

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

Justin M. Nickels, Mayor

March 21, 2011

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, March 21, 2011. 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 March 7, 2011, 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 March 21, 2011 Common Council agenda.

Resolution (11-156) authorizing various appropriations which were budgeted in 2010 for the departments listed therein to be carried forward into the respective 2011 departmental budgets effective as of December 31, 2010, was referred to Finance Committee.

Resolution (11-154) that certain parks' improvements be included in the 2011 Public Works Program, was referred to Streets and Sanitation Committee.

Mayor submitted the following appointments and requested Council confirmation:

<u>Code Review Committee</u>	<u>Term</u>
Dan Luisier	1 yr. term expiring 1/1/12
James Check	2 yr. term expiring 1/1/13
Brandon Bartow	2 yr. term expiring 1/1/13
Jeffrey Check	3 yr. term expiring 1/1/14
Gene Maloney	3 yr. term expiring 1/1/14

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

Ordinance (11-180) to amend Section 17.105 of the Manitowoc Municipal Code regulating cross connections with the City water system, was referred to Public Utilities and Licensing Committee.

Ordinance (11-148) to create the Manitowoc Transit Commission, was referred to Public Utilities and Licensing Committee.

Ordinance (11-172) to amend the amended zone map of the City of Manitowoc in the area located south of Clark St. and east and west of S. 17th St. from "R-6" Multiple Family Residential and "B-2" Neighborhood Business District to "I-2" Heavy Industrial District, was referred to Streets and Sanitation 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.

Streets and Sanitation Committee returned special events request (11-114) from Heavy Pedal Velo Club to hold bike race on August 13, 2011 from 9:00 a.m. to 7:00 p.m. on route detailed therein, recommending approval of request subject to City policy. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

#### Mayor's Report.

Mayor declared the meeting open for a public hearing for the purpose of a proposed change in zone from "R-4" Single and Two Family District to "B-3" General Business District, in an area located north of Custer Lane, east of Springhill Drive and west of the Canadian National Railroad.

Notice of the hearing was published in the Herald-Times-Reporter on March 7 & 14, 2011. (Proof of publication is on file in the City Clerk's office.)

City Planner David Less gave an overview of the zone change.

No interested parties appeared.

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

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.

During recess, a motion was made by Alderperson Hennessey, seconded by Alderperson McMeans, and unanimously carried to amend document (11-150) Policies and Procedures Manual for Maritime Metro Transit to replace 6.03 as follows: "Crossing in Front of the Bus. Drivers must never permit nor give special permission to passengers to cross in front of the bus. The bus creates a large blind spot for automobiles approaching from the rear and those vehicles cannot see a passenger that crosses in front of the bus. Crossing in front of the bus creates a very unsafe and possibly deadly situation. Drivers must educate passengers about the hazards and dangers of crossing in front of the bus. All buses have visual decals located near the door as a reminder to passengers. Drivers seeing passengers attempting to cross in

front of the bus should make every attempt to get the person's attention prior and direct them to stay on the curb until the bus pulls away." Also, the current paragraph 6.03 shall be placed after paragraph 2 of section 6.02. Ayes, 10. Nays, none.

Mayor's Report.

Call back to order.

Committee of the Whole returned communication (11-178) from City Clerk/Deputy Treasurer Jennifer Hudon requesting to fill Account Clerk position in Treasurer's office, recommending referral to Finance Committee. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned amendment (11-176) to TIF Performance Agreement between City of Manitowoc and DAW Buildings LLC and Dermatology Associates of Wisconsin, S.C., recommending entering into the agreement. Motion by Able, second by Kadow, and carried by acclamation to accept the Committee's report. Ayes, 9. Nays, none. Abstained, 1. Alderperson McMeans abstaining.

Finance Committee returned report (11-175) of City Plan Commission relative to First Amendment to TIF Performance Agreement with DAW Buildings LLC and Dermatology Associates of Wisconsin, S.C., recommending acceptance of report and adoption of recommendations. Motion by Able, second by Kadow, and carried by acclamation to accept the Committee's report. Ayes, 9. Nays, none. Abstained, 1. Alderperson McMeans abstaining.

Finance Committee returned resolution (11-156) authorizing various appropriations which were budgeted in 2010 for the departments listed therein to be carried forward into the respective 2011 departmental budgets effective as of December 31, 2010, recommending adoption of the resolution and place on file. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned summons & complaint (09-349) from Mercedes M. Wilda v. Shoreline Leasing, Inc., et al, Case No. 09-CV-387, recommending 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 claim (11-037) for Excessive Assessment under Wis. Stat. 74.37 from Zetley Real Estate Co., LLC for parcel #835-402-020, Claim File No. 11-1059, recommending denial and place on file. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Parks and Recreation Committee returned report (11-165) of City Plan Commission recommending Council approve location and architectural design as well as preliminary site plan for new Cabin #1 in Lincoln Park, recommending acceptance of report and place on file. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Parks and Recreation Committee returned special events request (11-140) from Brandy Konieczny to hold wedding ceremony in Silver Creek Park on June 25, 2011, at 2:00 p.m., 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 special events request (11-153) from Manitowoc Safety Patrol Picnic Association to use picnic area in Silver Creek Park on May 18, 2011 and waive fees for use of facilities, 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 special events request (11-146) from Sunrise Optimists to hold rummage sale at Lincoln Park Fieldhouse on April 29 & 30, 2011 and waive fees for Friday, 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.

Public Property and Safety Committee returned request (11-152) from Tim Nate Plumbing for refund of unused permit fee, recommending refunding the \$25.00. 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 report (11-167) of City Plan Commission recommending Council approve the location and architectural design, as well as the preliminary site plan for new Manitowoc Intermodal Transfer Station, recommending acceptance of report and place on file. 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 request (11-102) from Isaac Notz, 3205 S. 19th St. requesting electrical service to his property outside the city limits, recommending referral to MPU for action. 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 request (11-173) from Donald Murray, Agent, of TLM Investments, Inc. for refund of unused license fees in the amount of \$227.99 for License No. 52A, recommending approval of the request. 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 2011 Section 5311 Capital Assistance Contract (11-103) between State of Wisconsin and City of Manitowoc to promote the general public good by providing financial assistance to surface public transportation systems, recommending acceptance of the contract. Motion by Hennessey, second by Sladky, and

carried by acclamation to accept the Committee's report. Ayes, 9. Nays, 1.

Streets and Sanitation Committee returned ordinance (11-091) to amend Section 15.05 of the amended zone map for an area located north of Custer Lane, west of the Canadian National Rail Road and east of Springhill Drive, recommending adoption of ordinance. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned resolution (11-154) that certain parks' improvements be included in the 2011 Public Works Program, 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 (11-105) from Aspire Architecture & Design on behalf of Holiday House for a conditional use permit at 2802 Meadow Lane for use as an adult day care center and report (11-171) of City Plan Commission recommending that Council approve a CUP under Section 15.27(3)7 subject to attached conditions, recommending acceptance of report (11-171) and place on file and place communication (11-105) 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 request (11-136) from Manitowoc County Habitat for Humanity for a right-of-way easement on S. 19th St. to provide owner and contractors access to the property at 19th and Flambeau, and report (11-166) of City Plan Commission recommending that Council approve entering into the agreement with City Attorney to draft same, as detailed therein, recommending acceptance of report (11-166) and place on file and place request (11-136) 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 declaration of dedication (11-095) of property for Michigan Avenue purposes from City of Manitowoc, and report (11-170) of City Plan Commission recommending that Council approve and accept the declaration of dedication, recommending acceptance of report (11-170) and place on file and accept, approve and place dedication (11-095) 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 (11-163) of the Board of Public Works of March 16, 2011, regarding bids received for 2011 Concrete Paving Program, WS-11-1, recommending awarding contract to low bidder, Vinton Construction Company in the amount of \$240,809.46. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation & Public Property and Safety Committees returned special events request (11-149) from

Two Rivers Main Street to hold annual Cool City Classic Car Show and Cruise Night on June 24, 2011, beginning at 4:00 p.m. with route detailed therein along with a Police escort and traffic control, jointly recommending approval of 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 report (11-164) of the Board of Public Works of March 16, 2011, regarding quotes received for 2011 Ready-Mix, QM-11-3, recommending awarding contract to low bidder, C. Harvey Company, in the amount of \$128,215.00. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned landscaping agreement (11-161) with Lake Shore Cleaners, Inc. for landscape services for South 10th Street Storm Water Detention Pond area, recommending entering into agreement. 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 (11-147) from Veterans of Foreign Wars Otto Oas Post No. 659 Ladies Auxiliary requesting permission to hold their poppy sale on Friday and Saturday, May 20 & 21, 2011, recommending approval of 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 grant agreement (11-159) between State of Wisconsin (Wis. Coastal Management Program) in the amount of \$15,000 for Lakeside Blvd. Bluff Erosion Study/Plan, recommending entering into agreement. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned progress invoice (11-158) from Wisconsin Dept. of Transportation in the amount of \$22,502.81 for N. 21st Street Bridge Viaduct, Project No. 4991-02-71, recommending approval of payment. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation Committee returned special events request (11-145) from Habitat for Humanity for two barricades to block off First Lutheran Church parking lot on April 9 & 10, 2011, for annual Shanty Town event, recommending approval of 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 agreement (11-174) with FOTH Infrastructure & Environment, LLC for professional engineering services relative to Lakeside Blvd. Bluff Erosion Study/Plan, recommending entering into agreement. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10.

Nays, none.

Streets and Sanitation Committee returned application (11-117) from Wisconsin Aluminum Foundry Co., Inc. for a change in zone from R-6 Multiple Family and B-2 Neighborhood Business District to I-2 Heavy Industrial District for property located at 1623 Clark St. and 1701-1703 Clark St., as detailed therein, returned same with report (11-169) of City Plan Commission recommending that Council instruct the City Clerk to call for a public hearing, recommending acceptance of report (11-169) and place on file, with Clerk to call for public hearing and place application (11-117) 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 (11-106) from Popp Enterprises requesting temporary access easement over an unimproved right-of-way, as detailed therein, and report (11-168) of City Plan Commission recommending that Council approve entering into the agreement with City Attorney to draft same, as detailed therein, recommending acceptance of report (11-168) and adoption of recommendations and place communication (11-106) on file. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Streets and Sanitation, Parks and Recreation, Public Property and Safety & Public Utilities and Licensing Committees returned special events request (11-139) from Tom Drill for the use of the City Hall parking lot and various equipment for Showtime 2011 scheduled August 11 & 12, 2011, jointly recommending approval of special event according to City policy. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Personnel Committee returned policies and procedures manual (11-150) for Maritime Metro Transit, recommending approval of the policy as amended during recess of this meeting. Motion by Able, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Personnel Committee returned policies and procedures manual (11-151) for Evergreen Cemetery, recommending approval of the policy manual. Motion by Able, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Personnel Committee returned agreement (11-179) between City of Manitowoc and City of Manitowoc Police Department Employees, Law Enforcement Employee Relations Division of the Wis. Professional Police Assn., 2011-2012. recommending approval of the contract. Motion by Able, second by Hennessey, and carried by acclamation to accept the Committee's report. Ayes, 9. Nays, 1.

Public Utilities & Licensing Committee returned application #16A, 52A and 51A for "Class B" Retail Intoxicating

Liquor & Fermented Malt Beverage license; #37-38 Temporary Operator's license; #375-377 for 2010-12 Two Year Operator's license; recommending placing #16A and #52A on file and granting the other 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, none.

Public Utilities & Licensing Committee returned application #48 for 2010-11 One Year Operator's license, recommending denial of the license, based upon the recommendations from the Chief of Police or designee. 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 (11-177) in the amount of \$1,757,558.32 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 Soeldner, second by Brey and carried by acclamation to adjourn to Monday, March 28, 2011, at 5:00 p.m. Ayes, 9. Nays, 1.

Respectfully submitted,

JENNIFER HUDON, City Clerk