



CITY OF WAUWATOSA
MEMORIAL CIVIC CENTER
7725 WEST NORTH AVENUE
WAUWATOSA, WI 53213
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COMMON COUNCIL
Regular Meeting, Tuesday, September 19, 2006

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

ALSO PRESENT: Ms. Aldana, Asst. City Atty./Personnel Admin.; Mr. Braier, Finance Director; Mr. Wehrley, City Engineer; Ms. Welch, Community Development Director; Police Chief Weber; 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 7:53 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. -16

APPOINTMENTS BY THE MAYOR

Civic Celebration Commission

Wendy Venske, 2517 N. 86th Street
Ilija Potkonjak, 8905 Jackson Park Blvd.
(Terms expire 12/31/10)

Foregoing appointments ordered held as this was the first reading.

Youth Commission

Nikki Beckwith, 2446 N. 66th Street
Lynda Snodgrass, 1730 N. 72nd Street
Karen Waldkirch, 1709 Day Court
Jason Zurawik, 11600 W. Center Street
(Terms expire 8/31/09)

Board of Examiners and Appeals

Robert Lex, 7420 W. State Street #2
(Term expires 5/30/08)

It was moved by Ald. Birschel, seconded by Ald. Sullivan to concur with the foregoing appointments. -16

APPLICATIONS, COMMUNICATIONS, ETC.

1. City of Wauwatosa Investment Summary and Statement of Financial Condition as of August 31, 2006; Bank Reconciliation of Depository Accounts as of July 31 and August 31, 2006
Place on file
2. Wauwatosa Water Utility Statement of Receipts and Disbursements as of August 31, 2006
Place on file
3. Notices of Claim: Jean Muelrath, 606 Robertson Street; James Yokes, 7513 W. Harwood Avenue
City Attorney
4. Letter from Josephine M. Murphy, Highlands of Mayfair Home Owners Assoc., Inc., complaining about noise from the newly constructed Wisconsin Lutheran College football stadium
Committee on Community Development
5. Conditional Use application for outdoor restaurant seating in the Village Trade District at 7606 W. State Street
Plan Commission, Committee on Community Development
6. E-mail from Cherie Swenson, 2042 Church Street, encouraging application for recognition in 100 Best Communities for Young People competition sponsored by America's Promise-The Alliance for Youth
Community Development Director

FROM THE COMMITTEE ON TRAFFIC & SAFETY FOR INTRODUCTION

1. Ordinance reducing the speed limit on N. 70th Street between W. State Street and Auburn Avenue to 20 mph
Re-refer to originating committee

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION

1. Ordinance amending the Zoning Code to allow cellular antennas and associated equipment on school district property as a Conditional Use
Re-refer to originating committee
2. Ordinance amending the Zoning Code by modifying the required front yard setback in the AA Commercial District
Re-refer to originating committee
3. Ordinance amending the zoning code by modifying language regarding check cashing establishments in the Trade District and Village Trade District
Re-refer to originating committee

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-06-195

WHEREAS, the Wauwatosa School District has applied for a fireworks user's permit for the purposes of conducting a fireworks display at Wauwatosa West High School on October 6, 2006; and

WHEREAS, the Committee on Legislation, Licensing and Communications has reviewed their request;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the Clerk be authorized to issue a firework user's permit to the Wauwatosa School District for the purpose of conducting a firework's display on October 6, 2006 at Wauwatosa West High School at a specific location to be designated by the Wauwatosa Fire Chief, subject to all applicable laws and permit conditions, and subject further to all of the following:

- Receipt by the City Clerk of a signed application and appropriate permit fee;
- Receipt by the City Attorney of a Hold Harmless Agreement executed by the Wauwatosa School District in favor of the City of Wauwatosa;
- Receipt by the City Attorney of a Certificate of General Liability Insurance evidencing liability coverage for the fireworks contractor naming the City of Wauwatosa as an additional insured.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-06-196

WHEREAS, Jim Galinsky, 500 Sunnyslope Drive, Hartland, WI, applied for an operator's license in conjunction with his employment at Applebee's, 5750 W. State Street, Wauwatosa; and

WHEREAS, on the police form accompanying his application for an operator's license he failed to disclose all of his previous convictions and did not appear before the Committee; and

WHEREAS, a background investigation revealed previous convictions; and

WHEREAS, the lack of integrity and honesty reflected in this omission of information regarding previous convictions is substantially related to the responsibilities of an operator's license holder in the City of Wauwatosa;

NOW, THEREFORE BE IT RESOLVED THAT the operator's license application of Jim Galinsky is hereby denied;

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

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-06-197

WHEREAS, Robert Pena, 12440 Mac Alister Way, New Berlin, WI, has applied for an operator's license in conjunction with his employment at JoJo's Martini Lounge, 418 N. Mayfair Road, Wauwatosa; and

WHEREAS, a background investigation revealed prior law violations which create concern for the Committee on Legislation, Licensing & Communications; and

WHEREAS, these prior convictions are substantially related to the responsibilities of an operator's license holder in the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the operator's license application of Robert Pena, 12440 Mac Alister Way, New Berlin, WI, is hereby denied;

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

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-06-198

WHEREAS, Zeferino Figueroa, 128 Cambridge Avenue, Waukesha, WI, has applied for an operator's license in conjunction with his employment at Habanero's, 859 N. Mayfair Road, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Zeferino Figueroa, 128 Cambridge Avenue, Waukesha, WI, is hereby issued an operator's license for the period ending June 30, 2006.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-06-199

WHEREAS, the National League of Cities (NLC) and The Urban Institute (TUI) request that the City host a training seminar; and

WHEREAS, other municipal officials and staff will be invited to a training session at City Hall on budgeting principles and other issues;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa formally invites the NLC and TUI to conduct training at the City and that the proper City officials be authorized to extend such invitation.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI –

The Committee on Legislation, Licensing and Communications, to whom was referred the request for city authorization for a referendum question requesting state legislative action on healthcare, recommends to the Common Council that the matter be accepted and placed on file.

Dated this 12th day of September 2006.

Comm. on Legislation, Licensing & Communications

It was moved by Ald. Becker, seconded by Ald. Grimm to approve the five foregoing resolutions and one foregoing report. -16

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-06-200

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT permission be and the same is hereby granted to AP Properties, LLC and VJS Development Group for a Land Division in the AAA Single Family Residence District at 9529 W. Ruby Avenue. These parcels are more particularly described as follows:

E 98 FT OF W 1513.04 FT OF N 150 FT OF S 766.72 FT EX N 30 FT FOR AVE, being a part of the Northeast ¼ of Section 5, in Township 7 North, Range 21 East in the City of Wauwatosa, County of Milwaukee, State of Wisconsin, and

COM 1340 FT E OF W LI & 766.72 FT N OF S LI TH E 75.04 FT S 150 FT E 98 FT S 242.33 FT W 173.04 FT, TH N 392.14 FT TO P.O.B., EXC ST., being a part of the Northeast ¼ of Section 5, in Township 7 North, Range 21 East in the City of Wauwatosa, County of Milwaukee, State of Wisconsin.

All in accordance with the survey attached hereto and made a part of this resolution, and in compliance with Section 24.56.010 of the Code of the City of Wauwatosa and subject to the payment of all outstanding special assessments on the aforescribed property which is being subdivided.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-06-201

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, October 17, 2006, 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 changes to Section 24.46.070 Cellular telephone, microwave and related communication towers and accessory ground structures.

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

RESOLUTION R-06-202

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, October 17, 2006, 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 proposed changes to Section 24.24.070 Front building line setbacks, Section 24.24.080 Special front building line setbacks, and 24.24.130 Additional restrictions in the AA Commercial District.

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

RESOLUTION R-06-203

WHEREAS, the Town of Brookfield Fire Department received a grant for a fire simulator training trailer and has requested that the City store the trailer at it's training site in exchange for shared use of the trailer; and

WHEREAS, this arrangement is mutually beneficial to both departments;

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor is authorized to sign an Intermunicipal Agreement for storage and use of the fire training trailer.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-06-204

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, October 17, 2006, 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 changes to Section 24.22.040 Prohibited Use in Trade Districts and creating Section 24.27.05 Prohibited Use in the Village Trade District.

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

RESOLUTION R-06-205

WHEREAS, the City of Wauwatosa is an urban community in which numerous areas of retail and business uses operate in close proximity with residential neighborhoods; and

WHEREAS, the Wauwatosa Common Council has recognized that check cashing places, payday loan stores and similar convenient cash businesses are not compatible with all zoning districts and locations in the City by its passage of the ordinance restricting these businesses' location in the Trade District Zoning zone, and had further indicated an intent to expand and clarify that prohibition, as well as to craft a citywide regulatory ordinance for these types of businesses, and

WHEREAS, courts having jurisdiction over the State of Wisconsin have recognized that municipalities' ability to regulate hours of operation and locations of payday loan stores and similar businesses is not prohibited by Wisconsin State Law nor the United States Constitution, and

WHEREAS, the United States Supreme Court has stated that, "The consensus in the planning community appears to be that moratoria, or interim development controls as they are often called, are an essential tool of successful development;"¹ and

WHEREAS, it is in the community's best interest to promote orderly growth and balance the development of these businesses in terms of both economics and aesthetics; and

WHEREAS, neither the city comprehensive plan nor any other land use plan makes mention of the significance or impact of these businesses on the community, thereby leading to a disconnected, ad hoc approval process not in the long term interests of the city, and which may have an irreversible negative impact upon the city; and

WHEREAS, in order to better protect the general health and welfare of the City of Wauwatosa, a temporary moratorium on issuance of building permits and other approvals for such establishments will create a more stable environment so that revisions to the city zoning code, comprehensive plan, and general regulatory ordinances, if necessary, can be considered and adopted in an orderly and thorough process; and

WHEREAS, the Committee on Community Development has requested additional development of ordinance language by staff in order to prepare the final ordinance regulating these businesses;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa hereby establishes a temporary moratorium on the development of check cashing places, payday loan stores and similar convenient cash businesses pursuant to the terms described below;

BE IT FURTHER RESOLVED THAT during this moratorium, except as otherwise stated below, the City of Wauwatosa shall not accept, review, nor approve any applications for such businesses developments which are located within three-hundred (300) feet of any residentially-zoned parcels or within one thousand five hundred (1,500) feet of a similar business; and

BE IT FURTHER RESOLVED THAT this moratorium shall apply to all applications currently pending or under review by the City of Wauwatosa and staff as of the date of this resolution; and

BE IT FURTHER RESOLVED THAT this moratorium shall be in effect until such time that the Wauwatosa Common Council has had an opportunity to address changes to zoning regulations and

¹ *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*, 535 U.S. 302, 337-38 (2002).

establishment of citywide regulations regarding these types of businesses, and has either approved or rejected such items; and

BE IT FURTHER RESOLVED THAT this moratorium shall be in effect for no more than 12 months from the date of this resolution; and

BE IT FINALLY RESOLVED THAT the Wauwatosa Common Council reserves the right to extend or prematurely end this moratorium or approve exceptions if it finds that a particular proposal is in compliance with the expected long term goals of any legislation which it is likely to enact during the time period encompassed by this moratorium.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-06-206

WHEREAS, the Wauwatosa Historical Society has proposed to work in partnership with the City of Wauwatosa to renovate the property known as the Little Red Store located at 7720 W. Harwood Avenue in the Village of Wauwatosa; and

WHEREAS, the City of Wauwatosa has agreed to participate in assisting with this project by providing Community Development Block Grant Funds to renovate this blighted structure; and

WHEREAS, the Wauwatosa Historical Society, after receiving initial approval from City officials, intends to pursue fundraising in order to accomplish this project; and

WHEREAS, the initial proposal presented to the Board of Public Works and the Committee on Community Development for the project appear to be in the best interests of the City,

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to proceed toward the necessary arrangements with the Wauwatosa Historical Society to renovate the Little Red Store in a manner consistent with their preliminary proposal, in order for the Wauwatosa Historical Society to pursue donations to fund the project;

BE IT FURTHER RESOLVED THAT upon receiving sufficient funding and the submission of a more detailed proposal, appropriate City officials are authorized to negotiate an agreement for the renovation and ongoing lease to the Wauwatosa Historical Society of the Little Red Store, which agreement shall be approved by the Common Council prior to actual construction of the project.

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

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-06-207

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the rates for Basic Life Support Ambulance Service and related supplies be increased as follows:

<u>Item</u>	<u>Rate</u>
Resident Transport	\$400.00
Non-Resident Transport	\$500.00
Transported Miles Rate	12.00
Basic Supplies	40.00
Oxygen with Basic Supplies	60.00
Defibrillator pads	85.00

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-06-208

WHEREAS, the Department of Public Works recommends that a safety analysis of intersections with high crash counts be performed this Fall and that safety recommendations be incorporated into next year's paving plans;

NOW, THEREFORE, BE IT RESOLVED THAT the Department of Public Works is authorized to issue a request for proposals for intersection safety analysis, a change of purpose within the sundry contractual services account, and to reduce the encumbrance in the 2006 Construction Inspection Services contract by the amount necessary to conduct the safety audits.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-06-209

WHEREAS, THE City of Wauwatosa recognizes that time lost to injury and equipment failure reduces the Forestry Section's productivity; and

WHEREAS, by this action the City of Wauwatosa Common Council has declared its intent to provide for the training of nine Arborists in chainsaw operation safety and maintenance; and

WHEREAS, the City of Wauwatosa is intending to establish funds for the training in the 2007 Forestry operating budget; and

WHEREAS, the Department of Natural Resources offers an Urban Forestry Grant Program that would cost share this training, the application and award of such is contingent on Common Council acceptance;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa requests funds and assistance available from the Wisconsin Department of Natural Resources under the Urban Forestry Grant Program for 2007, and will comply with state rules for the program; and

BE IT FURTHER RESOLVED THAT the Public Works Director is authorized to make application for the Urban Forestry Grant Program for 2007; and

BE IT FURTHER RESOLVED THAT the Finance Director is authorized to accept the grant on behalf of the City of Wauwatosa and that the Director of Public Works is authorized to sign

documents, and take the necessary action to undertake, direct, and complete any approved grant activities.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-06-210

WHEREAS, the City Engineer requests to restore lapsed funding for pavement repair and spot improvements by transferring \$95,000.00 from unallocated Capital Projects fund balance and approve a carryover of funds from 2006 pavement repair and spot improvements to 2007 pavement repair and spot improvements for purposes of completing contracted for pavement repair work;

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT \$95,000.00 be transferred from Capital Projects Account into the Pavement Repair & Spot Improvements Account 03-331-5980-160 and that any funds remaining in this account at the end of 2006 be transferred to the 2007 Pavement Repair and Spot Improvement Account budget.

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

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 9/6/06 – 9/19/06 --

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 9/6/06 – 9/19/06: \$1,480,286.39

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

There being no further business, the meeting adjourned at 8:02 p.m.

cal

Carla A. Ledesma, CMC, City Clerk