



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, December 18, 2007

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

EXCUSED: Ald. Krol

ALSO PRESENT: Mr. Archambo, City Administrator; Mr. Kesner, City Attorney; Mr. Braier, Finance Director; Mr. Kappel, Public Works Director; Ms. Welch, Community Development Director; Police Capt. Sutter; Ms. Aldana, Pers. Administrator; Fire Chief Redman; Ms. Ledesma, City Clerk; Ms. Van Hoven, Deputy City Clerk

Mayor Estness in the Chair

The Mayor called the meeting to order at 7:53 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

POLL WORKER APPOINTMENTS

The following names were submitted for appointment as poll workers in 2008-2009:

District 1

Stacy Carawan, 2624 N. 63rd Street
Mary Baker, 2131 N. 72nd Street
Mary Norman, 2150 N. 71st Street
Lois Proft, 2233 N. 63rd Street
Bernice Sisulak, 7358 Harwood Avenue

James Landolt, 2212 N. 70th Street
Leigh Zarse, 1812 Mountain Avenue
Lillian Alberts, 2225 N. 64th Street
Elton Smith, 6706 Revere Avenue
Jacqueline Ward, 2134 N. 71st Street

Kurt Kiekhafer, 2466 Lefeber Avenue
Betty McFarland, 2616 N. 83rd Street
Mary O'Connell, 2219 N. 64th Street
Carol Long, 2110 N. 62nd Street
Jeannette Van Dorn, 6314 Upper Parkway North

District 2

Judy Persin, 2000 Forest Street
Lucille Liebner, 8125 Aberdeen Court

Patricia Mundy, 2225 N. 103 Street
Betsy Caron, 1761 Church Street
Gerald Schmidt, 8146 Warren Avenue

Anne Goyette, 9407 W. North Avenue #2
Sonja Cox, 2123 N. 107th Street
Mary Foley, 2205 N. 102nd Street
Lois Yanny, 8008 Hillcrest Drive
Lawrence Decker, 8415 Kenyon Avenue

Tony Ostry, 1409 N. 64th Street
Craig Haas, 1936 N. 84th Street
James Kolbeck, 8202 Woodland Avenue
Francis Cotter, 605 N. 111th Street
Terese Shinner, 803 Glenview Avenue

District 3

Joanne Pitterle, 513 N. 106th Street
Patricia D'Amore, 8720 Glencoe Circle
Joan Parsley, 157 N. 87th Street
Jean Malinowski, 8643 Glencoe Circle
Cornelia Hawkins, 8449 Ravenswood Circle

Janet Pomush, 524 N. 98th Street
Helen Davison, 10426 W. Michigan St.
Marlene Brener, 10331 W. Wisconsin Avenue
Patricia Rickert, 510 N. 111th Street
Marilyn Zunker, 441 N. 112th Street

Kathy Wilfrath, 210 N. 110th Place
Margaret Kusik, 11824 W. Homewood Ave.
Trent Jay, 11624 W. Mt. Vernon Avenue
Gerald Zunker, 441 N. 112th Street
Peggy Neary-Frattura, 826 N. 115th Street

District 4

Howard Nicholson, 619 N. 78th Street
Robert Sosny, 7020 Grand Parkway
Dick Bulgrin, 7021 W. Blue Mound Road
Sadie Minnema, 6800 Auburn Avenue
Geri Altmann, 7112 Auburn Avenue

Rowena Radtke, 2336 N. 84th Street
Eva Moe, 5917 W. Wells Street
Joseph Musto, 7015 W. Wells Street
Jill Gaertner, 6829 Terrace Court
Wayne Belling, 6320 W. Wells Street

Richard Badenhop, 6323 W. Wisconsin Ave.
Rita Musto, 7015 W. Wells Street
Joan Badenhop, 6323 W. Wisconsin Avenue
Dixie Szohr, 951 N. 70th Street
Jeanette Laabs, 5805 W. Wisconsin Avenue

District 5

David Cadrette, 7808 W. Wright Street
Hugh Janasiak 2322 Lefebber Avenue
Joyce Dunne, 2367 N. 63rd Street
Janet Keller, 2423 N. 68th Street
Cynthia Wasrud, 2540 N. 71st Street

Sarah Anderson, 2557 N. 69th Street
Kathy Best, 2449 Lefebber Avenue
Marilynn Pyron, 2551 N. 65th Street
Catherine Oremus, 2540A N. 64th Street
Mary Passage, 2554 N. 124th Street

Gwen Simonis, 2322 Lefebber Avenue
Joanne O'Brien, 3335 N. Knoll Terrace
Vicky Ostry, 1409 N. 64th Street
Janet Templeman, 2341 N. 72nd Street
Arlene Knight, 7837 Livingston Avenue

District 6

Jean Beam, 2505 N. 81st Street
Lynn Dziadulewicz, 9556 Beverly Place
Judy Walsh, 2457 N. 90th Street
Philip Pudleiner, 2351 N. 103rd Street
Mary Dally, 2446 N. 102nd Street
Annette Worzala, 2604 N. 91st Street

Lois Cullen, 3216 N. Knoll Terrace
Kathleen Blackburn, 2323 N. 100th Street
Beverly Schwabe, 9416 Beverly Place
Lois Schaefer, 2516 N. 86th Street
Joanne Benz, 2504 N. 83rd Street

JoAnne Taylor, 9413 Beverly Place
Bruce Peterson, 3134 N. 105th Street
Sallie Peterson, 3134 N. 105th Street
Frank J. Hallfeld, 12026 W. Chambers
Lynn Koehler, 2471 N. 93rd Street

District 7

Ronald Anderson, 1116 N. 117th Street
Joanne Anderson, 1116 N. 117th Street
Margaret (Peg) Broker, 6707 Revere Avenue
Leroy Herman, 2626 N. 122nd Street
Thomas Savignac, 11407 W. Clarke Street

Pat Behling, 1652 N. 118th Street
Jerry Behling, 1652 N. 118th Street
Enid (Penny) Wolf, 12300 Christine Drive
Richard Bachman, 2229 N. 115th Street
Gloria Bachman, 2229 N. 115th Street

Karen Albers, 2122 N. 107th Street
Helen Jaeger, 9995 W. North Avenue
Tom Persin, 2000 Forest Street
Jeanine Savignac, 11407 W. Clarke Street
Patricia Visuri, 2335 N. 114th Street

District 8

Fred Muenta, 4434 N. 106th Street
Karen Vogel, 7426 Wellauer Drive
Dolores Gluth, 10720 W. York Place
Heidi Vulgaris, 10721 W. York Place.
Nancy Kohnert, 4276 N. Glenway Street

Gerald Powers, 4126 N. 97th Street
Peter Schiller, 4515 N. 107th Street
Virginia Muenta, 4434 N. 106th Street
Eugene Hitz, 4122 N. Glenway Street
Lucille Dallmann, 4144 N. 96th Street

Theresa K. Hitz, 4122 N. Glenway Street
Nancy Wellenstein, 4120 N. 97 Street
Jennifer Neighbors, 2260 N. 63rd Street
Brian Baltinson, 2209 N. 62nd Street
Carol Onsager, Wauwatosa

Nursing Home Absentee Voting Deputies

Beverly Schwabe, 9416 Beverly Place
Lois Schaefer, 2516 N. 86th Street

Registrars/Alternate Poll Workers

Terri Uden, 2354 N. 72nd Street
Gene Brown, 6521 W. Wright Street

John Stolte, 2530 Lefebber Avenue
Donna Zimmerman, 2722 N. 74th Street
William Zabriske 1404 N. 121st Street

Yvonne, Bleakly, 2121 N. 97th Street
Bill McFarland, 2616 N. 83rd Street
Elizabeth Zurawski, 1930 N. 118th Street

Nancy Zabriske, 1404 N. 121st Street
John Bleakly, 4121 N. 97th Street.

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

PUBLIC HEARING

The first item of business was a public hearing to consider a proposal to amend the Zoning Code in the Trade District and the AA Business District to allow churches and other religious assemblies as permitted uses.

Proof of publication is in the file.

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI,

The City Plan Commission, to whom was referred the request by Rev. Jason Butler for a zoning code amendment in the Trade District and AA Business District to allow churches and other religious assemblies as permitted uses, recommends to the Common Council that the request be denied.

Dated this 12th day of November 2007.

Nancy L. Welch, Secretary
City Plan Commission

In her remarks, Ms. Welch, Community Development Director, pointed out that the proposed amendment to the zoning code is not being considered in order to permit a specific use at a specific location. An amendment changes all uses for all locations within a zoning district. Land use decisions cannot be made on the basis of whether a proposal seems like a good idea, or would work well for a particular location.

By approving this amendment, the City would make it possible for any church to locate in a Business or Trade District location with little approval needed. This means, for example, a church could locate at Mayfair Mall or on North Avenue. Zoning ordinances promote health, safety, and solid property values and assure orderly growth without one use being a problem for another. They designate locations for parks and open spaces, and prevent manufacturing uses in residential areas. Allowing the extension of business districts without considering marketing implications can result in vacancies. The City must consider the best pattern of land use and how to promote the best uses of properties.

The situation prompting this proposed amendment change is a church holding services at the Rosebud Theater. Since the theater is already a place of assembly from noon to 2 a.m., per its Conditional Use approval, an amendment to that Conditional Use (changing the hours of assembly and providing for an accessory use) could be considered instead of a zoning code amendment. The Conditional Use process allows the City to review proposals at specific locations in terms of impact on an area and adjacent uses.

The new owner of the Rosebud Theater has made such an application; it will be considered at the January 2008 Plan Commission meeting.

The Mayor inquired whether anyone of the public present wished to be heard in favor of the proposed ordinance.

Rev. Jason Butler, 6619 W. Moltke Avenue, Milwaukee, stated that he is the pastor of Transformation Church meeting at the Rosebud Theater. He does not wish to see the city amend the zoning code provided the church can continue to worship in a suitable location. His church currently meets in the theater at a time when the theater is closed. Rev. Butler confirmed that the Rosebud Theater's owner has applied for an amendment to its Conditional Use permit that would enable the church to continue holding services there.

City Attorney Kesner pointed out that no commitment can be made at this time that the Conditional Use application will be approved – only that it will receive proper consideration as it moves through the approval process. He suggested to Rev. Butler that he may wish to ask to hold the zoning code amendment pending the outcome of the Conditional Use application process.

Rev. Butler requested that the zoning code amendment be held pending resolution of the Conditional Use application.

It was moved by Ald. Stepaniak, seconded by Ald. Krill to hold the item without prejudice until the Conditional Use amendment has completed the application process. -15

The public hearing was declared closed. The item will be held in file. The Conditional Use application will be considered by the Plan Commission on January 7, 2008.

OLD BUSINESS

The following item was held after a public hearing on December 4, 2007:

RESOLUTION R-07-284

WHEREAS, a proposal was received by the Common Council to reduce the size of the Common Council from its current sixteen members to ten members representing ten separate aldermanic districts; and

WHEREAS, the Common Council received information from members of the public on this matter at a public hearing on December 4, 2007; and

WHEREAS, the matter was further considered by the Committee on Community Development at its meeting of December 11, 2007;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council hereby declines to proceed forward with the proposal to reduce the size of the Common Council and places the matter on file.

It was moved by Ald. Krill, seconded by Ald. Purins to approve the foregoing resolution. Roll call vote, Ayes 10, Noes 5 (Herzog, Minear, Didier, Donegan, Ewerdt).

APPLICATIONS, COMMUNICATIONS, ETC.

1. Notice of Claim: James and Joanne Benz, 2504 N. 83rd Street
City Attorney
2. Notice of Claim: Lamont McHenry (minor) and Lamontaya Holt (minor), 2101 W. Neil Place, Milwaukee
City Attorney
3. Wauwatosa Water Utility Statement of Receipts and Disbursements as of November 30, 2007
Place on file
4. City of Wauwatosa Investment Summary as of November 30, 2007
Place on file
5. State of Financial Condition as of November 30, 2007
Place on file
6. Notice of Claim: Kurt Gerwenko, 2632 N. Lefebber Avenue
City Attorney
7. E-mail from John Albert, 1922 N. 122nd Street congratulating the Common Council on the decision to eliminate the bonding cap
Add to existing file
8. E-mail from Pamela Eichler, 2631 N. 69th Street in support of Transformation City being allowed to continue to hold services in Wauwatosa
Add to existing file
9. Letter from Marcus White, Exec. Director, Interfaith Conference of Greater Milwaukee, 1442 N. Farwell Avenue, Milwaukee expressing concerns about zoning with regard to churches and religious assemblies
Add to existing file
10. E-mail from Christopher Johnson, 1747 Underwood Avenue, in support of communities of faith being allowed to meet at Wauwatosa locations such as the Rosebud Theater
Added to existing file
11. Letter from Robert D. Love, Trinity Church, 1717 Church Street, requesting that the city rescind the property taxes assessed for the year 2007 and into the future
Budget & Finance Committee
12. Conditional Use application for a change in business hours at 10842 W. Blue Mound Road
Plan Commission, Committee on Community Development
13. Conditional Use application to install a self-enclosed irrigation pump station at 3535 N. Mayfair Road
Plan Commission, Committee on Community Development
14. Conditional Use application for a Starbucks Coffee Shop and drive thru at 2717 N. Mayfair Road
Plan Commission, Committee on Community Development
15. Conditional Use application for accessory uses to be permitted and a change in hours of operation at 6823 W. North Avenue
Plan Commission, Committee on Community Development
16. Conditional Use application for a fiber conversion cabinet at 10125 W. North Avenue
Plan Commission, Committee on Community Development

FROM THE COMMITTEE ON TRAFFIC & SAFETY FOR INTRODUCTION

1. Ordinance amending Section 11.32.080 of the Code restricting parking on the east side of N. 109th Street between W. Blue Mound Road and Michigan Avenue

Re-refer to originating committee

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-07-285

WHEREAS, Gregor A. Yank, 5731 W. Cascade Drive, Franklin, WI, has applied for an operator's license in conjunction with his employment at Eddie Martini's on Watertown Plank Road, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Gregor A. Yank, is hereby issued an operator's license for the period ending June 30, 2008.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-07-286

WHEREAS, Charles M. Sullivan, agent for Decade Mayfair LLC, d/b/a Radisson Hotel Milwaukee West, 2303 Mayfair Road, Wauwatosa, WI, has applied for a Class B beer and liquor license for its location;

NOW, THEREFORE, BE IT RESOLVED THAT a Class B beer and liquor license be awarded to Charles M. Sullivan, agent for Decade Mayfair LLC, d/b/a Radisson Hotel Milwaukee West, 2303 Mayfair Road, Wauwatosa, WI, for the period ending June 30, 2008.

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

FROM THE COMMITTEE ON EMPLOYEE RELATIONS

RESOLUTION R-07-287

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT the position distribution be amended to add the position of Health and Productivity Coordinator as one full-time equivalent to Personnel Department.

It was moved by Ald. Purins, seconded by Ald. Stepaniak to approve the foregoing resolution. Roll call vote, Ayes 13, Noes 2 (Herzog, Grimm).

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-07-288

WHEREAS, Nick Griswold and Desiree Scherdin have applied for a Conditional Use in the AA Business District at 11430 West Blue Mound Road for a wellness center including massage therapy 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 Nick Griswold and Desiree Scherdin for a wellness center including massage therapy in the AA Business District at 11430 West Blue Mound Road subject to the following conditions:

- 1) Hours of operation from 8:00 a.m. to 10:00 p.m. daily, and
- 2) Obtaining any other licenses and permits.

It was moved by Ald. Treis, seconded by Ald. Herzog to approve the foregoing resolution. - 15

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-07-289

WHEREAS, the Purchasing Manager has solicited bids for printing the City newsletter under a 2-year contract beginning January, 2008; and

WHEREAS, seven bids were received for this proposal, of which Roto Graphic Printing was the low bidder; and

WHEREAS, Roto Graphic has previously performed this service for the City and has familiarity with processing this newsletter and has provided consistent quality;

NOW, THEREFORE, BE IT RESOLVED THAT the 2-year contract for printing the City newsletter is hereby awarded to Roto Graphic Printing pursuant to bids received by the Purchasing Department on November 26, 2007, and as outlined in the November 27, 2007, memorandum of the Purchasing Manager to the Committee on Budget & Finance.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-07-290

WHEREAS, creation of the nonprofit group the Friends of Hart Park would allow for fundraising and expenditures to be conducted for improvements of Hart Park which would not be subject to other

City restrictions, and would ultimately help reduce future tax levy expenditures for maintenance and upkeep at the Park; and

WHEREAS, an initial expenditure of \$750.00 is required by the Friends of Hart Park to file an application for approval by the Internal Revenue Service as a tax exempt organization pursuant to Section 501(c)3 of the Internal Revenue Code; and

WHEREAS, the Director of Public Works has identified \$750.00 of available funds from the sundry contractual services account of the Board of Parks & Forestry Commissioners;

NOW, THEREFORE, BE IT RESOLVED THAT a change of use of \$750.00 previously budgeted for the Board of Parks & Forestry Commissioners sundry contractual services account in 2007 is hereby approved for purposes of providing the funds necessary to allow the Friends of Hart Park to file its application as a tax exempt organization.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-07-291

WHEREAS, numerous City departments have filed forms with the Finance Director requesting specific funds within various accounts be carried over from the 2007 to 2008 budget year; and

WHEREAS, those forms were provided to the Committee on Budget & Finance at its December 11, 2007, and are available for review in the files of the City Clerk;

NOW, THEREFORE, BE IT RESOLVED THAT the carryover requests presented to the Budget & Finance Committee at its December 11, 2007, Committee and further retained in the files of the City Clerk and the Finance Director are hereby approved for carryover into the 2008 budget year.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-07-292

WHEREAS, the City of Wauwatosa has participated in the Federal Community Block Grant program as an Entitlement City since 1994; and

WHEREAS, there are unexpended funds from projects that have either been completed or that are no longer eligible and those funds require reallocation of these funds into active CDBG projects;

WHEREAS, upon consideration by the Committee on Budget and Finance on December 11, 2007, the committee recommended to approve the reallocation of \$200,926 in Community Development Block Grant funds;

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Wauwatosa hereby reallocates CDBG funds to the following projects:

<u>Program Year</u>	<u>Project</u>	<u>Amount</u>
1999	Little Red Store Rehabilitation	\$126,300
2007	Health Department Senior Transportation Study	\$ 5,402
2007	Wil-O-Way Rehabilitation	\$ 69,224
		\$200,926

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

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-07-293

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Mary Baker 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.

It was moved by Ald. Stepaniak, seconded by Ald. Purins to approve the foregoing resolution. Roll call vote, Ayes 12, Noes 3 (Becker, Donegan, Grimm).

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 12/5/07 – 12/18/07 --

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 12/5/07 – 12/18/07: \$1,932,801.39

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-07-294

WHEREAS, the Board of Public Works has accepted the work of Asphalt Concrete Repaving and work incidental thereto in the City of Wauwatosa under Contract 06-7 and the same is ready for final payment.

NOW, THEREFORE, BE IT RESOLVED by the Board of Public Works of the City of Wauwatosa, Wisconsin as follows:

Section 1. That the work of Asphalt Concrete Repaving under Contract 06-7 is hereby accepted.

Section 2. That the proper City officers be and they are hereby authorized and directed to draw and sign a City order in the sum of thirty-one thousand eight hundred ninety-nine dollars and fifty cents (\$31,899.50) in favor of Payne & Dolan, Inc. as the final payment under said contract, upon receipt of waivers of lien and for labor and materials furnished under said contract, and upon receipt of an affidavit stipulating compliance with wage rate requirements.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-07-295

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 Burkhart Construction Corporation for the work of Portland Avenue Bridge Scour Repair and work incidental thereto under Contract 07-16 at and for their bid price of \$121,749.00, this being the only and best bid.

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

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

There being no further business, the meeting adjourned at 9:05 p.m.

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Carla A. Ledesma, CMC, City Clerk