

COMMON COUNCIL

OFFICIAL JOURNAL

Justin M. Nickels, Mayor

April 18, 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, April 18, 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, Christopher Able, Matt Kadow, Jason Sladky, Alex J. Olson, Nicholas P. Levendusky, Allan Schema and Dave Soeldner.

Absent: Alderpersons Scott McMeans and James N. Brey.

Barbershop Quartet sang the "Star Spangled Banner".

Minutes of the adjourned session of March 28, 2011, regular session of April 4, 2011 and adjourned session of April 11, 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 April 18, 2011 Common Council agenda.

Mayor presented plaque to Alderperson Nicholas Levendusky and thanked him for his service as Alderperson, District 1, for the past two years.

Mayor presented Proclamation to Al Boldt for "Barbershop Harmony Week", April 17-23, 2011.

Mayor presented Proclamation to Dr. Bhat and his staff proclaiming April as World Wide Parkinson's Awareness Month.

Resolution (11-261) expressing intent to renew tourism services agreement with City of Two Rivers and Manitowoc Area Visitor and Convention Bureau, Inc., was referred to Committee of the Whole.

Resolution (11-231) approving Judge Olson's recommendation for bond amounts in the Municipal Court Deposit Schedule for possession and sale of synthetic cannabinoids and public nuisance properties, was referred to Public Property and Safety Committee.

Resolution (11-241) authorizing assessments for special decorative Christmas lighting on non-residential properties abutting Eighth St. from Washington St. to Chicago St., on Washington St. from So. 8th St. to So. 12th St. and in the Harbor Town Center (Dewey Street from N. Rapids Rd. to Calumet Ave. and Harbor Town Ln. from Dewey St. to S. 41st St.), as detailed therein, for the 2010-11 Christmas season, was referred to Streets & Sanitation Committee.

Resolution (11-247) to receive grant funding under the 2012-13 Urban Non-Point Source and Stormwater Management Construction Grants from the Wisconsin Dept. of Natural Resources implementing measures to control

nonpoint source water pollution, was referred to Streets and Sanitation Committee.

Resolution (11-251) to vacate a portion of So. 21st Street between Flambeau St. and Summit St., was referred to Streets and Sanitation Committee.

Resolution (11-255) that the revised preliminary plat of Popp Subdivision No. 3 be accepted subject to the conditions outlined in Plan Commission report (11-254), was referred to Streets and Sanitation Committee.

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 in zone from "R-6" Multiple Family District and "B-2" Neighborhood Business District to "I-2" Heavy Industrial District, in an area located at 1623 Clark St. and 1701 and 1703 Clark St.

Notice was published in the Herald-Times-Reporter on April 4 & 11, 2011. (Proof of publication is on file in the City Clerk's office.)

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.)

Ordinance (11-267) to adopt a new codification and reformatting of all 30 chapters of the "Municipal Code of the City of Manitowoc, Wisconsin", was referred to Committee of the Whole.

Ordinance (11-252) amending Section 22.01 of the Municipal Code for a change in the Official Map in an area located along So. 21st Street between Flambeau St. and Summit St., was referred to Streets and Sanitation Committee.

Ordinance (11-253) amending the amended zone map of the City of Manitowoc in an area located North of E. Waldo Blvd. and west of Memorial Drive, 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.

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 resolution (11-261) expressing intent to renew tourism services agreement with City of Two Rivers and Manitowoc Area Visitor and Convention Bureau, Inc., recommending entering into the agreement. Motion by Soeldner, second by Able, and carried by acclamation to accept the Committee's report. Ayes, 6. Nays, 2.

Committee of the Whole returned report (11-258) of City Plan Commission relative to review of Reformatted Municipal Code, recommending acceptance of report, place on file, with Clerk to call for public hearing. Motion by Soeldner, second by Able, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Finance Committee returned notice of claim and claim (11-182) from Badger Office City of March 24, 2011, Fleet

Claim File No. 11-197, recommending payment of the claim. Motion by Able, second by Kadow, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Finance Committee returned notice of claim and claim (11-181) from State Farm Insurance on behalf of Ryan J. Stokes of March 22, 2011, Fleet Claim File No. 11-196, recommending payment of claim. Motion by Able, second by Kadow, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Parks and Recreation Committee returned Plan Commission Report (11-250) relative to plans for new Ron Rubick Municipal Athletic Field entrance and memorial, recommending Council approve the project, recommending approval of report and place on file. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Parks and Recreation Committee returned agreement (11-240) for construction of Cabin #1 at Lincoln Park between City and Manitowoc County Home Builders Association, recommending approval of contract and signing of said document. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Parks and Recreation Committee returned special events request (11-234) from First Presbyterian Church to hold church picnic at Union Park on July 10, 2011, along with request for waiver of fees. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Parks and Recreation & Streets and Sanitation Committees returned special events request (11-223) from HFMMC to hold 2011 2nd Annual No Cancer Bicycle Ride, utilizing Mariner's Trail and City streets, as detailed therein, on July 11, 2011, jointly recommending approval of request subject to City policy. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Parks and Recreation Committee returned special events request (11-235) from New Life Christian Church to hold National Day of Prayer in Washington Park on Thursday, May 5, 2011, and waive fees for same, recommending approval of request, subject to City policy. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Parks and Recreation & Streets and Sanitation Committees returned special events request (11-221) from George Kapitz to hold 2011 Bike in the Park event in Washington Park on June 18, 2011 and also closing S. 11th and 12th Streets adjacent to the park, jointly recommending approval of request subject to City policy. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Parks and Recreation & Streets and Sanitation Committees returned special events request (11-236) from Peggy Jeske and Pat Mckane, Fox's Piggly Wiggly, to hold 5th Annual Pig to Pig Walk on September 10, 2011, utilizing City sidewalks and Mariner's Trail, as detailed therein, jointly recommending approval of request subject to City policy. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Parks and Recreation & Streets and Sanitation Committees returned special events request (11-237) from Liz Becker, Co-Organizer to hold 4th Annual Carol Rose Wester Memorial Race on Saturday, August 13, 2011, beginning and ending at Red Arrow Park, utilizing streets and sidewalks as detailed therein, jointly recommending approval of request subject to City policy. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Parks and Recreation Committee returned special events request (11-248) from Kenny's Athletic Klub to hold softball tournament at Citizen Park from July 22 - 30, 2011, recommending approval of request subject to City policy. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Parks and Recreation, Streets and Sanitation and Public Utilities & Licensing Committees returned special events request (11-262) from Acoustic Fest, Inc. for the use of Washington Park for Acoustic Fest on Saturday, July 16, 2011, along with waiver of rules prohibiting alcohol in the park, closing So. 12th Street and waiver of fee for Metro Stage, jointly recommending approval of request subject to City policy. Motion by Levendusky, second by Sladky and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Public Property and Safety Committee returned resolution (11-231) approving Judge Olson's recommendation for bond amounts in the Municipal Court Deposit Schedule for possession and sale of synthetic cannabinoids and public nuisance properties, recommending adoption of the resolution. Motion by Hennessey, second by Olson and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Public Property and Safety Committee returned communication (11-239) from Roncalli Student Government to extend the noise ordinance to 11:00 p.m. on Saturday, May 21, 2011, to play speakers outdoors for school dance, recommending approval of the request. Motion by Hennessey, second by Olson, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Public Property and Safety Committee returned request (11-228) from Smokey Barbier Heating for refund of unused portion of permit, recommending approval of the request. Motion by Hennessey, second by Olson, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Public Property and Safety Committee returned request (11-246) from Fire Chief William P. Manis II to create a loading zone and fire lane on the east side of the No. 9th St. and Maritime Dr. parking lot, as detailed therein, recommending placing on file. Motion by Hennessey, second by Olson, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Public Utilities and Licensing Committee returned second amendment (11-225) to 2009 Section 5311 ARRA Capital Assistance Contract between State of Wisconsin and City of Manitowoc, recommending acceptance of the contract amendment. Motion by Hennessey, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Public Utilities and Licensing Committee returned report (11-244) of Community Development Authority advising of approval of independent annual audit of activities of Housing Authority for year ending June 30, 2010 with audit attached, recommending acceptance of report and place on file. Motion by Hennessey, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Public Utilities and Licensing Committee returned communication (11-226) from Eastern Wisconsin Stock Cars asking for an extension of beer sales to 12:00 midnight for Friday night race season, as detailed therein, recommending approval of the request. Motion by Hennessey, second by Sladky to accept the Committee's report.

Moved by Alderperson Able, seconded by Alderperson Kadow to amend the motion to allow for extension of beer sales to 11:00 p.m.

After a short discussion, Alderpersons Able and Kadow agreed to amend their amendment to allow for extension of beer sales to 12:00 midnight on September 2 and 3.

Vote on the amendment: Ayes, 2. Nays, 6. Motion to amend failed.

Vote on original motion: Ayes, 6. Nays, 2. Motion carried.

Public Utilities and Licensing Committee returned communication (11-227) from Eastern Wisconsin Stock Cars asking the City of Manitowoc for a racing permit for the 2011 race season and extension of the noise ordinance to 10:45 p.m. with a grace period of 15 minutes to 11:00 pm., recommending approval of the request. Motion by Hennessey, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Public Utilities and Licensing Committee returned ordinance (11-180) to amend Section 17.105 of the Manitowoc Municipal Code regulating cross connections with the City water system, recommending adoption of the ordinance. Motion by Hennessey, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Public Utilities and Licensing Committee returned statement (11-229) of the Board of Canvassers of the municipal election returns of the April 5, 2011, Spring Election, recommending acceptance of the report and place on file. Motion by Hennessey, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned design engineering services contract (11-238) with City, State of Wisconsin and OMNNI Associates for N. Rapids Rd. and Broadway Street intersection, Project 4327-06-00, recommending entering into agreement. Motion by Soeldner, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned report (11-245) of City Plan Commission relative to its compliance review of Michels Corporation/City Centre LLC for conditional use permit, recommending acceptance of report and place on file. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned quit claim deed (11-211) from Basant Kumar for Custer Street purposes

and quit claim deed (11-212) from Basant Kumar for Calumet Avenue purposes, and report (11-249) of City Plan Commission recommending that Council approve and accept the deeds, recommending acceptance of report (11-249) and place on file and acceptance of deeds (11-211) and (11-212) and place on file. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned report (11-254) of City Plan Commission relative to Popp Subdivision No. 3 revision to previously approved preliminary plat recommending Council approve the revised preliminary plat subject to the attached conditions, recommending acceptance of report and place on file. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned report (11-256) of City Plan Commission relative to its compliance review of Scott and Tiffany McMahon for conditional use permit, recommending acceptance of report and place on file. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned report (11-257) of City Plan Commission relative to its compliance review of Thuermer/Baas for adaptive reuse of property at 630 N. 10th St., recommending acceptance of report and place on file. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned revised landscaping agreement (11-259) with Lake Shore Cleaners for landscape services for property located at So. 10th Street Storm Water Detention Pond area, recommending entering into agreement. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned report (11-264) of City Plan Commission relative to Manitowoc Elks Lodge request to rezone property located at 200 E. Waldo Blvd. recommending Council to instruct the Clerk to call for a public hearing, recommending acceptance of report, place on file, with Clerk to call for public hearing. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned report (11-260) of City Plan Commission authorizing issuance of special permit for the construction of a fixed animated sign at Manitowoc Shell's property at 211 N. 10th Street, as detailed therein, recommending acceptance of report and place on file. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Moved by Soeldner, second by Levendusky, and unanimously carried to rescind the Streets and Sanitation Committee's April 4, 2011 recommendation to place document no. (11-075) on file. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned request (11-075) from Rodger D. Whiteside Jr., to pave alley behind his residence at 1021 N 8th Street, directing City Attorney to enter into access agreement with Mr. Whiteside. Motion by

Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned report (11-265) of City Plan Commission relative to Popp Enterprises, LLC proposal for vacation of portion of So. 21st St. and Official Map amendment, recommending acceptance of report, adoption of recommendations, with Clerk to call for public hearing. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned report (11-207) of the Board of Public Works of March 30, 2011, regarding bids received for 2011 Asphalt Paving Program, Project WS-11-4, recommending awarding contract to lowest responsive bidder, Vinton Construction Company, in the amount of \$376,480.26. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned resolution (11-247) to receive grant funding under the 2012-13 Urban Non-Point Source and Stormwater Management Construction Grants from the Wisconsin Dept. of Natural Resources implementing measures to control nonpoint source water pollution, recommending adoption of resolution. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned request (11-204) from SMI on behalf of Popp Enterprises LLC to approve revised preliminary plat of Popp Subdivision No. 3 on So. 21st St. between Summit St. and Flambeau St., recommending placing on file. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned resolution (11-255) that the revised preliminary plat of Popp Subdivision No. 3 be accepted subject to the conditions outlined in Plan Commission report (11-254), recommending adoption of resolution. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned report (11-263) of City Plan Commission recommending Council approve the assignment of the adaptive re-use conditional use permit previously issued to Keith Gauthier for property at 1402 Clark Street to New School Investments, LLC, subject to the attached conditions, recommending acceptance of report and place on file. Motion by Soeldner, second by Levendusky, and carried by acclamation to accept the Committee's report. Ayes, 7. Nays, none. Abstained, 1.

Streets and Sanitation Committee returned request (11-233) from Beau Bennett to move structure from Valders to parcel 836-103-040 within the City limits, recommending referral to Plan Commission. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned petition (11-232) from North 8th Street residents who do not want N. 8th Street from Waldo Blvd. to the railroad tracks repaved at this time, recommending referring discussion of special

assessment charges to Board of Public Works and place petition (11-232) on file. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Streets and Sanitation Committee returned 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, recommending adoption of the ordinance. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Moved by Alderperson Soeldner, second by Alderperson Levendusky, and unanimously carried to rescind the Streets and Sanitation Committee's action of March 21, 2011, and place document (11-161) Landscaping Agreement South 10th Street Pond, on file. Ayes, 8. Nays, none. (*See revised document (11-259).*)

Streets and Sanitation Committee returned stormwater management facility maintenance agreement (11-230) with Federal Mogul Corporation for parcel no. 813-401-045, recommending entering into agreement. Motion by Soeldner, second by Levendusky, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Personnel Committee returned seasonal employment policy (11-242) to provide framework for seasonal employment process, recommending approval of amended policy. Motion by Able, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 8. Nays, none.

Public Utilities & Licensing Committee returned amended #10 (change of agent) for 2010-11 Class "A" Retail Fermented Malt Beverage license; amended #19 (change of agent) and amended #57 (change of agent) for 2010-11 "Class B" Retail Intoxicating Liquor & Fermented Malt Beverage license; #6 (Beer) and #1 (Wine) Temporary Class "B" license; #39 for 2010-11 Temporary Operator's license; #383-386 for 2010-12 Two Year Operator's license; #1-7 for 2011-13 Two Year Operator's license; #1 for 2011 Stock Car Races, Racing Exhibitions, Etc. Permit; 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, 8. Nays, none.

Committee of the Whole returned General City Claims (11-266) in the amount of \$3,580,515.19 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 Able, report accepted. Ayes, 8. Nays, none.

Moved by Olson, second by Sladky and unanimously carried Common Council adjourned at 8:33 p.m. Ayes, 8. Nays, none.

Respectfully submitted,

JENNIFER HUDON, City Clerk