



CITY OF WAUWATOSA  
MEMORIAL CIVIC CENTER  
7725 WEST NORTH AVENUE  
WAUWATOSA, WI 53213  
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**COMMON COUNCIL**  
**Regular Meeting, Tuesday, June 20, 2006**

PRESENT: Alds. Grimm, Hanson, Herzog, Krill, Krol, Maher, Meaux, Purins, Stepaniak, Sullivan, Treis, Becker, Birschel, Didier, Donegan, Ewerdt -16

ALSO PRESENT: Mr. Kesner, Interim City Administrator/City Attorney; Mr. Braier, Finance Director; Mr. Kappel, Dir. of Public Works; Ms. Welch, Community Development Director; Dr. Kreuser, Health Officer; Fire Chief Redman ; Ms. Ledesma, City Clerk; Ms. Williams, Deputy City Clerk

Mayor Estness in the Chair

The Mayor called the meeting to order at 7:51 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. -16

**APPOINTMENTS BY THE MAYOR**

Wauwatosa Historic Preservation Committee  
Dan Jones, 7623 Livingston Avenue  
(Term ends 11/30/06)

It was moved by Ald. Krol, seconded by Ald. Meaux to concur with the foregoing appointment. -16

**APPLICATIONS, COMMUNICATIONS, ETC.**

1. Wauwatosa Water Utility Statement of Receipts and Disbursements for month ended May 31, 2006  
**Place on file**
2. City of Wauwatosa Investment Summary as of May 31, 2006  
**Place on file**
3. Letter from Gordon Stevenson and Mary Rose Teves, Wisconsin Dept. of Natural Resources, informing the city of grant funding available for the Schoonmacher Creek Wall Restoration construction project  
**City Engineer**
4. Letter from Donna Jostsons, 7216 W. Blue Mound Road, requesting reconsideration of the special assessment levied for the 2007 Blue Mound Road repaving project  
**Engineering, Board of Public Works**

5. Notice of Lawsuit: Milwaukee Regional Medical Center, Inc. v. City of Wauwatosa  
**City Attorney**
6. Letter from Ald. Birschel requesting a report regarding the rat population at the city yards and that money and resources be allocated to the health department to combat the problem  
**Director of Public Works, Health Officer; Interim City Administrator**
7. City of Wauwatosa Statement of Financial Condition as of 5/31/06  
**Place on file**
8. Letter from Jeffrey M. Chase, Washington Homes Association, requesting the city fund 50% of the local share of the Schoonmacher Creek Wall Restoration construction project  
**City Engineer**
9. Letter from Kevin Shafer, Milwaukee Metropolitan Sewerage District, requesting the city adopt the grading plan east of Swan Boulevard and north of the future basin for the Milwaukee County Grounds Floodwater Management project  
**Director of Public Works**

**FROM THE COMMITTEE ON LEGISLATION, LICENSING & COMMUNICATIONS FOR INTRODUCTION**

1. Ordinance requiring a minimum forfeiture for the theft or destruction of residential yard signs of \$250 plus costs  
**Re-refer to originating committee**

**FROM THE COMMITTEE ON EMPLOYEE RELATIONS**

**RESOLUTION R-06-137**

WHEREAS, the Employee Relations Committee has invited three executive search firms to make presentations to the Committee for the purpose of retaining one to conduct the search for City Administrators; and

WHEREAS, the Committee wishes to start its meeting on June 27, 2006, at 5:30 p.m. to allow time for the presentations and to coordinate with other standing committees scheduled for that night; and

WHEREAS, municipal ordinance 2.02.120 provides that meeting of standing committees shall not begin before 6:00 p.m. except as declared by the Common Council;

NOW, THEREFORE, BE IT RESOLVED THAT the meeting time of the Employee Relations Committee shall be at 5:30 p.m. on June 27, 2006.

It was moved by Ald. Purins, seconded by Ald. Krill to approve the foregoing resolution. -16

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

**RESOLUTION R-06-138**

WHEREAS, former Alderman Richard Bachman has, in previous years, solicited donations for a Flag Account for the purposes of funding the placement of American flags on street light poles along North Avenue in the City of Wauwatosa; and

WHEREAS, Mr. Bachman is preparing to send a new mailing to potential donors to solicit additional donations and has requested authorization to utilize the City of Wauwatosa logo on his solicitation letter, in order to illustrate and express the support of the City for his endeavor; and

WHEREAS, prior to mailing the letter to potential donors, Mr. Bachman has agreed to solicit and obtain the approval of the Wauwatosa City Attorney for the content of the letter;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa Common Council does hereby express its support for Mr. Bachman’s efforts to obtain donations for flags along North Avenue by use of the City logo on letterhead and envelopes in conjunction with the fundraising effort contingent upon City Attorney approval of the content of the letter which requests donations.

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

**RESOLUTION R-06-139**

WHEREAS, restaurant establishments in the City of Wauwautosa may apply for an exception to the smoke free restaurant ordinance Section 8.12.040 (7) (C) and (D) of the City Code; and

WHEREAS, upon application to the city for approval as an exception to the smoke free restaurant ban, the following establishments have met requirements for a combination restaurant/tavern status in accordance with City Code Section 8.12.040 (7 ) (C) and (D) as an exception to the smoke-free restaurant ban; and

WHEREAS, the Health Officer has notified the Committee on Legislation, Licensing & Communications that the following establishment is qualified for approval as an exception to the smoke free restaurant ban:

Aliotos Restaurant, 3041 N. Mayfair Road; and

WHEREAS, the following establishments, pending completion of additional steps, are eligible as exceptions to the smoke free restaurant ban:

- Bjonda, 7754 Harwood Avenue
- Bluemound Gardens, 11703 W. Blue Mound Road
- Chancery Pub & Restaurant, 7615 W. State Street
- Greek Village, 11320 W. Blue Mound Road
- Radisson Hotel Milwaukee West, 2303 N. Mayfair Road; and

NOW, THEREFORE, BE IT RESOLVED THAT the above noted establishments are hereby granted approval as exceptions to the smoke free restaurant ordinance contingent upon the completion of requirements as indicated by the Health Officer.

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

**RESOLUTION R-06-140**

WHEREAS, Helen B. Burnside, 8128 W. Lisbon Avenue, Milwaukee, WI, has applied for an operator’s license in conjunction with her employment at The Club Tap, 8828 W. North Avenue, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Helen B. Burnside, 8128 W. Lisbon Avenue, Milwaukee, WI, is hereby issued an operator’s license for the period ending June 30, 2007.

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

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-06-141**

WHEREAS, the City of Wauwatosa has previously entered into a Developer’s Agreement with Continental Properties regarding development of the retail site at the corner of 124<sup>th</sup> Street and Burleigh Road in the City of Wauwatosa; and

WHEREAS, the Developer’s Agreement requires the placement of public art at a site in the parking lot of the retail development upon approval by the Common Council of the City of Wauwatosa; and

WHEREAS, Artist Richard Taylor has been commissioned to develop a sculpture at the site and brought a scale model of the proposed sculpture to the meeting of the Committee on Community Development; and

WHEREAS, the proposed art would be capable of being easily cleaned and maintained for many years and will be appropriate for the site;

NOW, THEREFORE, BE IT RESOLVED THAT the proposed sculpture developed by artist Richard Taylor for the installation at the Continental Properties development at 124<sup>th</sup> Street and Burleigh Road in the City of Wauwatosa, as more particularly illustrated in the scale model which was displayed to the Committee on Community Development on June 13, 2006, is hereby approved as being in compliance with the requirements of the Developer’s Agreement previously entered into with Continental Properties.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-06-142**

WHEREAS, the City of Wauwatosa has previously solicited proposals for development of an 18 acre site on the City Public Works yard at a location south of Walnut Road between 113<sup>th</sup> and 116<sup>th</sup> Streets; and

WHEREAS, no proposals were ever formally accepted by the City in previous discussions and the site remains undeveloped; and

WHEREAS, Cobalt Partners, LLC, has presented to the City an unsolicited proposal outlining a possible development at the site which requires further investigation in order to be formalized; and

WHEREAS, the Committee on Community Development has invited three parties who previously submitted proposals for development on the site to revise and modify the previous proposals for presentation to the Committee in July, 2006; and

WHEREAS, Cobalt Partners has requested up to 90 days to perform additional review and investigation regarding the possibility of its proposed development, and has suggested a Memorandum of Understanding between the City of Wauwatosa and Cobalt Partners in order to facilitate additional investigation of the Cobalt Partners' proposal;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate officials of the City of Wauwatosa are hereby authorized to enter into the attached Memorandum of Understanding between the City and Cobalt Partners, LLC, which is intended to facilitate further investigation of the possibility of developing the 18-acre site at the Wauwatosa City Public Works yard without obligating the City to formally accept such proposal at this time;

BE IT FURTHER RESOLVED THAT the Committee on Community Development will be reviewing the proposals of the three remaining responders to previous RFP's in order to determine whether one or all of those proposals should be pursued further at the same time as the Cobalt Partners proposal.

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

Ald. Treis commended the committee and staff for their efficient handling of agenda items in the last few weeks.

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

The Committee on Community Development, to whom was referred a request by Ald. Herzog for repeal of Chapter 8.12 of the Code, Smoke Free Restaurants, recommends to the Common Council that the matter be placed on file.

Dated this 15th day of June 2006.

Committee on Community Development

It was moved by Ald. Treis, seconded by Ald. Sullivan  
to approve the foregoing report. Ayes 14, Noes 2  
(Herzog, Grimm)

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-06-143**

WHEREAS, the City of Wauwatosa is a qualified political subdivision of the State of Wisconsin; and

WHEREAS, the Wisconsin Worker's Compensation Act (Act) provides that employers covered by the Act either insure their liability with worker's compensation insurance carriers authorized to do business in Wisconsin, or to be exempted (self-insured) from insuring liabilities with a carrier and thereby assuming the responsibility for its own worker's compensation risk and payment; and

WHEREAS, the State and its political subdivisions may self-insure worker's compensation without a special order from the Department of Workforce Development (Department) if they agree to report faithfully all compensable injuries and agree to comply with the Act and rules of the Department; and

WHEREAS, the Budget and Finance Committee at its June 13, 2006, meeting approved the continuation of the self-insured worker's compensation program, in compliance with Wisconsin Administrative Code DWD 80.60(3);

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa does ordain as follows:

- (1) Provide for the continuation of a self-insured worker's compensation program that is currently in effect;
- (2) Authorize the Payroll & Benefits Manager to forward certified copies of this resolution to the Worker's Compensation Division, Wisconsin Department of Workforce Development

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

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-06-144**

WHEREAS, the Wauwatosa Fire Department and the Wauwatosa purchasing Manager solicited bids for a 3-year purchase contract for firefighter protective clothing; and

WHEREAS, two responses were received, which responses are described more particularly in the June 8, 2006 memorandum of the Fire Chief and Purchasing Manager to the Budget and Finance Committee; and

WHEREAS, the bid of Jefferson Fire and Safety of Middleton, WI appears to be the bid which is in the best interest of the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the 3-year contract for the purchase of firefighter protective clothing for the City of Wauwatosa, with the inclusion of a Drag Rescue Device and replaceable knee pads, is hereby awarded to Jefferson Fire and Safety of Middleton, WI.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-06-145**

WHEREAS, White Oak Farms has previously been awarded the contract to operate the clean wood processing operation at the City of Wauwatosa Public Works yard, along with composting of appropriate yard wastes produced in the City of Wauwatosa; and

WHEREAS, White Oak Farms has requested that they be allowed to bring up to 20,000 tons of additional clean wood waste from unrelated operations of the company to be processed with the equipment already on-site and owned by White Oak Farms at the City of Wauwatosa Public Works yard; and

WHEREAS, White Oak Farms has agreed to pay a scale fee of \$2.00 per ton with a \$4.00 minimum charge per load, to offset the costs of using the Public Works yard for this unrelated purpose; and

WHEREAS, White Oak Farms has performed well in handling the operations presently conducted at the Public Works yard and is capable of continuing such operations with little impact upon daily activities;

NOW, THEREFORE, BE IT RESOLVED THAT the consolidated fee schedule of the City of Wauwatosa is hereby amended by adding a new fee providing for the City’s wood waste contractor to bring additional clean wood waste to the City yard for processing, which fee shall be \$2.00 per ton with a \$4.00 minimum charge per load.

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

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-06-146**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Marion McDowell 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. Maher to approve the foregoing resolution. Ayes 15, Noes 1 (Grimm)

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

BILLS AND CLAIMS FOR THE PERIOD 6/7/06 – 6/20/06 --

The Committee on Budget and Finance hereby reports to the Common Council that it has examined the accounts of bills and claims and hereby certifies the same as correct and recommends that each of said accounts be allowed and paid.

Total bills and claims for 6/7/06 – 6/20/06: \$2,584,775.70

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 BOARD OF PUBLIC WORKS**

**RESOLUTION** R-06-147

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

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

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

WHEREAS, all of the City of Wauwatosa’s section grades are an “A” and its overall grade point average is 4.00;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa that the City accepts the 2005 Compliance Maintenance Annual Report (CMAR) and to continue with its current sanitary sewer collection system operational procedures and make improvements where necessary, initiate additional engineering studies, perform orderly and timely repairs and maintenance, and to take necessary actions to address or correct problems/deficiencies of the sanitary sewer collection system in order to maintain compliance with effluent limitations and permit conditions.

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

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-06-148**

WHEREAS, Common Council Resolution #06-1 defined the streets to be included in the 2006 paving program for the City of Wauwatosa; and

WHEREAS, two of the streets included on that program – Wauwatosa and Harmonee Avenues, currently constitute a significant part of the only construction-free route across the railroad tracks and the Menomonee River in the eastern half of the City of Wauwatosa; and

WHEREAS, water utility work required to be performed in conjunction with the paving of 116<sup>th</sup> Street will not have adequate funding in order to be completed prior to the repaving of 116<sup>th</sup> Street during the 2006 paving season; and

WHEREAS, the conditions currently making repaving of the three above-named streets are likely to be alleviated during the year 2006 or 2007, such that paving can be conducted at a later date;

NOW, THEREFORE, BE IT RESOLVED THAT the following streets are hereby removed from the 2006 annual street paving program for the City of Wauwatosa:

North 116<sup>th</sup> Street – Watertown Plank Road to Walnut Road  
Harmonee Avenue – Wauwatosa Avenue to Menomonee River Parkway  
Wauwatosa Avenue – Harwood Avenue to Milwaukee Avenue

BE IT FURTHER RESOLVED THAT the Department of Public Works will proceed with whatever actions are necessary to carry over currently available funds for the above-described paving projects into future years such that future years' scheduled street projects are not jeopardized by this action.

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

There being no further business, the meeting adjourned at 8:07 p.m.

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Carla A. Ledesma, CMC, City Clerk