

**COMMON COUNCIL  
OFFICIAL JOURNAL**

Justin M. Nickels, Mayor

Jennifer Hudon, City Clerk  
Monday, September 30, 2013

The Common Council of the City of Manitowoc, Wisconsin, met in regular session at the Council Chambers in City Hall, on Monday, September 30, 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 7:00 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.

City Clerk announced that the various documents have been referred to the appropriate committees as shown on the September 30, 2013 Common Council agenda.

Mayor Nickels presented proclamation to Police Chief Tony Dick declaring the month of October, 2013 as Crime Prevention Month.

Mayor Nickels presented proclamation to representatives of NAMI declaring the week of October 7, 2013 as Mental Illness Awareness Week.

Presentation by Mayor Nickels of the 2014 Executive Budget for the City of Manitowoc.

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.

*As recommended by Public Infrastructure Committee*

Public Infrastructure Committee returned petition (13-493) from Owners/Members of the Albert Drive Homeowners Association opposing the cutting of the wild flowers, long grass and weeds in Hidden Hollow Subdivision, as detailed therein, recommending placing on file. 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 (13-494) from Lincoln High School Student Senate to hold Homecoming Parade on October 12, 2013, along route detailed therein, recommending approval of request. 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 (13-516) from Manitowoc-Two Rivers YMCA to hold 6th Annual Festival Foods Turkey Trot Run on Thursday, November 28, 2013, from 8:00 a.m. to 10:00 a.m. with routes attached, recommending approval of request. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Infrastructure Committee returned contract (13-524) with RAMS Contracting, LTD to cut and remove one-half acre area of trees at City's Gravel Pit, recommending entering into contract. Motion by Soeldner, second by Brey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Mayor submitted the following appointments and requested Council confirmation:

Wastewater Treatment Facility Board  
Dave Luckow

Term  
3 year term ending 6/1/16

Community Development Authority  
Emil Roth

Term  
4 year term ending 6/1/17

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

Ayes, 10. Nays, none.

City Clerk Jennifer Hudon read a report from Licensing, Permits and Inspections Committee indicating they went on record at their meeting of September 30, 2013, unanimously recommending the nomination of Mark R. Seidl to serve as a member of the Manitowoc Public Utilities Commission, for a five-year term from October 1, 2013, through September 30, 2018 (place of Mark R. Seidl).

It was moved by Brey, second by Hennessey, to nominate Mark R. Seidl as a member of the Manitowoc Public Utilities Commission. Motion by Brey, second by Hennessey and unanimously carried to close nominations and cast a unanimous ballot in favor of Mark R. Seidl. Motion carried unanimously. Ayes, 10. Nays, none.

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 Hennessey announced that notice is hereby given that the above governmental body 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 the 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 matters which will be considered in the closed session are the following: (1) Discussion and update relative to Case No. 12-CV-224, Groeschel, et al. v. Arkion Life Sciences, LLC, et al, on the action as well as possible settlement consideration, and (2) 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.

Aldersperson McMeans stated he had a conflict of interest with item 2 of the closed session agenda.

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.

It was moved by Mayor Nickels, second by Able, and unanimously carried upon roll call to reconvene in open session. Ayes, 11. Nays, none.

Items removed from Consent Agenda: None.

Call back to order.

Moved by Hennessey, second by Sladky, and unanimously carried to accept the Consent Agenda items and recommendations of the various committees. Ayes, 10. Nays, none. Consent Agenda items approved as follows:

Items Placed on File

- 1) Minutes (13-509) of Great Lakes Utilities Power Supply Project Committee of 8/8/13; Great Lakes Utilities Lakeswind Project Committee of 7/24/13; Manitowoc Public Utilities Commission of 8/12/13 & 9/6/13; Plan Commission of 8/14/13.

*As recommended by Committee of the Whole*

- 2) General City Claims (13-521) in the amount of \$2,040,059.65 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.
- 3) Petition (13-510) for direct annexation from James and Sandra Schultz of 1.85 acres from the Town of Manitowoc Rapids to the City of Manitowoc at 4813 West Custer St., recommending referral to Plan Commission.

*As recommended by Finance Committee*

- 4) Audit (13-496) of Economic Development Corporation of Manitowoc County and the related Foundation as of December 31, 2012 and 2011, recommending placing on file.

*As recommended by Licensing, Permits and Inspections Committee*

- 5) Memo (13-489) from Plumbing Inspector William Jindra to issue refund for stormwater hook up fee for 742 S. 30th Street, recommending issuing refund of \$500.00.
- 6) City Plan Commission, to whom was referred Quit Claim Deed (13-451) from Manitowoc Cinema LLC for .17 acres for So. 44th Street purposes; Quit Claim Deed (13-466) from CR Mini Storage LLC for 7,804 sq. ft. of land for S. 26th Street purposes; Quit Claim Deed (13-472) from Popp Enterprises, LLC for .27 acres for South 19th Street purposes; Quit Claim Deed (13-473) from Summit Pond LLC for .04 acres for South 19th Street purposes; Quit Claim Deed (13-486) from City of Manitowoc to Kevin J. and Wendy L. Ramminger for a 1,644 square foot parcel of land on Broadway Street, returned same with Report (13-500) recommending that Council approve and accept the Quit Claim Deeds, recommending acceptance of report (13-500) and place on file and approve and accept Quit Claim Deeds (13-451), (13-466), (13-472), (13-473) and (13-486).
- 7) City Plan Commission, to whom was referred Application (13-461) from Zenith Properties LLC for change in zone from B-2, Neighborhood Business District, to B-3, General Business District, for property at southeast corner of Reed Ave. and N. 8th Street, returned same with Report (13-502) recommending Council instruct Clerk to call for public hearing, recommending acceptance of report (13-502) and place on file with Clerk to call for public hearing and place application (13-461) on file.
- 8) City Plan Commission, to whom was referred Correction Instrument (13-468) relative to S. 19th St. easement vacation, returned same with Report (13-501) recommending Council approve the correction instrument, recommending acceptance of report and adoption of recommendations and approval of correction instrument.
- 9) Request (13-522) from The Salvation Army for conditional use permit for operation as a church, recommending referral to Plan Commission.

*As recommended by Parks and Recreation Committee*

- 10) Report (13-492) of the Board of Public Works of September 11, 2013, recommending 1st and final payment to Aeroloc, Incorporated in the amount of \$7,900.00 for Citizen Park Armory asbestos removal, recommending payment.
- 11) Special Use Trail Permit (13-520) from The Salvation Army for use of Mariner's Trail on September 6, 2014 for Ride for Hunger, recommending granting request per City policy.

*As recommended by Public Infrastructure Committee*

- 12) Report (13-478) of the Board of Public Works of August 28, 2013, regarding quotes received for Ferric Chloride, Project QM-13-3, recommending awarding quote to Kemira Water Solutions, Inc.
- 13) Report (13-517) of the Board of Public Works of September 25, 2013, recommending 4th and final payment to LaLonde Contractors, Inc. in the amount of \$22,412.82 for 2012 Concrete Paving, WS-12-1, recommending payment.
- 14) Progress invoice (13-518) from Wisconsin Dept. of Transportation in the amount of \$14,814.09 for Waldo Blvd., CTH R – 8th Street, Project No. 1500-37-00, recommending payment.
- 15) Progress invoice (13-519) from Wisconsin Dept. of Transportation in the amount of \$6,469.53 for Waldo Blvd., 8th Street – Maritime Drive, Project 4570-12-00, recommending payment.
- 16) Request (13-523) from Midwest LLC to sell balloons and Christmas novelties along the Christmas Parade route on November 27, 2013, recommending approval.
- 17) #2 "Class B" Retail Intoxicating Liquor & Fermented Malt Beverage license change of agent; #53 (beer) and #8 (wine) for Temporary Class "B" Retailer's license; #11 Pawnbrokers license; #24-26 for One-Year Operator's license; #244 & #247-263 for Two-Year Operator's license, recommending granting.

*Non-Consent Agenda Items*

Committee of the Whole returned retirement agreement (13-530) with Fire Chief, recommending acceptance of the agreement and release. Motion by Hennessey, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Committee of the Whole returned resolution (13-434) to amend the Council Rules to add a Consent Agenda to expedite routine agenda items that come before the Common Council, recommending adoption of the resolution. Motion by Hennessey, second by Sladky, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned participation agreement (13-525) between City of Manitowoc and Government Payment Service, Inc. for credit card payment services using the GovPayNet Payment Network, recommending entering into agreement. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned merchant agreement (13-526) between the City of Manitowoc, Litle & Company LLC and Government Payment Service, Inc. for credit card payment services using the GovPayNet Payment Network, recommending entering into agreement. Motion by McMeans, second by Able, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance Committee returned memo (13-528) from Asst. City Attorney Kathleen McDaniel regarding proposed settlement in Case No. 12-CV-224, Groeschel, et al. v. Arkion Life Sciences, LLC, et al, recommending approval of

the recommendation 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 memo (13-529) from Asst. City Attorney Kathleen McDaniel regarding proposed settlement in Case No. 08-CV-448, Holy Family Memorial, Inc. v. City of Manitowoc, recommending authorizing the agreement. Motion by Able, second by Brey, and carried by acclamation to accept the Committee's report. Ayes, 9. Nays, none. Abstained, 1. Alderperson McMeans abstaining.

Licensing, Permits & Inspections Committee returned resolution (13-491) relative to installation of one, non-ornamental 250 watt, Cobra style, high pressure sodium street light in 2400 block of South 30th Street, recommending adoption of the resolution. 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 (13-499) of City Plan Commission relative to proposed Amendment No. 1 to 2013 Conditional Use Permit of Community Bible Church to include property at 709 So. 28th Street for operation of a school, recommending acceptance of report and place 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 waiver of fee request (13-497) from Lincoln Football Booster Club for use of picnic tables and grills for Homecoming on October 12, 2013, recommending waiver of all fees if pick up and delivery is done by requestor. Motion by Sladky, second by Schema, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Parks and Recreation Committee returned special events request (13-507) from Marion Parworth to hold Garden Fair in Washington Park on June 14, 2014, recommending granting request under same terms as 2013 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 request (13-508) from Heart-A-Rama for waiver of rental fee for Lincoln Park Fieldhouse on March 19, 2014, recommending 50% waiver of fees. Motion by Sladky, second by Schema, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Personnel Committee returned resolution (13-512) to fill vacant Department of Public Infrastructure Administrative Assistant position at rate of \$18.42 per hour, as detailed in attached job description, recommending approval of the resolution. Motion by Able, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Finance and Personnel Committees returned communication (13-513) from Mayor Nickels relative to hiring temporary employee in Building Inspection Department for six weeks at 40 hours per week, jointly recommending approval of a temporary administrative assistant for 6 weeks for the Inspection Department. Motion by Able, second by Hennessey, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Public Infrastructure Committee returned ordinance (13-511) to amend Section 7.275 of the Manitowoc Municipal Code regarding publishing a Class 1 notice of hearing objections to assessments, recommending adoption. Motion by Brey, second by Hennessey, and unanimously carried to suspend the rules to take immediate action on this ordinance. Ayes, 10. Nays, none. Motion by Brey, second by Hennessey, report accepted and ordinance adopted. Ayes, 10. Nays, none.

Public Safety Committee returned special events request (13-503) from Stock's Harley-Davidson/Polaris to allow fireworks at their Stocktober Fest event on October 4, 2013, recommending granting request per City policy and requirement of insurance. Motion by Sitkiewitz, second by Martell, and unanimously carried to accept the Committee's report. Ayes, 10. Nays, none.

Licensing, Permits & Inspections Committee returned request (13-506) from Andrew Harrigan to extend alcohol premise to tent on south side of licensed premise at 620 N. Water Street for Tailgating With the Fireman event to be held on October 6, 2013. (License No. 52, DJH Enterprises LLC, Dennis Harrigan, Agent), recommending granting 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 and Inspections Committee returned #246 for Two 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.

Moved by Alderperson Hennessey, second by Alderperson Sladky, and unanimously carried, Common Council adjourned at 8:32 p.m. Ayes, 10. Nays, none.

Respectfully submitted,

Jennifer Hudon, City Clerk