

CITY OF MENASHA
COMMON COUNCIL
Third Floor Council Chambers
140 Main Street, Menasha
Monday, December 6, 2010
MINUTES

A. CALL TO ORDER

Meeting called to order by Mayor Merkes at 6:10 p.m.

B. PLEDGE OF ALLEGIANCE

A moment of silence was observed for Pearl Harbor Day.

C. ROLL CALL/EXCUSED ABSENCES

PRESENT: Aldermen Hendricks, Zelinski, Englebert, Benner, Roush, Taylor, Wisneski, Langdon

ALSO PRESENT: Mayor Merkes, CA/HRD Captain, Lt. Brunn, DFC DeLeeuw, DPW Radtke, CDD Keil, C/T Stoffel, PRD Tungate, PHD Nett, Pk Supt Maas, Kimberly Miller (Forestry Consultant), Officer Styka, Clerk Galeazzi

D. PUBLIC HEARING

None

E. PUBLIC COMMENTS ON ANY MATTER OF CONCERN TO THE CITY

(five (5) minute time limit for each person)

Tom Robinson, 1149 Harold Drive. Promote Isle of Valor at Smith Park.

Dan Gueths, 7255 Manitowoc Road. Incident with police officers coming on his property.

CA Captain explained to Mr. Gueths personal verbal attaches are not acceptable at this point of the meeting. If he wants to file a claim he needs to go through the proper channels.

Stan Sevenich, 645 Ninth Street. Steam Plant environmental law suit.

Sue Wisneski, 1232 DePere Street. Will not be running for office of District 3 Alderman.

Mayor Merkes thanked Ald. Wisneski for her service to the City as an alderman and employee.

F. REPORT OF DEPARTMENT HEADS/STAFF/CONSULTANTS

1. [Mayor Merkes –Menasha Rotary trail lighting donation](#)

Mayor Merkes explained part of the Friendship Trail that runs along Heckrodt Wetland Reserve between Jefferson Park and Plank Road was recently improved with new lighting and landscape. Menasha Rotary has donated \$10,000 towards new lighting fixtures on the trail.

Dan Rippl and Jack Fry, rotary members, presented a check to Mayor Merkes.

2. John Williams, Foth Infrastructure and Environment LLC-Good Government Award.

Mayor Merkes explained the City was recognized for the collaborative efforts with the Neenah-Menasha YMCA to continue to operate the Senior Center. John Williams from Foth Infrastructure and Environment LLC presented the Wisconsin Good Government Award and \$1,000 to Mayor Merkes, PHD Sue Nett and N-M YMCA Active Older Adult Director Jean Wollerman. Mr. Williams explained municipalities that strive to improve services and reduce costs qualify for this award.

PHD Nett commented that this partnership with the private sector has allowed more programs for the senior citizens and save taxpayer dollars.

3. [Executive Summary – Emerald Ash Borer management plan & street tree inventory- Kimberly Miller \(Temporary Forestry Consultant\)](#)

PRD Tungate introduced Kimberly Miller, the Forestry Consultant hired to inventory street trees and prepare an Emerald Ash Borer management plan. Ms. Miller reviewed the Readiness Plan for EAB. She went over some recommended strategies and costs for EAB. There are grants available to help with the costs to implement some of the recommendations. She explained that although EAB has not been found locally, it is inevitable that it will work its way to the City. The effects of EAB can be detrimental and overwhelming to the City both financially and physically.

4. Clerk Galeazzi - the following minutes and communications have been received and placed on file:
Minutes to receive:

- a. [Administration Committee, 11/15/10](#)
- b. [Board of Public Works, 11/15/10](#)
- c. [Board of Health, 10/13/10](#)
- d. [Committee on Aging, 10/14/10](#)
- e. [Landmarks Commission, 11/10/10](#)
- f. [Library Board, 11/18/10](#)
- g. [NM Fire Rescue, Joint Finance & Personnel Committee, 11/23/10](#)
- h. [NM Sewerage Commission, 10/26/10](#)
- i. [Parks and Recreation Board, 11/8/10](#)
- j. [Plan Commission, 11/10/10](#)
- k. [Safety Committee, 9/30/10; Police Department](#)
- l. [Safety Committee, 10/7/10; City Hall](#)
- m. [Safety Committee, 10/26/10; Public Works and Parks Department](#)
- n. [Water & Light Commission, 11/17/10](#)

Communications:

- o. [Menasha Historical Society newsletter, December 2010](#)
- p. [Public presentation of the Convention Center Community Coalition's report invitation, 12/2/10](#)
- q. [Public meeting invite at UWO regarding proposed closing of the Oshkosh mail processing and distribution center](#)
- r. [US Dept. of Justice, 11/24/10; DEA moves to emergency control of synthetic Marijuana](#)

G. CONSENT AGENDA

(Prior to voting on the Consent Agenda, items on the Consent Agenda may be removed at the request of any Alderman and place immediately following action on the Consent Agenda. The procedures to follow for the Consent Agenda are: (a) removal of items from Consent Agenda; and (b) motion to approve the items from Consent Agenda.)

Minutes to approve:

1. [Common Council, 11/15/10](#)

Administration Committee, 11/15/10; recommends approval of:

2. [Extension of Contract for Auditing Services with Schenck Government & Not-for-Profit Solutions](#)
3. [Amendment to the Senior Center-YMCA Collaboration Agreement](#)

Board of Public Works, 11/15/10; recommends approval of:

4. [Change Order: MOD #0009-00; Neenah-Menasha Fire Rescue Station 36; Miron Job #101520; ADD: \\$170.00](#)

NM Fire Rescue, Joint Finance & Personnel Committee, 11/23/10; recommends approval of:

5. The RFP for Ingenuity First for the 2011 physicals at the low bid of \$20,743.20 and with the understanding that there may be additional costs incurred if additional testing is needed for line staff members.

Parks and Recreation Board, 11/8/10; recommends approval of:

6. [Accepting the findings of the Executive Summary of the Emerald Ash Borer Management Plan & Street Tree Inventory](#)

Moved by Ald. Hendricks, seconded by Ald. Wisneski to approve items 1-6 of Consent Agenda.
Motion carried on roll call 8-0.

H. ITEMS REMOVED FROM CONSENT

None

I. ACTION ITEMS

1. [Accounts payable and payroll for the term of 11/18/10 to 12/2/10 in the amount of \\$1,242,877.06](#)

Moved by Ald. Wisneski, seconded by Ald. Langdon to approve accounts payable and payroll.

Discussion/Questions/Answers on expenditures.

Motion carried on roll call 8-0.

J. ORDINANCES AND RESOLUTIONS

1. [O-20-10 An Ordinance Relating to Refuse Collection](#) (Recommended by Board of Public Works, Introduced by Mayor Merkes)

Moved by Ald. Taylor, seconded by Ald. Hendricks to adopt O-20-10.

Moved by Ald. Taylor, seconded by Ald. Englebert to amend O-20-10 Sec. 8-3-10, An owner-occupant of a two dwelling unit property parcel may apply to the City for an exemption from this fee, provided one of the units has been vacant for more than two years, by signing an affidavit to that effect and returning the refuse and recycling bins for the vacated unit. A \$100.00 charge will be incurred in order to reestablish service, and Sec. 8-3-5 (d)(3) This paragraph does not apply to residential users exempt from the annual refuse and recycling fees under Sec. 8-3-10.

Discussion ensued on the amendment; affidavit to be signed if parcel is vacant; establishing service if property is sold.

Moved by Ald. Langdon, seconded by Ald. Zelinski to remove the \$100.00 fee to reestablish service.

CA/HRD Captain explained the fee is the cost to reestablished service.

Ald. Langdon and Zelinski removed their motion.

Motion to amend carried on roll call 8-0.

Discussion ensued on the ordinance; multi-family dwellings.

Motion to adopt O-20-10 as amended carried on roll call 6-2.

Ald. Taylor, Wisneski, Langdon, Hendricks, Englebert, Benner – yes

Ald. Roush, Zelinski - no

2. [O-21-10 An Ordinance Relating to Synthetic Cannabinoid](#) (Introduced by Aldermen Benner & Wisneski)

Lt. Styka explained the history of synthetic cannabinoid and the need for this ordinance. Other area municipalities have something in place as dangerous substance is being sold in area businesses. It is becoming more of a health issued.

Moved by Ald. Wisneski, seconded by Ald. Benner to suspend the rules and take up O-21-10.

Motion carried on roll call 8-0.

Moved by Ald. Wisneski, seconded by Ald. Benner to adopt O-21-10.

Motion carried on roll call 8-0.

3. R-25-10 Resolution Establishing Refuse/Recycling Collection Service Fees (Introduced by Mayor Merkes)

Moved by Ald. Hendricks, seconded by Ald. Taylor to adopt R-25-10.

Discussion: DPW Radtke explained how he calculated the annual fee for refuse and recycling collection for additional units.

Moved by Ald. Roush, seconded by Ald. Zelinski to amend to reduce the annual fee to \$48.

Motion failed on roll call 2-6.

Ald. Roush, Zelinski – yes

Ald. Taylor, Wisneski, Langdon, Hendricks, Englebert, Benner – no

Motion to adopt R-25-10 carried on roll call 6-2.

Ald. Taylor, Wisneski, Langdon, Hendricks, Englebert, Benner – yes

Ald. Roush, Zelinski – no

K. APPOINTMENTS

None

L. HELD OVER BUSINESS

None

M. AGAINST THE CITY

1. [Sierra Club v. City of Menasha, et al, U.S. District Court \(Eastern District, WI\), Case #09-C-122](#)

CA/HRD Captain explained the Consent Decree to settle the law suit filed by Sierra Club. The Council and Utility Commission approved the Consent Decree. The Consent Decree will be sent to the courts for review and a decision. Settling the law suit will help with the WPPI transaction.

2. LaFayette Life Insurance Co. v. City of Menasha et al., U.S. District Court. (Northern District, IN), Case No. 4:09-CV-64-TLS); State ex rel. American Bank v. City of Menasha et al. Case No. 10CV77 Br. 4

CA/HRD Captain explained the recent decision by the 7th Court of Appeals upheld the open records request of American Bank. Attorneys representing American Bank will be reviewing the documents. A hearing is scheduled in January, 2011 to determine who is responsible for the legal fees in this case.

N. PUBLIC COMMENTS ON ANY MATTER LISTED ON THE AGENDA

(five (5) minute time limit for each person)

No one spoke.

O. ADJOURNMENT

Moved by Ald. Hendricks, seconded by Ald. Benner to adjourn at 8:05 p.m.

Motion carried on voice vote.

Respectfully submitted by Deborah A. Galeazzi, WCMC, City Clerk