operating a recycling program, as detailed therein, was referred to Public Infrastructure Committee.

Mayor submitted the following appointments and requested Council confirmation:

Harbor Commission

Peter C. Allie

Mike Dailey

Term

3 yr. term expiring 6/1/16

3 yr. term expiring 6/1/16

Police & Fire Commission

Thomas Bare

Term

5 yr. term expiring 4/30/18

Motion by Hennessey, second by Sladky, and unanimously carried to confirm the Mayor's appointments.

Ayes, 10. Nays, none.

Ordinance (13-389) to amend Section 22.010 of the Manitowoc Municipal Code entitled "Official Map – Master Subdivision Plans" for an area located at S. 19<sup>th</sup> Street, north of Summit Street, was referred to Licensing, Permits & Inspections Committee.

Ordinance (13-387) to repeal Section 20.010(3) of the Manitowoc Municipal Code establishing a residency requirement for department heads, was referred to Personnel Committee.

Ordinance (13-396) to create Section 4.130 of the Manitowoc Municipal Code for establishing a bulkhead line for the Red Arrow Park beach, was referred to Public Infrastructure Committee.

Ordinance (13-386) to amend Section 10.490 of the Manitowoc Municipal Code establishing parking time limits on South 26<sup>th</sup> Street, was referred to Public 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.

Council President Jill Hennessey announced that notice is hereby given that the Common Council Committee of the Whole will adjourn to the First Floor Hearing Room - East for a closed session during the recess of the meeting as authorized by Section 19.85(1)(g) of Wisconsin Statutes, which authorizes the governmental body to convene in closed session for the purpose of 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. The specific subject matter which will be considered in the closed session is the following: Discussion and update relative to Case No. 08-CV-448, Holy Family Memorial, Inc. v City of Manitowoc on the action as well as possible settlement consideration. NOTE: Following deliberation in closed session, the Common Council may take action on the above subject matter during open session.

It was moved by Brey, second by Schema and unanimously carried upon roll call to convene in closed session. Ayes, 11. Nays, none.

Committee of the Whole deliberated in closed session. Alderperson McMeans was absent during the closed session.

It was moved by Able, second by Sladky, and unanimously carried upon roll call to reconvene in open session. Ayes, 10. Nays, none.

Call back to order.

Moved by Hennessey, second by Able, and carried by acclamation to override the Mayor's veto (13-319) of ordinance (13-264) to amend various sections of Chapter 10 of the Manitowoc Municipal Code which regulate parking time restrictions in the downtown area. Ayes, 9. Nays, 1. Veto overridden and placed on file.

Finance Committee returned agreement (13-366) with Tyler Technologies for renewal of IAS Support from July 1, 2013 through June 30, 2014, recommending entering into the agreement totaling \$42,030.00. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned Professional Services Agreement (13-369) with Carlson Dettmann Consulting LLC to provide professional consulting services for a comprehensive assessment of City of Manitowoc's current

classification/compensation program as well as a market analysis for wages in comparable jobs and design of new salary plan, recommending entering into agreement not to exceed \$31,000.00. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned communication (13-239) from Hein Plumbing asking the City to consider hiring full time inspectors, recommending placing on file. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections and Public Safety Committees returned communication (13-359) from Shoto Conservation Club on behalf of the Manitowoc County Expo/Fair entertainment pavilion purveyors requesting to extend live band music performance until 11:30 p.m. with beer sales ending at midnight on Friday and Saturday of the County Fair and to have music performances until 11:00 p.m. with beer sales ending at 11:30 p.m. for the remaining nights of the County Fair, jointly recommending approval of the request according to City policy. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned communication (13-362) from County Treasurer Cheryl Duchow enclosing public notice of tax foreclosure In Rem 2013 for properties located in the City of Manitowoc, recommending referral to Plan Commission. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned Findings of Fact, Conclusions of Law and Recommendation (13-367) relative to application #35 of VonCeil Otto for 2013-15 Two Year Operator's License, recommending acceptance of report (denial of the license) and place on file. No interested parties appeared. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned communication (13-382) from Lakeshore Cap relative to concerns relative to the extension of a trail system, recommending placing on file. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned communication (13-297) from Pastor Guy Corrigan, Cornerstone Church, requesting conditional use permit to operate church and school at 2711 Wollmer Street, and report (13-390) of City Plan Commission recommending that Council approve the CUP to Community Bible Church, Inc., recommending acceptance of report (13-390) and place on file and placing communication (13-297) on file. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned request (13-321) from S.M.I., as representatives of Jerry Vandermause, for approval of a conditional use permit for a CBRF in both an R-4 zone and R-5 zone along with an exemption to the 2,500 foot separation for establishment of a CBRF at Dewey and vacated S. 19<sup>th</sup> Street and request (13-357) from Jerry & Karen Vandermause for a conditional use permit to construct a home in an R-4 and R-5 zoning district and stating their intent to build a 26-bed community based residential facility, and report (13-391) of City Plan Commission recommending Council grant the exception to the 2,500' spacing requirement as well as granting the Conditional Use Permit, recommending acceptance of report (13-391) and place on file, and placing request (13-321) and request (13-357) on file. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned report (13-392) of City Plan Commission relative to request from Mills Fleet Farm for fixed animated sign at 1235 So. Rapids Road, recommending acceptance of report and placing on file. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned report (13-393) of City Plan Commission relative to request from TLC Homes to extend their July 1, 2013 deadline to secure licenses from the State for the establishment of a CBRF at 703/705 East Cedar Avenue, recommending acceptance of report and placing on file. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned communication (13-289) from Elks Lodge No. 687 requesting a conditional use permit pursuant to Section 15.270(3)(c) for property at 1807 N. Rapids Road, and report (13-394) of City Plan Commission recommending granting the CUP subject to attached compliance conditions, recommending acceptance of report (13-394) and placing on file and placing communication (13-289) on file. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned request (13-322) from S.M.I., as representatives of Popp Enterprises, for vacation of an Official Map Street – So. 19<sup>th</sup> Street from Dewey Street to a point 383 feet south of the Dewey Street right-of-way, with proposed cul de sac north of Summit Street, and report (13-395) of City Plan Commission recommending approval of the vacation and Official Map amendment upon completion of the required public hearing, recommending acceptance of report (13-395), placing on file with Clerk to call for public hearing and publish notices as required and placing request (13-322) on file. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Parks and Recreation Committee returned Mariner's Trail Special Use Permit (13-360) from Alzheimer's Association for walk event on September 28, 2013, recommending granting request per City policy. Motion by Sladky, second by Schema, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Parks and Recreation, Public Safety and Licensing, Permits & Inspections Committees returned Special Events Request (13-364) from Randy Heinzen, Chr., Lakeshore Weekend, requesting a variance of the sound and beverage ordinance for the annual Lakeshore Weekend event to be held August 2, 3 & 4, 2013, until 12:00 midnight on Friday and Saturday, and permission to block off the access street to the boat launch north of the YMCA, and the use of various equipment, as detailed therein, jointly recommending granting request with same conditions as 2012 event. Motion by Sladky, second by Schema, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Parks and Recreation Committee returned report (13-375) of Board of Public Works of July 10, 2013, regarding bids for 2013 HVAC Replacement at Citizen Park Armory Building, WB-13-13, recommending awarding contract to Schaus Roofing & Mechanical Contractors in the amount of \$140,509.00. Motion by Sladky, second by Schema, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Parks and Recreation Committee returned revised Mariner's Trail Special Use Permit (13-376) from Painting Pathways to change the date of their trail permit from October 5 to October 12, 2013, recommending granting request per City policy. Motion by Sladky, second by Schema, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Personnel Committee returned resolution (13-383) modifying Addendums "A", "B" and "C" of the Employee Policy Manual relative to new hires being paid 85% of the specified rate of pay, recommending approval of the resolution. Motion by Able, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Personnel Committee returned resolution (13-384) modifying Addendum "C" to increase the hourly rate of pay for the Recreation Team Leader, recommending approval of the resolution. Motion by Able, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Personnel Committee returned resolution (13-385) that the position of Plumbing Inspector be increased from a half-time position to a full-time position at the rate of \$31.12 per hour, according to the Employee Policy Manual, effective upon approval by the Common Council, recommending approval of the resolution. Moved by Able, second by Brey, to accept the Committee's report.

Moved by McMeans, second by Hennessey, to amend to: "be increased from a half-time position to a full-time position for a period of two months and review in 30 days"... After discussion: Ayes, 4. Nays, 6. Motion to amend fails.

Upon a vote of the Committee's recommendation to approve the resolution: 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 ordinance (13-387) to repeal Section 20.010(3) of the Manitowoc Municipal Code establishing a residency requirement for department heads, recommending approval of the ordinance (adoption). Motion by Able, second by Hennessey, and unanimously carried to suspend the rules to take immediate action on this ordinance. Ayes, 10. Nays, none. Motion by Able, second by Hennessey, report accepted and ordinance adopted. Ayes, 10. Nays, none.

Public Infrastructure Committee returned resolution (13-227) to vacate a 3,289 square feet of street at 4720 Broadway Street, recommending adoption. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Infrastructure Committee returned ordinance (13-228) amending Section 22.010 of the Municipal Code entitled "Official Map-Master Subdivision Plans" in an area located on Broadway Street, recommending adoption. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Infrastructure Committee returned resolution (13-368) to calculate the yearly General Transportation Aids for Rapids Road (CTH "R") project from Broadway Street to Custer Street and bill the County accordingly, recommending adoption. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Infrastructure Committee returned report (13-370) of the Board of Public Works of July 10, 2013, recommending 1st and final payment to Crafts, Inc. in the amount of \$81,740.00 for Safety Building Roof Replacement, WB-13-15, recommending payment. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Infrastructure Committee returned report (13-371) of the Board of Public Works of July 10, 2013, recommending 1st and final payment to Guide Lines Pavement Markings, LLC in the amount of \$48,167.85 for 2013 Epoxy Pavement Marking Program, WS-13-9, recommending payment. Motion by Soeldner, second by Brey, and

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

Public Infrastructure Committee returned Special Events Request (13-374) from RWAM Charitable Foundation to hold Sputnikfest on September 7, 2013, with the closure of Park Street from 9<sup>th</sup> to 7<sup>th</sup> and No. 8<sup>th</sup> from State to St. Clair, as well as request to waive all inter-departmental fees, recommending approval of request with waiver of fees. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Infrastructure Committee returned resolution (13-378) authorizing the Director of Public Infrastructure to submit an application to the Department of Natural Resources for the purpose of planning, constructing or operating a recycling program, as detailed therein, recommending adoption. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Infrastructure Committee returned Section 5311 Capital Assistance Contract (13-379) with State of Wisconsin Dept. of Transportation for 2013 to administer the Federal Small Urban and Rural Public Transportation Program, recommending authorization and signature. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Infrastructure Committee returned Federal Certifications and Assurances (13-380) for Section 5311 Capital Contracts for 2013 prepared by Wisconsin Dept. of Transportation, recommending authorization and signature. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Infrastructure Committee returned ordinance (13-396) to create Section 4.130 of the Manitowoc Municipal Code for establishing a bulkhead line for the Red Arrow Park beach, recommending adoption. Motion by Soeldner, second by Brey, and unanimously carried to suspend the rules to take immediate action on this ordinance. Ayes, 10. Nays, none. Motion by Soeldner, second by Brey, report accepted and ordinance adopted. Ayes, 10. Nays, none.

Public Safety Committee returned Special Events Request (13-363) from Cris Muldrow to extend noise ordinance for a party at her residence on July 19, 2013, recommending placing on file. Motion by Sitkiewitz, second by Martell, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Safety Committee returned Special Events Request (13-373) from Manitowoc Fire Fighters Local 368 to hold the annual MDA Fill the Boot Drive to benefit Muscular Dystrophy on August 8, 9 and 10, 2013 at the intersection of So. 10<sup>th</sup> and Franklin Streets, recommending granting request per City policy. Motion by Sitkiewitz, second by Martell, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Safety Committee returned Ambulance Service Agreement (13-377) with Leukemia & Lymphoma Society for July 20, 2013, recommending entering into agreement per City policy. Motion by Sitkiewitz, second by Martell, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits and Inspections Committee returned #24-25 for Class "A" Retail Fermented Malt Beverage license; Change of Agent for #25 "Class B" Intoxicating Liquor and Fermented Malt Beverage license; #16-18 & 20 for 2013-14 One Year Operator's license; #204-220 for 2013-15 Two Year Operator's license; #7 Stock Car Races, Racing Exhibitions, Etc. Permit, granting the various licenses, as shown on the committee's report. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned application #9 for 2013-14 One Year Operator's license, recommending denial of the license based upon the recommendation from the Chief of Police or designee. Motion by Brey, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Committee of the Whole returned General City Claims (13-381) in the amount of \$921,960.76 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 Hennessey, second by Sladky, and unanimously carried, report accepted. Ayes, 10. Nays, none.

Moved by Alderperson Hennessey, second by Alderperson Sladky, and unanimously carried, Common Council adjourned at 8:50 p.m. Ayes, 10. Nays, none.

Respectfully submitted,

Jennifer Hudon, City Clerk