



CITY OF WAUWATOSA  
 MEMORIAL CIVIC CENTER  
 7725 WEST NORTH AVENUE  
 WAUWATOSA, WI 53213  
 Telephone: (414) 479-8917  
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**COMMON COUNCIL**  
Regular Meeting, Tuesday, October 4, 2005

**PRESENT:** Alds. Becker, Birschel, Casey, Herzog, Jenkins, Kopischke, Krol, Maher, Purins, Stepaniak, Subotich, Sullivan, Treis -13

**EXCUSED:** Alds. Bruderle-Baran, Grimm, Krill

**ALSO PRESENT:** Mr. Wontorek, City Administrator; Mr. Braier, Finance Director; Mr. Kesner; City Attorney; Mr. Kappel, Dir. of Public Works; Ms. Welch, Community Development Director; Ms. Ledesma, City Clerk; Ms. Williams, Deputy City Clerk

Mayor Estness in the Chair

The Mayor called the meeting to order at 7:50 p.m.

The Mayor and Common Council President Stepaniak presented certificates to the Beautification Committee's "Yards of Distinction" winners:

District 1	Kate Stramowski 2220 N. 67th St..	Katy Anheuser 1269 Martha Washington Dr.	Lynne Dixon-Speller & Jeffrey Speller 6524 Betsy Ross Pl.
District 2	Clifford & Ruthanne Blissett 2260 N. 90th St.	Dawn & Rich O'Polka 1842 Church St.	Tom & Helen Voell 2252 Menom. River Pkwy.
District 3	Vilas Kraut 322 N. 116th St..	Kathleen Walz 10321 W. Wis. Ave.	Patty & Gary Miller 845 Robertson St.
District 4	Paul & Marge Madura 5923 W. Wis. Ave.	John & Sue Foley 662 N. 77th St.	Tim & Julie Brennan 622 N. 79th St.
District 5	Debra Sue Lozano 2571 N. 62nd St.	Patrick & Lori Friedel 2425 N. 66th St.	Jeannie Crowley 2430 N. 69th St.
District 6	Kevin & Nancy O'Keefe 9510 Ridge Blvd.	Paul & Claudia Scholl 2544 N. 91st St.	Judy Cimbalknik 2621 Swan Blvd.
District 7	Teri & Matt Gerndt 1431 N. 121st St.	Renee Girouard 11909 W. Potter Rd.	Anne & John Thomas 12311 Woodside Ct.
District 8	Ken & Norma Venkler 4556 N. 104th St.	Robert & Barbara Reimer 3451 N. 107th St.	Chuck & Cheryl Hosp 3176 Knoll Blvd.
Commercial	United Health Care 10701 Research Dr.  Tosa Center 1155 N. Mayfair Rd.	Wisconsin Heart Hospital 10000 W. Blue Mound Rd.  James Craig Builders 12229 W. North Ave.	Subway 12227 W. North Ave.

After certificates were distributed, a slide show was given which highlighted the winning properties.

It was moved by Ald. Kopischke, seconded by Ald. Jenkins that the reading of the minutes of the last regular meeting be dispensed with and they be approved as printed. -13

**PUBLIC HEARING**

The first item of business was a public hearing to consider the following proposed ordinance:

**ORDINANCE**

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF WAUWATOSA BY REZONING THE PROPERTIES LOCATED ON THE NORTH SIDE OF WEST BURLEIGH STREET FROM 11000-11500 WEST BURLEIGH STREET FROM AA LIGHT MANUFACTURING DISTRICT TO BUSINESS PLANNED DEVELOPMENT DISTRICT

The Common Council of the City of Wauwatosa do ordain as follows:

Part 1. The Official Zoning Map of the City of Wauwatosa is hereby amended to reflect the following change:

Parcels numbered 296-9992-00, 296-9993-05, 296-9993-07, 296-9994-02, 296-9995-01, 296-9995-02, 296-9995-03 and 296-9996-01 in the SW ¼ of Section 7, Town 7 North, Range 21 East, in the City of Wauwatosa, County of Milwaukee, State of Wisconsin are Rezoned from AA Light Manufacturing District to Business Planned Development District.

Part II. The City Administrator is hereby directed to change the Official Zoning Map of the City of Wauwatosa to conform to the provisions of the Ordinance, and said Map is declared amended accordingly.

Part III. This ordinance shall take effect on and after its date of publication.

Proof of publication is in the file.

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI,

The City Plan Commission, to whom was referred the request by the City of Wauwatosa for a change of zoning from 'AA' Light Manufacturing District to Business Planned Development District on the north side of W. Burleigh Street from approximately N. 11th Street to Hwy. 45, recommends to the Common Council that the request be approved.

Dated this 8th day of August 2005.

Nancy L. Welch, Secretary  
City Plan Commission

No one of the public present wished to be heard in favor of the proposed ordinance.

No one of the public present wished to be heard in opposition to the proposed ordinance.

Max Dickman, 2405 N. 68th Street, asked whether approval of this rezoning also approves a specific plan for the site. He was advised that this does not.

The public hearing was declared closed.

Ordered held to the next Common Council meeting, October 18, 2005.

### **OLD BUSINESS**

The following item was held after a public hearing on August 2, 2005:

#### **ORDINANCE O-05-28**

#### **AN ORDINANCE AMENDING CHAPTER 24.30 BY ADDING CONDITIONAL USES IN THE BUSINESS PLANNED DEVELOPMENT DISTRICT**

The Common Council of the City of Wauwatosa do ordain as follows:

Part 1. That Section 24.30.015 is amended to include the following as a conditional use:

Any light industrial or manufacturing use, building or structure which, in the opinion of the Planning Commission and Common Council, is of similar character to those enumerated in this section as well compatible with the surrounding area and is not more objectionable due to noise, odor, dust, smoke, vibration, danger to life and property or other similar causes which are injurious to the health or safety of the neighborhood. Provided, however, that such uses shall be conducted in such a manner that no dust or noxious fumes or odors will be emitted beyond the property line of the lot on which the use is located and no material or equipment shall be kept, stored or displayed outside the confines of an enclosed building or operation conducted unless it is to be screened by ornamental fences, walls, or evergreen planting such that it cannot be seen from a public street.

Part II. This Ordinance shall take effect and be in force from and after its passage and publication.

It was moved by Ald. Kopischke, seconded by Ald. Maher  
to adopt the foregoing ordinance. -13

### **APPOINTMENTS BY THE MAYOR**

#### **Design Review Board C**

Mark Weseloh, 6407 Powell Place  
(Term ends 12/31/06)

#### **Citizens' Advisory Capital Improvements Comm.**

Pamela Matthews, 4139 N. 110th Street  
(Term ends 6/30/08)

It was moved by Ald. Birschel, seconded by Ald. Kopischke  
to concur with the foregoing appointments. -13

## **APPLICATIONS, COMMUNICATIONS, ETC.**

1. Donation: \$34 from June M. Stahl to Police Community Support  
**Place on file**
2. Special Use application to construct a garage with a height over 16 ft. at 2645 N. Lefebber Avenue  
**Plan Commission**
3. Special Use application to construct a garage with a height over 16 ft. at 8514 Kenyon Ave.  
**Plan Commission**
4. Conditional Use application to operate a massage therapy establishment at 8722 W. North Avenue  
**Plan Commission, Committee on Community Development**
5. Notice of Lawsuit: Patricia A Handel, 4728 N. Berkeley Blvd., Whitefish Bay  
**City Attorney**
6. Conditional Use application to expand a previously approved restaurant into adjoining space at 6226 W. North Avenue  
**Plan Commission, Committee on Community Development**
7. Letter and Notice of Claim: Letter from Kimberly & Kevin Holle, 6919 Harvey Avenue, submitting a claim for damages and petition signed by nine residents concerning recent flooding on Harvey Avenue  
**City Attorney; Director of Public Works**
8. Letter from Gordon Stevenson and Mary Rose Teves, Wisconsin Dept. of Natural Resources, forwarding the final construction ranking list regarding the city's grant applications for various projects  
**Add to existing file**
9. Letter from Matthew Mikolajewski, Executive Dir. of Wauwatosa Economic Development Corporation, in support of the proposed rezoning of the Burleigh Street Triangle  
**Add to existing file**
10. City of Wauwatosa Investment Summary as of September 30, 2005  
**Place on file**
11. E-mail from L. Ronald Cromwell, MD, PhD, 7212 Aetna Court, in support of the proposed Hyde Park Condominiums, 6745 W. Wells Street  
**Add to existing file**

## **FROM THE COMMITTEE ON EMPLOYEE RELATIONS FOR INTRODUCTION**

1. Ordinance amending Section 2.52.080 of the City Code pertaining to retiree health insurance  
**Re-refer to originating Committee**

## **FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION**

1. Ordinance rezoning property at 6533 W. Center Street from AA Business District to DD Eight Family District  
**Re-refer to originating Committee**

**FROM THE COMMITTEE ON TRAFFIC AND SAFETY**

**ORDINANCE O-05-29**

AN ORDINANCE CREATING SECTION 11.40.095 OF THE CODE OF THE CITY OF WAUWATOSA PROHIBITING THE USE OF ENGINE COMPRESSION BRAKES

The Common Council of the City of Wauwatosa do ordain as follows:

Part I. Section 11.40.095 of the Wauwatosa Municipal Code is hereby created to read as follows:

**11.40.095 ENGINE COMPRESSION BRAKES PROHIBITED**

- A. No person shall, within the City of Wauwatosa, use motor vehicle brakes which are in any way activated or operated by the compression of the engine of any motor vehicle.
- B. It shall be an affirmative defense to prosecution under this section that the compression brakes were applied in an emergency and were necessary to prevent immediate danger to life or property.
- C. The terms of this ordinance shall not apply to any “Authorized Emergency Vehicle” as that term is defined in Section 340.01(3) of the Wisconsin Statutes.

Part II. This ordinance shall take effect on and after its date of publication.

It was moved by Ald. Maher, seconded by Ald. Becker to adopt the foregoing ordinance. -13

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-05-252**

WHEREAS, Tierney Lalor, William Mitchell, and Michael Gallo have applied for a Conditional Use in the DD Eight Family Residence District at 1022 N. 68th Street for a telephone cross box installation and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Tierney Lalor, William Mitchell, and Michael Gallo for a telephone cross box installation in the DD Eight Family Residence District at 1022 N. 68th Street subject to the following conditions:

- 1) providing appropriate landscape screening, and
- 2) obtaining any necessary licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-05-253**

WHEREAS, Tierney Lalor and James Rosenow have applied for a Conditional Use in the Park and Open Space District at the southwest corner of Revere Avenue and W. Lloyd Street for a telephone cross box installation and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Tierney Lalor and James Rosenow for a telephone cross box installation in the Park and Open Space District at the southwest corner of Revere Avenue and W. Lloyd Street subject to the following conditions:

- 1) providing appropriate landscape screening, and
- 2) obtaining any necessary licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-05-254**

WHEREAS, Michael Pranke and Christian Kramer have applied for a Conditional Use in the AA Business District at 10853 Bluemound Road for a restaurant and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Michael Pranke and Christian Kramer for a restaurant in the AA Business District at 10853 Bluemound Road subject to the following conditions:

- 1) hours of operation from 11:00 a.m. to 2:00 a.m. daily, and
- 2) obtaining any necessary licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-05-255**

WHEREAS, Mary Nikceovich, has applied for a Conditional Use in the AA Business District at 7332 W. State Street to operate a massage therapy establishment and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Mary Nikcevich for the operation of a massage therapy establishment in the AA Business District at 7332 W. State Street subject to the following conditions:

- 1) Hours of operation from 9:00 a.m. to 9:00 p.m., and
- 2) Obtaining any necessary licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-05-256**

WHEREAS, Craig Dillman, Milwaukee County, and Ronnie Stricklin, UW-Extension, have applied for a Conditional Use in the Conservancy District at 10602 Underwood Parkway for community gardens and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Craig Dillman, Milwaukee County, and Ronnie Stricklin, UW-Extension for community gardens in the Conservancy District at 10602 Underwood Parkway subject to the following conditions:

- 1) hours of operation shall be the same as hours for county parks, and
- 2) obtaining any necessary licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-05-257**

WHEREAS, the Acetta Family Limited Partnership have applied for a Conditional Use in the AA Light Manufacturing District at 11830 Ripley Avenue for an ambulance station and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to the Acetta Family Limited Partnership for an

ambulance station in the AA Light Manufacturing District at 11830 W. Ripley Avenue subject to the following conditions:

- 1) hours of operation 24 hours daily, and
- 2) obtaining any necessary licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-05-258**

WHEREAS, Robert Matheson and Cai Huang have applied for a Conditional Use in the Village Trade District at 1417 Wauwatosa Avenue for a carry-out restaurant and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the Committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Robert Matheson and Cai Huang for a carry-out restaurant in the Village Trade District at 1417 Wauwatosa Avenue subject to the following conditions:

- 1) hours of operation from 11:00 a.m. to 10:00 p.m. Monday through Saturday and noon to 10:00 p.m. on Sunday,
- 2) the restaurant will be for carry-out only, and
- 3) obtaining any necessary licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-05-259**

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT a public hearing be held before the Common Council in the Council Chambers at 7:30 p.m. Local Time, on Tuesday, November 1, 2005, in the City Hall of the City of Wauwatosa, Wisconsin at which time all persons interested, or their agents or attorneys, will be heard concerning a proposed ordinance rezoning the property located at 6533 W. Center Street from AA Business District to DD Eight Family Residence District.

BE IF FURTHER RESOLVED THAT the City Clerk be and is hereby directed to publish the proper notices of said hearing as required by law.

It was moved by Ald. Kopischke, seconded by Ald. Purins to approve the eight foregoing resolutions. -13

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-05-260**

WHEREAS, the City of Wauwatosa recognizes that there are alternative methods of tree trimming that could be utilized to increase the Forestry Section's productivity; and

WHEREAS, by this action the City of Wauwatosa Common Council has declared its intent to provide for the training of one Arborist II and three Arborist Is to be training and outfitted with tree climbing gear; and

WHEREAS, the City of Wauwatosa is intending to establish funds for the training and needed equipment in the 2006 Forestry operating budget; and

WHEREAS, the Department of Natural Resources offers an Urban Forestry Grant Program that would cost share this training and purchase of equipment, the application and award of such is contingent on Common Council acceptance;

NOW THEREFORE BE IT RESOLVED THAT the Common Council of the City of Wauwatosa requests funds and assistance available from the Wisconsin Department of Natural Resources under the Urban Forestry Grant Program for 2006, and will comply with state rules for the program; and

BE IT FURTHER RESOLVED THAT the Public Works Director is authorized to make application for the Urban Forestry Grant Program for 2006; and

BE IT FURTHER RESOLVED THAT the Finance Director is authorized to accept the grant on behalf of the City of Wauwatosa and that the Director of Public Works is authorized to sign documents, and take the necessary action to undertake, direct, and complete any approved grant activities.

It was moved by Ald. Herzog, seconded by Ald. Stepaniak  
to approve the foregoing resolution. -13

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**BILLS AND CLAIMS FOR THE PERIOD 9/21/05 – 10/04/05 --**

The Committee on Budget and Finance hereby reports to the Common Council that it has examined the accounts of bills and claims and hereby certifies the same as correct and recommends that each of said accounts be allowed and paid.

Total bills and claims for 9/21/05 – 10/04/05: \$1,252,073.80

It was moved by Ald. Casey, seconded by Ald. Sullivan  
that each and every one of the accounts of bills and  
claims be allowed and ordered paid. Roll call vote,  
Ayes 13.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-05-261**

WHEREAS, the Common Council has previously approved Contract 05-30 Sod Replacement at the Hart Park Baseball Field; and

WHEREAS, subsequent to beginning work under the contract, the supplier became concerned about compaction of the soil and suggested that the project would likely be much more successful if the topsoil is tilled to a greater depth than originally specified; and

WHEREAS, the contractor has agreed to re-grade the topsoil prior to installation of the sod to a depth of up to 8 inches for an hourly charge, with a total cost not to exceed \$4,000.00;

NOW, THEREFORE, BE IT RESOLVED THAT the work approved for Contract 05-30 is hereby amended to provide additional topsoil tilling at a depth of up to 8 inches at a cost not to exceed \$4,000.00.

It was moved by Ald. Casey, seconded by Ald. Herzog  
to approve the foregoing resolution. -13

There being no further business, the meeting adjourned at 8:20 p.m.

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Carla A. Ledesma, CMC, City Clerk