

CITY OF WAUWATOSA

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LEGISLATION, LICENSING & COMMUNICATIONS COMMITTEE

Tuesday, November 9, 2004

Committee Room #2

PRESENT: Alds. Birschel, Grimm, Krill, Subotich, Sullivan, Treis – 6

ALSO PRESENT: A. Kesner, City Atty.; Chief B. Weber, Police

Ald. Treis as Chair called the meeting to order at 7:00 p.m.

State Senator Tom Reynolds

Senator Reynolds reported on the legislative atmosphere in Madison. Ald. Sullivan asked about the ongoing issue between state and local control. Sen. Reynolds said the Taxpayer Bill of Rights (TABOR) is a big issue with a lot of political implications. He said the City of Wauwatosa has been very fiscally responsible, in fact, many units of local government are doing much better than the state in the area of spending. He characterized himself as a supporter of local government. He said that there is strong support in the legislature for shared revenue. He noted that there is an \$8 million shortfall in the state budget; however, things seem to be turning around.

Chief Weber asked if retirees can get some relief from the tax burden. Sen. Reynolds said they are looking at the homestead tax credit. He noted that Wisconsin is the 47th state on the list of desirable places to retire according to Forbes magazine.

Mr. Kesner asked about the affect of TABOR on state mandated expenditures. These mandated expenditures have the potential to cost the city millions of dollars. He asked if there could be exceptions. Sen. Reynolds responded that mandated expenditure relief passed by a voice vote in the legislature, but then it was vetoed by the governor. There doesn't seem to be enough votes at this point for an override of the veto. He indicated that he supports allowing cities to opt out of state mandated expenditures.

Ald. Sullivan asked for support from Sen. Reynolds regarding a number of issues facing municipalities like Wauwatosa including: 1) changes in state law regarding the grounds for denial of an operator license; 2) cities picking up the legal costs for fire and police department litigation; and 3) density measurements according the South Eastern Wisconsin Regional Planning Commission (SEWRPC). Sen. Reynolds said there are approximately 50 bills pending in the legislature that are attempts at correcting the overreach of government.

The committee thanked Sen. Reynolds for discussing these important issues with them.

Ald. Krill left at 7:26 p.m. (-5)

Operator license application by Scott Olson, 4321 n 104th Street

Chief Weber said the applicant had a conviction in 1998 in Winnebago County and two convictions in 2000 and 2002 in Marathon County. Mr. Olson said the last charge was reduced. He is planning on going into law enforcement or fire fighting and he is very responsible at his job. He made mistakes in the past, but he has grown from them.

Moved by Ald. Sullivan, seconded by Ald. Subotich to recommend approval of the operator license – 5

Operator license application by Kelsey McLenon, 5504 W. Lapham Street, Milwaukee

Chief Weber said the applicant had a conviction in Greendale in 2001. Ms. McLenon said she felt bad about what had happened and she has grown since the incident. She is going to school for nursing and employed full time. She has learned from the mistakes she's made.

Ald. Sullivan noted that the applicant hadn't disclosed the conviction. He urged honesty for all applicants even if the offence was underage or didn't seem important. He didn't see this one conviction as an obstacle to approving the license.

Moved by Ald. Sullivan, seconded by Ald. Birschel to recommend approval of the operator license – 5

Moved by Ald. Birschel, seconded by Ald. Grimm to convene into closed session per Wis. stat. 19.85 (1)(b): considering dismissal, licensing or discipline of any public employee or person licensed by a board or commission or the investigation of charges against such person; and may reconvene into open session – 5

The committee convened into closed session at 7:34 p.m.

Operator license application by Jennifer Elger, 2820 Valley Avenue, West Bend

Moved by Ald. Sullivan, seconded by Ald. Birschel to convene into open session – 5

The committee convened into open session at 7: 40 p.m.

Ald. Krill returned at 7:40 p.m. (-6)

Moved by Ald. Sullivan, seconded by Ald. Grimm to recommend approval of the operator license with a six month review – 6

Ordinance repealing and recreating Wauwatosa Code Title 5 regarding cable television

Mr. Kesner said the ordinance contains an extensive set of amendments and has been prepared by the consultant, Attorney Adrian Herbst who is an expert on cable franchise renewals. He asked Mr. Herbst about limiting the term of the contract to five years. Mr. Herbst highly recommended against it. Mr. Herbst noted that federal law stipulates that cable television franchise renewal is a three year process. The city is in year two right now. He noted that cable franchises include extensive obligations by the cable company to keep their technology up-to-date and to monitor consumer satisfaction.

Mr. Kesner said the Mr. Herbst advised the city to negotiate for the longest contract it can obtain because the chair of the Federal Communications Commission (FCC) is showing a strong propensity in favor of the cable industry and taking away local control. The FCC is also pushing for further deregulation of cable television in Congress. Mr. Herbst said a longer contract would allow certain aspects of the current agreements to be grandfathered in. He said that in the future, local governments will lose local control of

these cable franchises. Mr. Kesner said that recently the FCC took another action that would seem they are heading in the direction Mr. Herbst was forecasting.

Mr. Kesner said the only change in the ordinance right now was the stipulation that the contract be limited to 5 years. Ald. Treis said the local franchise fee is something that the industry really doesn't care about. Mr. Kesner agreed that reducing or eliminating franchise fees wouldn't affect the cable companies directly, they would just pass through.

Ald. Sullivan said that given the multiplicity of media options, he couldn't conceive what the cable industry will be like in ten years. He was concerned that in ten years the city might be able to get a better deal. He was comfortable with going with the market and preferred to not change the contract limit of 5 years.

Moved by Ald. Sullivan, seconded by Ald. Subotich to recommend adoption of the ordinance repealing and recreating Wauwatosa Code Title 5 regarding cable television --

Ald. Subotich noted the extensive process that involved renewal of a cable franchise. Mr. Kesner said that last year the Common Council appropriated approximately \$35,000 for legal and attorney fees. His office spent approximately \$10,000. He said they could try to get reimbursed by the cable company; however cable companies haven't been doing that. The franchise renewal is a three year process. Ald. Subotich asked if it was smart for the city to incur these expenses more frequently. Ald. Sullivan said if the city can get a better deal it would be beneficial. Mr. Kesner said that every community in the area has Time Warner as the cable provider. The City of Milwaukee has a "most favored nation" clause in their contract. The City of Wauwatosa can negotiate that as well which means that if another city gets a better deal we will get it too.

Ald. Treis said he would not be able to vote for the five year limit. He felt strongly about having a longer contract period to negotiate with.

Vote on the motion was Ayes: 4, Noes: 2 (Birschel, Treis)

Operator license application by Nessah Jones, 9000 W. Fairmount Avenue, Milwaukee
Operator license application by Mark Gernetzke, 511C Lake Bluff Road, Theinsville

The applicants failed to appear. Ald. Treis noted that this was the second non-appearance for these two applicants.

Moved by Ald. Krill, seconded by Ald. Birschel to recommend denial of the operator licenses – 6

License applications forwarded for review

It was the consensus of the committee to ask the applicant, Adam Hangos to appear at the next meeting.

The meeting adjourned at 7:53 p.m.

Carla A. Ledesma, City Clerk
City of Wauwatosa

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