

**MINUTES  
CITY OF PORT WASHINGTON  
CITY COUNCIL MEETING  
October 6, 2009**

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 Mike Ehrlich, Paul Neumyer, Jim Vollmar, Burt Babcock, Tom Hudson, David Larson and Dan Becker. Also present: City Administrator Mark Grams, City Engineer Rob Vanden Noven, City Planner Randy Tetzlaff, and City Attorney Eberhardt. The Pledge of Allegiance to the Flag was recited.

**CONSENT AGENDA**

- A. Approve Minutes of the Previous Meeting – September 15, 2009
- B. Operator's License Applications – Amy L. Voigt, Bryan S. Koschak, Kathleen A. Wenzel and Tanya L. Egerer

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

**MAYOR'S BUSINESS**

- A. Mayor Huebner read a proclamation honoring Eagle Scout Jacob Schowalter of Boy Scout Troop 875 and presented the proclamation to him.

**OFFICERS'/STAFF REPORT**

- A. Update On Litigation Against Port Harbor Investments, LLC And Property At 122 N. Franklin Street – City Administrator Grams reported that about two weeks ago Harm Modder of Port Harbor Investments contacted him and told him they were looking at going ahead with their project. He said Harm Modder also gave him the name of the contractor they would be working with to do the improvements to the outside of the building, which was Jim Karrels of J & M Construction out of Milwaukee. He said Randy, himself and the Building Inspector Gary Peterson met with Jim Karrels and went over the plans that were approved by the Plan Commission and what all had to be done with the building to bring it into compliance with the building permit. Mark indicated that he did talk to Jim again yesterday and was told he was meeting with all of his subs today out at the building site to go over everything to basically put together a final price to give to Harm. He said Jim Karrels also indicated to him that before they would proceed with that building, they would like the money escrowed to insure that the money would be available to get paid. Mark said it's been his understanding that at least some of the outstanding debt that Port Harbor had has now been paid to the debtors. It looks as though somewhere they got an influx of money to try to proceed with fixing the building as to what was approved by the Plan Commission. In the meantime we still have litigation going on so the City Attorney will talk to you about that.

City Attorney Eberhardt indicated that Mark and he talked about the fact that the owner has been paying down some of the judgment lien holders on the property. Approximately \$50,000 of the judgment liens has been paid in the last 2-3 weeks. However, based on an updated title report, there remains about \$25,000 owed to the State of Wisconsin DOR for tax liens, etc. and another \$4,500 owed to another judgment creditor. City Attorney Eberhardt said the law requires that in

the public nuisance enforcement action, that the City must join as parties any and all lien holders. Waiting for some of this to be cleared off, despite the pause in action, he said it was his understanding after talking with Mark that it was your desire and your instructions to proceed ahead. The City Attorney said he met with the building inspector and discussed the matter, obtained his approval and signature, so we're going ahead. He said that while the property owner may undertake repairs to the façade, those aren't all of the items that the building inspector previously gave notice to be repaired or corrected to comply with the ordinances. And also to make the building not a public nuisance, unless you tell me differently, I'm going to proceed forward notwithstanding these recent financial developments. Alderman Vollmar asked the City Attorney if he thinks proceeding and continuing the process against them will take money that could otherwise be applied for repair? City Attorney Eberhardt replied that he doesn't know the status of their finances but would tend to doubt that based on his experience in general with litigation. He indicated that they could decide whether they want to contest the fact that the building is or is not a public nuisance in court. He said notwithstanding what they portray as dollars going to litigation versus corrective action, he thinks that it makes sense to proceed with litigation.

Alderman Babcock said it's his understanding that the contractors aren't going to do anything until they have money in an escrow account. He said certainly we want to get to that point before we change course. Alderman Becker said even though it appears that Port Harbor Investments is playing ball right now, he doesn't see how we can really stop. If we stay in good communications with them and see how they're moving along in this process, we can certainly rethink things, but at this time we should stay on course. Alderman Hudson said that regardless of what they're doing with all the other creditors, the fact remains that they've got a building that's a safety hazard and also a potential hazard in the general community. Until they clean that up, we still have to move ahead on this. Mayor Huebner said he would agree with Alderman Hudson. He said we've had numerous times where they said they were going to go ahead and their track record shows that they don't always keep their word. Until we see something happening, I think we have to move ahead. We owe it to the citizens and the downtown businesses that are open to move forward and get our downtown to be the best that it can be. Alderman Neumyer said he agrees with everything that's been said. He said we started the process and we have to stay the course until they correct everything in that building. Then we can talk about ceasing our legal action.

B. Update On Projects:

1. Road Construction Projects – DPW completed painting the crosswalks this week and the no parking signs. In addition, they built a retaining wall near the light station that looks good. The project is done and went fairly well.
2. Upper Lake Park And Veteran's Park Restrooms – Upper Lake Park-Still finishing the punch list. Veteran's Park-Probably not going to finish it by next week Friday. Floors are in, brick and stonework done; today heating and ventilation was going in. The good news is, weather permitting, the stairs to the beach work is going to start tomorrow in Upper Lake Park. Hopefully we can hammer it out in less than a month.

**PUBLIC COMMENTS/APPEARANCES** – David Behrens, 431 Powers Street- Purchased the house that was vacant for two years. Received assessment that was done without visually looking at the property. The size of the property has dramatically changed from what I purchased. I purchased a lot that was 65' x 85' but it actually is 45' x 65'. Received an assessment of around \$600 plus dollars for the sidewalks, which I knew nothing about. When I purchased the property I was told that there was going to be narrower streets, nothing about sidewalks. The people in the Engineering Department said they have been sending me letters concerning this, but I never received them. I had a P. O. Box in Florida, which is no longer in existence. I am living in Wisconsin now permanently. Another complaint with the City is the damage they did on my driveway. He said he tried to communicate with people and made no headway. In general, it's kind of like a mess and feels like he is getting the shaft. Alderman Vollmar asked Rob if Mr. Behrens had a 45 foot driveway versus a 65 foot, would that have an effect on his assessment? City Engineer Vanden Noven said he is aware of the situation and he has been special assessed correctly. Mr. Behrens thanked everyone for their time.

## **COMMITTEES**

### **A. Finance and License Committee**

1. Approve Submission Of Shared Ride Taxi Grant Application – MOTION BY ALDERMAN HUDSON, SECONDED BY ALDERMAN VOLLMAR TO PROCEED WITH SUBMISSION OF THE SHARED RIDE TAXI GRANT APPLICATION. **Motion carried unanimously.** Alderman Larson said this was approved in the Finance Committee Meeting, but we all need to think long and hard about this because it's going to cost about \$25,000 and last year it cost us about \$3,000. He said this is a service that's duplicated by the County so if it looks like we can make it happen, we will. However, we're talking about putting off filling cracks in our streets and I think it would be important to have that done before we have the taxi so we actually have streets to run on. These are the things we need to consider as we move forward in the process. Alderman Becker echoed those comments. He said while he wholeheartedly supports this, as we continue on, we should consider when we're in a tight budget year like this where we can best spend our money because it is a duplicated service.
2. Update On 2009 General Fund Operating Budget – City Administrator Grams reviewed his memo to the Mayor and City Council updating them on the 2009 General Fund Budget. He suggested tabling the crack filling service for two weeks so we can see where we're at with the budget.
3. Consider Final Resolution 2009-31 For Special Assessments On N. Spring Street – MOTION BY ALDERMAN HUDSON, SECONDED BY ALDERMAN LARSON TO APPROVE RESOLUTION 2009-31. **Motion carried unanimously.**
4. Consider Final Resolution 2009-32 For Special Assessments On STH 32 – MOTION BY ALDERMAN HUDSON, SECONDED BY ALDERMAN EHRLICH TO APPROVE RESOLUTION 2009-32. **Motion carried unanimously.**
5. Hiring Firm For Crack Filling Service For Street Maintenance – MOTION BY ALDERMAN VOLLMAR, SECONDED BY ALDERMAN BECKER TO TABLE. **Motion carried unanimously.**

## **BOARDS/COMMISSIONS**

### **A. Plan Commission**

1. Ordinance 2009-12 (Establishment Of A Change Of Occupancy Permit)  
**1<sup>st</sup> Reading** – City Planner Tetzlaff reviewed Ordinance 2009-12, which would establish a Change of Occupancy Permit to be used when a business wishes to locate in an existing building or space where an inspection would be required prior to taking occupancy.

## **UNFINISHED BUSINESS**

- A. Approve Amendment To Police Union Contract – MOTION BY ALDERMAN BECKER, SECONDED BY ALDERMAN NEUMYER TO APPROVE THE AMENDMENT TO THE POLICE DEPARTMENT UNION CONTRACT. **Motion carried unanimously.**

## **NEW BUSINESS**

**FORTHCOMING EVENTS** – City Administrator Grams indicated that a Character Counts Resigning Ceremony would be held on Monday, October 19<sup>th</sup> at 6:00 p.m. in the Library Community Room. Alderman Becker wants to get on record saying that if we want Main Street to be a success as a community, we need to get volunteer help with events for next year. He said they are looking for folks to help for various events and if you are interested, please contact Sara. The Interurban Dedication went well with a very high turnout for the ribbon cutting

**PUBLIC COMMENTS/APPEARANCES** – None

**ADJOURNMENT** – MOTION BY ALDERMAN BECKER, SECONDED BY ALDERMAN LARSON TO ADJOURN THE MEETING OF THE CITY COUNCIL AT 8:24 P.M. **Motion carried unanimously.**