

**MINUTES
CITY OF PORT WASHINGTON
CITY COUNCIL MEETING
November 18, 2008**

A duly convened meeting of the Common Council was called to order at 7:30 p.m. by Mayor Scott Huebner in the Council Chambers. Council members present: Aldermen Al Haacke, Paul Neumyer, Jim Vollmar, Burt Babcock, Tom Hudson, Dave Larson and Chris Ross. Also present: City Attorney Eric Eberhardt, City Administrator Mark Grams, City Planner Randy Tetzlaff and City Engineer Rob Vanden Noven. The Pledge of Allegiance to the flag was recited.

CONSENT AGENDA

- A. Approve Minutes of the Previous Meetings – November 5, 2008.
- B. Approve Original Operator's License Applications – Diana K. Lewis, Jennifer A. Ross, Claudette J. Wirsching-Neuser, James Wirsching-Neuser and Cory M. Laabs
- C. Approve "Class C" Wine License Application – Vines To Cellar, Inc. (James Wirsching-Neuser) 114 E. Main Street

MOTION BY ALDERMAN BABCOCK, SECONDED BY ALDERMAN VOLLAR TO APPROVE THE CONSENT AGENDA. **Motion carried unanimously.**

MAYOR'S BUSINESS

- A. Update On Main Street Program – Mayor Huebner reported that the first set of training was done a week ago. The people from the State were impressed with the number of volunteers at the training. The second training will take place on Thursday, November 20th for the Economic Restructuring Committee and the Organization Committee.

OFFICERS'/STAFF REPORT

- A. Update On Projects:
 - 1. Highway 32 – The end is near. Concrete pavement to be completed by Friday. Closures will be lifted early next week. Working on lawn restoration, which should be completed by the end of this week. Also working on pavement marking. Street lighting – replacing poles on Wisconsin Street. The poles that were delivered to the project did not include the festoon outlets on the top to plug in Christmas decorations. They are taking the poles with the non-festoon outlets to be installed in Phase 4. Twinkle lights were installed on Franklin Street. Alderman Babcock asked if we could come up with enough money from the Contingency Fund to put in security cameras for vandalism. City Engineer Vanden Noven said with the cost of the Streetscape Design, we did go over budget in the Contingency Fund. However, we do have a small fund setup like an escrow account for ongoing funding for the first few years for flowers, lights, etc. Mayor Huebner said that the BID would be putting in security cameras. Alderman Haacke asked who was responsible for staking the many trees that are not growing straight? City Engineer Vanden Noven said he wasn't aware that there were a lot of them, but said staking couldn't be done because you can't drive stakes through the grates. He will take a look at it.
 - 2. County Highway LL Water Main Extension – The water main is completely installed and they are now working on restoration of landscape, testing for a safe sample and for leakage, which should be completed by the end of the week.

3. Fisherman's Park Bridge Project – The tentative start date for work on the bridge is December 15th and should take 6 to 8 weeks. There is a pre-construction meeting next week and letters will be sent out to abutting property owners.
4. Marina Floating Pier Project – There was a great turnout for the public informational meeting held at the Harbor Commission Meeting. We already received over 30 comment forms. There is a lot of interest and positive energy. Should have comments summarized by the December 10th Harbor Commission Meeting for presentation. Alderman Ross asked is there is a plan to repair the Harbor Walk that was damaged? City Engineer Vanden Noven said the Holiday Inn is responsible for maintenance and T.P. Construction has already gone to take a look at it for estimates to be sent to the insurance company. The cost will probably be under \$10,000 and should be fixed this year.

PUBLIC COMMENTS/APPEARANCES – None

COMMITTEES

A. Finance and License Committee

1. Public Hearing On 2009 City Budgets – Mayor Huebner declared open the public hearing. MOTION BY ALDERMAN VOLLMAR, SECONDED BY ALDERMAN HUDSON TO CLOSE THE PUBLIC HEARING. **Motion carried unanimously.**
2. Resolution 2008-20 (Approve 2008 Tax Levy And 2009 City Budgets) – MOTION BY ALDERMAN HUDSON, SECONDED BY ALDERMAN BABCOCK TO APPROVE RESOLUTION 2008-20. **Motion carried unanimously.** City Administrator Grams reported that along with the Lottery Tax Credit on the tax bill, there would now be a new “First Dollar Credit”. This credit would be applied to any property with improvements to it, including residential, businesses and commercial property. He estimates the credit would be between \$28 and \$29 for city property owners.

BOARDS/COMMISSIONS

A. Board of Public Works

1. Approve Reduction In Letter Of Credit For New Port Vista – MOTION BY ALDERMAN ROSS, SECONDED BY ALDERMAN HUDSON TO APPROVE THE REQUEST FROM FIDUCIARY REAL ESTATE FOR A REDUCTION IN THEIR LETTER OF CREDIT FOR NEW PORT VISTA REDUCING IT FROM \$75,000 TO \$20,944. **Motion carried unanimously.**
2. Resolution 2008-21 (Determination Of Public Emergency Requiring Repair And Construction Of Public Facilities Without Competitive Bidding) (Bridge Repair At Division Street) – City Engineer Rob Vanden Noven said that the Board of Public Works recommends to the Common Council to approve the Emergency Repair Resolution and to accept the proposal of the Edward Gillen Company to do repairs to the Division Street and Oakland Avenue bridges. MOTION BY ALDERMAN BABCOCK, SECONDED BY ALDERMAN HAACKE TO APPROVE RESOLUTION 2008-21 ON AN EMERGENCY BASIS. **Motion carried unanimously.**

UNFINISHED BUSINESS

NEW BUSINESS

- A. Resolution 2008-22 (Authorizing Filing And/Or Participation In Legal Actions Seeking A Declaration Of Rights, Statue And Other Legal Relations Regarding The Mid-Moraine Municipal Court) – City Administrator Grams said this comes as a recommendation of the Mid-Moraine Municipal Court Administration Committee. The attorneys of the Cities of Hartford, West Bend, Eric Eberhardt and the Municipal Court’s attorney looked at the statutes listed in the proposed resolution and the ordinance that we passed three months ago is legal and should be followed by the judge. We obviously have a difference of opinion with the judge in this particular matter. We are talking about significant dollars for the city and other communities in additional revenue basically paying for our costs in doing this operation. The judge has publicly stated that he will not enforce the ordinance the City Council adopted creating a higher service fee for warrants and commitment orders. He also publicly stated that he would not render default judgment unless the service of process was personally served on the defendant and does not intend to allow the recovery of fees arising out of the withdrawal of blood for determining the presence of alcohol, controlled substances and other drugs. City Attorney Eberhardt summarized the three items of disagreement to assist the Council in understanding what you are asked to approve. What is a “Declaration Judgment Action”? Under the Wisconsin Statutes it is where two parties have a legitimate difference of opinion as to their legal rights or remedies. The purpose is intended to afford relief from uncertainty and insecurity with respect to the rights, statues and other legal relations of the parties. Judge Grundahl is seeking an opinion from the Wisconsin Attorney General. City Attorney Eberhardt told the Council they need to weigh their options at this point. 1) Instead of proceeding with the resolution, you could wait for the Attorney General’s opinion to come back, 2) Judge Grundahl’s term is up in April 2009 and others have expressed interest in running. It’s possible that a different judge, if elected to that office, might interpret the statutes differently and therefore enforce the City of Port Washington’s higher warrant service fee ordinance, 3) You could authorize the commencement or participation of the City in this resolution, and 4) Do nothing – the City could lose out on these fees. City Attorney Eberhardt indicated that the Council needs to be mindful of Statute 895.46, in which municipalities would share in the cost in an proportionate manner, in accordance of the number of citations that each respective municipality issued, of attorney fees and costs accrued by Judge Grundahl. Regardless of the results of the litigation, the governmental unit shall be required to pay legal counsel for the fees and costs for Judge Grundahl of defending that action if the municipalities go ahead before a Circuit Court for the issuance of a declaratory judgment. Judge Grundahl does have an attorney. City Administrator Grams indicated that the City’s share of the costs would be somewhere between 8% and 9%. Alderman Babcock asked what is the judge’s reasoning? City Attorney Eberhardt said the judge acknowledges the Statute, but his case is that the court cannot automatically charge and collect the higher warrant service fees each time a warrant is issued. He reads the Statute in a jurisdictional way, but not in a way that supports the actual charging and dividing of the costs. He has a difference of opinion of the law. Alderman Ross said he is very disappointed to hear that an elected official would make a statement like this. The City only wants to recover our expenses, not to make a profit. How we solve this is the elections are coming in April. MOTION BY ALDERMAN ROSS, SECONDED BY ALDERMAN HUDSON TO APPROVE RESOLUTION 2008-22. Further discussion followed. MOTION BY ALDERMAN HAACKE, SECONDED

BY ALDERMAN VOLLMAR TO MOVE THE QUESTION. **Motion carried unanimously.** Vote taken on original motion. 6 ayes and 1 nay (Alderman Babcock). **Motion carried.**

- B. Approve Consultant For Design Of Coal Dock Area – City Engineer Vanden Noven reviewed his memo regarding the meeting of November 13th in which the Coal Dock Advisory Group interviewed the four leading candidates for consultant services on the Coal Dock Project. The final ranking for the Coal Dock Project, as selected by the Coal Dock Advisory Group, is as follows: 1) Hitchcock Design Group/Ken Saiki Design/Crispell-Snyder/Collins Engineers, 2) Schreiber Anderson/Baird, 3) JJR/Westbrook, and 4) GAS/SASAKI. It was felt that the Hitchcock team had the most to offer. It is recommended that we negotiate a final contract with Hitchcock Design Group for review and approval by the Council at the December 2nd Meeting. If a contract cannot be reached with Hitchcock, the City would negotiate with the subsequent consultant teams. City Engineer Vanden Noven said that the direction we're taking, once under contract, is to create a vision for the Coal Dock and meet and discuss those concepts and present them at a public informational meeting to receive feedback. We should incorporate as many ideas as we can. Once we have a Master Plan we can agree on, then we would have a Phase 1 Design for what we can afford and would meet our needs. The timeline schedule is the grant from Coastal Management expires at the end of June. We want to complete our planning and engineering by November 4th of 2009 so that we can apply for another grant. Alderman Vollmar asked if we could give each group some money to come up with a plan to present to us so that we can decide on a plan from the four firms presented and take the best of the ideas? Mayor Huebner said there will be a lot of restrictions as to what we can use the property for. There are two different ways – through legislation or with the Bureau of Land Management. Depending which way we want to go, gives us different restrictions. City Administrator Grams said the primary restriction is that the land can only be used for public use and not private development. The primary focus is on the North Coal Dock Area. Alderman Ross agrees with Alderman Vollmar about seeing what all four firms have for ideas. Alderman Larson said the best ideas come from the citizens of the community. They are just bidding on doing the work once we tell them what we want. I think we're getting a better deal on it because rather than bidding on a separate type of engineering project, they are bidding on what we tell them to do. MOTION BY ALDERMAN HUDSON, SECONDED BY ALDERMAN NEUMYER TO APPROVE ENTERING INTO A CONTRACT WITH HITCHCOCK DESIGN AS CONSULTANTS FOR THE DESIGN OF THE COAL DOCK AREA. Alderman Haacke said we neglected the most important bridge and that is a bridge connecting Rotary Park to the Coal Dock Area. In preliminary planning, it has to be more specific. My concern is that we put forth a plan, which can be modified, but has some very specific suggestions and ideas. City Engineer Vanden Noven said regarding the bridge, the original committee had that on their list and will be a topic of discussion. Vote taken on motion. **Motion carried unanimously.**

FORTHCOMING EVENTS – City Planner Tetzlaff reported that on December 2nd, there would be a public information meeting, beginning at 6:30 p.m., to discuss the comprehensive plan. You'll be receiving an executive summary.

PUBLIC COMMENTS/APPERANCES – None

ADJOURNMENT – MOTION BY ALDERMAN NEUMYER, SECONDED BY ALDERMAN LARSON TO ADJOURN THE MEETING OF THE COMMON COUNCIL AT 8:52 P.M. Motion carried unanimously.