



**CITY OF WAUWATOSA**

MEMORIAL CIVIC CENTER  
7725 WEST NORTH AVENUE  
WAUWATOSA, WI 53213  
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**COMMON COUNCIL**

**Regular Meeting, Tuesday, April 3, 2007**

PRESENT: Alds. Herzog, Krill, Krol, Maher, Meaux, Minear, Purins, Stepaniak, Treis, Becker, Birschel, Didier, Donegan, Ewerdt, Grimm, Hanson -16

ALSO PRESENT: Mr. Archambo, City Administrator; Mr. Kesner, City Attorney; Mr. Braier, Finance Director; Mr. Kappel, Public Works Director; Ms. Welch, Community Development Director; Police Chief Weber; Fire Chief Redman; Ms. Ledesma, City Clerk; Ms. Williams, Deputy City Clerk

Mayor Estness in the Chair

The Mayor called the meeting to order at 7:30 p.m.

It was moved by Ald. Grimm, seconded by Ald. Didier that the reading of the minutes of the last regular meeting be dispensed with and they be approved as printed. -16

**APPOINTMENTS BY THE MAYOR**

**Plan Commission**

Jody Lowe, 6274 Upper Parkway North  
(Term ends 4/30/10)

**Design Review Board A**

Jim Ruzicka, 2127 N. 74th Street (reappointment)  
(Term ends 12/31/08)

It was moved by Ald. Birschel, seconded by Ald. Krill to concur with the foregoing appointments. -16

**APPLICATIONS, COMMUNICATIONS, ETC.**

1. Conditional Use application to construct a restaurant at 2500 N. Mayfair Road  
**Plan Commission; Committee on Community Development**
2. Application for a land division of property located north of Research Park Drive and west of Innovation Drive in the Research Park District  
**Plan Commission; Committee on Community Development**
3. Application for a land division of property located on Innovation Drive, south of Watertown Plank Road  
**Plan Commission; Committee on Community Development**

4. Conditional Use application for extended outdoor dining hours at Cranky Al's, 6901 W. North Avenue  
**Plan Commission, Committee on Community Development**
5. Petition signed by 56 residents requesting removal of all left turn restrictions at the intersection of N. 110th Street and W. Capitol Drive  
**Director of Public Works**
6. City of Wauwautosa Bank Reconciliation of Depository Accounts as of February 28, 2007  
**Place on file**
7. Application for a land division at 2717 N. Mayfair Road  
**Plan Commission, Committee on Community Development**
8. Letter from Saul Lopez, WE Energies, offering to partner with the City for Arbor Day events and a tree donation  
**Place on file**
9. Letter from Arlene Conley, Transit Plus Advisory Council, urging the city to help secure additional support and funding for the Milwaukee County Transit System's Transit Plus Program for persons with disabilities  
**Director of Community Development**
10. Letter from Neil Palmer, Village of Elm Grove President, forwarding a proposed agreement between Wauwatosa and Elm Grove for purchase of water at wholesale  
**City Attorney; Water Superintendent**

**FROM THE COMMITTEE ON TRAFFIC & SAFETY FOR INTRODUCTION**

1. Ordinance amending Section 11.32.080 of the City Code to modify parking restrictions on the east side of N. 108th Place  
**Re-refer to originating committee**

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION R-07-69**

WHEREAS, William Poull of The Club Tap, 8828 W. North Avenue, has requested temporary extensions of the licensed premises to include the parking lot of his business on June 2 and 3rd, 2007, for his annual corn roast and on April 14, 2007, for a tailgate party before the Brewers game;

NOW, THEREFORE, BE IT RESOLVED THAT the licensed premises of the Club Tap be extended to include the parking area in the rear of the building on June 2 and 3, 2007, between the hours of 12:00 and 8:00 with live music from 2:00 PM to 6:00 PM, and again on April 14, 2007, for a tailgate party between the hours of 1:00 PM – 6:00 PM on the condition that refuse resulting from these events will be thoroughly cleaned by the premises owner and any outdoor music will be kept to a minimal volume.

It was moved by Ald. Becker, seconded by Ald. Krill to approve the foregoing resolution. -16

**FROM THE COMMITTEE ON TRAFFIC AND SAFETY**

**RESOLUTION R-07-70**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT pursuant to the application of Mo’s Irish Pub, the special privilege permit for the establishment for a loading zone pursuant to Section 11.32.310 of the Wauwatosa Municipal Code beginning at a location 60 feet north of Blue Mound Road on North 108<sup>th</sup> Place extending to a location 105 feet north of Blue Mound Road is hereby granted.

**FROM THE COMMITTEE ON TRAFFIC AND SAFETY**

**RESOLUTION R-07-71**

WHEREAS, Grede Foundries, Inc. has requested additional temporary on-street parking for their company during short term project lasting up to one year; and

WHEREAS, current parking restrictions prohibit parking on the west side of 99<sup>th</sup> Street north of West Blue Mound Road and limit parking on the east side of 99<sup>th</sup> Street north of West Blue Mound Road; and

WHEREAS, consultation with the Fire Department indicates that temporarily allowing parking on both sides of 99<sup>th</sup> Street north of Blue Mound Road with certain restrictions as to location would not create conflict with the emergency entrance of the Wisconsin Heart Hospital;

NOW, THEREFORE, BE IT RESOLVED THAT for a period of one year beginning on the effective date of this resolution, daytime parking restrictions shall be eliminated on the east side of 99<sup>th</sup> Street from Blue Mound Road to a location 290 feet thereof and on the west side of N. 99<sup>th</sup> Street from W. Blue Mound Road to a point 140 feet north thereof;

BE IT FURTHER RESOLVED THAT signage shall be modified during this time period, but existing parking regulations shall be reinstated, with appropriate signage, one year from the effective date of this resolution.

It was moved by Ald. Herzog, seconded by Ald. Purins to approve the two foregoing resolutions. -16

**FROM THE COMMITTEE ON TRAFFIC AND SAFETY**

TO THE COMMON COUNCIL, CITY OF WAUWATOSA –

The Committee on Traffic and Safety to whom was referred a request for ‘no trucking’ on N. 68th Street between W. Blue Mound Road and W. State Street, recommends to the Common Council that the matter be placed on file.

Dated this 27th day of March 2007.

Committee on Traffic and Safety

It was moved by Ald. Herzog, seconded by Ald. Purins to place the matter on file. –

It moved by Ald. Didier, seconded by Ald. Grimm to amend the motion by placing the matter in file, and placing the issue before the Traffic and Safety Committee within one month. -16

Vote on motion, as amended, -16

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-72**

WHEREAS, Dr. Phil Ertl, Superintendent, Wauwatosa School District has applied for a Conditional Use in the AAA Single Family Residence District at 11100 W. Center Street for the installation of cellular antennas and associated equipment, 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 Dr. Phil Ertl, Superintendent, Wauwatosa School District for the installation of cellular antennas and associated equipment in the AAA Single Family Residence District at 11100 W. Center Street with the condition that adequate screening for the accessory structure be provided.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-73**

WHEREAS, JE Johnson Commercial Properties and Bill Brodd have applied for a Conditional Use in the AA Light Manufacturing District at 2900 N. 112th Street for outdoor storage, 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 JE Johnson Commercial Properties and Bill Brodd for outdoor storage in the AA Light Manufacturing District at 2900 N. 112<sup>th</sup> Street with the condition that adequate screening be provided.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-74**

WHEREAS, Ned Brickman, Midland 3521 LLC, has submitted a final plan for a Business Planned Development at 2717, 2747, and 2767 N. Mayfair Road to construct a retail development; and

WHEREAS, these preliminary plans have been reviewed and recommended by the City Plan Commission and the Committee on Community Development; and

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby approves the final plans for a Business Planned Development at 2717, 2747, and 2767 N. Mayfair Road submitted by Ned Brickman, Midland 3521 LLC, based upon the plans submitted to the City and the public hearings conducted on this matter subject to the following conditions:

- 1) Plans showing adequate sewer capacity, environmental remediation, and storm water management subject to approval by City Engineer; and
- 2) Parking lot and traffic circulation plans showing adequate access for adjacent businesses subject to approval by City Engineer; and
- 3) Plans for water supply to site subject to approval by City Water Superintendent; and
- 4) Building plans designating design and materials recommended by the City Design Review Board; and
- 5) Emergency vehicle access plan subject to approval by City Police and Fire Departments; and
- 6) Legal combination of the three parcels, and
- 7) Final Developer’s Agreement approved by Common Council.

It was moved by Ald. Krill, seconded by Ald. Krol to approve the three foregoing resolutions. -16

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-75**

WHEREAS, William Ibach has submitted a final plan for a Business Planned Development at 6745 W. Wells Street to construct a mixed-use development; and

WHEREAS, these preliminary plans have been reviewed and recommended by the City Plan Commission and the Committee on Community Development; and

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby approves the final plans for a Business Planned Development at 6745 W. Wells Street submitted by William Ibach based upon the plans submitted to the City and the public hearings conducted on this matter subject to the following conditions:

- 1) storage of recycling and garbage to be adequately screened from view; and
- 2) submission of hard engineering related to parking, lighting, grading, and utilities subject to approval by City Engineer; and
- 3) plans for water supply to site subject to approval by City Water Superintendent; and
- 4) grading along the sides of the property to avoid runoff onto adjacent properties; and
- 5) approval of sewer plans and adequate sewer credits approved by the City Engineer; and
- 6) an encroachment and maintenance agreement for the city right-of-way subject to approval by the City Attorney.

It was moved by Ald. Krill, seconded by Ald. Krol to approve the forgoing resolution. Roll call vote, Ayes 11, Noes 4 (Becker, Birschel, Grimm, Hanson), Present 1 (Didier)

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION**

WHEREAS, the City of Wauwatosa identified the need to make improvements to Fire Station #1; and

WHEREAS, a consultant was hired to study the existing structure and recommend improvements; and

WHEREAS, those recommendations were presented to the Common Council at a meeting of the Committee of the Whole on May 16, 2006; and

WHEREAS, the Committee of the Whole referred the discussion of the Fire Station improvements and possible location to the Committee on Community Development; and

WHEREAS, on July 25, 2006, the Committee on Community Development voted unanimously to approve a finding that there is a need to change the existing station #1 and a need for changes at fire station #2 as well; and

WHEREAS, on September 12, 2006, the Committee on Community Development voted 6-1 to approve a finding that administration, maintenance, training, and other functions currently found in the Fire Department headquarters should be housed together in a fire station site; and

WHEREAS, on September 26, 2006, the Committee on Community Development voted unanimously to approve a finding that the Fire Station Facility Study's space analysis is an appropriate tool for laying out future plans for the station; and

WHEREAS, the Committee directed staff to develop and issue a Request for Proposals to developers and architectural/engineering firms for the purpose of construction a fire station and economic development on one of two sites and architectural/engineering services;

NOW, THEREFORE, BE IT RESOLVED that staff is directed to issue the approved Request for Proposals attached to this resolution.

It was moved by Ald. Krill, seconded by Ald. Meaux to approve the foregoing resolution. –

It was moved by Ald. Didier, seconded by Ald. Birschel to delete wording (“The developer may also propose economic development in addition to the construction of a fire station.”) in the RFP document that would have allowed the fire station building site to be a mixed use development. –

It was moved by Ald. Herzog, seconded by Ald. Krill to refer this matter back to committee for clarification. -16

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-77**

WHEREAS, the City of Wauwatosa has previously executed a Memorandum of Understanding with Cobalt Partners regarding the potential sale of 18 acres of land at the City of Wauwatosa Public Works yard to Cobalt; and

WHEREAS, the Memorandum of Understanding states that the City and Cobalt would negotiate in good faith toward the goal of entering into a definitive purchase and sale agreement anticipating the transfer of the land at the Wauwatosa Public Works yard to Cobalt, which agreement was to be reached within 60 days of execution of the MOU; and

WHEREAS, almost 120 days have elapsed since execution of the MOU between the City of Wauwatosa and Cobalt, and the Common Council has not yet obtained terms within the language of the proposed purchase and sale Agreement which would satisfy all concerns which are in its opinion reasonably necessary due to the unique nature of this transaction; and

WHEREAS, at its meeting on March 27, 2007, the Committee on Community Development entertained a motion to approve the proposed purchase and sale Agreement with additional changes as specifically noted by the Wauwatosa City Attorney at the request of Cobalt Partners, which motion for approval was denied by the Committee on Community Development;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa, based upon the reasoning set forth above and from the minutes and recordings of the proceedings of the Committee on Community Development, hereby declines to enter into a Purchase and Sale Agreement with Cobalt Partners for purposes of transfer of the vacant land at the Public Works yard site which is the subject of the Memorandum of Understanding previously entered into between the City and Cobalt Partners which was executed on December 7, 2006.

It was moved by Ald. Donegan, seconded by Ald. Herzog to refer this item back to committee. Roll call vote, Ayes 8,

Noes 8 (Krol, Maher, Treis, Becker, Birschel, Didier, Ewerdt, Hanson). Mayoral vote to break the tie, No. Motion fails 8-9.

It was moved by Ald. Treis, seconded by Ald. Hanson to approve the foregoing resolution. Roll call vote, Ayes 10, Noes 6 (Herzog, Meaux, Minear, Purins, Donegan, Grimm).

BREAK 8:45 p.m. – 8:51 p.m.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-78**

WHEREAS, a public hearing was held by the City of Wauwatosa Planning Commission on March 12, 2007, to consider amendment of the project plan for tax incremental district #2 in the City of Wauwatosa for purposes of further redevelopment in the Milwaukee County Research Park; and,

WHEREAS, the required notices of the hearing were published in accordance with the statutory requirements of Wisconsin Statutes Section 66.1105(4)(e); and,

WHEREAS, a copy of such notice had previously been sent by first class mail to the Chief Executive Officers of all local government entities have power to levy taxes on the property within the proposed tax incremental finance district; and

WHEREAS, the boundaries of the tax incremental district were previously designated and are not proposed to be altered by the amendment; and

WHEREAS, the specific boundaries are described in the previously approved project plan for tax incremental district #2; and

WHEREAS, upon creation of tax incremental district #2, the City Attorney provided a legal opinion that the proposal meets the eligibility requirements of Wisconsin Statutes 66.1105 for tax incremental financing; and

WHEREAS, the City of Wauwatosa Planning Commission has adopted the amended project plan for tax incremental district #2 and has recommended its approval by the Wauwatosa Common Council; and

WHEREAS, the original project plan for tax incremental district #2 includes a map showing existing uses and conditions of real property in the district and a map showing proposed improvements and uses in the district at the time the original project plan was adopted, as well as a statement listing the kind, numbers, and locations of all proposed public works improvements within the district; and

WHEREAS, the creation of the tax incremental district is designed to promote the continued orderly redevelopment of the Milwaukee County Research Park in order to promote the systematic economic growth, increase the tax base, and have a significant impact on the local economy;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin makes the following findings:

- 1) Upon creation of Wauwatosa tax incremental district #2, not less than 50% of the area of the site of the Milwaukee County Research Park was a blighted area as defined in the tax incremental financing law in Section 66.1105(2)(a) of the Wisconsin Statutes;
- 2) Additional improvement of the proposed project area will significantly enhance the value of substantially all of the real property in the proposed district; and
- 3) The proposed project costs are related directly to eliminating blight and directly serve to rehabilitate the area consistent with the original purpose for the creation of the tax incremental district; and
- 4) The equalized value of the taxable property in the proposed district plus the equalized value of the taxable property in all existing TIF districts in the City of Wauwatosa does not exceed 12% of the total equalized value of the taxable property within the City;

BE IT FURTHER RESOLVED THAT the amendment to the project plan for the City of Wauwatosa tax incremental district #2, a copy of which is attached hereto and incorporated herein, is hereby approved;

BE IT FINALLY RESOLVED THAT expenditures proposed in the amended project plan be reimbursed from the budget of tax incremental district #2, and that special assessments shall not be levied against the real property within the district for said purposes.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-80**

WHEREAS, traffic studies conducted in cooperation with the Wisconsin Department of Transportation regarding the impact of Mayfair Mall and the new Best Buy retail store in the City of Wauwatosa indicate the necessity for traffic modifications and a traffic signal relocation in the area of N. 108<sup>th</sup> Street and Meinecke Avenue extended in the City of Wauwatosa; and

WHEREAS, the City of Wauwatosa, the Wisconsin Department of Transportation, Best Buy Stores, LP, and Mayfair Property, Inc. have negotiated a Memorandum of Understanding which would address the issues surrounding traffic modifications and signal relocation in said area; and

WHEREAS, the City of Wauwatosa 2006 and 2007 Capital Improvements Program includes the total of \$144,900.00 to fund the local share of this work in conjunction with the Highway Safety Program and other grant funding to be provided by the Wisconsin Department of Transportation; and

WHEREAS, a copy of the proposed Memorandum of Understanding between and Among the Wisconsin Department of Transportation, the City of Wauwatosa, Best Buy Stores, LP, and Mayfair Property, Inc. is attached hereto and incorporated herein;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to execute the proposed Memorandum of Understanding after approval of the City Attorney and to sign the necessary agreements in accordance with the MOU related to the construction of the traffic modification and signal relocation anticipated by the MOU;

BE IT FURTHER RESOLVED THAT the local share of funding in an amount not to exceed \$144,900.00 in 2006 and 2007 is hereby approved and said expenditure is authorized for this purpose;

BE IT FINALLY RESOLVED THAT staff is hereby authorized to apply for additional grants from the State of Wisconsin Department of Transportation during the next application cycle fiscal years 2008-2011 for additional work in the area, subject to Common Council approval of any additional funding if necessary to meet local share requirements of such grant awards.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-82**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT the claim of Milwaukee Regional Medical Center for unlawful taxes pursuant to their claim of January 29, 2007, regarding property located at 8624 Watertown Plank Road, is hereby denied.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-83**

RESOLUTION AUTHORIZING THE BORROWING OF \$3,500,000;  
PROVIDING FOR THE ISSUANCE AND SALE OF  
GENERAL OBLIGATION PROMISSORY NOTES, SERIES 2007  
THEREFOR; AND LEVYING A TAX IN CONNECTION THEREWITH

WHEREAS, pursuant to a resolution adopted on February 20, 2007 (the "Set Sale Resolution"), the Common Council has heretofore found and determined that it is necessary, desirable and in the best interest of the City of Wauwatosa, Milwaukee County, Wisconsin (the "City") to raise funds for the purpose of paying the cost of various public improvements included in the City's 2007 Capital Project Plan, including repairing and upgrading streets, storm and sanitary sewers (the "Project");

WHEREAS, the general nature and location of each element of the Project is set forth in the City's Capital Project Plan which is incorporated herein by this reference;

WHEREAS, the Common Council has heretofore found and determined that the Project is within the City's power to undertake and serves a "public purpose" as that term is defined in Section 67.04(1)(b) of the Wisconsin Statutes;

WHEREAS, cities are authorized by the provisions of Section 67.12(12) of the Wisconsin Statutes to borrow money and to issue general obligation promissory notes for such public purposes; and

WHEREAS, the Common Council now deems it to be necessary, desirable and in the best interest of the City to authorize the issuance of and to award the sale of its general obligation promissory notes to Hutchinson, Shockey, Erley & Co., Milwaukee, Wisconsin.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1. Authorization of the Notes. For the purpose of paying the cost of the Project, there shall be borrowed pursuant to Section 67.12(12) of the Wisconsin Statutes, the principal sum of THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000) from Hutchinson, Shockey, Erley & Co., Milwaukee, Wisconsin (the "Purchaser") in accordance with the terms and conditions of its purchase proposal (the "Proposal") attached hereto as Exhibit A and incorporated herein by this reference.

Section 2. Sale of the Notes. To evidence such indebtedness, the Mayor and City Clerk are hereby authorized, empowered and directed to make, execute, issue and sell to the Purchaser for, on behalf of and in the name of the City, General Obligation Promissory Notes, Series 2007 aggregating the principal amount of THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000) (the "Notes") for the sum set forth on the Proposal, plus accrued interest to the date of delivery.

Section 3. Terms of the Notes. The Notes shall be designated "General Obligation Promissory Notes, Series 2007"; shall be dated April 15, 2007; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered 1 and upward; shall bear interest at the rates and shall mature on December 1 of each year, in the years and principal amounts as set forth on the schedule prepared by the Purchaser and attached hereto as Exhibit B (the "Schedule"). Interest is payable semi-annually on June 1 and December 1 of each year commencing on December 1, 2007.

Section 4. Redemption Provisions. At the option of the City, the Notes maturing on December 1, 2015 and thereafter shall be subject to redemption prior to maturity on December 1, 2014 or on any date thereafter. Said Notes shall be redeemable as a whole or in part, and if in part, from maturities selected by the City and within each maturity by lot, at the principal amount thereof, plus accrued interest to the date of redemption.

Section 5. Form of the Notes. The Notes shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit C and incorporated herein by this reference.

Section 6. Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Notes as the same becomes due, the full faith, credit and resources of the City are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the City a direct annual irrepealable tax in the years 2007 through 2015 for the payments due in the years 2008 through 2016 in the amounts set forth on the Schedule.

The direct annual irrepealable tax hereby levied shall be carried onto the tax roll and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the City for said years are collected. So long as any part of the principal of or interest on the Notes remains unpaid, the tax hereinabove levied shall be and continues irrepealable except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus in the Debt Service Fund Account created below.

The City has heretofore levied a direct annual irrevocable ad valorem debt service tax in anticipation of the sale of the Notes. Upon receipt, a sufficient sum shall be irrevocably deposited in the Debt Service Fund Account for the Notes and, together with the bid premium received from the sale of the Notes, shall be used to pay the interest on the Notes coming due on December 1, 2007 as set forth on the Schedule.

Section 7. Segregated Debt Service Fund Account. There is hereby established in the City treasury a fund account separate and distinct from all other funds or accounts of the City designated "Debt Service Fund Account for \$3,500,000 City of Wauwatosa General Obligation Promissory Notes, Series 2007, dated April 15, 2007", which fund account shall be used solely for the purpose of paying the principal of and interest on the Notes. There shall be deposited in said fund account all accrued interest paid on the Notes at the time the Notes are delivered to the Purchaser, any premium, all money raised by taxation pursuant to Section 6 hereof and all other sums as may be necessary to pay principal of and interest on the Notes as the same becomes due. Said fund account shall be used for the sole purpose of paying the principal of and interest on the Notes and shall be maintained for such purpose until such indebtedness is fully paid or otherwise extinguished, and shall at all times be invested in a manner that conforms with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and any applicable income tax regulations (the "Regulations").

Section 8. Borrowed Money Fund; Reimbursement. The proceeds of the Notes (the "Note Proceeds") (other than any premium and accrued interest which must be paid at the time of the delivery of the Notes into the Debt Service Fund Account created above) shall be deposited into an account separate and distinct from all other funds and disbursed solely for the purposes for which borrowed or for the payment of the principal of and the interest on the Notes.

The City declares its reasonable expectation to reimburse itself from the Note Proceeds for expenditures relating to the Project which it pays from other funds of the City prior to receipt of the Note Proceeds no more than 60 days prior to the date the Set Sale Resolution was adopted. The City may also reimburse itself for preliminary expenditures relating to the Project (such as architectural, engineering, surveying, soil testing, costs of issuance and similar costs but not including land acquisition, site preparation and similar costs incident to the commencement of construction) which are in an amount which is less than 20% of the issue price of the Notes. This declaration and the Resolution of which it is a part, shall be publicly available in the official books, records or proceedings of the Common Council.

Section 9. Arbitrage Covenant. The City shall not take any action with respect to the Note Proceeds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken on the date of the delivery of and payment for the Notes (the "Closing"), would cause the Notes to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.

The Note Proceeds may be temporarily invested in legal investments until needed, provided however, that the City hereby covenants and agrees that so long as the Notes remain outstanding, moneys on deposit in any fund or account created or maintained in connection with the Notes, whether such moneys were derived from the Note Proceeds or from any other source, will not be used or invested in a manner which would cause the Notes to be "arbitrage bonds" within the meaning of the Code or Regulations. The City covenants that it will not invest in any obligation if such investment would violate the "prohibited payment" requirement of Section 148 of the Code.

The City Clerk, or other officer of the City charged with responsibility for issuing the Notes, shall provide an appropriate certificate of the City, for inclusion in the transcript of proceedings, setting forth the reasonable expectations of the City regarding the amount and use of the Note Proceeds and the facts and estimates on which such expectations are based, all as of the Closing.

Section 10. Additional Tax Covenants; Small Issuer Exemption from Rebate; Qualified Tax-Exempt Obligation Status. The City hereby further covenants and agrees that it will take all necessary steps and perform all obligations required by the Code and Regulations (whether prior to or subsequent to the issuance of the Notes) to assure that the Notes are obligations described in Section 103(a) of the Code, the interest on which is excludable from gross income for federal income tax purposes, throughout their term. The City further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Notes) if taking, permitting or omitting to take such action would cause any of the Notes to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Notes to be included in the gross income of the recipients thereof for federal income tax purposes. The City Clerk or other officer of the City charged with the responsibility of issuing the Notes, shall provide an appropriate certificate of the City as of the Closing, for inclusion in the transcript of proceedings, certifying that it can and covenanting that it will comply with the provisions of the Code and Regulations.

Further, it is the intent of the City to take all reasonable and lawful actions to comply with any new tax laws enacted so that the Notes will continue to be obligations described in Section 103(a) of the Code, the interest on which is excludable from gross income for federal income tax purposes throughout their term.

The City covenants that it is a governmental unit with general taxing powers and that the Notes are not "private activity bonds" as defined in Section 141 of the Code.

In accordance with Section 148(f)(4)(D) of the Code, the City covenants that ninety-five percent (95%) or more of the net proceeds of the Notes are to be used for local governmental activities of the City and that the aggregate face amount of all tax-exempt obligations (other than "private activity bonds") issued by the City, including all subordinate entities of the City, during calendar year 2007 will not exceed \$5,000,000. If for any reason the City did not qualify for the small issuer exemption from the rebate requirements of the Code, the City covenants that it would take all necessary steps to comply with such requirements.

The Common Council hereby designates the Notes to be "qualified tax-exempt obligations" pursuant to the provisions of Section 265(b)(3) of the Code and in support of such designation, the City Clerk or other officer of the City charged with the responsibility for issuing the Notes, shall provide an appropriate certificate of the City, all as of the Closing.

Section 11. Execution of the Notes. The Notes shall be issued in typewritten or printed form, executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk, authenticated, if required, by its fiscal agent, if any, sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the City of the purchase price thereof, plus accrued interest to the date of delivery. In the event that either of the officers whose signatures appear on the Notes shall cease to be such officers before the delivery of the Notes, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had

remained in office until such delivery. The aforesaid officers are hereby authorized to do all acts and execute and deliver all documents as may be necessary and convenient to effectuate the Closing.

Section 12. Payment of the Notes. The principal of and interest on the Notes shall be paid in lawful money of the United States of America by the City Clerk or City Treasurer.

Section 12A. Persons Treated as Owners; Transfer of Notes. The City shall keep books for the registration and for the transfer of the Notes. The person in whose name any Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Note shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

Any Note may be transferred by the registered owner thereof by surrender of the Note at the office of the City Clerk, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Mayor and City Clerk shall execute and deliver in the name of the transferee or transferees a new Note or Notes of a like aggregate principal amount, series and maturity and the City Clerk shall record the name of each transferee in the registration book. No registration shall be made to bearer. The City Clerk shall cancel any Note surrendered for transfer.

The City shall cooperate in any such transfer, and the Mayor and City Clerk are authorized to execute any new Note or Notes necessary to effect any such transfer.

The fifteenth day of each calendar month next preceding each interest payment date shall be the record date for the Notes. Payment of interest on the Notes on any interest payment date shall be made to the registered owners of the Notes as they appear on the registration book of the City at the close of business on the corresponding record date.

Section 13. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Notes eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations previously executed on behalf of the City and on file in the City Clerk's office.

Section 14. Undertaking to Provide Continuing Disclosure. The City hereby covenants and agrees, for the benefit of the holders of the Notes, to enter into a written undertaking (the "Undertaking") required by SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule") to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. This Undertaking shall be enforceable by the holders of the Notes or by the Purchaser on behalf of such holders (provided that the rights of the holders and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations hereunder and any failure by the City to comply with the provision of this Undertaking shall not be an event of default with respect to the Notes).

The City Clerk, or other officer of the City charged with the responsibility for issuing the Notes, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the City's Undertaking.

Section 15. Bond Insurance. The Mayor and City Clerk are authorized to agree to such additional provisions as any municipal bond insurer which makes a commitment accepted by the City to insure the Notes may reasonably request and which are acceptable to the Mayor and City Clerk, including provisions regarding restrictions on investment of Note Proceeds, the payment procedure under the municipal bond insurance policy, the rights of the bond insurer in the event of default and payment of the Notes by the bond insurer and notices to be given to the bond insurer. In addition, appropriate reference to the municipal bond insurance policy shall be made in the form of Note provided herein.

Section 16. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

It was moved by Ald. Stepaniak, seconded by Ald. Purins to approve the four foregoing resolutions. -16

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION**

WHEREAS, a public hearing was held by the City of Wauwatosa Planning Commission on March 12, 2007, to consider approval of the project plan for tax incremental district #5 in the City of Wauwatosa for purposes of redevelopment of a site at 2979 N. Mayfair Road; and,

WHEREAS, the required notices of the hearing were published in accordance with the statutory requirements of Wisconsin Statutes Section 66.1105(4)(e); and,

WHEREAS, a copy of such notice had previously been sent by first class mail to the Chief Executive Officers of all local government entities have power to levy taxes on the property within the proposed tax incremental finance district; and

WHEREAS, the boundaries of the tax incremental district were previously designated and are not proposed to be altered by the amendment; and

WHEREAS, the specific boundaries are described in the attached project plan for tax incremental district #5; and

WHEREAS, upon creation of tax incremental district #5, the City Attorney provided a legal opinion that the proposal meets the eligibility requirements of Wisconsin Statutes 66.1105 for tax incremental financing; and

WHEREAS, the City of Wauwatosa Planning Commission has adopted the project plan for tax incremental district #5 and has recommended its approval by the Wauwatosa Common Council; and

WHEREAS, the project plan for tax incremental district #5 includes a map showing existing uses and conditions of real property in the district and a map showing proposed improvements and uses in the

district, as well as a statement listing the kind, numbers, and locations of all proposed public works improvements within the district; and

WHEREAS, the creation of the tax incremental district is designed to promote the continued orderly redevelopment of the site at 2979 N. Mayfair Road in order to promote the systematic economic growth, increase the tax base, and have a significant impact on the local economy;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin makes the following findings:

- 1) Upon creation of Wauwatosa tax incremental district #5, not less than 50% of the area of the site at 2979 N. Mayfair Road was a blighted area as defined in the tax incremental financing law in Section 66.1105(2)(a) of the Wisconsin Statutes;
- 2) Additional improvement of the proposed project area will significantly enhance the value of substantially all of the real property in the proposed district; and
- 3) The proposed project costs are related directly to eliminating blight and directly serve to rehabilitate the area consistent with the purpose for the creation of the tax incremental district; and
- 4) The equalized value of the taxable property in the proposed district plus the equalized value of the taxable property in all existing TIF districts in the City of Wauwatosa does not exceed 12% of the total equalized value of the taxable property within the City;

BE IT FURTHER RESOLVED THAT the project plan for the City of Wauwatosa tax incremental district #5, a copy of which is attached hereto and incorporated herein, is hereby approved;

BE IT FINALLY RESOLVED THAT expenditures proposed in the amended project plan be reimbursed from the budget of tax incremental district #5, and that special assessments shall not be levied against the real property within the district for said purposes.

It was moved by Ald. Stepaniak, seconded by Ald. Purins to approve the foregoing resolution. –

It was moved by Ald. Stepaniak, seconded by Ald. Krol to amend the motion to incorporate a provision that the development meet LEED certification requirements at the silver level. Roll call, Ayes 16.

Roll call vote on motion as amended, Ayes 9, Noes 4 (Maher, Birschel, Grimm, Hanson), Present 3 (Treis, Didier, Ewerdt).

The amended resolution is as follows:

**RESOLUTION R-07-79**

WHEREAS, a public hearing was held by the City of Wauwatosa Planning Commission on March 12, 2007, to consider approval of the project plan for tax incremental district #5 in the City of Wauwatosa for purposes of redevelopment of a site at 2979 N. Mayfair Road; and,

WHEREAS, the required notices of the hearing were published in accordance with the statutory requirements of Wisconsin Statutes Section 66.1105(4)(e); and,

WHEREAS, a copy of such notice had previously been sent by first class mail to the Chief Executive Officers of all local government entities having power to levy taxes on the property within the proposed tax incremental finance district; and

WHEREAS, the boundaries of the tax incremental district were previously designated and are not proposed to be altered by the amendment; and

WHEREAS, the specific boundaries are described in the attached project plan for tax incremental district #5; and

WHEREAS, upon creation of tax incremental district #5, the City Attorney provided a legal opinion that the proposal meets the eligibility requirements of Wisconsin Statutes 66.1105 for tax incremental financing; and

WHEREAS, the City of Wauwatosa Planning Commission has adopted the project plan for tax incremental district #5 and has recommended its approval by the Wauwatosa Common Council; and

WHEREAS, the project plan for tax incremental district #5 includes a map showing existing uses and conditions of real property in the district and a map showing proposed improvements and uses in the district, as well as a statement listing the kind, numbers, and locations of all proposed public works improvements within the district; and

WHEREAS, the creation of the tax incremental district is designed to promote the continued orderly redevelopment of the site at 2979 N. Mayfair Road in order to promote the systematic economic growth, increase the tax base, and have a significant impact on the local economy;

WHEREAS, the proposed project will promote the goals of environmental sustainability by using innovative measures for storm water management and designing a building that will be eligible for LEED certification at the silver level;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin makes the following findings:

- 1) Upon creation of Wauwatosa tax incremental district #5, not less than 50% of the area of the site at 2979 N. Mayfair Road was a blighted area as defined in the tax incremental financing law in Section 66.1105(2)(a) of the Wisconsin Statutes;
- 2) Additional improvement of the proposed project area will significantly enhance the value of substantially all of the real property in the proposed district; and

- 3) The proposed project costs are related directly to eliminating blight and directly serve to rehabilitate the area consistent with the purpose for the creation of the tax incremental district; and
- 4) The equalized value of the taxable property in the proposed district plus the equalized value of the taxable property in all existing TIF districts in the City of Wauwatosa does not exceed 12% of the total equalized value of the taxable property within the City;

BE IT FURTHER RESOLVED THAT the project plan for the City of Wauwatosa tax incremental district #5, a copy of which is attached hereto and incorporated herein, is hereby approved;

BE IT FINALLY RESOLVED THAT expenditures proposed in the amended project plan be reimbursed from the budget of tax incremental district #5, and that special assessments shall not be levied against the real property within the district for said purposes.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-81**

WHEREAS, upon completion of the Hart Park Flood Management Project in the City of Wauwatosa, the City will have complete ownership and control over the lands constituting the new Hart Park south of State Street between 63<sup>rd</sup> and 72<sup>nd</sup> Streets in the City of Wauwatosa; and

WHEREAS, the City of Wauwatosa Board of Parks and Forestry Commissioners and the Committee on Community Development have reviewed proposed site improvements for the new Hart Park area dividing those costs into “platform” (infrastructure) and “improvements” (park amenities) costs, and also divided such costs into 3 specific areas of the Park:

Area #I – area between N. 70<sup>th</sup> Street and N. 72<sup>nd</sup> Street

Area #II – area between N. 68<sup>th</sup> Street and N. 70<sup>th</sup> Street

Area #III – area east of N. 68<sup>th</sup> Street; and

WHEREAS, after considering that currently available funding would not be sufficient to complete all proposed platform and improvement projects within all 3 areas of the Park as described above, the Committee on Community Development and the Board of Parks & Forestry Commissioners have indicated that available funds for Hart Park platform and improvement costs should be prioritized by initially utilizing funds for platform costs throughout the Park, with priority being placed upon those portions of Hart Park west of N. 68<sup>th</sup> Street (Areas #I and #II); and

WHEREAS, the Committee on Community Development and the Board of Parks & Forestry have determined that it is feasible for the Board, along with the newly formed Friends of Hart Park, to seek grants, donations or other funding sources to pay for part of the improvements proposed for Hart Park; and

WHEREAS, the details of the proposed infrastructure and improvement costs are more particularly described in the memorandum of the Director of Public Works to the members of the Budget & Finance Committee dated March 21, 2007, which is attached hereto and incorporated herein; and

WHEREAS, the Common Council of the City of Wauwatosa has previously identified approximately \$1.4 million in unused capital project funds and approximately \$1.6 million in the Reserve for Future Capital Improvements which would be funds which would be appropriate to be utilized for platform costs within Hart Park as necessary;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to begin the process of utilizing available funds to provide for platform construction within the area of Hart Park, prioritizing those platform costs anticipated in the area west of N. 68<sup>th</sup> Street within Hart Park in the City of Wauwatosa, the option described as Option #2 in the Public Works Director's March 21, 2007 memorandum;

BE IT FURTHER RESOLVED THAT the previously identified Capital Projects funds and funds from the Reserve for Future Capital Improvements, in an amount of approximately \$3 million as more particularly described to the Committee on previous occasions and in the March 21, 2007 memorandum of the Director of Public Works, are hereby authorized to be utilized for the platform costs as prioritized by the Committee;

BE IT FINALLY RESOLVED THAT the Board of Parks & Forestry Commissioners, the Friends of Hart Park and other community organizations are hereby encouraged to begin fund raising efforts necessary to provide necessary funding for the proposed park improvements, and City staff are directed to cooperate fully with the organizations working to raise funds for Park improvements anticipated by the plans incorporated in the March 21, 2007 memorandum of the Director of Public Works.

It was moved by Ald. Stepaniak, seconded by Ald. Purins  
to approve the foregoing resolution. -16

#### **FROM THE COMMITTEE ON BUDGET AND FINANCE**

BILLS AND CLAIMS FOR THE PERIOD 3/21/07 – 4/3/07 --

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 3/21/07 – 4/3/07: \$2,840,304.82

It was moved by Ald. Meaux, seconded by Ald. Krill  
that each and every one of the accounts of bills and claims  
be allowed and ordered paid. Roll call vote, Ayes 16.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-07-84**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to the Wauwatosa School District for Wilson School, 1060 Glenview Avenue, Wauwatosa, WI, to encroach onto City right-of-way with landscaping and a stairway at Wilson School, subject to the applicants executing unto the City of Wauwatosa an indenture setting forth the terms, provisions and conditions relating to the granting of the aforesaid permission by said City to said applicants.

It was moved by Ald. Herzog, seconded by Ald. Birschel  
to approve the foregoing resolution. - 16

There being no further business, the meeting adjourned at 9:50 p.m.

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Carla A. Ledesma, CMC, City Clerk