

COMMON COUNCIL

Official Proceedings of the 2009-2010 Common Council of the City of Sheboygan.

TWENTY-SIXTH REGULAR MEETING

The Council met: Monday, April 19, 2010.

Mayor Bob Ryan in the Chair:

On call of the roll, the following Alderpersons were present:

Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann – 16.

Absent: None.

On motion by Alderperson Gischia and second by Alderperson Heidemann, the reading of the minutes of the Twenty-Fifth Regular Meeting held April 7, 2010, and the minutes were approved as entered on the record, all Alderpersons voting "Aye".

MAYOR'S ANNOUNCEMENTS

On motion by Alderperson Gischia and second by Alderperson Heidemann, the following documents notated with an asterick (*) were accepted and placed on file, accepted and adopted, or passed on call of the roll:

Ayes: Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann – 16.

Nays: None.

COMMUNICATIONS AND PETITIONS

Com. No. 90 - 09 - 10. April 19, 2010.

Submitting a communication from Bob Guenther, President of Rebuilding Together Sheboygan County, Inc., requesting that the electrical and plumbing permit fees be waived for all Rebuilding Together homes in the City of Sheboygan.

A motion by Alderperson Hanna and second by Alderperson Heidemann to suspend the rules of the Common Council was passed by unanimous consent.

On motion by Alderperson Hanna and second by Alderperson Heidemann, the foregoing Communication was accepted and placed on file and to approve the request on call of the roll:

Ayes: Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann—16.

Nays: None.

REPORT OF OFFICERS

***R. O. No. 509 - 09 - 10. By BOARD OF ELECTRICAL EXAMINERS. April 19, 2010.**

Pursuant to State of Wisconsin Comm. 5 and City of Sheboygan Municipal Code, Section 26-355, the following licenses have been issued:

<u>APPLICATION #</u>	<u>NAME AND ADDRESS</u>	<u>TYPE OF LICENSE</u>
1316	Barry Spieker 3902 Cricket Dr Hartford, WI 53027	Electrical Contractor

***R. O. No. 510 - 09 - 10. By CITY CLERK. April 19, 2010.**

Submitting various license applications.

MASSAGE ESTABLISHMENT LICENSE (December 31, 2010)

<u>No.</u>	<u>Name</u>	<u>Address</u>
2615	Anne Bella Salon & Spa, Co.	817 New York Ave.
2463	Professional Massage Therapy	1509 N 13 th St.

SECONDHAND JEWELRY/ARTICLE LICENSE (December 31, 2010)

<u>No.</u>	<u>Name</u>	<u>Address</u>
2691	THR & Associates Inc.	3200 Pleasant Run, Springfield, IL

TEMPORARY CLASS "B" LICENSE

<u>No.</u>	<u>Name</u>	<u>Address</u>
2547	Friends of Senior Center	428 Wisconsin Ave. – one-day event to be Held 5/13/10 at the Chamber of Commerce Business Connection.
2547	Friends of Senior Center	Fountain Park – one-day event to be held

6/18/10 & 8/6/10 for Mayor's Twilight Music.

TEMPORARY BEVERAGE OPERATOR'S LICENSE

<u>No.</u>	<u>Name</u>	<u>Address</u>
8559	Hartle-Feldner, Teresa I.	107 E Eastman St., Plymouth

THEATER LICENSE (June 30, 2011)

<u>No.</u>	<u>Name</u>	<u>Address</u>
1219	Marc Cinemas	3226 Kohler Memorial Dr.

***R. O. No. 511 - 09 - 10. By CITY PLAN COMMISSION. April 19, 2010.**

Your Commission to whom was referred R. O. No. 488-09-10 relative to submitting an Offer to Purchase Municipal Parking Lot 15 from Madrigal, LLC, wishes to report this matter was discussed at the regular meeting of the City Plan Commission, April 13, 2010, and after due consideration, recommends approval of the sale of Municipal Parking Lot 15 to Madrigal, LLC "as is".

R. O. No. 512 - 09 - 10. By CITY PLAN COMMISSION. April 19, 2010.

Your Commission to whom was referred Gen. Ord. No. 61-09-10 and R. O. No. 485-09-10 relative to granting Quality State Oil Company, Inc. the privilege of encroaching upon described portions of Weeden Creek Road located at 1211 Weeden Creek Road for the purpose of maintaining a sign; wishes to report this matter was discussed at the regular meeting of the City Plan Commission, April 13, 2010, and after due consideration, recommends approval of the Ordinance and the Report of Officer be placed on file.

Was accepted and placed on file.

***R. O. No. 513 - 09 - 10. By LIBRARY DIRECTOR. April 19, 2010**

At its meeting of March 25, 2010 the Library Board took action to file Common Council Res. No. 6-09-10 establishing the 2009 STARR Program.

R. O. No. 514 - 09 - 10. By CITY PLAN COMMISSION. April 19, 2010.

Your Commission to whom was referred Res. No. 216-09-10 and R. O. No. 486-09-10 relative to approving the Capital Improvements Program recommended by the Capital Improvements Commission for 2010 and adopting the 2010 program for implementation; wishes to report this matter was discussed at the regular meeting of the City Plan Commission, April 13, 2010, and after due consideration, recommends approval of the Resolution and the Report of Officer be placed on file.

Was accepted and placed on file.

R. O. No. 515 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a communication from Alice Hoffmann and her neighbors stating that they do not want the proposed bar to be allowed in their neighborhood at 1133 Michigan Ave.

Was referred to the City Plan Commission.

R. O. No. 516 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting various license applications for the period ending June 30, 2010 and June 30, 2011.

Was referred to the Committee on Law and Licensing of the New Council.

R. O. No. 517 - 09 - 10. By BUILDING INSPECTION DEPARTMENT. April 19, 2010.

We hereby submit the report of the Building Inspection Department for the month of March 2010.

Was referred to the Committee on Public Protection and Safety of the New Council.

R. O. No. 518 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a request for a waiver of the Sexual Offender residency restrictions from Mai Seng Xiong.

Was referred to the Committee on Public Protection and Safety of the New Council.

R. O. No. 519 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a communication from the State of Wisconsin Department of Corrections to file an appeal to the Sex Offender Residency restrictions on behalf of Andrew Niemi.

Was referred to the Committee on Public Protection and Safety of the New Council.

R. O. No. 520 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a communication from the State of Wisconsin Department of Corrections to file an appeal to the Sex Offender Residency restrictions on behalf of Christopher Holmes.

Was referred to the Committee on Public Protection and Safety of the New Council.

R. O. No. 521 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a communication from Thomas Flinn stating his concerns over his parking issues he is having behind his barn at 914 Erie Ave.

Was referred to the Committee on Public Protection and Safety of the New Council.

R. O. No. 522 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a communication from James Reinl stating his concerns over the "flip flop parking" and requesting that the winter parking rules should coincide with daylight savings time.

Was referred to the Committee on Public Protection and Safety of the New Council.

R. O. No. 523 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a communication from the VFW Sheboygan Post 9156/Auxiliary 9156 and VFW Wolf-Olson Post 1230/Auxiliary requesting permission to hold their Annual Buddy Poppy Drive on various corners and business places throughout the City on Friday, May 14th from 9 a.m. to 9 p.m. and Saturday, May 15th from 9 a.m. to 1 p.m.

Was referred to the Committee on Public Protection and Safety of the New Council.

R. O. No. 524 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a communication from James Reinl requesting that the City post temporary no parking signs along S. Water St. between Jefferson Ave. and Pennsylvania Ave. (alternating sides each night) so that the street sweepers can clean up the dirty street.

Was referred to the Committee on Public Protection and Safety of the New Council.

R. O. No. 525 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a communication from the Event Coordinator of the Unity Walk sponsored by Holy Family School, St. Dominic School and Christ Child Academy requesting permission to hold their annual 2-mile walk on Sunday, May 16, 2010.

Was referred to the Committee on Public Protection and Safety of the New Council.

R. O. No. 526 - 09 - 10. By FIRE CHIEF. April 19, 2010.

Submitting the City of Sheboygan Fire Department's first quarter 2010 EMS Quality Assurance and Quality Improvement Report for January 1, 2010 through March 31, 2010.

Was referred to the Committee on Public Protection and Safety of the New Council.

R. O. No. 527 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a communication from the Early Bird Rotary Club requesting permission to hold the "Lobster Boil" in Fountain Park on Friday, July 23, 2010, and making various requests of the City.

Was referred to the Committee on Pub. Wks. of the New Council.

R. O. No. 528 - 09 - 10. By PURCHASING AGENT. April 19, 2010.

Submitting an evaluation of Request for Proposal #1762-10 received on March 30, 2010 for the purchase of a Motor Vehicle Division 16' cut rotary mower, less trade.

<u>BIDDER</u>	<u>MAKE/MODEL</u>	<u>DELIVERED PRICE</u>
Horst Distributing, Inc.	Jacobsen/HR-9016	\$68,497.00
Reinders, Inc.	Toro/GM- 5910	\$77,297.00
Mr. Rick Vandervaart	2009 Jacobsen-HR-9016	\$65,800.00 Pre-owned

Proposals were evaluated by the Motor Vehicle Division supervisor, the Director of Public Works and the Purchasing Agent.

It was found that the pre-owned unit from Mr. Vandervaart did not meet all of the specifications with regard to lighting and that the remainder of the two year manufacturer warranty was not easily transferable.

The current unit is an 8 year old Jacobsen HR-9016 and has served the City very well.

It is therefore recommended that the Purchasing Agent be authorized to enter into contract with Horst Distributing for the purchase of a Jacobsen rotary mower.

Was referred to the Committee on Public Works of the New Council.

R. O. No. 529 - 09 - 10. By PURCHASING AGENT. April 19, 2010.

Submitting a report related to the installation of Energy Efficient Lighting Fixtures and accessories in the City Hall and Municipal Service Building(s) in accordance with City of Sheboygan Bid number 1813-10 (Installation).

April 19, 2010

Bids were received from the following concerns with the amount shown being the **total** cost for all labor and materials required:

Was referred to the Committee on Public Works of the New Council.

R. O. No. 530 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a claim from Frances Teunissen for alleged injuries when she slipped on a patch of ice on the sidewalk at the Riverfront.

Was referred to the Special Committee on Risk Management of the New Council.

R. O. No. 531 - 09 - 10. By CITY CLERK. April 19, 2010.

Submitting a claim from Jerome Lucious for alleged injuries when the Police falsely arrested him.

Was referred to the Special Committee on Risk Management of the New Council.

RESOLUTIONS INTRODUCED

Res. No. 223 - 09 - 10. By Alderperson Gischia. April 19, 2010.

A RESOLUTION granting a 90-day extension of residency requirement.

WHEREAS, Christopher Domagalski was hired as Police Chief for the City of Sheboygan on January 18, 2010; and

WHEREAS, appointed city department heads, including the police and fire chiefs, are required by ordinance to become residents of the City of Sheboygan within six (6) months of their date of hire; and

WHEREAS, said ordinance authorizes the Common Council to grant a one-time 90-day extension to the six month residency requirement upon a satisfactory showing of hardship; and

WHEREAS, Chief Domagalski has purchased land in the City and is under contract for the construction of a new family residence on the property which will not be completed within six months of his date of hire;

WHEREAS, Chief Domagalski has made a satisfactory showing of hardship such that it is in the City's interest to grant an extension of the six month requirement to establish residency.

NOW, THEREFORE, BE IT RESOLVED: That Police Chief Christopher Domagalski is hereby granted a 90-day extension of the requirement for appointed department heads to become residents of the City within six months of their date of hire, as provided under Section 29-3(a) of the 1975 Sheboygan Municipal Code, as amended. Said extension shall be effective until October 18, 2010.

On motion by Alderperson Gischia and second by Alderperson Kittelson, the Resolution was passed on call of the roll:

Ayes: Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann – 16.

Nays: None.

Res. No. 224 - 09 - 10. By Alderperson Gischia. April 19, 2010.

A RESOLUTION waiving contingency and authorizing a contract for improvements at the Wastewater Treatment Plant facility.

WHEREAS, in February the City Council by way of Subs. of Res. No. 94-09-10 authorized a contract for Digestion and Solids Thickening Improvements at the Sheboygan Wastewater Treatment Facility, contingent on the execution of a contract with the State of Wisconsin for a Clean Water Fund loan to fund projects under the 2009 and 2010 construct programs; and

WHEREAS, the City's Clean Water Fund loan application is being processed, but has not yet been finally approved by the State; and

WHEREAS, the time passed since acceptance of the bids is approaching the end of a reasonable period of time in which to hold an award of contract in abeyance.

RESOLVED: That the contingency identified in Subs. of Res. 94-09-10 is waived and the award of the contract for improvement to the digestion and solids thickening at the Wastewater Treatment facility to the low bidder J.F. Ahern Company is confirmed.

BE IT FURTHER RESOLVED: The Purchasing Agent or appropriate City Official hereby authorized to enter into contract with the J.F. Ahern Company of Fond du Lac, WI, in the amount of \$4,569,000 for improvements to the digestion and solids thickening processes at the Wastewater Treatment Facility in accordance with the City of Sheboygan Bid #1869-09, provided that sufficient funds are in the City treasury to meet the expense hereof, or that provision has been made to pay the liability that will accrue hereunder.

On motion by Alderperson Gischia and second by Alderperson Montemayor, the Resolution was passed on call of the roll:

Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann – 16.

Nays: None.

Res. No. 225 - 09 – 10. By Alderperson Gischia. April 19, 2010.

A RESOLUTION establishing the composition of the merged Group Health Insurance and Wellness Committee.

WHEREAS, by way of Subs. of Res. No. 194-09-10 adopted April 7, 2010, the Common Council directed that the Wellness Committee and the Group Health Insurance Committee be merged;

NOW, THEREFORE, BE IT RESOLVED: That the Wellness Committee and Group Health Insurance Committee are hereby merged and shall be called the Group Health Insurance and Wellness Committee;

BE IT FURTHER RESOLVED: That said committee shall be responsible to monitor and develop recommendations for the administration of the City’s group health insurance and wellness programs;

BE IT FURTHER RESOLVED: That the Group Health Insurance and Wellness Committee shall be composed of one alderperson from Salaries and Grievances Committee, one alderperson from Risk Management Committee, one additional alderperson, a representative from each collective bargaining unit, a representative from Mead Public Library, the Human Resources Director and the Finance Director/Treasurer.

On motion by Alderperson Gischia and second by Alderperson Kittelson, the Resolution was passed on call of the roll:

Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann – 16.

Nays: None.

Res. No. 226 - 09 - 10. By Alderpersons Heidemann, Kittelson, Bouck,Gischia and Kath. April 19, 2010.

A RESOLUTION lifting the hiring freeze in order to hire summer help, 10 lifeguards and 4 Bridge tenders for the Department of Public Works.

WHEREAS, the City of Sheboygan passed Resolution 73-09-10 that extended the hiring freeze to December 31, 2010 and amended it to include all full, part-time temporary positions,

WHEREAS, the hiring freeze allows for emergency exceptions upon approval of the Mayor and Council,

WHEREAS, Salaries & Grievances Committee and the Mayor recently approved the Hiring Audit form to authorize hiring summer help, 10 lifeguards and 4 Bridge tenders for the Department of Public Works.

NOW, THEREFORE, BE IT RESOLVED: That the Common Council hereby authorizes, as an emergency exception to the hiring freeze, the hiring of summer help, 10 lifeguards and 4 Bridge tenders for the Department of Public Works.

Bill Bittner spoke.

On motion by Alderperson Heidemann and second by Alderperson Gischia, the Resolution was passed on call of the roll:

Ayes: Bohren, Bouck, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Surek, VanderWeele, Vue – 13.

Nays: Bowers, Rindfleisch, Wangemann – 3.

Res. No. 227 - 09 - 10. By Alderperson Gischia. April 19, 2010.

A RESOLUTION to authorize a transfer of appropriations in the 2010 Budget.

RESOLVED: That the Finance Director be and is hereby authorized and directed to make the following transfers of appropriations in the 2010 Budget for the purposes of:

Establishing appropriation for the digestion and solids thickening improvements to the Sheboygan Wastewater Treatment Facility.

<u>FROM</u>	<u>TO</u>	<u>AMOUNT</u>
Wastewater Fund	Wastewater Fund	
Unreserved Retained Earnings	Improvements Other Than Buildings	
601-272000	60138300-631100	\$4,569,000

BE IT FURTHER RESOLVED: That the City Clerk publish this budget change according to §65.90(5) of the Wisconsin Statutes.

A motion by Alderperson Gischia and second by Alderperson Bouck to suspend the rules of the Common Council was passed by unanimous consent.

On motion by Alderperson Gischia and second by Alderperson Bouck, the foregoing Resolution was passed on call of the roll:

Ayes: Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann — 16.

Nays: None.

Res. No. 228 - 09 - 10. By Alderperson Bohren. April 19, 2010.

A RESOLUTION directing that all Boards, Commissions and Committees of the City of Sheboygan call an organizational meeting with 45 days of the confirmation of the Mayor’s Appointments for the 2010-2011 Council year.

April 19, 2010

RESOLVED: That all Boards, Commissions and Committees of the City of Sheboygan call an organizational meeting with 45 days of the confirmation of the Mayor's Appointments for the 2010-2011 Council year.

On motion by Alderperson Bohren and second by Alderperson Gischia, the Resolution was passed all Alderpersons voting "Aye".

Res. No. 229 - 09 - 10. By Alderperson Kittelson. April 19, 2010.

A RESOLUTION authorizing the appropriate City officials to enter into a lease amendment with Maltscoop Corp.

RESOLVED: That the Mayor and City Clerk are hereby authorized to execute the Amendment No. 2 to Lease between the City and Maltscoop Corp., a copy of which is attached hereto and incorporated herein.

On motion by Alderperson Kittelson and second by Alderperson Rindfleisch, the Resolution was passed on call of the roll:

Ayes: Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann—16.

Nays: None.

Res. No. 230 - 09 - 10. By Alderperson Gischia. April 19, 2010.

A RESOLUTION authorizing a contribution to the Sheboygan County Economic Development Corporation for business development.

Was referred to the Committee on Finance of the New Council.

Res. No. 231 - 09 - 10. By Alderperson Gischia. April 19, 2010.

A RESOLUTION authorizing the Purchasing Agent to enter into agreement for the sale of the 1996 Pierce Heavy Rescue Vehicle to the Village of Cedar Grove, WI Fire Department.

Was referred to the Committee on Finance of the New Council.

Res. No. 232 - 09 - 10. By Alderperson Kittelson. April 19, 2010.

A RESOLUTION encouraging the formation of neighborhood associations in the City of Sheboygan and setting forth minimal standards for official recognition of neighborhood associations by the City of Sheboygan.

Was referred to the Committee on Public Protection and Safety and to the Committee on Public Works of the New Council.

Res. No. 233 - 09 - 10. By Alderpersons Bouck and Vue. April 19, 2010.

A RESOLUTION granting Christ Child Academy, Holy Family School and St. Dominic School permission to hold a 2 mile run/walk on May 16, 2010.

Was referred to the Committee on Public Protection and Safety of the New Council.

Res. No. 234 - 09 - 10. By Alderperson Kittelson. April 19, 2010.

A RESOLUTION authorizing the Purchasing Agent to purchase a rotary mower, less trade.

Was referred to the Committee on Public Works of the New Council.

Res. No. 235 - 09 - 10. By Alderperson Kittelson. April 19, 2010.

A RESOLUTION authorizing the Purchasing Agent to enter into contract for the **installation** of energy efficient light fixtures and related accessories for the total upgrade of all light fixtures in both the City Hall and Municipal Service Building(s) with units having a higher energy efficiency rating.

Was referred to the Committee on Public Works of the New Council.

REPORT OF COMMITTEES

R. C. No. 497 - 09 - 10. By PUBLIC WORKS. April 19, 2010.

Your Committee to whom was referred Com. No. 88-09-10 from Gerald DuMonthier stating his concerns with the plans to open the shelter at Roosevelt Park rather than leaving it an enclosed shelter; recommends that the Communication be referred to the Committee on Public Works of the new Common Council.

Was referred to the Committee on Public Works of the New Council.

***R. C. No. 498 - 09 - 10. By SPECIAL COMMITTEE ON RISK MANAGEMENT. April 19, 2010.**

Your Committee to whom was referred the following:

1. R. O. No. 120-07-08 by the City Clerk submitting a communication received from USAA Casualty Insurance Company stating that they reimbursed their insured, John B. Holloway for injuries sustained as a result of the loss referenced in the attached letter and that this is notification that they intend to recover the amount they paid and ask that the City do not settle the claim with their insured without protecting their recovery right;

2. R. O. No. 196-08-09 by the City Clerk submitting a Summons in a Civil Case in the matter of Jennifer B. Reisinger vs. Juan Perez, et al., United States District Court, Eastern District of Wisconsin, Case No. 08-C-0708;
3. R. O. No. 388-08-09 by the City Clerk submitting a claim for excessive assessment against the City of Sheboygan for Blue Harbor Resort Sheboygan, LLC;
4. R. O. No. 501-08-09 Submitting a Notice and Application for Judgment of Foreclosure and Sale in the matter of U.S. Bank, N.A. vs. John F. Eisner et al.;
5. R. O. No. 517-08-09 Your Committee to whom was referred R. O. No. 606-08-09 by the City Clerk submitting a Summons and complaint in the matter of Philip F. Schoen d/b/a Schoen's Painting & Decorating, Inc., vs. City of Sheboygan; recommends that the document be referred to the Committee on Risk Management of the new Common Council;
6. R. C. No. 518-08-09 R. O. No. 241-08-09 by the City Clerk submitting a Summons and Complaint in the matter of South Pier, LLC, vs. City of Sheboygan et al.;
7. R. O. No. 39-09-10 Submitting a Summons and Complaint in the matter of Blue Harbor Resort Sheboygan, LLC vs. the City of Sheboygan;
8. R. O. No. 62-09-10 Submitting a Notice of Foreclosure Sale in the matter of Deutsche Bank National Trust Company vs. Aaron Levanduski and Jane Doe et al.;
9. R. O. No. 117-09-10 Submitting an Amended Summons and Notice of Object of Action in the matter of Community Bank & Trust vs. Sohre's Kitchens & Baths, Inc., et al;
10. R. O. No. 118-09-10 Submitting a Notice of Application for Confirmation of Sale and Writ of Assistance in the matter of Deutsche Bank National Trust Company vs. Aaron D. Levanduski and Jane Doe et al.;
11. R. O. No. 119-09-10 Submitting a Summons and Complaint in the matter of Sheboygan Area Credit Union vs. Michael Gilbertson et al.;
12. R. O. No. 163-09-10 Submitting a Summons and Complaint in the matter of Mary Faydash vs. the City of Sheboygan;
13. R. O. No. 164-09-10 Submitting a Notice of Entry Order and an Order Confirming Sale in the matter of Deutsche Bank National Trust Co. vs. Aaron D. Levanduski and Jane Doe et al.;
14. R. O. No. 166-09-10 Submitting a Summons and Complaint in the matter of Richard A. and Judith A Shircel vs. Garret Kaker et al.;
15. R. O. No. 184-09-10 Submitting a Notice of Hearing to approve the adequacy of disclosure statement and date by which to file and serve objections regarding J.L. French Automotive Castings, Inc., et al in the United States Bankruptcy Court for the District of Delaware;
16. R. O. No. 207-09-10 Submitting an Amended Summons and an Amended Complaint in the matter of Wells Fargo Bank, NA vs Maria Padilla a/k/a Maria Munoz and John Doe Padilla n/k/a Manuel Padilla et al.;
17. R. O. No. 209-09-10 Submitting a Notice of (A) Plan Objection and Voting Deadlines, (B) Solicitation and Voting Procedures, (C) Hearing to Confirm the Plan of Reorganization, and (D) Certain Other Information in the matter of J.L. French Automotive Castings, Inc., et al. in the United States Bankruptcy Court for the District of Delaware;
18. R. O. No. 210-09-10 Submitting a Notice of Deadline for the Filings of Proofs of Claim in the matter of J.L. French Automotive Castings, Inc., et al. in the United States Bankruptcy Court for the District of Delaware;
19. R. O. No. 230-09-10 Submitting a communication from Kohn Law Firm S.C. regarding a claim submitted by Secura Insurance on behalf of their client Joseph Pyne (Claim #50-08);
20. R. O. No. 254-09-10 Submitting Summons and Complaint in the matter of USAA Casualty Insurance Co. and Aletta G. Holloway vs. Michael Williams et al;
21. R. O. No. 343-09-10 Submitting an amended Summons and Complaint in the matter of Bank of America vs. Adrienne Boutillier and John Doe Boutillier et al.;
22. R. O. No. 344-09-10 Submitting a Notice of Sheriff's Sale regarding the foreclosure case of US Bank, National Association vs. John F. Eisner et al.;
23. R. O. No. 345-09-10 Submitting a Summons and Complaint in the matter of Secura Insurance on as Subrogee of Joseph and Colleen Pyne vs. the City of Sheboygan;
24. R. O. No. 354-09-10 Submitting a Complaint in the matter of Angela Payne vs. the City of Sheboygan and the City's Response to the Discrimination Complaint;
25. R. O. No. 390-09-10 Submitting a communication from Kohner, Mann & Kailas, Attorneys at Law giving notice of a Sheriff's sale in the matter of the foreclosure of U.S. Bank, N.A. vs John Eisner, et al.;
26. R. O. 408-09-10 Submitting a communication from Kohner, Mann & Kailas, Attorneys at Law being a Sheriff's sale notice a in foreclosure matter of U.S. Bank, N.A. vs Roger Fischer III, et al.; and
27. R. O. 409-09-10 Submitting a Summons and Complaint in the matter of Aletta G., John B. and Aletta M. Holloway vs. Blue Cross Blue Shield of Illinois et al.;

recommends that the documents be placed on file.

***R. C. No. 499 - 09 - 10. By LAW AND LICENSING. April 19, 2010.**

Your Committee to whom was referred R. O. No. 459-09-10 by the City Clerk, submitting license applications for the period ending June 30, 2010 and June 30, 2011; recommends that the Change of Premises for Sly's be placed on file as Mr. Sly withdrew his application.

***R. C. No. 500 - 09 - 10. By MARINA AND HARBOR. April 19, 2010.**

Your Committee to whom was referred R. O. No. 460-09-10 by the Deputy Finance Director/Treasurer submitting the Harbor Centre Marina Balance Sheet from Operations dated January 31, 2010, as submitted by Skipper Marine; recommends that the Report of Officer be accepted and placed on file.

***R. C. No. 501 - 09 - 10. By SPECIAL COMMITTEE ON RISK MANAGEMENT. April 19, 2010.**

Your Committee to whom was referred R. O. No. 474-09-10 by the City Clerk submitting a claim from Carmen Hoffmann for alleged damages to her vehicle when a City of Sheboygan snow plow hit her passenger side of the car and did major damage; recommends that the Report of Officer be accepted and placed on file and to approve payment to Carmen Hoffmann in the amount of \$4,785.17.

***R. C. No. 502 - 09 - 10. By SPECIAL COMMITTEE ON RISK MANAGEMENT. April 19, 2010.**

Your Committee to whom was referred R. O. No. 475-09-10 by the City Clerk submitting a claim from John Jugenheimer for alleged damages to the under carriage of his vehicle when he hit a large pothole adjacent to a manhole cover; recommends that the claim be denied and to direct the City Attorney to send a Notice of Disallowance.

***R. C. No. 503 - 09 - 10. By FINANCE. April 19, 2010.**

Your Committee to whom was referred R. O. No. 487-09-10 by the Board of Water Commissioners submitting their report on the Water Utility for the fourth quarter of 2009; recommends that the Report of Officer be accepted and placed on file.

***R. C. No. 504 - 09 - 10. By LAW AND LICENSING. April 19, 2010.**

Your Committee to whom was referred R. O. No. 490-09-10 by the City Clerk submitting a communication from Wendy Schmitz on behalf of the Friends of the Senior Activity Center requesting permission to use two of the Mayor's concert series in Fountain Park as fund raising opportunities by selling beer and food; recommends that the Report of Officer be accepted and placed on file and to approve the request.

***R. C. No. 505 - 09 - 10. By PUBLIC WORKS. April 19, 2010.**

Your Committee to whom was referred R. O. No. 497-09-10 by the City Clerk submitting a communication from the Sheboygan County Planning & Resources Department, Nonmotorized Transportation Pilot Program requesting permission to place signage along their routes in neighborhoods for a Walking School Bus Program; recommends that the Report of Officer be accepted and placed on file and to approve the request.

***R. C. No. 506 - 09 - 10. By WELLNESS. April 19, 2010.**

Your Committee to whom was referred R. O. No. 506-09-10 by the City Clerk submitting a communication from the Sheboygan County Planning and Resources Department stating that they are hosting their 2nd Bike and Walk to Work Week from June 5-11, 2010, as part of the Nonmotorized Transportation Pilot Program and giving information about the Countywide Employer Challenge; recommends that the Report of Officer be accepted and placed on file and to approve participation in the Program.

R. C. No. 507 - 09 - 10. By FINANCE. April 19, 2010.

Your Committee to whom was referred R. O. No. 486-09-10 by the Capital Improvements Commission who met, reviewed and recommends approval of the 2010 Capital Improvements Plan as submitted; recommends that the Report of Officer be accepted and placed on file.

On motion by Alderperson Gischia and second by Alderperson Hanna, the Report of Committee was filed, all Alderpersons voting "Aye".

R. C. No. 508 - 09 - 10. By LAW AND LICENSING. March 15, 2010.

Your Committee to whom was referred R. O. No. 491-09-10 by the City Clerk submitting various licenses for the period ending June 30, 2010 and June 30, 2010; recommends that the following applications be referred (held over) to the Committee on Law and Licensing of the new Common Council:

Was referred to the Committee on Law and Licensing of the New Council.

R. C. No. 509 - 09 - 10. By SPECIAL COMMITTEE ON RISK MANAGEMENT. April 19, 2010.

Your Committee to whom was referred the following:

April 19, 2010

1. R. C. No. 516-08-09 by Special Committee on Risk Management to whom was referred the following:
 - a. R. O. No. 51-08-09 by the City Clerk submitting a Notice of Circumstance by Atty. Halversen on behalf of his clients Curtis and Cindy Falk for alleged injuries sustained when Mr. Falk tripped over a raised sidewalk;
 - b. R. O. No. 311-08-09 by the City Clerk submitting a claim from Linda Shimon for alleged injuries incurred when she stepped into a hole within 2 ft. of a light pole that controls the pedestrian signals to cross Erie Ave. and broke her foot;
2. R. O. 504-08-09 submitting a claim from David Schults for alleged damages to his vehicle and license plates when Police officers attempted to remove the rear license plate;
3. R. O. No. 299-09-10 submitting a claim from Ernest Evraets for alleged injuries when he tripped on the uneven sidewalk near N. 6th St. and St. Clair Ave.;
4. R. O. No. 300-09-10 R. O. No. 311-08-09 by the City Clerk submitting a claim from Linda Shimon for alleged injuries incurred when she stepped into a hole within 2 ft. of a light pole that controls the pedestrian signals to cross Erie Ave. and broke her foot;
5. R. O. 341-09-10 submitting a communication from American Family Insurance Group on behalf of their insured Carl and Marcella Blomwillis regarding alleged damages to their vehicle when struck by a police officer;
6. R. O. 342-09-10 submitting a communication from McLario, Helm & Bertling, S.C. regarding their client, Frank S. Lubotsky, who was allegedly wrongfully imprisoned pursuant to a Writ of Commitment signed by the Municipal Court Judge;
7. R. O. 433-09-10 submitting an Amended Summons and Complaint in the matter of Jason S. Pacey vs. the City of Sheboygan et al.;
8. R. O. No. 476-09-10 submitting a Notice of Circumstances of Claim in the matter of the City of Sheboygan, the City of Sheboygan Department of Public Works and Kevin Hilbelink;
9. R. O. No. 502-09-10 submitting a Summons and Complaint in the matter of Ronald Behr vs. the City of Sheboygan;
10. R. O. No. 503-09-10 submitting a claim from United One Credit Union for alleged damages when a City vehicle struck their mailbox;
11. R. O. No. 504-09-10 submitting a claim from American Family Insurance Group on behalf of their insured Ashton Hoffmann and Charnette Boyd regarding alleged injuries when their vehicle was struck by a snowplow;
12. R. O. No. 505-09-10 submitting a Notice of Injury in the matter of Amanda J. McGettrick and the Sheboygan Transit System for alleged injuries while alighting from a bus operated by a Transit bus driver on the corner of S. 8th St. and Georgia Ave.;
13. R.C. No. 427-09-10 by Special Committee on Risk Management to whom was R. O. No. 410-09-10 by the City Clerk submitting a claim from Blue Harbor Resort Sheboygan, LLC, for Excessive Assessment;
14. R. C. No. 428 - 09 – 10 by the Special Committee on Risk Management and R. O. No. 411-09-10 by the City Clerk submitting sixty-four (64) claims from Blue Harbor Condominium owners for Excessive Assessment;

recommends that the documents be referred to the Special Committee on Risk Management of the new Common Council.

Was referred to the Special Committee on Risk Management of the New Council.

***R. C. No. 510 - 09 - 10. By FINANCE. April 19, 2010.**

Your Committee to whom was referred the following:

1. R. O. No. 489-09-10 by the City Clerk submitting a communication from SBA Communications regarding the SBA Communication Tower site at W121282 Wilson Ave., 3333 Lake Shore Dr. lease proposal; and
2. A copy of Res. No. 204-09-10 by Alderperson Hanna authorizing the appropriate City Officials to enter into an inter-governmental agreement with Sheboygan County for the joint purchase and installation of a replacement City/County Computer Aided Dispatch/Records Management System (CAD-RMS) serving Police, Fire and EMS agencies county-wide;

recommends that the documents be placed on file.

R. C. No. 511 - 09 - 10. By PUBLIC WORKS. April 19, 2010.

Your Committee to whom was referred Res. No. 220-09-10 by Alderperson Kittelson approving a contract for the removal of City trees; recommends that the Resolution be placed on file.

A motion by Alderperson Heidemann and second by Alderperson Bohren was made to re-refer the foregoing Report of Committee to the Committee on Public Works of the New Council was lost on call of the roll:

Ayes: Bohren, Bowers, Gischia, Heidemann, Kath – 5.

Nays: Bouck, Dekker, Hanna, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann-11.

The Report of Committee went back into the consent agenda.

On motion by Alderperson Gischia and second by Alderperson Bohren, the Report of Committee passed, all Alderpersons voting "Aye".

R. C. No. 512 - 09 - 10. By SALARIES AND GRIEVANCES. April 19, 2010.

Your Committee who met and discussed extending the time for the Police Chief for the residency requirement for an additional 6 months; recommends that a 6 month extension be granted until January 2011.

On motion by Alderperson Heidemann and second by Alderperson Gischia, the Resolution was filed, all Alderpersons voting "Aye".

***R. C. No. 513 - 09 - 10. By FINANCE. April 19, 2010.**

Your Committee to whom was referred Res. No. 217-09-10 by Alderperson Gischia authorizing entering into contract with the Sheboygan County Chamber of Commerce for Tourism Promotion and Development Services and dissolving the City's Tourism Advisory Committee; recommends that the Resolution be passed.

***R. C. No. 514 - 09 - 10. By PUBLIC PROTECTION AND SAFETY. April 19, 2010.**

Your Committee to whom was referred the following:

1. R. O. No. 492-09-10 by the City Clerk submitting a communication from the March of Dimes Foundation, requesting permission to hold their annual "March for Babies" on April 24, 2010;
2. Res. No. 219-09-10 by Alderpersons Bouck and Vue granting the March of Dimes permission to hold their March for Babies, 3 and 6-mile route on the streets of the City of Sheboygan on April 24, 2010;

recommends that the Report of Officer be accepted and placed on file and the Resolution be passed.

***R. C. No. 515 - 09 - 10. By PUBLIC WORKS. April 19, 2010.**

Your Committee to whom was referred Res. No. 221-09-10 by Alderperson Kittelson authorizing entering into a concession agreement for "the Shack" at Vollrath Park; recommends that the Resolution be passed.

***R. C. No. 516 - 09 - 10. By PUBLIC WORKS. April 19, 2010.**

Your Committee to whom was referred the following:

1. R. O. No. 500-09-10 by the Purchasing Agent submitting a report to purchase Energy Efficient Lighting Fixtures and accessories necessary for the upgrade of City Hall and Municipal Service Buildings; and
2. Res. No. 222-09-10 by Alderperson Kittelson authorizing the Purchasing Agent to enter into contract for the purchase of Energy Efficient Lighting Fixtures and accessories necessary for the upgrade of City Hall and Municipal Service Buildings;

recommends that the Report of Officer be accepted and placed on file and the Resolution be passed.

R. C. No. 517 - 09 - 10. By PUBLIC PROTECTION AND SAFETY. April 19, 2010.

Your Committee to whom was referred Res. No. 218-09-10 by Alderperson Rindfleisch amending Res. No. 13-07-08 (as amended) which established the ambulance service in the Fire Department, so as to reduce the minimum number of ambulances staffed 24/7 from three to two; recommends that the Resolution be passed.

Was accepted and adopted.

R. C. No. 518 - 09 - 10. By FINANCE. April 19, 2010.

Your Committee to whom was referred Res. No. 216-09-10 by Alderpersons Gischia, Rindfleisch and Kittelson approving the Capital Improvements Program recommended by the Capital Improvements Commission for 2010 and adopting the 2010 program for implementation; recommends that the Resolution be passed.

On motion by Alderperson Gischia and second by Alderperson Hanna, the foregoing Report of Committee was filed, all Alderpersons voting "Aye".

***R. C. No. 519 - 09 - 10. By SALARIES AND GRIEVANCES. April 19, 2010.**

Your Committee to whom was referred Gen. Ord. No. 62-09-10 by Alderperson Kittelson repealing and recreating Section 29-95 of the 1975 Sheboygan Municipal Code relating to biweekly payment of earnings so as to provide for a two-week holdback; recommends that the Ordinance be passed.

RESOLUTIONS ON SECOND READING

Res. No. 216 - 09 - 10. By Alderpersons Gischia, Rindfleisch and Kittelson. April 7, 2010.

A RESOLUTION approving the Capital Improvements Program recommended by the Capital Improvement Commission for 2010 and adopting the 2010 program for implementation.

April 19, 2010

WHEREAS, the Capital Improvements Commission is served with the responsibility of annually considering requests and establish priorities for municipal improvements;

WHEREAS, the Commission focused the framework of the Capital Improvements Program to be 90% infrastructure and 10% building improvements for the general borrowing;

WHEREAS, the Commission reviewed focused proposals for improvements in 2010.

NOW, THEREFORE, BE IT RESOLVED: That the 2010 Capital Improvements Program for the City of Sheboygan is hereby approved, and the 2010 Program is hereby adopted for implementation.

On motion by Alderperson Gischia and second by Alderperson Kittelson, the Resolution was passed on call of the roll:

Ayes: Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann—16.

Nays: None.

***Res. No. 217 - 09 - 10. By Alderperson Gischia. April 7, 2010.**

A RESOLUTION authorizing entering into contract with the Sheboygan County Chamber of Commerce for Tourism Promotion and Development Services and dissolving the City's Tourism Advisory Committee.

WHEREAS, the City collects room tax revenues pursuant to local ordinance for the purpose of tourism promotion and development among other things; and

WHEREAS, the Chamber has been involved to one extent or another in tourism promotion and development throughout its existence and has experience in tourism promotion and development in Sheboygan County; and

WHEREAS, the City and Chamber have worked cooperatively with the Tourism Alliance of Sheboygan County ("TASC") in promoting cooperation among governmental entities in Sheboygan County for the promotion of tourism; and

WHEREAS, the City believes that the growth potential for tourism within the City of Sheboygan is enhanced by working cooperatively with other entities in Sheboygan County which promote tourism; and

WHEREAS, the City believes that the Chamber has unique qualifications for achieving tourism growth in the City and desires to contract with the Chamber for certain tourism promotion and development services, which would be paid for from the room tax revenues collected by the City; and

WHEREAS, the Chamber desires to work with the City in promoting tourism within the City and throughout Sheboygan County.

NOW THEREFORE BE IT RESOLVED: That the Mayor and City Clerk are hereby authorized to enter into the Tourism Promotion and Development Agreement with the Sheboygan County Chamber of Commerce, a copy of which is attached hereto and incorporated herein by this reference.

BE IT FURTHER RESOLVED: That the Tourism Advisory Committee established by way of Subs. of Res. No. 127-05-06 adopted September 19, 2005, and as amended by way of Res. No. 266-06-07, is hereby dissolved effective the end of the 2009-2010 Common Council year.

Res. No. 218 - 09 - 10. By Alderperson Rindfleisch. April 7, 2010.

A RESOLUTION amending Res. No. 13-07-08 (as amended) which established the ambulance service in the Fire Department, so as to reduce the minimum number of ambulances staffed 24/7 from three to two.

WHEREAS, Res. No. 13-07-08 (as amended), adopted May 29, 2007, established the ambulance service in the Fire Department and required that a minimum of three paramedic level ambulances be staffed 24 hours a day, seven days a week; and

WHEREAS, the Fire Department has been unable to replace recently retired fire department personnel under the City's current hiring freeze, resulting in an insufficient staffing level to support full-time operation of three paramedic level ambulances.

NOW, THEREFORE, BE IT RESOLVED: That Res. No. 13-07-08 (as amended) is hereby amended so as to reduce the required minimum number of paramedic level ambulances staffed 24 hours a day, seven days a week from three to two.

On motion by Alderperson Hanna and second by Alderperson Rindfleisch, the foregoing Resolution was passed on call of the roll:

Ayes: Bohren, Bouck, Bowers, Gischia, Hanna, Heidemann, Kliejunas, Rindfleisch, VanderWeele, Vue, Wangemann — 11.

Nays: Dekker, Kath, Kittelson, Montemayor, Surek — 5.

***Res. No. 219 - 09 - 10. By Alderpersons Bouck and Vue. April 7, 2010.**

A RESOLUTION granting the March of Dimes permission to hold their March for Babies 2010, 3 and 6-mile route on the streets of the City of Sheboygan on Saturday, April 24th.

RESOLVED: That permission is hereby granted to the March of Dimes to hold their March for Babies 2010, 3 and 6-mile route on the streets of the City of Sheboygan on Saturday, April 24th.

BE IT FURTHER RESOLVED: That the course for the 3 and 6 mile route is as follows:

April 19, 2010

Route: Walkers will leave Kiwanis Fieldhouse and travel on Kiwanis Dr. to Ontario Ave. and enter the Old Plank Trail that runs under the N. 14th St. bridge. They will then follow the trail to Workers Water Street Park and continue to the corner of Pennsylvania Ave. and Water St. 3 mile walkers will turn around and travel the same route back to Kiwanis Fieldhouse.

The 6 mile walkers will continue on Pennsylvania Ave. and follow Broughton Dr. to Lincoln Ave. Then 6th St. to Zimbal Ave. to 8th St. which will continue to Pennsylvania Ave. and follow on Water St. and Old Plank Trail to Kiwanis Fieldhouse.

Checkpoints: Workers Water Street Park and Mead Library

BE IT FURTHER RESOLVED: That the streets and sidewalks will be used as a route of travel. Checkers will be located along the routes to assist the walkers when necessary in crossing streets and getting directions for the route of travel, as specified by the Sheboygan Police Department and as shown on the attached map.

BE IT FURTHER RESOLVED: That permission for the March of Dimes March for Babies 2009 is hereby granted with the proviso that the City Clerk's Office shall receive the necessary insurance statement and hold harmless agreement prior to this event.

***Res. No. 221 - 09 - 10. By Alderperson Kittelson. April 7, 2010.**

A RESOLUTION authorizing entering into a concession agreement for "the Shack" at Vollrath Park.

RESOLVED: That the Mayor and City Clerk are hereby authorized to execute the Vollrath Park Disc Golf Concession Agreement with Dennis and Patricia Wield, a copy of which is attached hereto and incorporated herein.

***Res. No. 222 - 09 - 10. By Alderperson Kittelson. April 7, 2010.**

A RESOLUTION authorizing the Purchasing Agent to enter into contract for the purchase of energy efficient light fixtures and related accessories for the total upgrade of all light fixtures in both the City Hall and Municipal Service Building(s) with units having a higher energy efficiency rating.

RESOLVED: That the Purchasing Agent is hereby authorized to enter into contract with Englewood Electric Supply Inc of Sheboygan Falls for the provision and delivery of all required fixtures, bulbs, hardware and accessories in accordance with bid #1813-10 in the amount of \$57,594.40.

BE IT FURTHER RESOLVED: That the lighting equipment to be purchased meets or exceeds all of the specifications required by the City of Sheboygan.

BE IT FURTHER RESOLVED: That the lighting to be purchased meets or exceeds all of the requirements for funding under the American Recovery and Reinvestment Act (ARRA) for both efficiency as well as manufacture within the United States of America.

BE IT FURTHER RESOLVED; That the Purchasing Agent is hereby authorized to draw orders on Account City Hall Lighting Improvement #40011210-621200 for the purchase and in payment of same.

ORDINANCES ON SECOND READING

Gen. Ord. No. 61 – 09 – 10. By Alderpersons Bohren and Heidemann. April 7, 2010.

AN ORDINANCE granting Quality State Oil Company, Inc., its successors and assigns, the privilege of encroaching upon described portions of Weeden Creek Rd. located at 1211 Weeden Creek Rd. in the City of Sheboygan for the purpose of maintaining a sign.

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. Subject to the terms and conditions contained herein, Quality State Oil Company, Inc., its successors and assigns, is hereby granted the privilege of encroaching into that part of City right of way adjacent to Lot 6 of Block 64, Original Plat of the City of Sheboygan, located in Sect. 23, T.15N., R.23E., City of Sheboygan, Sheboygan County, Wisconsin being more particularly described as follows:

Commencing at the northwest corner of said Lot 6, thence south along the west line of said lot 6 also being the east line of N. 8th Street 25.00' to the point of beginning, thence west 7.00 feet, thence south 20.00 feet, thence east 7.00 feet, thence north along said east line of north 8th Street 20.00 feet to the point of beginning.

Said parcel contains 140 sq. ft., in accordance with the sketch attached hereto and made a part hereof.

Section 2. The privilege as granted above is granted only on the condition that by the acceptance of the privilege, the said Quality State Oil Company, Inc., its successors and assigns:

a. Shall become primarily responsible and liable for all and any damage to persons or property caused by and arising from the grant and exercise of such privilege.

b. Shall remove the encroachment allowed herein within ten (10) days after notice so to remove given by the State of Wisconsin or the City of Sheboygan; in the event of the failure so to remove, the said Quality State Oil Company, Inc., its successors and assigns: shall pay the costs of removal by the State of Wisconsin or the City of Sheboygan, waiving all claim or claims for damages resulting from such removal, whether the removal is done by the said Quality State Oil Company, Inc., its successors and assigns, or by the State of Wisconsin or by the City of Sheboygan.

c. Shall pay such compensation to the City of Sheboygan for the grant of this privilege as may be determined by

a board consisting of the Mayor, the Director of Public Works and the City Attorney; the compensation shall be paid into the General Fund.

d. Shall make such construction and/or alterations and maintain the same subject to the approval of the City Building Inspector and Director of Public Works, and shall waive the right to contest in any manner the validity of this ordinance or the amount of compensation charged.

Section 3. The provisions of §66.0425(1) thru (5) of the Wisconsin Statutes are incorporated herein by reference to all intents and purposes as if set out fully.

Section 4. The City Clerk is authorized and directed to record a certified copy of this ordinance in the office of the Register of Deeds for Sheboygan County, Wisconsin, the costs thereof to be charged to the General Fund.

Section 5. This ordinance shall take effect and be in full force from and after its passage and publication and upon payment of the consideration to be determined hereunder, provided, however, that in the event of failure to exercise the privilege herein granted and the payment of such consideration within six (6) months from the effective date hereof, then and in that event such privilege shall be rendered null and void.

On motion by Alderperson Hanna and second by Alderperson Bohren, the foregoing Ordinance was passed on call of the roll:

Ayes: Bohren, Bouck, Bowers, Dekker, Gischia, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann—15.

Nays: None.

Abstain: Hanna – 1.

***Gen. Ord. No. 62 - 09 - 10. By Alderperson Kittelson. April 7, 2010.**

AN ORDINANCE repealing and recreating Section 29-95 of the 1975 Sheboygan Municipal Code relating to biweekly payment of earnings so as to provide for a two-week holdback.

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. Section 29-95 of the 1975 Sheboygan Municipal Code entitled "Biweekly payment of earnings" is hereby repealed and recreated to read as follows:

"Sec. 29-95. *Biweekly payment of earnings.*

Except for employees covered under a valid collective bargaining agreement providing otherwise, all salaries and wages shall be paid biweekly for salaries and wages earned during the biweekly period preceding the most current biweekly period (i.e. two-week holdback)."

Section 2. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and this ordinance shall be in effect from and after its passage and publication.

ORDINANCES INTRODUCED

Gen. Ord. No. 63 - 09 - 10. By Alderperson Gischia. April 19, 2010.

AN ORDINANCE amending, repealing and recreating various sections of the Municipal Code so as to merge the Sheboygan Commission on Fair Housing Practices and the Board of Housing Appeals into a new Board of Housing Appeals and Fair Housing Practices.

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. Division 13 of Article V of Chapter 2 of the Municipal Code relating to the Board of Housing Appeals and Fair Housing Practices is hereby created to read as follows:

"DIVISION 13. BOARD OF HOUSING APPEALS AND FAIR HOUSING PRACTICES.

Sec. 2-811. Composition.

The board of housing appeals and fair housing practices shall be composed of eight members appointed by the mayor and confirmed by the common council. Two members shall be alderpersons serving one-year terms. Six members shall be citizen representatives of the city at large. All citizen appointments shall be for a term of three years.

Sec. 2-812. Vacancies.

Any vacancy occurring in the membership of the board, except those caused by the expiration of term, shall be filled by appointment for the unexpired term only.

Sec. 2-813. Secretary.

The housing inspector shall act as secretary to the board and shall keep accurate minutes of all board meetings.

Sec. 2-814. Powers and duties.

The board of housing appeals and fair housing practices shall have the powers and duties as set forth in Chapter 46 and in Article VII of Chapter 26."

Section 2. Section 26-836 of the Sheboygan Municipal Code entitled "Denial; hearing" is hereby amended so as to add the following after "board of housing appeals" and before "under": "and fair housing practices".

Section 3. Section 26-842 of the Sheboygan Municipal Code entitled "Hearing upon suspension; revocation" is hereby amended so as to add the following after "board of housing appeals" in the first sentence thereof: "and fair housing practices".

Section 4. Division 4 of Article VII of Chapter 26 of the Sheboygan Municipal Code entitled "Board of Housing Appeals" is hereby retitled to read: "Board of Housing Appeals and Fair Housing Practices."

Section 5. Sections 26-866, 26-867 and 26-868 of the Sheboygan Municipal Code are hereby repealed.

Section 6. Section 26-869 of the Sheboygan Municipal Code entitled "Petition for hearing" is hereby amended so as to add the following after "board of housing appeals" in all six places: "and fair housing practices".

Section 7. Section 26-871 of the Sheboygan Municipal Code entitled "Sustaining, modifying or withdrawing notices" is hereby amended so as to add the following after "board of housing appeals" in all four places: "and fair housing practices".

Section 8. Section 26-872 of the Sheboygan Municipal Code entitled "Review by circuit court by certiorari" is hereby amended so as to add the following after "board of housing appeals" in all six places: "and fair housing practices".

Section 9. Chapter 46 of the Sheboygan Municipal Code entitled "Fair Housing" is hereby repealed and recreated to read as follows:

**"Chapter 46 FAIR HOUSING
ARTICLE I. IN GENERAL**

Sec. 46-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accommodation means any room, apartment, house, building or structure, any part of which is used for human habitation on a temporary or permanent basis.

Board means the board of housing appeals and fair housing practices.

Complainant means any person who files a complaint with the board.

Discriminate, discrimination means to segregate, separate, exclude or treat any person or class of persons unequally because of their sex, race, color, religion, ancestry, national origin, handicap, or sexual orientation.

Handicap means any physical disability or developmental disability as defined under W.S.A., § 51.01(5)(a).

Hearing means a hearing under the jurisdiction of the board, except where otherwise indicated.

Housing means any improved property, including any mobile home, which is used or occupied or is intended, arranged or designed to be used or occupied as a home or residence.

Probable cause means reasonable grounds to believe that a violation of section 46-5 may have occurred or may be occurring.

Respondent means any person who, according to the allegations contained in any complaint filed with the board, has violated any discriminatory practice prohibited by this chapter and has been named in the complaint as a respondent.

Sexual orientation means having a preference for heterosexuality, homosexuality or bisexuality; having a history of such a preference or being identified with such a preference.

Sec. 46-2. Declaration of policy.

It is declared to be the policy of the city, pursuant to the United States Constitution and state constitution, W.S.A., §§ 66.1011, 106.04, and also its power to protect the public health, safety and general welfare that all persons, regardless of their sex, race, color, religion, ancestry, national origin, handicap or sexual orientation, are entitled to fair and equal access to housing. To that end the city enacts this chapter, which prohibits any person, not exempted in this chapter, from discriminating against any other person by impairing to any degree access to any housing or housing accommodations on the basis of sex, race, color, religion, ancestry, national origin, handicap or sexual orientation and creates a board with the power and duty to enforce equal opportunity in housing for all citizens of the city.

Sec. 46-3. Penalties.

(a) Any person who willfully violates this chapter or any lawful order issued under this chapter shall forfeit the amounts specified in W.S.A., § 106.04(10)(d).

(b) Payment of any such forfeiture shall be stayed during the period in which an appeal may be taken and during the pendency of an appeal.

Sec. 46-4. Implementation.

The purposes and provisions of this chapter shall be implemented by the city board of housing appeals and fair housing practices and, where necessary, the city attorney.

Sec. 46-5. Prohibited acts.

(a) It is unlawful for any person to discriminate by:

(1) Publishing, circulating, issuing or displaying or causing to be published, circulated, issued or displayed any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of any housing or housing accommodation which states or indicates any discrimination in connection with housing or housing accommodations.

(2) Refusing to sell, lease, sublease, rent or in any other manner deny, withhold or impair the transfer of title, leasehold or any other interest in any part of any housing or housing accommodation.

(3) Refusing to lend money or security, guarantee any loan, accept any mortgage, contract to construct housing, discuss the terms thereof or in any other manner make unavailable any other funds or resources for the construction, acquisition, purchase, rehabilitation, repair or maintenance of any housing or housing accommodation.

(4) Refusing to furnish any facilities or services for any housing or housing accommodation.

(5) Refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of any housing or housing accommodation.

(6) If in the business of insuring against hazards, refusing to enter into or by exacting different terms, conditions or privileges with respect to a contract of insurance against hazards to a dwelling.

(7) Refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant.

(b) It shall be unlawful for any person to do or refuse to do any act which to any degree affects the purpose of any activity prohibited by this chapter.

(c) No person may coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted or protected by this chapter or with any person who has abided by or encouraged another person in the exercise or enjoyment of any right granted or protected by this chapter.

Sec. 46-6. Exceptions.

(a) Nothing in this chapter shall prohibit the development of housing designed specifically for a person with a handicap and discrimination on the basis of handicap in relation to such housing.

(b) Nothing in this chapter shall prohibit an owner or agent from requiring that any person who seeks to buy, rent or lease housing supply information concerning family, marital, financial and business status but not concerning race, color, physical condition, developmental disability as defined in W.S.A., § 51.01(5), sexual orientation or creed.

Secs. 46-7 – 46.40 Reserved.

ARTICLE II. POWERS AND DUTIES

Sec. 46-41. Powers and duties.

The board of housing appeals and fair housing practices shall have the power and duty to:

(1) Adopt, amend, publish and rescind rules for governing its meetings and hearings;

(2) Adopt, amend, publish and rescind regulations consistent with and for the enforcement of this chapter, provided action affecting regulations shall be reported to the common council within ten days thereafter;

(3) Appoint such other employees, agents and staff, subject to a table of organization and budget approval by the common council, as are necessary to promote the purposes of this chapter and prescribe their duties;

(4) Receive, initiate and investigate all complaints alleging any discrimination or discriminatory practice prohibited by this chapter providing the notice in W.S.A., § 106.04(6)(a)(5);

(5) Serve a copy of the complaint if required under W.S.A., § 106.04(6)(a)(5);

(6) Appoint mediators, subject to a table of organization and budget approval by the common council, who initially shall seek a settlement agreeable to both the complainant and the respondent by means of informal conferences;

(7) If necessary, hold hearings after efforts at settlement, based on complaints made against any person and a determination of probable cause; administer oaths and take testimony; compel the production of books, papers and any other documents relating to any matters involved in the complaint; and subpoena witnesses and compel their attendance. If a witness either fails or refuses to obey a subpoena issued by the board, the board may order attendance. At any time after it has issued such an order, the board may petition a court of competent jurisdiction for its enforcement;

(8) Issue, after hearing, such final orders as are necessary to promote the purpose of this chapter;

(9) Issue temporary orders effective for a maximum of 20 days, absent extraordinary circumstances, restraining the respondent from taking any action that would tend to render ineffective or unenforceable any order which the board might issue;

(10) Refer orders, pursuant to section 46-66, to the city attorney to be enforced by him in the name of the city;

(11) Except as provided in W.S.A., §§ 19.31 et seq., 106.04, make available to the public, in writing, copies of:

a. Transcripts of all of its proceedings except initial settlement efforts by its mediators;

b. All temporary and final orders; and

c. All decisions and opinions rendered.

No publicity, however, shall be given a complaint in those cases where the board obtains compliance with this chapter or the board finds that the complaint is without foundation;

(12) Require a written report of the manner of compliance with any final order it may issue; and

(13) Recommend to the mayor and common council any legislation necessary to further promote the purposes of this chapter and file annual written reports of its work to the mayor and common council.

ARTICLE III. ENFORCEMENT PROCEDURES

Sec. 46-66. Complaint.

(a) Any complaint alleging any discrimination or discriminatory practice prohibited by this chapter shall be in writing and verified by the complainant or his agent. Such complaints may be initiated by the complainant, who may mail his complaint to the board of housing appeals and fair housing practices or dictate it to an agent of the board or any agent of the complainant, including any agent who himself has solicited offers to buy, lease or rent any part of any housing or housing accommodation for the complainant.

(b) All complaints shall contain the following:

(1) The name and address of the complainant;

- (2) The name and address of the respondent;
- (3) A statement setting forth the particulars of the alleged discrimination or discriminatory practice; and
- (4) The date of the alleged discrimination or discriminatory practice.

Sec. 46-67. Filing complaint.

Complaints arising under this chapter shall be filed with the board of housing appeals and fair housing practices.

Sec. 46-68. Time for filing complaint.

Complaints alleging any discrimination or discriminatory practice prohibited by this chapter shall be filed no later than one year after the complainant knew or should reasonably have known that the alleged act occurred.

Sec. 46-69. Amendment, withdrawal of complaint.

A complaint filed under this article may be amended or withdrawn at any time with and subject to the approval of the board of housing appeals and fair housing practices or its designated agent and under such terms as the board or agent shall direct.

Sec. 46-70. Investigation of complaint; initial determination.

An agent designated by the board of housing appeals and fair housing practices shall promptly investigate all complaints duly filed under this article. Within 30 days of the filing of each complaint, the agent shall issue to the complainant and respondent an initial determination in writing of whether probable cause exists and setting forth the basis of the determination.

Sec. 46-71. Determination of no probable cause, appeal.

If a determination is made that there is no probable cause to believe discrimination in violation of this chapter has been or is being committed the complainant shall be afforded an opportunity to appeal such decision to the full board of housing appeals and fair housing practices. If the full board decides there is no probable cause, the complainant may appeal to either:

- (1) A court of competent jurisdiction for the county in which the alleged discrimination took place; or
- (2) A court of competent jurisdiction for the county in which the property or property interest in question is located.

Sec. 46-72. Determination of probable cause.

If a determination is made that there is probable cause to believe discrimination in violation of this chapter has been or is being committed, an agent designated by the board of housing appeals and fair housing practices shall endeavor, by means of conference, conciliation or persuasion, to eliminate the alleged discrimination or discriminatory practice.

Sec. 46-73. Hearing on failure to settle.

When efforts at settlement have failed to eliminate the discrimination or discriminatory practice alleged by the complainant under this article, the board of housing appeals and fair housing practices shall promptly cause to be issued a notice of a hearing before a hearing examiner, acting as an agent of the board, to determine the merits of the complaint.

Sec. 46-74. Findings of examiner.

(a) Under this article, in all hearings before an examiner, except those for determining probable cause, the burden of proof is on the party alleging discrimination.

(b) If, after hearing and on the basis of the official record made therein, the examiner finds by a fair preponderance of the evidence that the respondent has engaged in or is engaged in any discrimination prohibited by this chapter, he shall make and recommend to the board of housing appeals and fair housing practices written findings of fact and conclusions thereon and shall recommend such action to be taken by the respondent and, where necessary, by the complainant, as will effect the purposes of this chapter by eliminating the discrimination found.

(c) A certified copy of such recommended findings, conclusions and orders, together with a summary of the findings of fact, shall be sent to the last known addresses of the complainant and the respondent by certified mail with return receipts requested.

(d) If, within 20 days following the mailing of the examiner's decision, the board does not receive notice of appeal, the findings, conclusions and orders of the examiner shall be the findings, conclusions and orders of the commission.

Sec. 46-75. Appeal from examiner's findings.

Under this article, if within 30 days following the mailing of the examiner's decision, the complainant or respondent serves notice of appeal, such appeal may be had to the full board of housing appeals and fair housing practices. The board shall have the power to affirm, reverse or modify the determination of the hearing examiner. After final determination by the board, either party may appeal by certiorari to a court of competent jurisdiction. In the alternative, either party may receive a trial de novo on all issues relating to any alleged discrimination and a further right to a trial by jury.

Sec. 46-76. Transfer of proceedings.

At any time after a finding of probable cause under this article, the board of housing appeals and fair housing practices, with appropriate notice to the complainant and respondent, may transfer the proceedings to itself.

Sec. 46-77. Judicial enforcement.

April 19, 2010

Whenever, in the judgment of the board of housing appeals and fair housing practices, judicial enforcement of a board order is necessary to enforce this chapter, the board shall in writing request the city attorney to commence proceedings in a court of competent jurisdiction to enforce such orders in the name of the city. Upon receipt of any such request, the city attorney shall have the duty to seek enforcement of such orders in a court of competent jurisdiction.

Sec. 46-78. Remedies.

(a) The board of housing appeals and fair housing practices shall have the power and duty, after investigation and hearing, to issue and implement such orders as may be necessary to effect the purposes of this chapter. Such orders may include the following:

- (1) Cease and desist orders;
- (2) Affirmative action by the respondent and, where necessary, by the complainant; and
- (3) Any other orders which may be necessary to effect the purpose of this chapter.

(b) Any of the orders of the board shall be stayed during the period in which any appeal may be taken and during the pendency of any appeal."

Section 10. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and this ordinance shall be in effect from and after its passage and publication.

A motion by Alderperson Gischia and second by Alderperson Heidemann to suspend the rules of the Common Council was passed by unanimous consent.

On motion by Alderperson Gischia and second by Alderperson Heidemann, the foregoing Ordinance was passed on call of the roll:

Ayes: Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann—16.

Nays: None.

Gen. Ord. No. 64 – 09 - 10. By Alderperson Hanna. April 19, 2010.

AN ORDINANCE relating to 30-minute parking limits so as to change the parking limits on the east side of S. 8th St. between Clara Ave. and Spring Ave. to 2-hour parking limits.

Was referred to the Committee on Public Protection and Safety of the New Council.

Gen. Ord. No. 65 – 09 - 10. By Alderperson Hanna. April 19, 2010.

AN ORDINANCE relating to No Parking Anytime limits so as to delete the parking limits on the south side of Main Ave. west of N. 15th St.

Was referred to the Committee on Public Protection and Safety of the New Council.

Gen. Ord. No. 66 – 09 - 10. By Alderperson Hanna. April 19, 2010.

AN ORDINANCE relating to No Parking Here to Corner so as to change the parking limits on the north side of North Ave. from N. 6th St. west.

Was referred to the Committee on Public Protection and Safety of the New Council.

Gen. Ord. No. 67 – 09 - 10. By Alderperson Hanna. April 19, 2010.

AN ORDINANCE relating to No Parking Here to Corner limits so as to delete the parking limits on the south side of Main Ave. between N. 15th St. and the dead-end.

Was referred to the Committee on Public Protection and Safety of the New Council.

Gen. Ord. No. 68 – 09 - 10. By Alderperson Hanna. April 19, 2010.

AN ORDINANCE relating to stop signs so as to delete the stop sign at the northwest corner of S. Pier Drive and Illinois Ave.

Was referred to the Committee on Public Protection and Safety of the New Council.

Gen. Ord. No. 69 – 09 - 10. By Alderson Hanna. April 19, 2010.

AN ORDINANCE relating to loading zone parking restrictions so as to delete the loading zone on the south side of Clara Ave. between S. 7th St. and S. 8th St.

Was referred to the Committee on Public Protection and Safety of the New Council.

Gen. Ord. No. 70 – 09 - 10. By Alderperson Hanna. April 19, 2010.

AN ORDINANCE relating to 30-minute parking limits so as to change the parking limits on the south side of Clara Ave. between S. 7th St. and S. 8th St. to 2-hour parking limits.

Was referred to the Committee on Public Protection and Safety of the New Council.

MATTERS LAID OVER

R. O. No. 484 - 09 - 10. By CITY CLERK. April 7, 2010.

April 19, 2010

Submitting, as a matter of record, information received from Carol Lutz regarding the dates for Rockets for Schools as being May 6, 7 and 8, 2010.

On motion by Alderperson Gischia and second by Alderperson Heidemann, the Report of Committee was accepted and placed on file, all Alderpersons voting "Aye".

Res. No. 215 - 09 - 10. By Alderperson Gischia. April 7, 2010.

A RESOLUTION authorizing executing an agreement with AECOM Technical Services, Inc. to provide consultant engineering services relating to infrastructure upgrade of sidewalk gap filling.

RESOLVED: That the proper City officials are authorized and directed to execute a contract with AECOM Technical Services, Inc. to provide engineering services relating to City of Sheboygan infrastructure upgrade of sidewalk gap filling. Compensation for said services to be \$182,504.10 and paid with federal funds through the Sheboygan County Non-Motorized Transportation fund.

On motion by Alderperson Gischia and second by Alderperson Heidemann, the Resolution was passed on call of the roll:

Ayes: Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kath, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann – 16.

Nays: None.

Gen. Ord. No. 60 - 09 - 10. By Alderperson Kittelson. April 7, 2010.

AN ORDINANCE amending Section 1 of Gen. Ord. No. 93-07-08 so as to freeze the Mayor's salary at the current annual rate for the period May 2010 through April 2011.

THE COMMON COUNCIL OF THE CITY OF SHEBOYGAN DO ORDAIN AS FOLLOWS:

Section 1. Gen. Ord. No. 93-07-08 is hereby amended in Section 1 thereof so as to change the annual rate of the Mayor's salary effective the first payday of May 2010 to read "71,958."

Section 2. Except as amended herein, Gen. Ord. No. 93-07-08 shall remain in full force and effect.

Section 3. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and this ordinance shall be in effect from and after its passage and publication.

On motion by Alderperson Kittelson and second by Alderperson Montemayor, the Ordinance was passed on call of the roll:

Ayes: Bohren, Bouck, Bowers, Dekker, Gischia, Hanna, Heidemann, Kittelson, Kliejunas, Montemayor, Rindfleisch, Surek, VanderWeele, Vue, Wangemann – 15.

Nays: Kath – 1.

There being no further business, on motion by Alderperson Gischia and second by Alderperson Heidemann, the meeting was then adjourned, all Alderpersons present voting "Aye".

Mayor

City Clerk