



CITY OF WAUWATOSA  
MEMORIAL CIVIC CENTER  
7725 WEST NORTH AVENUE  
WAUWATOSA, WI 53213  
Telephone: (414) 479-8917  
Fax: (414) 479-8989

**COMMON COUNCIL**  
**Regular Meeting, Tuesday, July 3, 2007**

PRESENT: Alds. Purins, Stepaniak, Treis, Becker, Birschel (8:07 p.m.), Didier, Donegan, Ewerdt, Grimm, Hanson, Krill, Krol, Maher, Meaux -14

EXCUSED: Alds. Herzog and Minear

ALSO PRESENT: Mr. Archambo, City Administrator; Mr. Kesner, City Attorney; Mr. Kappel, Public Works Director; Ms. Welch, Community Development Director; Police Lt. Witkowski; 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.

A plaque was presented by Mayor Estness and Common Council President Becker to former alderman Alan Kopischke in honor of his years of service to the City of Wauwatosa.

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. -13

**APPOINTMENTS BY THE MAYOR**

**Village of Wauwatosa BID Board**

Pamela Anderson, Underwood Gallery

(Term ends 12/31/09)

Bill Brown, Bartolotta's Restaurant

(Term ends 12/31/07)

Foregoing appointments submitted for information only.

**Committee for Citizens with Disabilities**

Susan Klawein, Kindcare Easter Seals, 7111 W. Center Street

Bridget Bannon, Milwaukee County Office for Persons with Disabilities, 901 N. Ninth Street, Milw.

(Terms end 12/31/10)

**Citizens Advisory Solid Waste Recycling Committee**

Deb Karpfingher, The Flower Lady, 1460 Underwood Avenue

(Term ends 5/30/10)

Foregoing appointments submitted for first reading.

**APPLICATIONS, COMMUNICATIONS, ETC.**

- 1. Conditional Use application for a Chipotle Mexican Grill restaurant at 2711 N. Mayfair Place  
**Plan Commission, Committee on Community Development**
- 2. Land Division application to divide property at 1120 N. 124th Street  
**Plan Commission, Committee on Community Development**
- 3. Conditional Use application to sell Airstream recreational vehicles at 1728 & 1750 N. Mayfair Road  
**Plan Commission, Committee on Community Development**
- 4. Conditional Use application for outdoor dining at the Open Hearth Restaurant, 2930 N. 117th Street  
**Plan Commission, Committee on Community Development**
- 5. Notice of Claim: State Farm Insurance for Esther Piekarski, 3166 N. 105th Street  
**City Attorney**
- 6. Letters from Milwaukee County Executive Scott Walker and County Supervisors Jim “Luigi” Schmitt and Lynne De Bruin regarding the Cobalt proposal to development the public works site south of Walnut Road for a Milwaukee County Fleet Management facility  
**Add to existing file**
- 7. City of Wauwatosa Investment Summary as of June 30, 2007  
**Place on file**
- 8. Letter from Neil Palmer, Village of Elm Grove, informing the City that Elm Grove will be pursuing securing water service directly from the City of Milwaukee  
**Water Superintendent; City Attorney**
- 9. Letter from Milwaukee County Supervisors Jim “Luigi” Schmitt and Lynne De Bruin supporting the City’s intention to act on the Toldt development proposal  
**Add to existing file**
- 10. Letter from Cobalt Partners, LLC, requesting the City reconsider their proposal for the public works site south of Walnut Road  
**Director of Community Development; City Attorney**

**FROM THE COMMITTEE ON TRAFFIC AND SAFETY**

**ORDINANCE O-07-14**

AN ORDINANCE AMENDING WAUWATOSA CODE SECTION 11.32.080 TO ALLOW ALL DAY PARKING ON LEFEBER AVENUE SOUTH OF NORTH AVENUE IN THE CITY OF WAUWATOSA

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

Part I. The “Lefebber Avenue – east side” portion of the “schedule of streets, and portions” subsection of Wauwatosa Code Section 11.32.080 is hereby amended by amending the restrictions which currently reads, “(c) from 155 feet south of W. North Avenue to the alley north of W. North Avenue” to read as follows:

( c) from W. North Avenue to the alley north of W. North Avenue

Part II. The “Lefebber Avenue – west side” portion of the “schedule of streets, and portions” subsection of Wauwatosa Code Section 11.32.080 is hereby amended by amending the restrictions

which currently reads, “( c) from 155 feet south of W. North Avenue to the alley north of W. North Avenue” to read as follows:

( c) from W. North Avenue to the alley north of W. North Avenue

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

It was moved by Ald. Grimm, seconded by Ald. Donegan to adopt the foregoing ordinance. -13

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-147**

WHEREAS, Helmut Toldt, Toldt Development, Inc., has submitted preliminary proposal for a residential development on city-owned land located at the southwest corner of 113<sup>th</sup> Street and Walnut Road; and

WHEREAS, the concept of residential development been reviewed and recommended by the Committee on Community Development; and

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa, Wisconsin hereby recommends development of this property on an expeditious basis and will exclusively consider the plan submitted by Toldt Development subject to the following:

- 1) another thorough and public presentation of the plan; and
- 2) public comment, and
- 3) developer’s response to public comments including traffic surveys and other necessary information, and
- 4) final zoning approval
- 5) obtaining all necessary licenses and permits.

It was moved by Ald. Treis, seconded by Ald. Meaux to approve the foregoing resolution. Roll call vote, Ayes 10, Noes 3 (Stepaniak, Grimm, Hanson)

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-148**

WHEREAS, Edward Polito, agent for AT&T, and AT&T Wisconsin have applied for a Conditional Use in the AA Single Family Residence District at 414 N. 116<sup>th</sup> Street for a pad mounted fiber conversion cabinet, 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 THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Edward Polito, agent for AT&T, and AT&T Wisconsin for a pad mounted fiber conversion cabinet in the AA Single Family Residence District at 414 N. 116<sup>th</sup> Street subject to the following conditions:

- 1) contingent upon AT&T obtaining all permits, licenses, franchises and permissions required under federal, state or local law prior to AT&T's commencement of the use of the facilities to provide any video programming or other programming services, as those terms are defined in 41 U.S.C. Section 522, as amended, to subscribers in the City, and
- 2) AT&T agrees it will not use the facilities described in this Conditional Use Permit as part of a network for the provision to subscribers in the City of video programming or other programming service, as those terms are defined in 47 U.S.C. Section 522, as amended, unless AT&T provides the City Clerk 30 days' prior written notice, with a copy to the City Attorney
- 3) except for the grant of this Conditional Use Permit by the City of Wauwatosa, this action by the city shall not constitute nor be construed as a grant of any other permit, license, franchise or permission otherwise required under federal, state or local law, and
- 4) screening to the highest degree possible with a mix of fencing and shrubbery; and
- 5) addressing safety of fiber conversion cabinets, and
- 6) resolution of the noise and transformer concerns, and
- 7) changing labels posted on cabinets from orange to a less obtrusive white, and
- 8) obtaining all other necessary licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-149**

WHEREAS, Mark Russert, agent for T-Mobile has applied for a Conditional Use in the Medical Center and Institutions District at 8624 Watertown Plank Road for a cellular antenna and related ground 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 THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Mark Russert, agent for T-Mobile for cellular antenna and related ground equipment in the Medical Center and Institutions District at 8624 Watertown Plank Road 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-07-150**

WHEREAS, James Wied and Jeff Fowle, agent for T-Mobile have applied for a Conditional Use in the AA Industrial District at 4701 N. 119th Street for a cellular antenna and related ground 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 THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to James Wied and Jeff Fowle, agent for T-Mobile for cellular antenna and related ground equipment in the AA Industrial District at 4701 N. 119th 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-07-151**

WHEREAS, Edward Polito, agent for AT&T, and Cedarbrook Investments Ltd. Partnership have applied for a Conditional Use in the AA Business District at 11707 W. North Avenue for a pad mounted fiber conversion cabinet, 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 THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Edward Polito, agent for AT&T, and Cedarbrook Investments Ltd. Partnership for a pad mounted fiber conversion cabinet in the AA Business District at 11707 W. North Avenue subject to the following conditions:

- 1) contingent upon AT&T obtaining all permits, licenses, franchises and permissions required under federal, state or local law prior to AT&T's commencement of the use of the facilities to provide any video programming or other programming services, as those terms are defined in 41 U.S.C. Section 522, as amended, to subscribers in the City, and

- 2) AT&T agrees it will not use the facilities described in this Conditional Use Permit as part of a network for the provision to subscribers in the City of video programming or other programming service, as those terms are defined in 47 U.S.C. Section 522, as amended, unless AT&T provides the City Clerk 30 days' prior written notice, with a copy to the City Attorney
- 3) except for the grant of this Conditional Use Permit by the City of Wauwatosa, this action by the city shall not constitute nor be construed as a grant of any other permit, license, franchise or permission otherwise required under federal, state or local law, and
- 4) screening to the highest degree possible with a mix of fencing and shrubbery; and
- 5) addressing safety of fiber conversion cabinets, and
- 6) resolution of the noise and transformer concerns, and
- 7) changing labels posted on cabinets from orange to a less obtrusive white, and
- 8) obtaining all other necessary licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION** R-07-152

WHEREAS, Kyungjae Lee has applied for a Conditional Use in the AA Business District at 9122 W. North Avenue for a laundry and dry cleaning service 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 Kyungjae Lee for a laundry and dry cleaning business in the AA Business District at 9122 W. North Avenue subject to obtaining all necessary licenses and permits.

It was moved by Ald. Treis, seconded by Ald. Meaux  
to approve the five foregoing resolutions. -13

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION**

WHEREAS, Devona Blanchard has applied for a Conditional Use for a video game club in the Trade District at 6909 W. North Avenue and;

WHEREAS, the Committee on Community Development has recommended denial of the application after finding that the establishment and operation of the conditional uses will be detrimental to the

public health, safety, morals, comfort or general welfare and will impair or diminish the uses, values, and enjoyment of other property in the neighborhood..

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa, Wisconsin hereby denies a request for a Conditional Use to Devona Blanchard for a video game club in the Trade District at 6909 W. North Avenue.

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

It was moved by Ald. Meaux, seconded by Ald. Krol to refer the matter back to committee. Roll call vote, Ayes 11, Noes 2 (Didier, Grimm)

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-154**

WHEREAS, the City of Wauwatosa Purchasing Department solicited proposals for video surveillance and related infrastructure consulting services, for which the responses were submitted to the Budget & Finance Committee on a memorandum of June 20, 2007; and

WHEREAS, the proposal of Teleco systems, Inc. of Mequon, WI, in the amount of \$16,600.00 is the proposal in the best interests of the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the proposal of Teleco Systems, Inc. for video surveillance and related infrastructure consulting services in the amount of \$16,600.00 is hereby accepted;

BE IT FURTHER RESOLVED THAT funding shall be provided by utilizing grant funds available in Account 20-101-5810-010.

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

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**BILLS AND CLAIMS FOR THE PERIOD 6/20/07 – 7/03/07 --**

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 6/20/07 – 7/03/07: \$9,141,199.86

It was moved by Ald. Meaux, seconded by Ald. Maher 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-07-155**

WHEREAS, the City of Wauwatosa is required under its Wisconsin Pollutant Discharge Elimination System (WPDES) permit issued by the Wisconsin Department of Natural Resources to file a Compliance Maintenance Annual Report (CMAR) for its wastewater collection system under Wisconsin Administrative Code NR 208 ; and

WHEREAS, it is necessary to acknowledge that the governing body has reviewed the Compliance Maintenance Annual Report (CMAR); and

WHEREAS, it is necessary to provide recommendations or an action response plan for all individual CMAR section grades of "C" or less and/or an overall grade point average less than 3.00; and

WHEREAS, after receiving an "A" on the one credit financial management section and a "B" on the three credit collection system section, the City of Wauwatosa's overall grade point average is 3.25;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa that the City accepts the 2006 Compliance Maintenance Annual Report (CMAR) and to continue with its current sanitary sewer collection system operational procedures and make improvements where necessary, initiate additional engineering studies, perform orderly and timely repairs and maintenance, and to take necessary actions to address or correct problems/deficiencies of the sanitary sewer collection system in order to maintain compliance with effluent limitations and permit conditions.

BE IT FURTHER RESOLVED THAT the Director of Public Works or his representative is hereby designated to act as the City of Wauwatosa's authorized representative for administering and submitting the Compliance Maintenance Annual Report and that he is hereby directed to make that submittal.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-07-153**

BE IT RESOLVED by the Common Council of the City of Wauwatosa that the proper city officials be and they are hereby authorized and directed to enter into a contract with Visu-Sewer Clean and Seal, Inc., for the work of reconstruction of fully deteriorated sewers using a structural C.I.P.P. relining process on portion of Wauwatosa Avenue, Wauwatosa Avenue parking mall, Underwood Avenue, Harmonie Avenue, Harwood Avenue, Menomonee River Parkway, and work incidental thereto under contract 07-02B at and for their bid price of \$138,037.40, this being the lowest and best bid.

BE IT FURTHER RESOLVED that the surety deposits, if any, be returned to the unsuccessful bidders.

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

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-07-156**

BE IT RESOLVED by the Common Council of the City of Wauwatosa that the proper city officials be and they are hereby authorized and directed to enter into a contract with American Sewer Services, Inc., for the work of sanitary sewer, storm sewer and water main relay, repair and extension and work incidental thereto in portions of Wauwatosa Avenue, Wauwatosa Avenue parking mall, Underwood Avenue, Harmonie Avenue, Harwood Avenue, Menomonee River parkway, N. 97th Street, W. Congress Street, and W. Sarasota Place at and for their bid price of \$1,190,124.70.

BE IT FURTHER RESOLVED that the surety deposits, if any, be returned to the unsuccessful bidders.

It was moved by Ald. Maher, seconded by Ald. Purins  
to approve the foregoing resolution. -14

There being no further business, the meeting adjourned at 8:10 p.m.

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Carla A. Ledesma, CMC, City Clerk