



CITY OF WAUWATOSA  
MEMORIAL CIVIC CENTER  
7725 WEST NORTH AVENUE  
WAUWATOSA, WI 53213  
Telephone: (414) 479-8917  
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**COMMON COUNCIL**  
**Regular Meeting, Tuesday, October 2, 2007**

PRESENT: Alds. Didier, Donegan, Ewerdt, Grimm, Hanson, Herzog, Krill, Krol, Maher, Meaux, Minear, Purins, Stepaniak, Treis, Becker, Birschel -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; Ms. Ledesma, City Clerk; Ms. Van Hoven, Deputy City Clerk

Mayor Estness in the Chair

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

The Mayor, Common Council President Becker and Matt Stano, Beautification Committee Chair, presented certificates to 2007 Yards of Distinction recipients. A slide show followed the presentation. The recipients are:

District 1

6715 Hillcrest Drive  
Tom and Judy Collins

1277 Martha Washington Drive  
Jackie Loy & Mark Groth

6925 W. Lloyd Street  
James Moldenbauer

District 2

1904 N. 85th Street  
Bonni Doerr

2223 Wauwatosa Ave.  
Julie Janisch

1135 Glenview Ave.  
Gloria Lange

District 3

8805 Ravenswood  
Tom & Wendy Komula

1160 Glenview Ave.  
Craig & Cathy Braatz

District 4

7907 Mary Ellen Place  
Nancy & Tom Wilke

728 N. 76th Street  
Joe & Sharon Malenda

7028 W. Blanchard  
Sandy & Jeff Wilson

District 5

7405 W. Hennessey Ave.  
Mick Witkauskis & Christy Peak

2550-52 N. 63rd Street  
Debra Hintz

2655-57 N. 66th Street  
Carol Grande

District 6

2465 N. 90th Street  
Helmut & Helga Fritz

2456 N. 84th Street  
Robb & Mary Fischer

2405 N. 84th St.  
Elizabeth Collins 11

District 7  
2521 N. 115th Street  
Jim & Sharon Groff

2539 N. 113th Street  
Melitta Raddatz

12012 W. Walnut Street  
Diane & Mark Walters

District 8  
3137 N. 105th Street  
Domenico Pitti

10520 W. Woodward  
Jean & Ted Levenhagen

3262 N. 106th Street  
Lynn Carlson & Lisa Rouskey

Businesses  
8612 W. Watertown Plank Rd.  
Eddie Martini's

1442 Underwood Avenue  
Vino 100

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

### **OLD BUSINESS**

The following item had been held after a public hearing on September 18, 2007:

#### **RESOLUTION R-07-228**

WHEREAS, the City of Wauwatosa has decided to prepare a comprehensive plan under the authority of and procedures established by §66.1001(4), Wisconsin Statutes; and

WHEREAS, §66.1001(4)(a), Wisconsin Statutes, requires that the governing body of the local governmental unit adopt written procedures designed to foster public participation at every stage of comprehensive plan preparation, and that such written procedures shall provide for wide distribution of draft plan materials, an opportunity for the public to submit written comments on the plan materials, and a process for the governing body to respond to such comments; and

WHEREAS, the City of Wauwatosa believes that regular, meaningful public involvement in the comprehensive plan process is important to assure that the resulting plan meets the wishes and expectations of the public; and

WHEREAS, the "Public Participation Plan: City of Wauwatosa Comprehensive Plan" includes written procedures to foster public participation, ensure wide distribution of draft plan materials, provide opportunities for written comments on such materials, and provide mechanisms to respond to such comments.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Wauwatosa hereby adopts the written procedures included in the "Public Participation Plan: City of Wauwatosa Comprehensive Plan" as its public participation procedures meeting the requirements of §66.1001(4)(a), Wisconsin Statutes.

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

## **APPOINTMENTS BY THE MAYOR**

### Youth Commission

Regina Dale, 2454 N. 73rd Street  
Barb Haines Melkovitz, 8127 Currie Avenue  
Kay Lorenzen, 1517 N. 60th Street  
(Terms end 8/31/10)

### Library Board

Mark Carlson, 11031 W. Hope Avenue  
Christopher Lowe, 6274 Upper Parkway North  
Tom Miller, 12130 Meadow Court  
(Terms end 6/30/10)

Foregoing appointments ordered held as this was the first reading.

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

1. E-mails from Geraldine Stone, Charles & Jeanette Zern, Marge Sommerfeld, and Mary Pasbrig 8220 Harwood Avenue, and letters from June Malen, Clayton Polzin, and Joyce Cave, 8220 Harwood Avenue and Diane Loppnow, 3705 Stonewood Court, Brookfield requesting that the Harwood Place senior apartments remain tax exempt; letter from Robert Pieters, Lutheran Living Services, 7500 W. North Avenue, requesting that Luther Manor, St. Camillus and Harwood Place senior apartments remain tax exempt  
**City Assessor**
2. Notice of Claim: John (Hans) Metzger, 143 N. 121st Street; Elizabeth Hoffmann, 14100 Watertown Plank Road; Varick Camron Choice, 5301 N. 29th Street, Milwaukee  
**City Attorney**
3. Conditional Use application to operate a daycare facility at 7327 W. Center Street  
**Plan Commission, Committee on Community Development**
4. Conditional Use application to expand the bar area of an existing restaurant at 8612 Watertown Plank Road  
**Plan Commission, Committee on Community Development**
5. Conditional Use application to place a fiber conversion cabinet at 1244-1252 N. 68th Street  
**Plan Commission, Committee on Community Development**
6. Conditional Use application for 1,400 square feet of medical related offices at 10100 W. Blue Mound Road  
**Plan Commission, Committee on Community Development**
7. Conditional Use application to replace a garage with a height of 20 feet at 6814 W. Wells Street  
**Plan Commission, Committee on Community Development**
8. Conditional Use application to expand the dining area for an existing restaurant at 10853 W. Blue Mound Road  
**Plan Commission, Committee on Community Development**
9. City of Wauwatosa Bank Reconciliation of Depository Accounts as of August 31, 2007  
**Place on file**
10. City of Wauwatosa Investment Summary as of September 30, 2007  
**Place on file**

11. Letter from Kathy Romanak, Wisconsin Association of Assessing Officers, 6301 Loland Drive, Waterford, requesting city support for the Amicus Brief regarding the Walgreen Company  
**City Attorney, City Assessor**
12. Letter from Graef, Anhalt, Schloemer & Assoc., Inc., regarding Notice of Complete Application pertaining to Milwaukee County Pond #1 expansion project  
**Engineering Department**

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

1. Ordinance amending Section 11.32.080 of the City Code by prohibiting parking at anytime on both sides of Swan Boulevard from Watertown Plank Road to Menomonee River Parkway  
**Re-refer to originating committee**
2. Ordinance amending Section 11.32.080 of the City Code by prohibiting parking on sections of N. 68th, 70th, and 72nd Streets and River Parkway near Hart Park  
**Re-refer to originating committee**
3. Ordinance amending Section 11.32.080 of the City Code by prohibiting parking at anytime on the east side of N. 124<sup>th</sup> Street from W. Burleigh Street to the north city limits  
**Re-refer to originating committee**

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

**RESOLUTION R-07-229**

WHEREAS, Nicholas S. Welch, 5645 W. Valley Forge Drive, Milwaukee, WI, applied for an operator's license in conjunction with his employment at the Red Lobster on N. Mayfair Road, Wauwatosa; and

WHEREAS, the Committee on Legislation, Licensing & Communications requested on two occasions that Mr. Welch appear before the Committee to discuss his record and on both occasions the applicant did not appear;

NOW, THEREFORE BE IT RESOLVED THAT the operator's license application of Nicholas S. Welch is hereby denied;

BE IT FURTHER RESOLVED THAT the Clerk shall notify Mr. Welch in writing of this decision and the reasons for the denial.

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

**RESOLUTION R-07-230**

WHEREAS, Brendan E. Moore, agent for La Rioja Restaurant, LLC, d/b/a Rioja, 7610 Harwood Avenue, Wauwatosa, WI, has applied for a Class B beer/liquor license for its new location;

NOW, THEREFORE, BE IT RESOLVED THAT a Class B beer/liquor license be awarded to Brendan e. Moore, agent for La Rioja Restaurant, LLC, d/b/a Rioja, 7610 Harwood Avenue, Wauwatosa, WI, for the period ending June 30, 2008.

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

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION** R-07-231

WHEREAS, Barbara Behlke has applied for a Conditional Use for a bed and breakfast establishment in the AA Single Family Residence District at 7127 Maple Terrace and;

WHEREAS, the Committee on Community Development has recommended denial of the application.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin hereby denies a request for a Conditional Use to Barbara Behlke for a bed and breakfast establishment in the AA Single Family Residence District at 7127 Maple Terrace.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION** R-07-232

WHEREAS, Theofilos Tselentis and Thomas and Shirley Barrie have applied for a Conditional Use in the Trade District at 7203 W. North Avenue for a restaurant, and;

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

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Theofilos Tselentis and Thomas and Shirley Barrie for a restaurant in the Trade District at 7203 W. North Avenue subject to the following conditions:

- 1) hours of operation to be 6:00 A.M. to 11:00 P.M. daily, and
- 2) obtaining any required licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION** R-07-233

WHEREAS, Mark Allison and Laerte Peter Venturi have applied for a Conditional Use in the Trade District at 7226 W. North Avenue for a fitness center, 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, and;

WHEREAS, this request has been found to be a low impact indoor operation that will limit the number of patrons and the proposed hours of operation are appropriate for this particular business;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Mark Allison and Laerte Peter Venturi for a fitness center in the Trade District at 7226 W. North Avenue subject to the following conditions:

- 1) hours of operation to be 5:00 A.M. to midnight daily, and
- 2) obtaining any required licenses and permits.

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

#### **RESOLUTION R-07-234**

WHEREAS, Edward Polito, agent for AT&T, has applied for a Conditional Use in the AA Business District at 11401 Watertown Plank Road 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, for a pad mounted fiber conversion cabinet in the AA Business District at 11401 Watertown Plank Road 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-07-235**

WHEREAS, Edward Polito, agent for AT&T, has applied for a Conditional Use in the AAA Single Family Residence District at 2600 Normandy Lane 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, for a pad mounted fiber conversion cabinet in the AAA Single Family Residence District at 2600 Normandy Lane 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-07-236**

WHEREAS, Richard Lepping has applied for a Conditional Use in the AA Business District at 510 N. Mayfair Road for a restaurant with outdoor seating and a drive-through, 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 Richard Lepping for a restaurant with outdoor seating

and drive-through in the AA Business District at 510 N. Mayfair Road subject to the following conditions:

- 1) hours of operation to be 10:00 A.M. to midnight daily with extended hours of 10:00 A.M. to 1:00 A.M. Memorial Day through Labor Day, and
- 2) fencing and landscaping as shown on approved plans, and
- 3) obtaining any required licenses and permits.

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

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

### **RESOLUTION**

WHEREAS, the Committee on Community Development considered a discussion regarding a possible reduction in the size of the Common Council at its meeting of September 25, 2007; and

WHEREAS, such proposal would reduce the Common Council from its current size of 16 members to 10 members, representing 10 separate districts with one alderman per district, beginning with 2010 election; and

WHEREAS, implementation of said reduction would require that the 8 aldermanic positions being contested in the 2008 election be reduced to 2 year terms each, such that all aldermanic terms end in the year 2010, at the time of redistricting for the new proposal; and

WHEREAS, member of the Committee on Community Development believe that the issue is of such importance that it should be a matter of public hearing before the Common Council, with notice of said hearing being published in advance of that meeting;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa shall hold a public hearing at its meeting of October 16, 2007 regarding the issue of whether the size of the Common Council should be reduced from 16 members to 10 members beginning in the year 2010;

BE IT FURTHER RESOLVED THAT the City Clerk is hereby directed to publish a notice of said public hearing in advance of the October 16, 2007 hearing date.

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

It was moved by Ald. Maher, seconded by Ald. Krill  
to amend the motion to provide for a December 4, 2007  
hearing date. Roll call vote, Ayes 11, Noes 5 (Didier,  
Donegan, Herzog, Meaux, Minear).

Roll call vote on original motion, as amended, Ayes 16

The amended resolution is as follows:

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-07-237**

WHEREAS, the Committee on Community Development considered a discussion regarding a possible reduction in the size of the Common Council at its meeting of September 25, 2007; and

WHEREAS, such proposal would reduce the Common Council from its current size of 16 members to 10 members, representing 10 separate districts with one alderman per district, beginning with 2010 election; and

WHEREAS, implementation of said reduction would require that the 8 aldermanic positions being contested in the 2008 election be reduced to 2 year terms each, such that all aldermanic terms end in the year 2010, at the time of redistricting for the new proposal; and

WHEREAS, member of the Committee on Community Development believe that the issue is of such importance that it should be a matter of public hearing before the Common Council, with notice of said hearing being published in advance of that meeting;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa shall hold a public hearing at its meeting of December 4, 2007 regarding the issue of whether the size of the Common Council should be reduced from 16 members to 10 members beginning in the year 2010;

BE IT FURTHER RESOLVED THAT the City Clerk is hereby directed to publish a notice of said public hearing in advance of the December 4, 2007 hearing date.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-239**

WHEREAS, it is anticipated that the re-estimated 2007 budget to be approved by the Common Council in November, 2007, will set aside the necessary funds to replace doors on the north side of the Public Works building; and

WHEREAS, replacement of the doors in this area is a task which is best done prior to the onset of winter weather; and

WHEREAS, the bids received for this project have resulted in a cost of \$33,000.00 for said door replacement; and

WHEREAS, sufficient funds are available in the Public Works Building Facility/Energy Audit Account to fund this project until such time as passage of the re-estimated 2007 budget;

NOW, THEREFORE, BE IT RESOLVED THAT a level three fund transfer and change of purpose from the Public Works Building Facility/Energy Audit Account to replace the Public Works Building Doors Account in the amount of \$33,000.00 is hereby approved;

BE IT FURTHER RESOLVED THAT the appropriate City officials are hereby authorized to enter into a contract for performance of said work pursuant to bids received on the project.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-240**

WHEREAS, insufficient funds have been allocated in the 2007 budget to provide for weed control at the Wauwatosa City Hall; and

WHEREAS, the Engineering Sundry Contractual Services Account contains unused funds from joint projects with the City of Milwaukee which have been cancelled; and

WHEREAS, the estimated cost of providing weed control at the Wauwatosa City Hall is \$3,500.00;

NOW, THEREFORE, BE IT RESOLVED THAT a level three fund transfer from the Engineering Sundry Contractual Services Account to the Parks Department Sundry Contractual Services Account in the amount of \$3,500.00 for purposes of weed control at the Wauwatosa City Hall is hereby approved;

BE IT FURTHER RESOLVED THAT a confirming order for such work that has already been performed in this regard is hereby approved.

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

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-07-238**

WHEREAS, the Director of Public Works has indicated an intention to change the recycling program at the City of Wauwatosa from the "blue bag" program to "single stream recycling" which would require the use of additional carts at each household in the City of Wauwatosa for purposes of collecting recyclable materials; and

WHEREAS, City officials have obtained sealed bids for the purchase of 17,320 recycling carts, the most advantageous which would cost \$786,328.00 from Cascade Engineering of St. Louis, MO; and

WHEREAS, the cost of the carts could be paid in part with the proceeds of the insurance settlement for the recent fire at the Public Works yard, in an amount of approximately \$300,000.00, with the balance being paid by a \$500,000.00 loan from the State of Wisconsin Trust Fund;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to purchase 17,320 single stream recycling carts at a cost of \$786,328.00 to Cascade Engineering of St. Louis, MO, pursuant to the bid received September 20, 2007;

BE IT FURTHER RESOLVED THAT the cost of the carts shall be paid with proceeds of the insurance settlement from the fire at the Public Works yard in an amount of approximately

\$300,000.00, with a balance of \$500,000.00 to be financed by a 5 year loan from the State Trust Fund, for which the Finance Director is authorized to apply.

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 9/19/07 – 10/2/07 --**

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 9/19/07 – 10/2/07: \$2,273,314.21

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

**FROM THE BUDGET COMMITTEE**

**RESOLUTION R-07-241**

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT a public hearing be held before the Common Council in the Council Chambers at 7:30 p.m. Local Time, on Tuesday, November 6, 2007 in the City Hall of the City of Wauwatosa, Wisconsin at which time all persons interested, will be heard concerning the 2008 proposed City of Wauwatosa Budget.

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

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

There being no further business, the meeting adjourned at 8:42 p.m.

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Carla A. Ledesma, CMC, City Clerk