



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, August 1, 2006**

PRESENT: Alds. Krill, Krol, Maher, Meaux, Purins, Stepaniak, Sullivan (7:35 p.m.), Treis, Becker, Birschel, Didier, Donegan, Grimm, Hanson, Herzog -15

EXCUSED: Ald. Ewerdt

ALSO PRESENT: Mr. Kesner, Interim City Administrator/City Attorney; Mr. Braier, Finance Director; Mr. Kappel, Dir. of Public Works; Ms. Welch, Community Development Director; Police Capt. Reit; Ms. Ledesma, City Clerk; Ms. Williams, Deputy City Clerk

Mayor Estness in the Chair 7:30 p.m.

It was moved by Ald. Grimm, seconded by Ald. Didier that the reading of the minutes of the last regular meeting be dispensed with and they be approved as printed. -14

**APPOINTMENTS BY THE MAYOR**

Civic Celebration Commission  
Gay Leigh Mundy, 2225 N. 103rd Street  
(Term ends 12/31/10)

Wauwatosa Senior Commission  
Pat Miller, 8844 Stickney Avenue  
(Term ends 4/30/09)

Youth Commission  
Brian Randall, 2602 N. 88th Street  
Lisa Winn, 8232 Avon Court  
(Terms end 8/31/10)

Citizens' Advisory Capital Improvements Committee  
James Engelhardt, 6581 Washington Circle  
Frank DeFrain, 1355 N. 63rd Street (reappointment)  
Kathy Barry, 608 N. 672nd Street (reappointment)  
Richard Deuel, 2426 N. 115th Street (reappointment)  
(Term ends 6/30/09)

Board of Examiners and Appeals  
2229 N. 115th Street  
(Term ends 5/30/08)

Library Board

Peter Holz, 2650 N. 89th Street  
Marion Youngquist, 8220 Harwood Avenue  
(Terms end 6/30/09)

Citizens with Disabilities Committee

Thomas Mongan, 8425 W. Clarke Street  
(Term ends 1/1/09)

It was moved by Ald. Birschel, seconded by Ald. Krol  
to concur with the foregoing appointments under  
suspension of the rules. -14

**APPLICATIONS, COMMUNICATIONS, ETC.**

1. Special Use application to construct a garage with a roof height exceeding 16 feet at 2514 Pasadena Boulevard  
**Plan Commission**
2. Application for a land division of property located at the southeast corner of Mayfair and Watertown Plank Roads  
**Plan Commission, Committee on Community Development**
3. Application for a land division of property located at 2979 and 3005 N. Mayfair Road  
**Plan Commission, Committee on Community Development**
4. Application for final plan approval of a planned development at 1215 N. 62nd Street for 224 units of multi-family condominiums  
**Plan Commission, Committee on Community Development**
5. Notice of Appeal: Reinhart Boerner Van Deuren, SC for Milwaukee Regional Medical Center, Inc.  
Notice of Claim: Clare Fiorenza & Dennis W. Bersch, Jr., 660 Crescent Court  
**City Attorney**
6. Wauwatosa Water Utility Statement of Receipts and Disbursements for month ended June 30, 2006  
**Place on file**
7. City of Wauwatosa Statement of Financial Condition and Bank Reconciliation of Depository Accounts as of 6/30/06  
**Place on file**
8. Letter from Jayne M. Aliota, President, George Webb Corporation, expressing concern over loss of business since the smoke free restaurant ordinance took effect  
**Health Officer**
9. Letter from directors of the Wauwatosa Economic Development Corporation in support of the Project Plan amendment for Tax Increment District #3 (State Street TIF)  
**Add to existing file**
10. Request by Shannon Uribe, Hector's - A Mexican Restaurant, 7118 W. State Street, for an extension of the Class B beer and liquor license to include the parking lot on September 10, 2006 for an annual festival  
**Committee on Legislation, Licensing & Communications**
11. City of Wauwatosa Investment Summary as of July 31, 2006  
**Place on file**

12. Letter from Brian Preiss, executive director, and 11 Village of Wauwatosa Business Improvement District Board Members in support of the Project Plan amendment for Tax increment Finance District #3 (State Street TIF)  
**Add to existing file**

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

1. Ordinance amending Section 11.32.080 of the City Code by restricting parking on a portion of the west side of N. 118th Street, south of W. North Avenue  
**Re-refer to originating committee**

(Ald. Sullivan present 7:35 p.m.) -15

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

**RESOLUTION R-06-171**

WHEREAS, Murtis Grant-Acquah, Nana's Imported Arts & Textiles, LLC, Wauwatosa, WI, has requested a temporary extension of the licensed premises to include the rear area of her lot on August 11, 2006, for a wine tasting;

NOW, THEREFORE, BE IT RESOLVED THAT the licensed premises of Nan's Imported Arts & Textiles, LLC, be extended to include the rear lot of the building on August 11, 2006, between the hours of 4:30 PM and 7:00 PM for a wine tasting.

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

**RESOLUTION R-06-172**

WHEREAS, Joseph G. Coraggio, 5437 W. Cherry Street, Milwaukee, WI, has applied for an operator's license in conjunction with his employment at The Chancery, 7613 W. State Street, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Joseph G. Coraggio is hereby issued an operator's license for the period ending June 30, 2007, contingent upon a review of his record in eleven months to coincide with the scheduled end of his probation;

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

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

**RESOLUTION R-06-173**

WHEREAS, Andrew N. Seghers, 1118 Highland View Drive, West Bend, WI, has applied for an operator's license in conjunction with his employment at Noodles and Company, 7700 W. State Street, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Andrew N. Seghers, 1118 Highland View Drive, West Bend, WI, is hereby issued an operator's license for the period ending June 30, 2007.

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

**RESOLUTION** R-06-174

WHEREAS, Paul P. Aldinger, 122 S. 79<sup>th</sup> Street, Milwaukee, WI, has applied for an operator's license in conjunction with his employment at Leff's Lucky Town, 7208 W. State Street, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Paul P. Aldinger is hereby issued an operator's license for the period ending June 30, 2007, contingent upon a review of his record in six months as well as being fingerprinted;

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

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

**RESOLUTION** R-06-175

BE IT RESOLVED, by the Legislation, Licensing & Communications Committee of the City of Wauwatosa THAT certain restaurant establishments may apply for an exception to the smoke free restaurant ban based on the City of Wauwatosa ordinance, section 8.12.040 (7) (C ) and (D), and

THAT upon application to the city for approval for an exception to the smoke free restaurant ban, the Peony Restaurant has 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

THAT the Health Officer has notified the Committee that The Peony Restaurant, 11120 W. Blue Mound Road, Wauwatosa, WI, pending completion of additional construction, will be eligible for an exception to the smoke free restaurant ban,

THEREFORE BE IT RESOLVED THAT the above noted establishment is hereby granted approval as an exception to the smoke free restaurant ordinance contingent upon the completion of required construction as indicated by the Health Officer.

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

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-06-176**

WHEREAS, the City of Wauwatosa has applied for a Conditional Use in the Parks and Open Space District at 7300 Chestnut Street for approval of a Hart Park master plan including a performance stage and other amenities, 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 for approval of a Hart Park master plan including a performance stage and other amenities in the Parks and Open Space District at 7300 Chestnut Street.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-06-177**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT the meeting of the Committee on Community Development for September 5, 2006, shall begin at 5:30 P.M.

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

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**ORDINANCE O-06-15**

AN ORDINANCE AMENDING SECTION 3.36.020 OF THE CODE OF THE CITY OF WAUWATOSA ALLOWING PARTIAL REFUND OF STREET OCCUPANCY PERMIT FEES FOR DUMPSTERS WHEN SUCH DUMPSTERS ARE NOT ACTUALLY PLACED IN THE STREET OR RIGHT-OF-WAY IN THE CITY OF WAUWATOSA

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

Part I. Section 3.36.020 of the Wauwatosa Municipal Code is hereby amended to read, in its entirety, as follows:

**Section 3.36.020 Refund of Fees**

A. If any of the events described in subsection B of this section, below, occur, and the fee for such license or permit exceeds twenty-five dollars, then, except as otherwise provided in this code, such applicant shall receive a refund of such fee from the city treasurer, without further action of the common council, excepting only that twenty-five percent of such fee, but in no case less than twenty-

five dollars nor more than one hundred dollars, shall become the property of the city and shall not be refundable.

B. The refund policy in subsection A, above, applies to the following situations:

1. The application is not completed; or
2. The application is withdrawn prior to issuance; or
3. A duplicate application is filed; or
4. An application is rejected or denied by proper authority;
5. A street occupancy permit is issued pursuant to section 12.04.020 sub. 2 of this code, which permit is not used.

C. In no event shall the two dollar police investigation fee charged on bartender's and seller's applications be refundable.

D. Except as described in section B., above, in the event an applicant for a license or permit shall be issued a license, but such license is not used, no fee or portion thereof shall be refunded.

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

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-06-180**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Levi Lura 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 adopt the foregoing ordinance and to approve the foregoing resolution. -15

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-06-178**

WHEREAS, the City of Wauwatosa's contract with the Waste Management, Inc. for the diversion of recyclables calls for a penalty to be calculated based upon any failure to reach a 20% diversion rate as required by the contract; and

WHEREAS, in April, 2006, diversion fell short by approximately 6%, resulting in a penalty of \$19,970.72, which exceeds the average monthly penalty for January, February, March and May, 2006, by \$13,160.28; and

WHEREAS, failure to reach the required diversion rate during the month of April with the result of multiple mechanical and operational failures contributing to the problem including mechanical failure of the conveyor belt necessary for sorting of the waste stream as well as fires on both the conveyor and one of the trailers on the site; and

WHEREAS, it is the recommendation of the Director of Public Works that, due to the mechanical and operational failures preventing successful completion of the necessary diversion during April, as well as in consideration of other concessions provided by the contractor, Waste Management, Inc., which has improved the efficiency of operations at the Public Works yard during the year 2006, that the penalty for the April invoice related to diversion of recyclables be reduced to the average of the months of January, February, and May, 2006, which is \$6,810.44;

NOW, THEREFORE, BE IT RESOLVED THAT the penalty assessed against Waste Management, Inc. for failure to divert 20% of recyclables from the waste stream as required by its contract with the City of Wauwatosa during the month of April is hereby reduced from \$19,970.72 to \$6,810.44, a reduction of \$13,160.28;

BE IT FURTHER RESOLVED THAT this one time adjustment is being made in consideration of the factors cited above.

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

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

### **RESOLUTION R-06-179**

WHEREAS, a public hearing was held by the City of Wauwatosa Planning Commission on July 10, 2006, to consider amendment of the project plan for tax incremental district #3 in the City of Wauwatosa for purposes of further redevelopment in the State Street Corridor; and,

WHEREAS, the required notices of the hearing were published in accordance with the statutory requirements of Wisconsin Statutes Section 66.1105(4)(e); and,

WHEREAS, a copy of such notice had previously been sent by first class mail to the Chief Executive Officers of all local government entities have power to levy taxes on the property within the proposed tax incremental finance district; and

WHEREAS, the boundaries of the tax incremental district were previously designated and are not proposed to be altered by the amendment; and

WHEREAS, the specific boundaries are described in the previously approved project plan for tax incremental district #3; and

WHEREAS, upon creation of tax incremental district #3, the City Attorney provided a legal opinion that the proposal meets the eligibility requirements of Wisconsin Statutes 66.1105 for tax incremental financing; and

WHEREAS, the City of Wauwatosa Planning Commission has adopted the amended project plan for tax incremental district #3 and has recommended its approval by the Wauwatosa Common Council; and

WHEREAS, the original project plan for tax incremental district #3 includes a map showing existing uses and conditions of real property in the district and a map showing proposed improvements and uses in the district at the time the original project plan was adopted, as well as a statement listing the kind, numbers, and locations of all proposed public works improvements within the district; and

WHEREAS, the creation of the tax incremental district is designed to promote the continued orderly redevelopment of the State Street Corridor in order to promote the systematic economic growth, increase the tax base, and have a significant impact on the local economy;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa, Wisconsin makes the following findings:

- 1) Upon creation of Wauwatosa tax incremental district #3, not less than 50% of the area of the site of the State Street Corridor was a blighted area as defined in the tax incremental financing law in Section 66.1105(2)(a) of the Wisconsin Statutes;
- 2) Additional improvement of the proposed project area will significantly enhance the value of substantially all of the real property in the proposed district; and
- 3) The proposed project costs are related directly to eliminating blight and directly serve to rehabilitate the area consistent with the original purpose for the creation of the tax incremental district; and
- 4) The equalized value of the taxable property in the proposed district plus the equalized value of the taxable property in all existing TIF districts in the City of Wauwatosa does not exceed 7% of the total equalized value of the taxable property within the City;

BE IT FURTHER RESOLVED THAT the amendment to the project plan for the City of Wauwatosa tax incremental district #3, a copy of which is attached hereto and incorporated herein, is hereby approved;

BE IT FINALLY RESOLVED THAT expenditures proposed in the amended project plan be reimbursed from the budget of tax incremental district #3, and that special assessments shall not be levied against the real property within the district for said purposes.

It was moved by Ald. Stepaniak, seconded by Ald. Sullivan to amend the project plan for TIF #3 to allow up to \$6 million in additional expenditures. Roll call vote, Ayes 15

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

BILLS AND CLAIMS FOR THE PERIOD 7/19/06 – 8/1/06 --

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 7/19/06 – 8/1/06:

\$2,478,768.17

It was moved by Ald. Meaux, seconded by Ald. Hanson 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-06-181**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to the Wauwatosa School District/Roosevelt School, 2535 N. 73<sup>rd</sup> Street, Wauwatosa, WI, to encroach onto City right-of-way with decorative bricks, subject to the applicants executing unto the City of Wauwatosa an indenture setting forth the terms, provisions and conditions relating to the granting of the aforesaid permission by said City to said applicants.

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

There being no further business, the meeting adjourned at 8:18 p.m.

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Carla A. Ledesma, CMC, City Clerk