



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, November 20, 2007

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

EXCUSED: Ald. Grimm

ALSO PRESENT: Mr. Archambo, City Administrator; Ms. Aldana, Asst. City Attorney; Mr. Braier, Finance Director; Mr. Kappel, Public Works Director; Ms. Welch, Community Development Director; Police Chief Weber; Ms. Ledesma, City Clerk; Ms. Van Hoven, Deputy City Clerk

Mayor Estness in the Chair

The Mayor called the meeting to order at 8:30 p.m.

It was moved by Ald. Didier, seconded by Ald. Hanson 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 held after a public hearing on November 6, 2007:

RESOLUTION R-07-270

WHEREAS, a summary of the proposed budget for the year 2008 has been published in the official newspaper of the City on October 18, 2007, together with the notice of public hearing on the proposed budget to be held on November 6, 2007; and

WHEREAS, said public hearing was held at the time and place stated in said notice and opportunity given to everyone present who desired to be heard on the proposed 2008 budget;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT pursuant to said hearing as follows:

1. That the departmental balances, if any, in the general appropriations account shall, on December 31, 2007 revert to the Unappropriated General Fund Balance, except for the following:

<u>Account No.</u>	<u>Account Title</u>
113	Youth Commission
114	Historic Preservation Commission
211-5980-020	Police-Expenditures from Donations
211-5980-060	Federal Reimbursement Program
211-5980-061	Drug Prevention & Educ. Fund
211-5980-150	Drug Asset Forfeiture
211-5980-155	DCI Task Force Forfeiture
221-5980-015	Fire Expenditures from Donations
223	Fire Equipment Reserve
421-5980-015	Health – Expenditures from Donations
522	July Fourth
551-5980-015	Parks – Expenditures from Donations
551-5980-016	Parks – Expend. From Donations – Sr. Center

2. That there be and there is hereby appropriated for the various City purposes for the year 2007, the amounts as shown in the attached estimated 2007 budget and for the year 2008, the amounts shown in the attached proposed budget as amended by the Budget Committee.

3. That the revenues and expenditures for the Debt Service Fund, Special Revenue Funds, Capital Projects Fund, Proprietary Funds and Insurance Reserve Funds are also approved as amended.

4. That the position distribution be amended to reflect those positions created or abolished by the budget.

5. That the 2008 consolidated fee schedule is hereby approved as recommended by the Budget Committee during the budget review process and made available for public review at the office of the City Clerk,

BE IT FURTHER RESOLVED THAT the sum of \$34,506,385 be and it is hereby levied and assessed upon all of the taxable property, both real and personal, in the City of Wauwatosa, assessed for taxation in said City for the year 2008 for City purposes.

It was moved by Ald. Stepaniak, seconded by Ald. Maher to approve the foregoing resolution. Roll call vote, Ayes 12, Noes 3 (Herzog, Birschel, Didier)

APPOINTMENTS BY THE MAYOR

Youth Commission

(Terms end 8/31/10, all reappointments)

Lynn Ferger, 224 N. 85th Street

Barbara Holtz, 2650 N. 89th Street

Laura Roberts, 8442 Kenyon Avenue

Tom Stepp, 2611 N. 86th Street

Kosta Zervas, 1357 N. 67th Street

Samuel Benedict, 831 N. 66th Street

Tina Schulz, 638 Pleasant View
Pam Matthews, 4139 N. 110th Street

It was moved by Ald. Maher, seconded by Ald. Krol
to concur with the foregoing appointments. -15

APPLICATIONS, COMMUNICATIONS, ETC.

1. Wauwatosa Water Utility Statement of Receipts and Disbursements for the period ending October 31, 2007
Place on file
2. State of Financial Condition as of October 31, 2007
Place on file
3. Notice of Claim; Gladys M. Lee, 4520 W. Martin Drive, Milwaukee
City Attorney
4. Notice of Claim; Lucky Vang (minor), 6626 N. 90th Street, Milwaukee
City Attorney
5. Conditional Use application for an Aldi Grocery store at 3850 N. 124th Street
Plan Commission, Committee on Community Development
6. Conditional Use application for a Pets Mart store at 3850 N. 124th Street
Plan Commission, Committee on Community Development

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION

1. Ordinance amending Chapter 24 of the Zoning Code in the Trade District and AA Business District to allow churches and other religious assemblies as permitted uses
Re-refer for originating committee

FROM THE COMMITTEE ON BUDGET & FINANCE FOR INTRODUCTION

1. Ordinance repealing Section 20.13 of the Charter Ordinance eliminating the bonding cap
Re-refer to originating committee

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-07-271

WHEREAS, Sara J. Vorpagel, 424 Branch Street, Hartford, WI, has applied for an operator's license in conjunction with her employment at Eddie Martini's on Watertown Plank Road, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Sara J. Vorpagel is hereby issued an operator's license for the period ending June 30, 2008.

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

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

ORDINANCE O-07-22

AN ORDINANCE AMENDING WAUWATOSA CODE SECTION 11.32.080 TO ADD PARKING RESTRICTIONS ON NORTH 70TH STREET

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

Part I. The “North 70th Street – east side” portion of the “schedule of streets, and portions” subsection of Wauwatosa Code Section 11.32.080 is hereby amended by adding the following:

“(a) from Blanchard Street to 1442 North 70th Street”

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

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

ORDINANCE O-07-23

AN ORDINANCE AMENDING WAUWATOSA CODE SECTIONS 11.32.080 TO ADD NO PARKING ZONES ON MARTHA WASHINGTON DRIVE

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

Part I. “Martha Washington Drive – east side” portion of that “schedule of streets, and portions” subsection of Wauwatosa Code Section 11.32.080 is hereby amended by adding the following:

“(a) from a point 25 feet north of the West Washington Boulevard underpass to a point 25 feet south thereof”

Part II. The “Martha Washington – west side” portion of the “Schedule of streets, and portions” subsection of Wauwatosa Code Section 11.32.080 is hereby amended by adding the following:

“(a) from a point 25 feet north of the West Washington Boulevard underpass to a point 25 feet south thereof”

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

It was moved by Ald. Donegan, seconded by Ald. Becker to adopt the two foregoing ordinances. -15

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-07-272

WHEREAS, Edward Polito, agent for AT&T, and Leesis Properties, LLC have applied for a Conditional Use in the AA Business District at 11104 W. Blue Mound 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 and Leesis Properties, LLC for a pad mounted fiber conversion cabinet in the AA Business District at 11104 W. Blue Mound 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-07-273

WHEREAS, Mark Boodgaard, Beeler Construction, has applied for a Conditional Use in the AA Business District at 2500 N. Mayfair Road to construct a Starbuck’s within Macy’s department store at Mayfair Mall 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 Boodgaard, Beeler Construction, to construct a Starbuck's within Macy's department store at Mayfair Mall in the AA Business District at 2500 N. Mayfair Road subject to the following conditions:

- 1) hours of operation from 8:00 a.m. to 9:00 p.m. Monday through Saturday and 8:00 a.m. to 8:00 p.m. Sunday and extended holiday hours consistent with Macy's operating hours,
- 2) obtaining any required licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-07-274

WHEREAS, Emilou Barnes, Continental Development, has applied for a Conditional Use in the AA Business District at 3180 N. 124th Street for a bank with a drive-thru, 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 Emilou Barnes, Continental Development, for a bank with a drive-thru in the AA Business District at 3140 N. 124th Street subject to the following conditions:

- 1) completion of all conditions listed in the developer's agreement between Continental required for occupancy, and
- 2) final approval of the site plan by the City Engineer, and
- 3) obtaining all necessary licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-07-275

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, December 18, 2007, in the City Hall of the City of Wauwatosa, Wisconsin at which time all persons interested, or their agents or attorneys, will be heard concerning a proposed ordinance amending Chapter 24.22 Trade District and Chapter 24.23 AA Business to allow churches and other religious assemblies as permitted uses.

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

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

ORDINANCE O-07-24

AN ORDINANCE AMENDING PORTIONS OF CHAPTER 8.25 OF THE WAUWATOSA MUNICIPAL CODE TO PROVIDE FOR ELIMINATION OF BLUE BAG RECYCLING AND CREATION OF THE SINGLE STREAM RECYCLING PROGRAM.

The Common Council of the City of Wauwatosa does hereby ordain as follows:

Part I: The introductory table of contents for Chapter 8.25 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

- Sections:
- 8.25.010 Purpose.
 - 8.25.020 Statutory authority.
 - 8.25.030 Abrogation and greater restrictions.
 - 8.25.040 Interpretation.
 - 8.25.050 Severability.
 - 8.25.060 Applicability.
 - 8.25.070 Administration.
 - 8.25.090 Definitions.
 - 8.25.100 Separation of recyclables.
 - 8.25.110 Separation requirements exempted.
 - 8.25.120 Care of separated recyclables.
 - 8.25.125 City-furnished recycling cart.
 - 8.25.130 Management of yard waste.
 - 8.25.140 Management of major appliances.
 - 8.25.150 Management of waste motor oil, vehicle batteries and scrap tires.
 - 8.25.160 Management of other residential recyclables.
 - 8.25.170 Residential curbside recycling.
 - 8.25.180 Ownership of recyclables and scavenging prohibition.
 - 8.25.190 Hauling, sorting and processing recyclables and solid waste.
 - 8.25.200 Multiple-family dwelling recycling.
 - 8.25.210 Nonresidential facility and property recycling.
 - 8.25.220 Prohibitions on the disposal of recyclables separated for recycling.
 - 8.25.230 Hazardous wastes.
 - 8.25.240 Information, inspection, enforcement and appeal.
 - 8.25.250 Fees and penalties.
 - 8.25.260 Space for recycling in public buildings.
 - 8.25.270 Procurement of recycled products.

Part II: Section 8.25.010 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

8.25.010 Purpose.

The purpose of this chapter is to promote recycling, composting, and resource recovery through the administration of an effective recycling program, as provided in Section 287.11, Wisconsin Statutes and Chapter NR 544, Wisconsin Administrative Code.

Part III: Section 8.25.020 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

8.25.020 Statutory authority.

The ordinance codified in this chapter is adopted as authorized under Sections 66.0415, 287.11(2)(b), and 289.01 of the Wisconsin Statutes.

Part IV: Section 8.25.080 of the Wauwatosa Municipal Code is hereby repealed.

Part V: Section 8.25.090 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

8.25.090 Definitions.

Words, phrases, or other expressions used in this chapter shall have meanings as follows:

“Appliance (major appliance)” means those which are considered to contain freon, PCB-containing capacitors, and mercury-containing switches or timing devices, including, but not necessarily limited to: air conditioners, clothes dryers and washers, dehumidifiers, dishwashers, fluorescent lighting fixtures with ballasts, freezers, forced air furnaces, garbage disposals and compactors, heat pumps, mercury vapor lamps, microwave ovens, ranges and stoves, refrigerators, and water heaters.

“Blue Bag program” means the city’s first curbside recycling co-collection program which operated from 1994 through 2007, using city approved blue plastic bags for curbside collected recyclables.

“Bi-metal container” means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

“City” means the City of Wauwatosa, Wisconsin.

“Co-collection,” for the city’s Blue Bag Program, shall mean the combined collection of bagged curbside recyclables together with solid waste in the same compartment of a collection vehicle.

“Composting” means the controlled biological decomposition and conversion of solid organic material into a humus-like substance called compost. The process is aerobic, meaning that it requires the presence of oxygen. The process uses various natural microorganisms such as bacteria and fungi to break down the complex organic compounds into simpler substances.

“Container board” means corrugated paperboard used in the manufacture of shipping containers and related products.

“Contractor” means the entity named and designated in the contract(s) the city has entered into to provide recycling, solid waste, yard waste and/or street cleaning services.

“Department” means the City of Wauwatosa Department of Public Works, or its designee.

“DNR” means the Department of Natural Resources of the state of Wisconsin and its various bureaus and specialized management sections.

“Drop-off center” means the site operated by the city at the public works yard at 11100 W. Walnut, Wauwatosa, Wisconsin, where residents of the city can deposit recyclables and yard waste.

“EPA” means the United States Environmental Protection Agency.

“Foam polystyrene packaging” means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

1. Is designed for serving food or beverages;
2. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container; or
3. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

“Fully Automated Collection” means Curbside pickup of recycling Cart Materials by use of dedicated recycling trucks with robotic arms to lift and empty the contents of the cart into the body of the truck(s) or their attached collection equipment.

“HDPE” means high density polyethylene, currently labeled by the Society of the Plastics Industry, Inc. (SPI) code #2.

“Holidays” means New Years Day (January 1st); Good Friday; Memorial Day (Last Monday in May); Independence Day (July 4th or if on a weekend, the day so designated by the city); Labor Day (first Monday in September); Thanksgiving Day (fourth Thursday in November or the day designated by the Governor of Wisconsin); Christmas Day (December 25th or, if on a weekend, the day so designated by the city); and the last normal workdays before Christmas Day and before New Years Day; or as otherwise designated now or in the future in the agreement between the city and Local 305 AFSCME AFL-CIO District Council 48.

“IPF” means intermedia te processing facility or facilities used for sorting the recyclables from the solid waste in the city’s Blue Bag Program, and for preparing those recyclables for further processing at MRF.

“Landfill” means a location used for the burial of solid waste and process residue in accordance with all applicable local, state, and federal laws, rules and regulations.

“LDPE” means low density polyethylene, currently labeled by the SPI code #4.

“Magazines” means magazines and other materials printed on similar paper.

“MRF” means material recovery facility or facilities which receives commingled nonpaper recyclables and commingled paper of various grades, and separates and processes these recyclables for sale to end-user markets.

“Multiple-family dwelling” means a property containing five or more residential units, including those which are occupied seasonally.

“Newspaper” means newspaper and other materials printed on newsprint.

“Nonresidential facilities and properties” means commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple-family dwellings.

“Office paper” means high grade printing and writing papers from offices in nonresidential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high grade. This term does not include industrial process waste, but can include mixed paper if high grade office paper is included in the mixed paper pack.

“Operating hours” means normal hours of operation of the drop-off center and IPF, and/or for providing other services to the city.

“Other resins” or “multiple resins” means plastic resins currently labeled by the SPI code #7.

“Person” means any individual, corporation, partnership, association, local governmental unit, as defined in Section 66.0131(1)(a) Wisconsin Statutes, state agency or authority or federal agency.

“PETE” means polyethylene terephthalate, currently labeled by the SPI code #1.

“Plastic container” means an individual, separate, rigid plastic bottle, can, jar or carton, except for a blister pack, that is originally used to contain a product that is the subject of a retail sale.

“Postconsumer waste” means solid waste other than solid waste generated in the production of goods, hazardous waste, as defined in Section 291.01(7), Wisconsin Statutes, waste from construction and demolition of structures, scrap automobiles, or high-volume industrial waste, as defined in Section 291.01(17), Wisconsin Statutes.

“PP” means polypropylene, currently labeled by the SPI code #5.

“Process residue” or “residue” means the unusable material, excepting rejects, generated in processing of recyclables at the MRF or elsewhere and which requires disposal in a landfill.

“Processing” means preparation of source-separated or commingled recyclables for market; with co-collection processing occurs after sorting of recyclables from solid waste.

“PS” means polystyrene, currently labeled by the SPI code #6.

“PVC” means polyvinyl chloride, currently labeled by the SPI code #3.

“Recyclables” means materials in the waste stream that can be remanufactured into useful products; specifically those materials described under Wisconsin Statutes 287.07. “Curbside and drop-off collected recyclables” are recyclables currently collected or collected in the future by city forces or contractor(s). These materials include aluminum beverage containers, steel and bimetal cans, newspaper, magazines, corrugated paper or other container board, office paper, plastic containers, and glass containers. This list may be expanded or revised to comply with state of Wisconsin landfill disposal bans.

“Recycling” means the series of activities involving the recovery of recyclables from solid waste and returning them to productive use through reprocessing or remanufacture.

“Recycling Cart” means the two-wheeled cart provided by the City dedicated to the storage and collection of Recyclables; and designated as being NOT for garbage or yard materials.

“Rejects” means solid waste materials not included under the definition of curbside and drop-off collected recyclables and inadvertently set out for collection, or dropped off, by residents, and material which the contractor demonstrates, to the satisfaction of the city, to be unusable because of its nature or condition at the time of delivery to the MRF.

“Single Stream Recycling” (also known as “fully commingled” or “single sort”) means a system in which all Recyclables are mixed together in the Recycling Cart and a dedicated collection truck, instead of being separated and packaged separately by type of Recyclables by the residents and handled separately throughout the collection process. In the City’s single stream recycling program, both the collection and processing systems are to be designed to handle this fully-commingled mixture of recyclables.

“Solid waste” means all domestic wastes including street sweepings and catch basin cleanings, except abandoned motor vehicles, sewage treatment residues, liquid or industrial wastes, and hazardous wastes including pathological wastes, explosives, and toxic chemicals or other wastes which according to existing or future laws or regulations require special handling in their collection and disposal.

“State” means the state of Wisconsin.

“Subcontractor” means a corporation, partnership or individual having a direct contract with the contractor for performing any work or services for the city on behalf of the contractor.

“Tires (or scrap tires or waste tires)” means waste vehicle tires from passenger cars and light trucks.

“Transfer station” means the transfer station owned by the city at the public works yard at 11100 W. Walnut, Wauwatosa, Wisconsin.

“Unacceptable waste” means any explosives, biomedical waste, radioactive waste, or hazardous waste. The definition of what constitutes hazardous waste shall be determined according to Wisconsin NR 600 (Note: Wisconsin NR 605.05 exempts household hazardous wastes from regulation as hazardous waste)

“Vehicle batteries” means lead acid batteries used in motor powered vehicles.

“Waste oil (or Oil)” means any waste oil used in the engine or crankcase of a motor vehicle.

“Yard waste” or “Yard Materials” means leaves, yard and garden debris (except grass in the city of Wauwatosa), and brush, including clean woody vegetative material no greater than six inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

Part VI: Section 8.25.100 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

8.25.100 Separation of recyclables.

Occupants of single family and two to four unit residences, multiple-family dwellings and nonresidential facilities and properties shall separate for recycling the following materials from postconsumer waste:

1. Yard materials;
2. Major appliances;
3. Waste oil;
4. Vehicle batteries;
5. Scrap tires;
6. Aluminum containers;
7. Bi-metal containers;
8. Corrugated paper and other container board;
9. Glass containers;
10. Magazines;
11. Newspaper;
12. Office paper;
13. Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins; and
14. Steel containers.

Part VII: Section 8.25.110 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

8.25.110 Separation requirements exempted.

The separation requirements of Section 8.25.100 do not apply to the following:

1. Occupants of single family and two to four unit residences, multiple-family dwellings and non-residential facilities and properties that send their postconsumer waste to a processing facility licensed by the DNR that recovers the recyclables specified in Section 8.25.100 from solid waste in as pure a form as is technically feasible;
2. Solid waste which is burned as a supplemental fuel at a facility if less than thirty percent of the heat input to the facility is derived from the solid waste burned as supplemental fuel;
3. A recyclable(s) specified in Section 8.25.100 for which a variance has been granted by the DNR under Section 287.07(7), Wisconsin Statutes, or Section NR 544.14, Wisconsin Administrative Code.

Part VIII: Section 8.25.120 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

8.25.120 Care of separated recyclables.

To the greatest extent practicable, the recyclables separated in accordance with Section 8.25.100 shall be cleaned and kept free of contaminants such as food or product residue, oil or grease, or other nonrecyclable materials, including but not limited to containers for household hazardous waste, medical waste, and agricultural chemicals. Recyclables shall be stored in a manner which protects them from inclement weather, and prevents their scattering and contribution to other nuisance conditions. Recyclables prepared for city curbside collection shall be placed in the dedicated Recycling Carts separate from other refuse containers for collection according to the provisions of Chapter 8.24 of this code for solid waste collection and disposal.

Part IX: Section 8.25.125 of the Wauwatosa Municipal Code is hereby created to read as follows:

8.25.125 City-furnished recycling cart.

A city-furnished recycling cart shall be delivered to each eligible residence and used exclusively for Recyclables generated by this residence. Recycling Carts remain the property of the city of Wauwatosa and shall be used in accordance with the applicable provisions of Chapter 8.25.

A. The owner of the property to which a Recycling Cart is furnished, shall be responsible for exercising normal care in its use. Any damage due to negligence, exclusive of normal wear and tear, on the part of the property owner, his tenants, or agents for failure to exercise such care, shall be the responsibility of the affected property owner, including reimbursement to the city for the cost of repair or replacement as required.

B. The city Recycling Cart, by use of a unique serial identification number is permanently assigned to residential property receiving service by the city. Such cart shall remain on the premises at all times, regardless of ownership or change of ownership of the property.

C. The Recycling Cart shall be set out for collection at the curb or alley where the garbage is normally collected, except for “hardship cases” which may be in the backyard. The Recycling Cart must be place a minimum of three feet away from other objects such as garbage carts/containers, trees and parked vehicles, violation of which shall be subject to penalty under Section 8.25.250.

Part X: Section 8.25.130 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

8.25.130 Management of yard materials.

Occupants of single family and two to four unit residences, multiple-family dwellings, and nonresidential facilities and properties shall manage yard waste as follows.

1. Residential yard materials curbside collection is done by the city for single family and two to four unit residences in two phases under the following conditions:

A. From mid-April to mid-October leaves and brush (excluding grass clippings, root balls, vegetables, stumps, or branches over six inches in diameter) must be separated from other household garbage, and are collected every other week at curbside normally on the same day as garbage, according to “A” and “B” schedules published in the city newsletter every Spring; with the following requirements applying to curbside collection of yard waste:

i. Reusable containers must be used marked with the words ”Yard Materials” or “Yard Waste” in letters at least two inches high, and one and a half inches wide; or approved paper yard waste bags may be used; but plastic bags are strictly prohibited;

ii. It is prohibited to put more than two hundred pounds of yard waste in a city yard waste cart, or more than fifty pounds in a reusable yard waste container or paper yard waste bag; brush and branches must be cut to less than four foot lengths and tied with string or twine (not wire or plastic strapping) into bundles under fifty pounds; no more than eight such bundles may be collected from any residence in a given week;

iii. Containers must be placed at the curb or alley before seven a.m. (7:00) the day of pick-up, but no sooner than two-thirty p.m. (2:30) the day prior to collection; and they must be returned to storage as soon as possible, but no later than eight a.m. the day after collection.

B. From mid-October to mid-November leaves may be raked into city street gutters for curb collection by city crews; during that time brush and branches under six inches diameter may only be brought to the drop-off center at the public works yard because there is no curbside collection except for “special pick-ups” as covered under Section 8.24.070 of this code; after mid-November until mid-April the yard waste drop-off at the public works yard shall be the only available city yard waste service.

2. Residential yard materials drop-off center at the public works yard, 11100 W. Walnut, accepts leaves and brush (excluding grass clippings, root balls, vegetables, stumps, or branches over

six inches in diameter) under the following conditions from single family and two to four unit residences:

- A. Year round requirements:
 - i. Yard materials are to be deposited loose only (not in plastic bags);
 - ii. If brush and branches are bundled, it must be with string or twine (not with wire, cloth or plastic strapping);
 - iii. Rocks, metal, garbage and other debris must be kept out of the yard waste, and is subject to the penalties listed in Section 8.25.250.
3. Grass clippings are not allowed at the city drop-off center or in the curbside yard waste collection. Management of grass clippings shall be done at each single family and two to four unit residence, multiple -family residence, and nonresidential facility and property by: (1) using a mulching mower and keeping the clippings on the lawn for a soil enhancer; (2) collecting and spreading the clippings in gardens or flower beds to act as mulch; (3) collecting and composting clippings in accordance with Section 15.32.030(J) of the property management code to produce usable compost; (4) using the services of a commercial landscaper or yard keeper to manage lawn and grass clippings; and/or (5) other appropriate individual management program which does not create blighted or nuisance conditions contrary to the city property management code.
4. Multiple-family dwellings and nonresidential facilities and properties shall manage grass clippings as per subsection (3) above, and shall manage other yard waste privately according to all applicable local and state laws and regulations.

Part XI: Section 8.25.160 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

8.25.160 Management of other residential recyclables.

Except as otherwise directed by the department, occupants of single family and two to four unit residences shall do the following for the preparation and collection of the separated recyclables specified in Section 8.25.100(6) through (15) for the Single Stream Recycling Program.

1. Paper recyclables shall include the following, and shall be placed together in the recycling cart:
 - A. Corrugated paper and other container board includes brown corrugated cardboard, as well as gray chipboard such as cereal boxes, shoe boxes and the like, that will fit in blue recycling bags when flattened or cut to size; and shall be empty and free from food residues and other contaminants (e.g. no pizza boxes, tissues, sanitary napkins, disposable diapers, etc.)
 - B. Magazines and catalogs shall be kept loose or placed in brown paper bags, and free of nonpaper contaminants.
 - C. Newspaper shall be kept loose or placed in brown paper bags, and free of nonpaper contaminants.
 - D. Office paper shall include junk mail, envelopes, flyers, computer paper, white or colored office paper, notebooks, file folders, books and the like; and shall be kept loose or placed in brown paper bags; and shall be free of nonpaper contaminants.
2. Nonpaper recyclables shall include the following, and shall be placed together with the Paper Recyclables in the Recycling Cart:
 - A. Aluminum beverage and food containers shall be emptied of contents, and shall not include aluminum foil, plates, siding, chairs or other aluminum products or waste.
 - B. Bi-metal beverage and food containers shall be emptied of contents and rinsed clean of food residue; labels need not be removed.
 - C. Glass containers shall be emptied of contents, rinsed clean, with caps and neck rings discarded, but labels need not be removed; it shall not include plate glass, crystal, light bulbs, ceramics, TV tubes, "milk (e.g. Malibu Rum) glass," and other noncontainer glass.

D. Plastic rigid containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins shall be emptied and rinsed clean, with caps and neck rings discarded; labels need not be removed.

E. Steel containers shall be emptied of contents and rinsed clean of food or other product residue; labels need not be removed; paint cans, aerosol cans, silverware, or other scrap metal shall not be included.

Part XII: Section 8.25.170 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

8.25.170 Residential curbside recycling.

Separated recyclables prepared according to Section 8.25.160 above shall be placed in the Recycling Cart for fully automated curbside collection. Provisions which govern curbside collection of recyclables include the following.

1. Only Recyclables in the Recycling Cart shall be picked up for curbside collection year round, every other week according to schedules published by the City.
2. Recycling Carts shall only be filled to a maximum weight of two hundred (200) pounds of recyclables.
3. Recycling Carts are to be handled separately from garbage carts and containers according to the provisions of Chapter 8.24 of this code for solid waste collection and disposal.
4. Failure to comply with the city's curbside recycling program shall be subject to the penalties established by the city and identified in Section 8.25.250.

Part XIII: Section 8.25.250 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

8.25.250 Fees and penalties.

1. Fees: Upon the effective date of the 2007 amendments to this ordinance, the recycling shall be collected by the City of Wauwatosa in the amounts set out in the Consolidated Fee Schedule.
2. Penalties: upon the effective date of the ordinance codified in this chapter, and after inspection and sufficient notification by representatives of city public works operations, the following penalties shall be allowed to be cited and collected by the city; subject to change, addition, or deletion at anytime by the city without notice.
 - A. If as prohibited in Section 8.25.130 yard waste deposited at the drop-off center is contaminated with rocks, metal, garbage and/or other debris:
\$100.00 first violation,
\$500.00 second and subsequent violations;
 - B. If as prohibited in Section 8.25.150 any other substance is mixed with waste oil for recycling:
\$100.00 first violation,
\$500.00 second and subsequent violations;
 - C. Failure to comply with the city's residential curbside recycling program as required in Sections 8.25.120 or 8.25.170:
\$50.00 first violation,
\$100.00 second and subsequent violations;
 - D. If as prohibited in Section 8.25.180 any person not under contract with or licensed by the municipality or state, collects or removes any recyclable material that has been deposited or placed at the curb for recycling, or placed in a recycling container adjacent to a home, multiple-family dwelling, or nonresidential building, including city drop-off center containers:
\$250.00 first violation,

\$500.00 second and subsequent violations;

E. If as required in Section 8.25.190 any person generating solid waste and/or recyclable materials fails to comply with city or hauler written notification about the reason(s) for refusal to collect the materials:

\$50.00 first violation,

\$100.00 second and subsequent violations;

F. Failure of multiple-family dwelling or non-residential facility or property to recycle according to Section 8.25.200 or Section 8.25.210:

\$250.00 first violation,

\$500.00 second and subsequent violations;

G. Illegal disposal of recyclables as prohibited in Section 8.25.220:

\$1,000.00 first violation,

\$2,500 second and subsequent violations;

H. Penalties for violation of any other provision(s) of this chapter not specified in subsections (A) through (G) of this section:

\$50.00 first violation,

\$100.00 second and subsequent violations;

I. Other penalties to be established by the city as needed.

Part II: This ordinance shall become effective on and after its date of publication.

It was moved by Ald. Treis, seconded by Ald. Krill
to approve the four foregoing resolutions and to
adopt the foregoing ordinance. -15

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-07-276

WHEREAS, additional consulting services were necessary to accomplish an RFP process for health insurance cost constraints; and

WHEREAS, the RFP resulted in the City changing third party administrators and self-insuring both health plans which is projected to achieve significant cost constraint in health insurance expenditures; and

WHEREAS, in part, as a result of the RFP process, there are adequate funds in the health insurance claims account to cover a transfer of funds to the Sundry Contractual Services Account for these consulting services;

WHEREAS, payments on one contract exceeding \$25,000.00 require Council approval and total payments to one consultant, Healthcare Systems Consultants, will exceed \$25,000.00 in 2007; and

NOW, THEREFORE, BE IT RESOLVED THAT a transfer of \$45,000.00 for health insurance claims (16-311-5100-000) to Health Insurance Sundry Contractual Services (16-321-5810-000) is approved and the payment of Health Care Systems Consultants in an amount exceeding \$25,000.00 for 2007 is also approved.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-07-277

WHEREAS, Mark Russert, agent for Cricket Communications, proposes to install a telecommunications facility on City-owned property at 7725 W. North Avenue, for which conditional use approval has previously been granted by the Common Council; and

WHEREAS, the proposal provides that the company will lease the appropriate space from the City of Wauwatosa for purposes of installation on the City Hall grounds, will make annual payments and meet certain other obligations to the City of Wauwatosa pursuant to a Lease Agreement to be entered into with the City of Wauwatosa, and will construct the facilities described in the Lease Agreement at the company's expense, consistent with the recommendation of the City Administrator as part of his November 9, 2007 memorandum to the Committee on Budget & Finance;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to enter into a Lease Agreement with Cricket Communications for the installation of a wireless communication facility at 7725 W. North Avenue, on the grounds of the Wauwatosa Civic Center, consistent with the recommendations of the City Administrator in his November 9, 2007 memorandum to the Committee on Budget & Finance.

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

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 11/7/07 – 11/20/07 --

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 11/7/07 – 11/20/07: \$2,117,788.05

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

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-07-278

BE IT RESOLVED, By the Common Council of the City of Wauwatosa, Wisconsin that the following be and hereby are the policies for 2008 construction pertaining to street improvements and corresponding rates:

(1) Due to the relative value of the benefits conferred upon different types of properties by the public improvements described herein, assessments for original permanent pavement shall be at the following rates per assessable foot based upon property classification:

- a) \$55.00 for one or two family residences, churches, schools, public parks (“single family rate”)
- b) \$68.75 for multiple family residences of three or more (1-1/4 x single family rate)
- c) \$82.50 for business or commercial property (1-1/2 x single family rate)
- d) \$110.00 for industrial property (2 x single family rate)

(1.1) a) A pavement improvement that terminates only partially abutting a parcel of land, shall have only such *prorata* portion assessed in the year that the Final Resolution is adopted by the Common Council
b) On streets that Federal and/or State Aid is not available, the rate of assessment may be adjusted to recover 60% of the paving costs.
c) On streets where sidewalks are to be newly constructed on one side only, in conjunction with a street scheduled for improvement, the cost of the sidewalk plus 25% for engineering and overhead may be prorated by total street frontage and added to the basic assessment for each property abutting said improvement or on both sides of that portion of said street.

(2) The assessments for reconstruction of a permanent pavement shall be at the following rates per assessable foot (average width) for one or two family residences (other classes proportioned as in (1) above).

- a) Repaving Type “A” \$36.00 for completely removing existing curb and pavement regrading and replacing with new concrete curb and gutter and either concrete pavement or asphalt pavement with a new road base.
- b) Repaving Type “B” \$28.80 for completely removing existing curb and gutter, milling the existing pavement as required, and replacing with concrete curb and gutter and asphalt pavement on the existing road base.
- c) Repaving Type “C” \$14.40 for replacing defective curb and gutter (not to exceed 25% of the total length of curb and gutter existing on the street segment to be improved), milling the existing pavement surface as required, and surfacing with new asphalt pavement.

If Type “C” Repaving is required on arterial streets less than 25 years after Type “A” repaving has been performed, all one and two family residences shall receive total assessment credit equal to 4% for each year under 25 years.

To recover the cost of public sidewalk replacement when done in conjunction with repaving, the assessable rates may reflect an amount of \$9.50 added against each frontage foot of adjacent properties.

Sidewalk replacement when not assessed by frontage foot shall be assessed at actual cost plus the cost of engineering and overhead as described in paragraph 11.

Any property where the entire city sidewalk was replaced within twelve years may be exempt from sidewalk assessment provided walk is at proper grade and condition.

Drive approach replacement shall be assessed at actual cost plus the cost of engineering and overhead as described in paragraph 11.

- (3) Alleys shall be considered individually assessable at actual cost plus the cost of engineering and overhead as described in paragraph 11 with the abutting property owner being assessed at a unit rate per assessable foot for permanent new construction, reconstruction, or asphaltic resurfacing, as follows:

Property Classification Factors

- (a) 1-Unit - one and two family residences, churches, schools, public parks
- (b) 1-1/2 Units - three or more family residences, apartments (3 or more units)
- (c) 2 Units - business, commercial, industrial

Assessable Factors

- (a) Rear alley - Average of front and rear lot lines.
 - (b) Side alley - Average of front and rear lot lines.
 - (c) Rear and side alley - Single assessment only: average of front and rear lot lines.
 - (d) One and two family lots with primary vehicle access from a public street assessed at 50% of the unit rate.
- (4) (a) Side yards, consistent with the definition in sec. 24.02.340 of the Wauwatosa Municipal Code, for original permanent pavement, reconstruction of permanent pavement, and asphalt resurfacing shall be assessed at the rate of 50% of the assessable side yard footage, abutting on the street being improved, for 1 and 2 family, church, school, and public park uses only. All other classes of property shall be assessed for full assessable footage.
- (b) A platted or divided lot that extends through and abuts two streets, provided such lot does not consist of two or more platted or divided lots, shall have the longer of the two sides considered a side yard for purposes of assessment. The rate of assessment shall be determined as described in Paragraph (4) (a) herein.

Should both abutting frontages be equal in length, the frontage first improved or reconstructed or resurfaced, as the case may be, shall be considered the front for assessment purposes. Irregular shaped lots may be assessed based on the actual abutting frontages.

- (c) Properties with 3 sides adjacent to streets shall have the two longest assessable footage sides assessed at 50%. Remaining side is assessed at 100% of assessable footage.
- (5) Permanent asphalt driveway approaches placed at existing driveways, in connection with the construction of original permanent pavement, shall be assessed at cost plus 12.5% for engineering and overhead.
- (6) Concrete drive approaches replaced under public contract, in connection with the construction of all permanent paving, shall be assessed at actual cost plus the cost of engineering and overhead as described in paragraph 11. Concrete drive approaches six years old or less are to be replaced at no cost, and those seven to twelve years old at one-half cost.
- (7) Defective permanent curb replaced either by contract or City forces, when requested by the property owner in writing, or replacements not in connection with the resurfacing of a permanent street, shall be assessed at the rate of \$37.00 per foot replaced.

- (8) Service walk replacement shall be assessed at actual cost plus the cost of engineering and overhead as described in paragraph 11, when done in conjunction with all permanent paving.
- (9) Costs of service walks removed and replaced with sod in conjunction with permanent paving or sidewalk repair contract are not assessed to abutting property owners.
- (10) Sidewalk, driveway approaches, and service walk removal and replacement, when not done in conjunction with permanent paving or when ordered replaced by the Board of Public Works due to deterioration or defective condition, when done under public contract, shall be assessed at cost plus 25% for engineering and overhead. Sidewalks and service walks when not done in conjunction with permanent paving, which require replacement because of city tree roots damaging same, shall receive a 1/3 credit.
- (11) To recover the cost of engineering and overhead in connection with repaving and related work involving special assessments, a charge of 12.5% shall be made against the contract amount of such work, unless a different amount is specifically stated in this resolution.
- (12) Drive approaches, sidewalk, service walk, and/or sodding replaced under public contract in excess of that required for construction of all permanent paving as determined by the Engineering Department, when requested by the property owner in writing, shall be assessed at actual cost plus the cost of engineering and overhead as described in paragraph 11.
- (13) Federal, state, and railroad properties are exempt from special assessments.
- (14) Street projects that have been postponed shall be assessed at the rate the project was originally approved by the Common Council unless the Common Council subsequently sets a new rate.
- (15) This policy of assessment shall apply commencing with the date of adoption and will remain in effect until such time as modified by the Common Council.

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

There being no further business, the meeting adjourned at 8:55 p.m.

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Carla A. Ledesma, CMC, City Clerk