



**CITY OF WAUWATOSA**

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

**Regular Meeting, Tuesday, August 7, 2007**

**PRESENT:** Alds. Treis, Becker, Birschel, Didier, Donegan, Ewerdt, Grimm, Hanson, Herzog, Krill, Krol, Maher, Minear, Purins, Stepaniak -15

**EXCUSED:** Ald. Meaux

**ALSO PRESENT:** Mr. Archambo, City Administrator; Mr. Kesner, City Attorney; Ms. Plass, Acctg. Manager; Mr. Kappel, Public Works Director; Ms. Welch, Community Development Director; Fire Chief Redman; Asst. City Atty./Personnel Administrator Aldana; Mr. Tarman-Ramcheck, Public Works Prog. Analyst; Deputy Fire Marshal Nook; Mr. Wojcehowicz, Water Utility Supt.; Ms. Ledesma, City Clerk; Ms. Steinke, Recording 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. -15

**OLD BUSINESS**

The following item was considered at a public hearing before the Council on July 17, 2007:

**ORDINANCE**

**AN ORDINANCE AMENDING CHAPTER 24.02 – DEFINITIONS, AND CHAPTER 24.04.110 - PERMITTED OBSTRUCTIONS IN REQUIRED YARDS AND COURTS**

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

Part 1. Chapter 24.02 is amended to add the following:

24.02.518 Trellis.

A frame of lattice work used as a screen or as a support for climbing plants. The trellis, exclusive of the planting materials, shall not exceed a maximum opacity of 50%. The length of a trellis shall not exceed the maximum trellis height, which is six feet. Not an arbor.

Part 2. Chapter 24.04.110 is hereby amended to read as follows:

Obstructions	Residential District				
	Front Yards	Rear Yards	Side Yards- Interior	Side Yards- Abutting a Street	Courts
Trellises	P 14	P 14	P 14	P 14,15	P 14

14 No more than two freestanding trellises per yard side.

15 On side yards abutting a street, a trellis may be placed the side of a yard along the side street provided that it is at least 18 inches off of the side property line and does not obstruct the vision triangle. The vision triangle is an area formed by measuring 20 feet along each property line from the corner where the two street sides of the property meet. Connecting these two lines with a diagonal line completes the triangle and forms the corner vision triangle.

Part 3. This ordinance shall take effect and be in force from and after its passage and publication.

It was moved by Ald. Stepaniak, seconded by Ald. Krill to deny the foregoing ordinance. –

It was moved by Ald. Treis, seconded by Ald. Birschel to refer the matter back to committee. Ayes 2 (Treis, Birschel), Noes 13. Motion failed.

Vote on original motion, -15

**OLD BUSINESS**

The following item was considered at a public hearing before the Council on July 17, 2007:

**ORDINANCE O-07-15**

AN ORDINANCE AMENDING CHAPTERS 24.23 AA BUSINESS DISTRICTS AND CHAPTER 24.24 AA COMMERCIAL DISTRICTS TO ALLOW CONVENIENT CASH BUSINESSES AS A CONDITIONAL USE AND CREATING SECTION 24.46.100 ESTABLISHING RESTRICTIONS UPON THE LOCATION OF CONVENIENT CASH AND OTHER SIMILAR ESTABLISHMENTS

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

Part 1. Chapter 24.23 AA Business is hereby amended to add convenient cash businesses as a conditional use subject to Section 24.46.100.

Part 2. Chapter 24.24 AA Commercial is hereby amended to add convenient cash businesses as a conditional use subject to Section 24.46.100.

Part 3 Section 24.46.100 is created to read as follows:

**CONVENIENT CASH BUSINESSES AND SIMILAR ESTABLISHMENTS**

A. Purpose.

The purpose of this section is to provide for the regulation of convenient cash and other similar establishments.

It is recognized that convenient cash businesses have the potential to be harmful to the public welfare, both in regards to the community harmony and with respect to potential effects on the quality, aesthetics and functional aspects of the community. The purpose of regulating convenient cash services is to ensure compatibility with surrounding uses and properties and to avoid an unchecked proliferation of convenient cash services that may result in the displacement of other necessary commercial and financial services.

Such businesses tailor their services to make them attractive to persons experiencing unfavorable economic circumstances, often aggravating those circumstances. Additionally, it has been found that through their business practices, convenient-cash businesses are susceptible to attracting criminals seeking to commit robberies. Finally, when clustered in an area or strung out along an arterial street, such concentration creates an unwarranted negative impression regarding the economic vitality of a commercial district and the community at larger. Based on their proliferation, their susceptibility to crime, and the negative effects of their proliferation, the Common Council finds that the health, safety and welfare of the residents of the City of Wauwatosa should be protected by legislation limiting the geographic proliferation of convenient-cash businesses.

It is therefore the intent of this title to regulate the locations and hours of operation of convenient cash businesses in the City of Wauwatosa.

#### B. Definition.

“Convenient cash business” is a business licensed pursuant to Wis. Stats. Secs. 218.05 or 138.09, engaged in the “payday loan business”, “title loan business”, “currency exchange business” (also know as “check cashing”), or any other substantially similar business. Convenient cash businesses do not include financial institutions as defined below. For purposes of this code the following definitions apply:

1. “Business” includes an individual or individuals, firm, partnership, association, corporation, limited liability company or any other business entity.
2. “Currency Exchange business” means in accordance with Sec. 218.05, Wis. Stats., any business except banks incorporated under the laws of this state and national banks organized pursuant to the laws of the United States and any credit union operating under ch. 186, Wis. Stats., pursuant to a certificate of authority from the Wisconsin commissioner of credit unions, engaged in the business of and providing facilities for cashing checks, drafts, money orders and all other evidences of money acceptable to such community currency exchange for a fee, service charge or other consideration. This term does not include any person engaged in the business of transporting for hire, bullion, currency, securities, negotiable or nonnegotiable documents, jewels or other property of great monetary value nor any person engaged in the business of selling tangible personal property at retail nor any person licensed to practice a profession or licensed to engage in any business in this state, who in the course of such business or profession and, as an incident thereto, cashes checks, drafts, money orders or other evidences of money.
3. “Financial Institutions” means any business authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan

associations and credit unions. This term does not include a currency exchange, payday loan business or a title loan business.

4. "Payday loan business" means a business that provides unsecured loans with an initial term of 91 days or less in which the amount borrowed does not exceed \$2,000 and is usually for a period from the time of the loan until the borrowers next payday for which the lender charges either fees or interest for the loan.
5. Title loan business any business providing loans to individuals in exchange for receiving title to the borrower's motor vehicle as collateral.

C. Location and operation of convenient cash businesses.

1. Convenient cash businesses shall not be located within two thousand five hundred (2500) feet of any other convenient cash business.

2. Convenient cash businesses shall not be located within two hundred fifty (250) feet from a residential district as measured by the shortest line between the parcel to be occupied by the proposed convenient cash facility and the property line of the nearest residential property.

3. Hours of operation. Convenient cash businesses shall not operate between the hours of 9:00 p.m. and 9:00 a.m.

4. Business shall keep a glass entrance and exit doors with all windows clear of any signs or advertisements.

5. The building or portion thereof that is dedicated to the check cashing use shall have a minimum size of 1500 square feet of building floor area.

6. All convenient cash businesses shall purchase and provide to the City of Wauwatosa, based upon specifications provided by the city, one outdoor surveillance camera and wireless subscription module [total cost not to exceed five thousand dollars (\$5000.00)] to be positioned in close proximity to said business at a location determined by the City. The City shall be the owner of this equipment and responsible for its repair and upkeep.

7. Applicant must provide a security plan that addresses the following:

- a. Limits on amount of cash immediately available for withdrawal
- b. Lighting plan for the business showing both exterior and interior lighting.
- c. Plans for maintaining visibility into the interior of the check cashing facility.
- d. Plans for security of the check cashing area of the facility.
- e. A program for graffiti and litter abatement.
- f. Hours of operation.
- g. Use of security guards and cameras plan.

8. It strongly recommended that the convenient cash business work with the City and the police department to allow specific access by the police department to interior security cameras in the event of an emergency.

9. Conditional Use Permit application fees for businesses regulated pursuant to this section shall be increased above normal fees in an amount sufficient to fund notices to all property owners within two hundred fifty (250) feet of the parcel on which the proposed convenient cash business is to be located.

Part 4. This ordinance shall take effect and be in force from and after its passage and publication.

It was moved by Ald. Stepaniak, seconded by Ald. Krill  
to adopt the foregoing ordinance. -15

**APPOINTMENTS BY THE MAYOR**

Citizens' Advisory Capital Improvements Committee  
Scott Kroeger, 7320 Garfield Avenue  
(Term ends 6/30/10)

Design Review Board B  
Nick Burris, 2452 N. 93rd Street (to replace Carmen Bolger-Linna)  
(Term ends 12/31/08)

Foregoing appointments ordered held as this was the first reading.

City Assessor  
Steven Miner 3518 E. Van Norman Avenue, Cudahy

It was moved by Ald. Purins, seconded by Ald. Krill to concur with the appointment under suspension of the rules. -15

**APPLICATIONS, COMMUNICATIONS, ETC.**

1. Wauwatosa Water Utility Statement of Receipts and Disbursements ending June 30, 2007  
**Place on file**
2. Notice of claims: John S. Gilbert, 1450 N. 34th Street, Milwaukee  
Ann M. Schmitt, 2517 N. 88th Street; Todd & Kate Easton, 2431 N. 65th Street  
Robert Sain, Jr. and Eloise Wroten, 3626 N. 86th Street  
Notice of lawsuit: (2) Covenant Healthcare System, Inc. v. City of Wauwatosa  
HSBC Bank USA for Home Equity Loan Trust Series  
**City Attorney**
3. City of Wauwatosa Bank Reconciliation of Depository Accounts as of June 30, 2007  
**Place on file**
4. Conditional Use application to erect an 80 ft. high communications tower at 2630 N. 64th Street  
**Plan Commission, Committee on Community Development**
5. Conditional Use application to erect a 70 ft. high communications tower at the public works building, 11100 W. Walnut Road  
**Plan Commission, Committee on Community Development**
6. Land Division application to divide property located at 1140 N. 87th Street  
**Plan Commission, Committee on Community Development**
7. Conditional Use application to erect a 100 ft. high communications tower at the police station, 1700 N. 116th Street  
**Plan Commission, Committee on Community Development**
8. Conditional Use application to erect a 90 ft. high communications tower at 11000 W. Potter Road  
**Plan Commission, Committee on Community Development**
9. Conditional User application to erect a 90 ft. tall communications tower at 7725 W. North Ave.  
**Plan Commission, Committee on Community Development**

10. Conditional Use application to place a fiber conversion cabinet at 3000 N. 117th Street  
**Plan Commission, Committee on Community Development**
11. Conditional Use application to place a fiber conversion cabinet at 7222 W. Center Street  
**Plan Commission, Committee on Community Development**
12. Conditional Use application to place a fiber conversion cabinet at 6080 W. State Street  
**Plan Commission, Committee on Community Development**
13. Conditional Use application to operate a restaurant & bar at 7610 Harwood Avenue  
**Plan Commission, Committee on Community Development**
14. City of Wauwatosa Investment Summary as of July 31, 2007  
**Place on file**
15. E-mail from Beth Neel, 1539 Underwood Avenue, urging the Council to expedite a decision regarding the relocation of Fire Station #1  
**Add to existing file**
16. E-mail from Mike & Becky Rudella, 1531 Underwood Avenue, requesting a final decision regarding location of Fire Station #1  
**Add to existing file**
17. Letters from Ald. Meaux regarding tonight's discussion of Fire Station #1 and Employee Relations Committee discussion of labor negotiation strategies and parameters  
**Add to existing file**
18. E-mail from Jynine Strand, 2414 N. Pasadena Boulevard, objecting to Zimmerman Architectural Studios not being recommended for design of Fire Station #1  
**Add to existing file**

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

1. Ordinance amending Section 11.32.080 of the City Code by restricting parking in cul de sacs on Gridley, Portland, and Harvey Avenues  
**Re-refer to originating committee**

**FROM THE COMMITTEE ON EMPLOYEE RELATIONS**

**RESOLUTION R-07-195**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT the proper City officials are authorized to execute a contract with United Healthcare as third party administrator to administer the City's health plan on a self-insured basis.

**FROM THE COMMITTEE ON EMPLOYEE RELATIONS**

**RESOLUTION R-07-196**

BE IT RESOLVED that the Common Council of the City of Wauwatosa hereby authorizes a special meeting of the Employee Relations Committee on Tuesday, August 14, 2007 in Committee Room #1 at City Hall, 7725 w. North Avenue at 7:00 p.m.

It was moved by Ald. Purins, seconded by Ald. Krill to approve the two foregoing resolutions. -15

**FROM THE COMMITTEE ON TRAFFIC AND SAFETY**

**RESOLUTION R-07-169**

WHEREAS, Potter Road west of Wisconsin State Trunk Highway 100 (STH 100), a public street in the City of Wauwatosa, crosses the tracks of the Union Pacific Railroad at grade; and

WHEREAS, the crossing is not in good condition and repair for public travel due to rotted and missing portions of timbers at the crossing and deteriorated pavement; and

WHEREAS previous attempts at contacting the Union Pacific Railroad to make repairs at Potter Road have not received a response; and

WHEREAS, some temporary repairs were made in July of 2007 but the crossing continues to have rotted timbers and deteriorated pavement; and

WHEREAS, the City of Wauwatosa hereby requires that the Union Pacific Railroad pave and repair or improve the rail highway crossing at Potter Road;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa hereby directs the Wauwatosa staff to serve a copy of this resolution upon the Union Pacific Railroad requiring the railroad to repair the rail-highway crossing Potter Road west of State Trunk Highway 100 with the tracks of the Union Pacific in the City of Wauwatosa, Milwaukee County.

It was moved by Ald. Grimm, seconded by Ald. Birschel  
to approve the foregoing resolution. -15

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

**RESOLUTION R-07-170**

WHEREAS, Rob Messinger of Hector's-A Mexican Restaurant, 7118 W. State Street, Wauwatosa, WI, has requested a temporary extension of the licensed premises to include the parking lot on September 15, 2007, for a festival;

NOW, THEREFORE, BE IT RESOLVED THAT the licensed premises of Hector's-A Mexican Restaurant be extended to include the parking lot of the building on September 15, 2007, between the hours of noon and 10:00 p.m.;

BE IT FURTHER RESOLVED THAT the proprietors of Hector's shall perform garbage cleanup on neighboring properties resulting from the outdoor event and will cooperate with any requested noise abatement.

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

**RESOLUTION R-07-171**

WHEREAS, Thomas G. Stein, 7335 W. Tripoli Avenue, Milwaukee, WI, has applied for an operator's license in conjunction with his employment at the Cheesecake Factory, 2500 N. Mayfair Road, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Thomas G. Stein is hereby issued an operator's license for the period ending June 30, 2008;

BE IT FURTHER RESOLVED THAT the Wauwatosa Police Department is directed to review Mr. Stein's record six months after issuance of this initial license and report back to the Committee on Legislation, Licensing and Communications if any new significant issues or concerns are revealed at that time.

It was moved by Ald. Krol, seconded by Ald. Didier to approve the two foregoing resolutions. -15

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-172**

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. Birschel to approve the foregoing resolution. Roll call vote, Ayes 9, Noes 6 (Donegan, Ewerdt, Krill, Maher, Purins, Stepaniak)

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-173**

WHEREAS, Daniel Grogan has applied for a Conditional Use in the Trade District at 7001 W. North Avenue for expansion of a floral shop, including a waiver of parking requirements, 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 Daniel Grogan, including a waiver of parking requirements, for expansion of a floral shop in the Trade District at 7001 W. North Avenue subject to obtaining any required licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-174**

WHEREAS, the Wauwatosa Common Council has previously indicated its intent to move forward with the proposal of Toldt Development to purchase, and ultimately develop, the existing 18 acre site owned by the City of Wauwatosa, located on the southeast corner of 113<sup>th</sup> Street and Walnut Road in the City of Wauwatosa; and

WHEREAS, staff have negotiated the terms for an Agreement for Purchase and Sale between the City of Wauwatosa and Toldt Development, which proposal would contain a number of milestones and a time period to seek further approval prior to closing the transaction; and

WHEREAS, a copy of that Agreement for Purchase and Sale is attached to this resolution and incorporated herein;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to execute the attached Agreement for Purchase and Sale regarding development of the City-owned 18 acre site south of Walnut Road.

It was moved by Ald. Treis, seconded by Ald. Birschel to approve the two foregoing resolutions. -15

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-175**

WHEREAS, the Interim City Assessor for the City of Wauwatosa has indicated to the Committee that the ongoing tax exemption review project in that office is currently in its final stages; and

WHEREAS, the property tax exemption review project will require additional services of outside legal and valuation consultants in order to assist in its completion; and

WHEREAS, the Interim City Assessor has indicated that an additional \$50,000.00 in funds would be necessary to cover both the professional fees for legal and valuation functions required between the present time and the completion of Board of Review hearings;

NOW, THEREFORE, BE IT RESOLVED THAT the amount of \$50,000.00 is hereby approved for transfer from the Reserve for Contingencies to the appropriate account of the City Assessor in order to assist in completion of the tax exemption review project.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-176**

WHEREAS, the Milwaukee Water Works has received approval from the Wisconsin Public Service Commission to increase water rates charged to all of its customers, including the Wauwatosa Water Utility; and

WHEREAS, the Wisconsin Public Service Commission, on June 22, 2007, approved the request of the Wauwatosa Water Utility to pass this increase in Milwaukee's water rates through to customers of the Wauwatosa Water Utility; and

WHEREAS, the rate increase would cover the increased costs of purchased water from Milwaukee provided to customers of the Wauwatosa Water Utility;

NOW, THEREFORE, BE IT RESOLVED THAT the pass through rate increase for the Wauwatosa Water Utility approved by the Wisconsin Public Service Commission as a rate adjustment is hereby approved and implemented in billing to customers of the Wauwatosa Water Utility effective September 1, 2007.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-179**

WHEREAS, the 2008 Capital Improvements Program originally anticipated partial reconstruction of the tennis courts at Hart Park in the City of Wauwatosa; and

WHEREAS, the conditions of the court have deteriorated to a point that reconstruction will cost more than anticipated and sufficient funding might not currently be available; and

WHEREAS, crack sealing and interim repairs should make the courts usable until such time as permanent reconstruction can be budgeted; and

WHEREAS, some of the funds originally anticipated to be utilized for reconstruction can be transferred at the present time for the purpose of crack sealing and otherwise temporarily rehabilitate the tennis courts;

NOW, THEREFORE, BE IT RESOLVED THAT a level III transfer in the amount of \$16,500.00 for the purpose of crack sealing the tennis courts in Hart Park is hereby approved.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-180**

WHEREAS, the Director of Public Works has indicated that for the past 2 years the services of hosting the City website and the City's geographical information system (GIS) server have been provided on an annual basis by the Ruekert-Mielke Engineering firm; and

WHEREAS, the Ruekert-Mielke firm has indicated that additional annual savings could be provided to the City if these services were contracted on a multi-year basis, providing a savings to the City of \$5,610.00 over a period of 3 years;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to enter into a three year contract for City website and GIS hosting services with the Ruekert-Mielke Engineering firm for the amount indicated in the July 24, 2007, memorandum of the Public Works Director to the members of the Committee on Budget & Finance.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-186**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Shirley Sobczak for damages be and the same is hereby denied and placed on file for the reason that no liability exists on the part of the City;

BE IT FURTHER RESOLVED THAT the City Clerk is hereby authorized and directed to notify said claimant of this action of the Common Council as provided by law.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-187**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Esther Piekarski for damages be and the same is hereby denied and placed on file for the reason that no liability exists on the part of the City;

BE IT FURTHER RESOLVED THAT the City Clerk is hereby authorized and directed to notify said claimant of this action of the Common Council as provided by law.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-188**

BE IT RESOLVED by the Common council of the City of Wauwatosa that the claims filed by Basil Loeb, 2418 N. 65th Street, James Clarey, 2435 N. 65th Street, Damian Dohr, 2414 N. 65th Street, Todd Easton, 2431 N. 65th Street, Kyle Waters, 2424 N. 65th Street, and Brad Stokke, 2413 N. 65th

Street for damages be and the same are hereby denied and placed on file for the reason that no liability exists on the part of the City.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to notify said claimants of this action of the common council as provided by law.

It was moved by Ald. Stepaniak, seconded by Ald. Purins to approve the seven foregoing resolutions. -15

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION**

WHEREAS, based upon previous authorization by the Wauwatosa Common Council, the City of Wauwatosa staff issued a Request for Proposals for purposes of selecting an architectural firm for design and construction management services for the replacement for Fire Station #1; and

WHEREAS, after receiving responses to the RFP, staff invited three firms to provide more detailed presentations of their proposals; and

WHEREAS, final review of the proposals resulted in staff recommending two separate firms as being nearly equally qualified in their ability to provide this service to the City of Wauwatosa; and

WHEREAS, upon final review of the proposals, the Committee on Budget & Finance recommended accepting the proposal of Quorum Architects as the architectural firm for design and construction management services for Fire Station #1;

NOW, THEREFORE, BE IT RESOLVED THAT City staff are authorized to enter into a final agreement for the hiring of Quorum Architects for design and construction management services for Fire Station #1, pursuant to the terms of the proposal submitted July 12, 2007 as presented to the Committee at its meeting on July 31, 2007.

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

It was moved by Ald. Birschel, seconded by Ald. Didier to amend the motion to accept Zimmerman Architectural Studios as the architect. Roll call vote, Ayes 12, Noes 3 (Ewerdt, Hanson, Maher)

Roll call vote on motion as amended, Ayes 12, Noes 3 (Ewerdt, Hanson, Maher)

The amended resolution is as follows:

**AMENDED RESOLUTION R-07-177**

WHEREAS, based upon previous authorization by the Wauwatosa Common Council, the City of Wauwatosa staff issued a Request for Proposals for purposes of selecting an architectural firm for design and construction management services for the replacement for Fire Station #1; and

WHEREAS, after receiving responses to the RFP, staff invited three firms to provide more detailed presentations of their proposals; and

WHEREAS, final review of the proposals resulted in staff recommending two separate firms as being nearly equally qualified in their ability to provide this service to the City of Wauwatosa; and

NOW, THEREFORE, BE IT RESOLVED THAT City staff are authorized to enter into a final agreement for the hiring of Zimmerman Architectural Studios for design and construction management services for Fire Station #1, pursuant to the terms of the proposal submitted July 12, 2007 as presented to the Committee at its meeting on July 31, 2007.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-178**

WHEREAS, the Wauwatosa Fire Department anticipates that due to four separate vacancies in firefighter positions during the year 2007, spending in the regular salary accounts will be at least \$113,000.00 below the original budget; and

WHEREAS, the Fire Chief has described in a memorandum dated July 25, 2007, with attached fund transfer forms, a number of proposed fund transfers from the salary savings, totaling \$104,500.00, for purposes of funding Fire Station #1 Phase I, architectural services, in addition to other miscellaneous repairs and equipment replacements, which are more particularly described in the memorandum and fund transfer forms;

NOW, THEREFORE, BE IT RESOLVED THAT a Level III fund transfer from the Fire Department to Personnel Regular Salary Account in the amount of \$104,500.00, as more particularly described in the June 25, 2007 memorandum of the Fire Chief and its attached fund transfer forms, is hereby approved.

It was moved by Ald. Stepaniak, seconded by Ald. Purins  
to approve the foregoing resolution. -15

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-181**

WHEREAS the City of Wauwatosa has received notification of a Wisconsin Department of Transportation Safe Routes to School Project Grant from Governor Jim Doyle; and

WHEREAS, the safety of our children on their way to school is of extreme importance to all members of our greater Wauwatosa community; and

WHEREAS, the City of Wauwautosa has been working toward improving the walking and biking routes to our city's schools; and

WHEREAS, the acceptance of this grant will fund 100% of the proposed improvements for three elementary schools within the City of Wauwatosa; and

WHEREAS, these monies will be used to modify sidewalk ramps and purchase solar-powered school crossing signs, solar power speed display and recording devices and bicycle racks.

NOW, THEREFORE, BE IT RESOVLED by the Common Council of the City of Wauwatosa to accept the Safe Routes to School Project Grant for \$212,937 from the Wisconsin Department of Transportation.

BE IT FURTHER RESOLVED that the engineering department is authorized to enter into agreements associated with such acceptance as well as those needed to complete the work for which the city is to be reimbursed.

It was moved by Ald. Stepaniak, seconded by Ald. Purins to approve the foregoing resolution. -15

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-182**

WHEREAS, the Director of Public Works has reviewed the current blue bag recycling operation for the City of Wauwatosa; and

WHEREAS, in light of the fire at the Wauwatosa Recycling Center which requires a rebuilding of the sorting facility if the blue bag recycling program were to continue, staff have been provided an opportunity to reevaluate whether it would be in the City's best interests to continue the current blue bag recycling or to switch to another system for recycling; and

WHEREAS, recent studies and analysis have suggested that a move to a single stream recycling, contracting with Waste Management through an amendment to the existing recycling contract and using fully automated collection vehicles, with recycling carts to be purchased by the City, appears to provide the most economical solution for future collection practices, including the option to coordinate with the City of Milwaukee and Waukesha County for future program changes;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa Common Council hereby authorizes staff to negotiate with Waste Management, Inc. to switch to single stream recycling collected every second week through a fully automated recycling collection system with a 3 year contract including two additional 1 year extensions, and that the City of Wauwatosa purchase recycling carts from the present vendor for this purpose.

It was moved by Ald. Stepaniak, seconded by Ald. Purins to approve the foregoing resolution. -15

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-183**

WHEREAS, the Wauwatosa Common Council by other action has approved changing the recycling collection program away from the current blue bag recycling to a single stream collection program which would not require rebuilding the existing blue bag recycling facility;

NOW, THEREFORE, BE IT RESOLVED THAT staff of the City of Wauwatosa are hereby authorized to negotiate an insurance settlement following the fire at the existing blue bag recycling facility in November, 2006, under terms that would include not rebuilding the blue bag recycling facility.

It was moved by Ald. Stepaniak, seconded by Ald. Purins to approve the foregoing resolution. -15

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-184**

WHEREAS, the Wauwatosa Tax Incremental Finance District #5 was previously approved by the Common Council; and

WHEREAS, the project plan for TIF #5 consisted primarily of a \$1,800,000.00 developer financed Municipal Revenue Obligation to Mayfair Medical, LLC, for the purpose of constructing structured parking rather than an increased amount of surface parking, and would also allow increased capacity and value in the building including "green" building measures; and

WHEREAS, the proposed Developer's Agreement has been drafted by the City Attorney in conjunction with counsel for Mayfair Medical, LLC, a copy of which is attached hereto and incorporated herein;

NOW, THEREFORE, BE IT RESOLVED THAT the Developer's Agreement for the Mayfair Radiology project in Tax Incremental Finance District #5 is hereby approved, contingent upon final approval of the creation of Tax Incremental Finance District #5 by the Wisconsin Department of Revenue.

It was moved by Ald. Stepaniak, seconded by Ald. Purins to approve the foregoing resolution. Ayes 13, Noes 2 (Hanson, Maher)

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-185**

WHEREAS the City of Wauwatosa, Wisconsin (the "City") has created its Tax Incremental District No. 5 ("TID No. 5") for the purpose of promoting mixed-use development in the City; and

WHEREAS the commercial, residential and/or industrial mixed-use development projects in TID No. 5 constitute a revenue-producing enterprise of the City which is operated for a public purpose, and constitute a "public utility" within the meaning of Section 66.0621 of the Wisconsin Statutes; and

WHEREAS in order to further its mixed-use development efforts in TID No. 5, the City proposes to enter into a Mayfair Radiology Development Agreement with Mayfair Medical Properties, LLC (the "Developer") in substantially the form attached hereto as Attachment I (collectively, the "Development Agreement"); and

WHEREAS pursuant to Section 66.0621 of the Wisconsin Statutes and the terms of the Development Agreement, the City is to issue to the Developer a municipal revenue obligation payable solely from certain tax increments generated from the Mayfair Medical Land (as defined in the Development Agreement) located within TID No. 5 which are appropriated by the Common Council;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin, as follows:

Section 1. Authorization of Municipal Revenue Obligation. For the purpose of financing mixed-use development projects in TID No. 5, as provided for under the Development Agreement, the City shall issue its "Municipal Revenue Obligation, Series 2007" (the "Municipal Revenue Obligation") to the Developer in consideration for the obligations undertaken by the Developer under the Development Agreement. The Municipal Revenue Obligation shall be in the principal amount of \$1,800,000 or such lesser amount as is provided in the Development Agreement. The Municipal Revenue Obligation shall be dated its date of issuance and shall bear interest at a rate per annum equal to 0%.

The Municipal Revenue Obligation shall mature and the City's obligation to repay all or any portion of the Municipal Revenue Obligation shall terminate on or before June 1, 2030. Installments of principal of and interest on the Municipal Revenue Obligation shall be due and payable on June 1 of each year during the term of the Municipal Revenue Obligation, commencing on June 1, 2009 through and including the maturity date (each, a "Payment Date"). The amount of the annual payment of principal and interest due on each Payment Date shall be equal to the amount of Available Tax Increment (defined below) as of said date. Each payment of principal and interest shall be applied first to interest, then to principal.

"Available Tax Increment" means an amount equal to the annual gross tax increment revenues actually received by the City which are generated in the immediately preceding calendar year by the Mayfair Medical Land (as defined in the Development Agreement), less the portion levied by the State of Wisconsin.

The Municipal Revenue Obligation shall be subject to prepayment in whole or from time to time in part at any time, at the option of the City.

The schedule of payments on the Municipal Revenue Obligation is found to be such that the amount of annual debt service payments is reasonable in accordance with prudent municipal utility practices.

The Municipal Revenue Obligation shall be issued only upon final negotiation and execution of the Development Agreement and shall be issued and delivered to the Developer as provided in the Development Agreement.

The Municipal Revenue Obligation shall be signed by the manual or facsimile signatures of the Mayor and City Clerk of the City (provided that, unless the City has contracted with a fiscal agent to authenticate the Municipal Revenue Obligation, at least one of such signatures shall be manual), and sealed with the corporate seal of the City, or a facsimile thereof.

The Municipal Revenue Obligation, together with interest thereon, shall be payable only out of a Special Redemption Fund hereinafter provided or the TID No. 5 Revenue Fund (collectively referred to as "Funds"), and shall be a valid claim of the owner thereof only against the Funds and the revenues pledged to such Funds pursuant to this Resolution.

Section 2. Form of Bond. The Municipal Revenue Obligation shall be in substantially the form set forth on Attachment II hereto.

Section 3. Payable Solely From Revenues. The Municipal Revenue Obligation, together with interest thereon, shall be payable only out of the Funds as hereinafter provided, and shall be a valid claim of the owner thereof only against the Funds and from the revenues pledged to such fund, and shall be payable solely from Available Tax Increment which has been received and retained by the City in accordance with the provisions of Section 66.1105 of the Wisconsin Statutes, and appropriated by the Common Council to the payment of the Municipal Revenue Obligation (hereinafter referred to as "Revenues").

As stated above, the application of Available Tax Increment to payment of the Municipal Revenue Obligation is subject to future annual appropriation by the Common Council. However, the City fully expects and anticipates that to the extent Available Tax Increment is generated and received by the City, it will appropriate such Available Tax Increment to the payment of the principal of and interest on the Municipal Revenue Obligation.

Section 4. Special Redemption Fund. For the purpose of the application and proper allocation of the Revenues, and to secure the payment of the principal of and interest on the Municipal Revenue Obligation, a Special Redemption Fund may be created, to be used solely for the purpose of paying principal of and interest on the Municipal Revenue Obligation in accordance with the provisions of the Municipal Revenue Obligation and this Resolution.

Uninvested money in the Special Redemption Fund shall be kept on demand deposit with such bank or banks as may be designated from time to time by the City as public depositories under the laws of Wisconsin. Such deposits of Special Redemption Fund money shall be secured to the fullest extent required by the laws of Wisconsin and the general investment policy of the City.

Money in the Special Redemption Fund, if invested, shall be invested in direct obligations of, or obligations guaranteed as to principal and interest by, the United States of America, or in certificates of deposit secured by such obligations and issued by a state or national bank which is a member of the Federal Deposit Insurance Corporation and is authorized to transact business in the State of Wisconsin, maturing not later than the date such money must be transferred to make payments on the Municipal Revenue Obligation, or in the local government pooled-investment fund. All income from such investments shall be deposited in the Special Redemption Fund. Such investments shall be liquidated at any time when it shall be necessary to do so to provide money for any of the purposes for the Special Redemption Fund.

Section 5. Application of Revenues to Payment of the Municipal Revenue Obligation. On each Payment Date, the City shall apply to the payment of the principal and interest due on the Municipal Revenue Obligation the Available Tax Increment which has been appropriated by the

Common Council to the payment of the Municipal Revenue Obligation. Revenues shall be applied first to the payment of any interest due on the Payment Date and then to the payment of principal due on that Payment Date.

If on any Payment Date there shall be insufficient Revenues to pay the principal or interest due on the Bond, the amount due but not paid shall accumulate and be payable on the next Payment Date until the final Payment Date.

If on the final Payment Date, there remain amounts outstanding and unpaid on the Municipal Revenue Obligation, then all interest accrued but unpaid and the remaining balance of principal of the Municipal Revenue Obligation shall be deemed paid in full, it being understood that upon the final Payment Date, the obligation of the City to make any further payments on the Municipal Revenue Obligation shall terminate. The City shall have no obligation to pay any amount of principal or interest on the Municipal Revenue Obligation which remains unpaid after the final Payment Date and the owner of the Municipal Revenue Obligation shall have no right to receive payment of such amounts.

If for any reason TID No. 5 terminates prior to the final Payment Date, and there remain amounts outstanding and unpaid on the Municipal Revenue Obligation, then all interest accrued but unpaid and the remaining balance of principal of the Municipal Revenue Obligation shall be deemed paid in full, it being understood that upon such termination of TID No. 5, the obligation of the City to make any further payments on the Municipal Revenue Obligation shall also terminate. The City shall have no obligation to pay any amount of principal or interest on the Municipal Revenue Obligation which remains unpaid upon termination of TID No. 5 and the owner of the Municipal Revenue Obligation shall have no right to receive payment of such amounts.

Section 6. Persons Treated as Owners; Transfer of Municipal Revenue Obligation. The City Treasurer, as registrar and paying agent, shall keep books for the registration and for the transfer of the Municipal Revenue Obligation. The person in whose name the Municipal Revenue Obligation shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on the Municipal Revenue Obligation 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 Municipal Revenue Obligation to the extent of the sum or sums so paid.

It is not anticipated that the Municipal Revenue Obligation will be transferred or assigned. The Municipal Revenue Obligation may be transferred or assigned by the registered owner thereof only with the prior written consent of the City, such consent to be granted or withheld by the City in its sole and absolute discretion, by surrender of the Municipal Revenue Obligation at the office of the City Treasurer accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer or assignment, the City Treasurer shall record the name of the transferee or assignee in the registration book and note such transfer or assignment on the Municipal Revenue Obligation and re-issue the Municipal Revenue Obligation (or a new Municipal Revenue Obligation or Municipal Revenue Obligations of like aggregate principal amount and maturity).

The Municipal Revenue Obligation may be exchanged for a new Municipal Revenue Obligation or Municipal Revenue Obligations of like aggregate principal amount and maturity.

Section 7. Approval of Development Agreement. The Development Agreement, in substantially the form attached hereto as Attachment I, is hereby approved, and the Mayor and City Clerk are hereby authorized to execute and deliver the Development Agreement with such insertions

or corrections as shall be approved by them consistent with the terms hereof, their execution thereof to constitute conclusive evidence of their approval of any such insertions or corrections.

Section 8. General Authorizations. The Mayor and City Clerk and the appropriate deputies and officials of the City in accordance with their assigned responsibilities are hereby each authorized to execute, deliver, publish, file and record such other documents, instruments, notices and records and to take such other actions as shall be necessary or desirable to accomplish the purposes of this Resolution and to comply with and perform the obligations of the City under the Development Agreement and the Municipal Revenue Obligation.

In the event that said officers shall be unable by reason of death, disability, absence or vacancy of office to perform in timely fashion any of the duties specified herein (such as the execution of the Development Agreement or the Municipal Revenue Obligation), such duties shall be performed by the officer or official succeeding to such duties in accordance with law and the rules of the City.

Section 9. Severability of Invalid Provisions. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining sections, paragraphs and provisions of this Resolution.

Section 10. Effective Date. This Resolution shall be effective immediately upon its passage and approval.

It was moved by Ald. Stepaniak, seconded by Ald. Purins to approve the foregoing resolution. Ayes 13, Noes 2 (Hanson, Maher)

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

BILLS AND CLAIMS FOR THE PERIOD 7/18/07 – 8/07/07 --

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 7/18/07 – 8/07/07: \$2,514,094.20

It was moved by Ald. Krill, seconded by Ald. Purins that each and every one of the accounts of bills and claims be allowed and ordered paid. Roll call vote, Ayes 15.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-07-190**

WHEREAS, the “One Mayfair Place” development under construction at the intersection of North Mayfair Road and West Center Street is already the subject of a Development Agreement entered into between the developer and the City of Wauwatosa; and

WHEREAS, the development requires certain infrastructure changes within North Mayfair Road, which is under the jurisdiction of the State of Wisconsin – Department of Transportation; and

WHEREAS, the DOT has approved the necessary changes and instituted certain requirements which require the further agreement of the City of Wauwatosa; and

WHEREAS, the attached Memorandum of Agreement between MIDLAND 3521, LLC and the City of Wauwatosa addresses responsibility for those traffic improvements in North Mayfair Road in the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the Memorandum of Agreement between the City of Wauwatosa and MIDLAND 3521, LLC regarding traffic improvements at North Mayfair Road and West Center Street, a copy of which is attached hereto and incorporated herein, is hereby approved.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-07-191**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to Albineber Investments, 1442 Underwood Avenue, Wauwatosa, WI, to encroach onto City right-of-way with an overhanging Magnolia & Co. awning/sign, 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.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-07-192**

BE IT RESOLVED by the Common Council of the City of Wauwautosa that the proper city officials be and they are hereby authorized and directed to enter into a contract with C. W. Purpero, Inc., for the work of sanitary sewer, storm sewer and water main relay, repair, extension and relining in the amount of \$751,814, this being the lowest and best bid.

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

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-07-193**

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 Payne & Dolan, Inc., at and for their bid price of \$614,386.10, this being the lowest and best bid.

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

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-07-194**

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 Henry R. Marohl, Inc., at and for their bid price of \$475 per lineal foot, in an amount not to exceed \$120,000, 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. Birschel, seconded by Ald. Becker to approve the five foregoing resolutions. -15

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to George and Kathy Ekker, 9130 Stickney Avenue, Wauwatosa, WI, to encroach onto City right-of-way with a fence, 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 and also subject to mutual agreement between the applicant and the Wauwatosa City Engineer or his designee regarding an acceptable "vision triangle" for vehicles exiting onto Swan Boulevard from the alley north of the affected parcel.

It was moved by Ald. Birschel, seconded by Ald. Becker to approve the foregoing resolution. –

It was moved by Ald. Herzog, seconded by Ald. Didier to refer the matter to the Community Development Committee. -15

There being no further business, the meeting adjourned at 9:10 p.m.

