AUGUST 22, 2006

Regular meeting of the Common Council was called to order by Mayor Meyers at 7:00 p.m., in the Council Chambers, City Hall Plaza.
PRESENT: Michael Feirer, Alanna Feddick, Trish Siegler, Marty Anderson, Ed Wagner, Chris Meyer, Donald Krueger, John Spiros, Tom Buttke and Edward Beaudry, Jr.
ABSENT: None

The flag was saluted and the pledge given.

No invocation was given. Pastor Armando Kamacho, Marshfield Seventh Day Adventist Church was not present.

RECOMMENDATIONS FROM MAYOR
Word to the Wise: "You have to accept whatever comes……And the only important thing is that you meet it with the best you have to give!!" Author: Eleanor Roosevelt

CC06-265 Motion by Anderson, second by Siegler to approve the minutes of the Common Council meeting of August 8, 2006. All Ayes
Motion carried

No items were added to the agenda.

David B. Anderson from Public Financial Management, Inc. distributed a Presale Analysis to members of the Common Council. He explained the process and answered questions of the Alderpersons.

CC06-266 Motion by Wagner, second by Spiros to approve Resolution No. 2006-37, authorizing the borrowing of $1,590,000; and providing for the issuance and sale of Water System Revenue Bonds, Series 2006 Therefor. All Ayes
Motion carried

PUBLIC COMMENT PERIOD
None

CC06-267 Motion by Feddick, second by Siegler to grant the request from Believers Church, 2701 W. Veterans Parkway, for a variance of noise levels as permitted by Chapter 10-33 (7) for "The Nightmare", October 13, 14, 20, 21 and October 26, 27, and 28, 2006 and waive the $100 fee. All Ayes
Motion carried

CITY ADMINISTRATOR'S REPORT
City Administrator Brehm gave a report on the following:

1. Sustainable Marshfield Committee
2. Comprehensive Plan Update
3. Status of Labor Contracts
4. Emergency Back-up Generators

MINUTES OF GOVERNING BOARD AND COMMISSIONS

CC06-268 Motion by Krueger, second by Spiros to receive and place on file the minutes of the Zoning Board of Appeals of July 11, 2006; Fairgrounds Commission of July 19, 2006; Fire and Police Commission of July 27, 2006 and Fire and Police Commission of August 10, 2006 special meeting. All Ayes
Motion carried

MINUTES OF ADVISORY BOARDS, COMMISSIONS AND COMMITTEES

CC06-269 Motion by Feirer, second by Feddick to approve the minutes of the Historic Preservation Committee of June 12, 2006 and the Plan Commission of August 15, 2006.

Rawle Christmas of Christmas Limos spoke in regards to the Plan Commission meeting of August 15, 2006. He asked for clarification and direction as to what he is allowed to do as a business person in the City of Marshfield. He is now in a situation where he is being told that he is not allowed to park his limos at his house, because the neighbors complained. He asked what is right, what is wrong, what is allowed and what is not allowed?

Mayor Meyers explained why the Plan Commission made the stipulations that they did. He said that Mr. Christmas is still allowed to operate his business from his home, but there are some guidelines that he has to follow to protect the residential neighborhood. He referred to motion PC06-58 of the Plan Commission minutes and listed the stipulations that the Plan Commission made.

Rawle Christmas asked what his alternatives were.

Mayor Meyers told him that his alternative at this time would be to find a different location to operate his business if he needs all the limos parked in one place for re-stocking, cleaning or maintaining them some where other than in a residential neighborhood. Zoning is set up to protect the properties and value of properties of the same type. He encouraged Mr. Christmas to continue talking with Bonnie Curtiss and Amber Miller with any other questions that he might have.

Discussion was held on other options he may have. One suggestion that was made was to perhaps work out an agreement with the Eagles Club to use their site for parking the limos at off hours.

Vote on motion **CC06-269**; All Ayes
Motion carried

MINUTES OF COUNCIL COMMITTEES

CC06-270 Motion by Buttke, second by Spiros to approve the minutes of the Parks, Recreation and Forestry Committee of August 16, 2006. All Ayes
Motion carried

CC06-271 Motion by Feirer, second by Beaudry to approve the minutes of the Board of Public Works of August 14, 2006. All Ayes
Motion carried

CC06-272 Motion by Siegler, second by Feddick to approve the minutes of the Finance, Budget and Personnel Committee of August 15, 2006. All Ayes
Motion carried

CC06-273 Motion by Feirer, second by Meyer to approve the minutes of the Board of Public Works of August 22, 2006 special meeting as read. All Ayes
Motion carried

CC06-274 Motion by Anderson, second by Meyer to receive and place on file the minutes of the Sustainable Marshfield Committee of July 25, 2006. All Ayes
Motion carried

Second reading of Ordinance 1076, changing zoning for 403 and 403A West Doege Street, a parcel of land located on the north side of West Doege Street and West of N. Walnut Avenue from "R-5" Residential (Medium Low Density – Single and Two-Family) to "I" (Public and Semi-Public Institutions District).

CC06-275 Motion by Feddick, second by Feirer to approve Ordinance No. 1076. All Ayes
Motion carried

Second reading of Ordinance No. 1077, changing zoning for property located at the southeast corner of the intersection of E. 3rd Street and S. Peach Avenue from "B-4" (General Commercial) and "R-5" Residential (Medium Low Density – Single & Two-family) to "B-1" (Neighborhood Business District).

CC06-276 Motion by Buttke, second by Meyer to approve Ordinance No. 1077. All Ayes
Motion carried

City Administrator Brehm commented on items R, S, T and U, which are first readings of Ordinances. He said that Alderperson Wagner brought to his attention a particular section of the City Code that states that the introduction of ordinances would come from the Judiciary, License and Cemetery Committee and then to the Common Council for recommendation. In recent years and to the best of his recollection, he can't ever recall the JLC Committee reviewing ordinances initially with the exception perhaps of the discussion of the City Clerk and City Assessor's terms. Per the City Code they can be referred to the JLC for consideration or recommendation or part of the code states that unless otherwise designated by the Common Council. He said that he is looking for some direction from the Common Council for a future meeting and listed the following options that the Common Council has:

- Continue the practice as is and not go through the JLC.
- Begin referring first readings to the JLC for consideration.
- Delete that section of the City Code to basically conform to what your past practice has been.

Alderperson Beaudry said that he has no objection to ordinances coming before the JLC first; however he would not like to see the first reading at the JLC. The reason for the two readings is so that the public has input on the Ordinances, which is one of the reasons why in 18 years that he has not gone along with suspending the rules. If someone wanted to speak or talk about an Ordinance and he couldn't be there at the first reading and the rules were suspended and it was voted on that night he missed an opportunity. As Chairman of the JLC, he has no problem with the ordinance coming to the committee first, but not necessarily for a first reading. To look the ordinance over and to recommend it onto the Council for its first reading is what he would recommend.

Alderperson Wagner said the purpose and intent here was to clean up this particular issue which, he stumbled across when they initially started talking about the Clerk and Assessor positions. He would

like to make a recommendation with City Administrator Brehm to simplify things and toss it out to the Mayor and the Council to perhaps let the JLC put this on the agenda and come back with a recommendation to the Council at the next meeting of what we can do with it. And in the meantime just entertain a motion to suspend the rules of 3-66(c) to allow the Council to handle these ordinances as they normally would. That way we are handling the business, we aren't interrupting the business of the Council as they are accustomed to doing it and the JLC can come back to the Council with a recommendation on how best to clean up either the City Code or more specific guidelines in the future.

CC06-277 Motion by Wagner, second by Feddick to suspend reference to city code in regards to referring possible ordinances to the JLC and have the JLC study this at the next meeting.

Alderperson Beaudry said that he would vote yes to suspend the rules, because this does not take away from either of the readings.

Vote on motion **CC06-277**; All Ayes
Motion carried

First reading of Revised Ordinance No. 1072, attaching certain lands from the Town of McMillan, Marathon County, Wisconsin to the City of Marshfield, Wisconsin.

First reading of Ordinance No. 1078, amending Section 3-10 of the Municipal Code of the City of Marshfield and creating Ward 34 in the Second Aldermanic District.

First reading of Ordinance No. 1079, repealing Section 18-31(4) to remove the schedule of fees from the ordinance text.

First reading of Ordinance No. 1080, amending Section 18-63 of the Municipal Code to add "car wash" as a conditional use and excepting "car wash" as a permitted use in certain commercial zoning districts.

First reading of Charter Ordinance No. 24, changing the term of office for the City Clerk to four years.

CC06-278 Motion by Feddick, second by Feirer to approve Resolution No. 2006-36, changing the name of Yellowstone Drive to East 29th Street in the City of Marshfield. All Ayes
Motion carried

City Administrator Brehm explained that Alderperson Siegler requested that further discussion be held at this Common Council meeting regarding the fee for noise variances.

Alderperson Anderson asked why we charge a $100.00 fee, what it is for and if it is reasonable?

City Administrator Brehm responded the administration of it is the basis for the charge. He said that he didn't do a time study, but he didn't think that the fee was unreasonable.

Alderperson Anderson felt that it is surpurpose to have a $100.00 fee attached to this particular ordinance.

Alderperson Feddick said that the issue that came up a few weeks ago has her concerned about the actual verbage that we are using under Sec. 10-33(7)(a)(3) nonprofit organizations or government, certainly the way that it speaks now, nonprofit organizations could be any group that is not intending to make a profit on it, but intending to give that money away to a charity, etc. Perhaps, maybe having or not having a 501(c)(3) determination letter or some other 501(c) determination letter from the IRS. She felt that it is important to have some type of clarification as far as what we mean by being a nonprofit organization and it needs to be clear. She pointed out that a church does not get a determination letter, so how do they prove their non-exempt status, except that they are a church. We need to have some way of determining how we are going to decide what a nonprofit organization is.

Alderperson Anderson suggested not charging a fee to anybody.

Alderperson Wagner asked if this fee is needed to allow them to violate the decimal level, why is it that non-profit noise is somehow better than for profit noise? He felt that this defies logic.

Alderperson Feddick said that she only recalled once where the fee was not waived since she has been on the Council and wondered if there were statistics of how many noise variances didn't have the fee waived.

City Administrator Brehm said that the collection of the fees have not been great. In discussing this with the City Clerk they could only recall one instance where the Common Council approved the variance but required the fee to be paid. Why do we have fees? One of the parameters in the Common Council's budget to assist in the operations of the City was that we should review fees on a periodic basis to make sure that they are reasonable in the administration of the particular code and so on and this was one of those areas within the code in which a fee was established for that basis.

CC06-279 Motion by Anderson, second by Wagner to strike the $100.00 fee from Section 10-33 of the regulation of noise and vibrations. Feirer, Siegler, Anderson, Wagner and Meyer voted Aye; Feddick, Krueger, Spiros, Buttke and Beaudry voted Naye. Mayor Meyers broke the tie by voting Naye.
Motion failed

Mayor Meyers said that direction was given to City staff to review fees in regards to what it takes to off set their operations and this fee is in its place. Non-profits are in there to make some money for their organizations and an extra $100.00 for their organization would mean a lot. People that are in the business to make profit and want to make noise and want an exception to the City Code certainly must pay to make that exception.

Alderperson Feddick explained that it is not an easy process to get a 501 (c)(3) determination. The application for this is intensive and it costs at least $500.00 or more depending on the actual amount they put in their budget to make over a 3 year period.

More discussion was held.

Alderperson Anderson felt that the determination needs to be black and white otherwise we are not being fair in the way that we are administering this particular ordinance. Striking the fee makes it extremely black and white and would make it extremely simple to administer and there would be no questions about it; but now we are back to the same situation where we are going to take it by a case by case basis and it is going to be up to whoever is on the Council and make that determination.

CC06-280 Motion by Feddick, second by Anderson to reconsider motion CC06-279. Feirer, Feddick, Siegler, Anderson, Wagner and Meyer voted Aye; Krueger, Spiros, Buttke and Beaudry voted Naye.
Motion carried

CC06-281 Motion by Anderson, second by Wagner to strike the $100.00 fee in Chapter 10 and to delete the last sentence in paragraph 3. Feirer, Feddick, Siegler, Anderson, Wagner and Meyer voted Aye, Krueger, Spiros, Buttke and Beaudry voted Naye.
Motion carried

Motion by Wagner, second by Feddick to adjourn at 8:10 p.m.
Motion carried

Lori A. Panzer
Deputy City Clerk