



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, July 7, 2009

PRESENT: Alds. Wilke, Berdan, Birschel, Dennik, Hanson, Herzog, Jay (7:32 p.m.), Krol, McBride, Meaux, Nikcevich, Organ, Stepaniak, Walsh -14

EXCUSED: Alds. Donegan and Ewerdt

ALSO PRESENT: Mr. Kesner, City Attorney; Mr. Braier, Finance Director; Mr. Kappel, Public Works Director; Ms. Szudy, Planner II; Police Chief Weber; Fire Chief Redman; Mr. Wojcehowicz, Water Utility Supt.; Ms. Ledesma, City Clerk; Ms. Van Hoven, Deputy City Clerk

Mayor Didier in the Chair

The Mayor called the meeting to order at 7:30 p.m.

It was moved by Ald. McBride, seconded by Ald. Organ that the reading of the minutes of the last regular meeting be dispensed with and they be approved as printed. -13

(Ald. Jay present 7:32 p.m.) -14

APPOINTMENTS BY THE MAYOR

Citizen's Advisory Capital Improvements Committee

Craig Wilson, 4172 Menomonee River Parkway
(term ends 6/30/2012)

Foregoing appointment ordered held as this was the first reading.

Civic Celebration Commission

Dan Zarwell, 2135 N. 62nd Street
(term ends 12/31/2012)

Bill Berdan, 2049 N. 114th Street

Sherryl Wedel, 6131 Washington Circle

Robert Brunow, 10401 W. Vienna Avenue

Judy Randall, 317 N. 89th Street,

(terms end 12/30/2013)

Board of Examiners and Appeals

Robert Ornst, Jr., 6526 Hillcrest Drive
J. Travers Price, 8626 Jackson Park Blvd
Charles E. Millman, 2250 N. 72nd Street
(terms end 5/30/2011)

Board of Review

Joe Duffey, 726 Windsor Court
(term ends 6/30/2010)
Jim Benz, 2504 N. 83rd Street
(term ends 6/30/2012)

Library Board

Ann Marie Perhach, 11637 W. Clarke
Peter Holtz, 2650 N. 89th Street
Maureen Klein, 1816 Alta Vista Avenue,
(terms end 6/30/2012)

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

APPLICATIONS, COMMUNICATIONS, ETC.

1. E-mail from Ald. Jay requesting a non-binding referendum on the Spring or Fall 2010 ballot requiring that voters show proof of citizenship by official state identification before voting
Legislation, Licensing & Communications
2. Request for a Change of Zoning from AA Single Family District to Off Street Parking District at 443 N. 108th Place, Phillip Belanger, applicant
Plan Commission, Community Development Committee
3. Request for a Change of Zoning from AA Single Family District to Off-Street Parking District at 431 N. 108th Street, William Ryan Drew, Ryan431 LLC, applicant
Plan Commission, Community Development Committee
4. Special Use application in the BB Two-Family Residence District for a garage with a roof height over 16 feet at 532 N. 62nd Street, Steve and Susan Groth, applicants
Plan Commission
5. Conditional Use application in the AA Industrial District for self storage at 4480 N. 124th Street, Edwin Reitan, Reitan Architects, LLC, applicants
Plan Commission, Community Development Committee
6. Conditional Use request in the AA Business District for massage therapy at 10514 W. Blue Mound Road, Erica S. Vinson and Larry Ruka, applicants
Plan Commission, Community Development Committee
7. Conditional Use application in the AA Business District to add beer sales to an existing Tobacco Outlet Plus store at 11712 W. North Avenue, D. Hafer, Kwik Trip and Stuart Hoffman, applicants
Plan Commission, Community Development Committee
8. Special Use application in the AA Single Family Residence District for a garage with a roof height over 16 feet, Edward Heidenreich, applicant
Plan Commission

9. Conditional Use application in the AA Business District for a dance and fitness studio at 8816 W. North Avenue, Yue Kwang Hui and Valerie Kufrin, applicants
Plan Commission, Community Development Committee
10. Summons and complaint: Glen Slonac vs. City of Wauwatosa
City Attorney
11. E-mail from Nathan Meier, Reilly, Penner & Benton, LLP, regarding procedures for audit of implementation of work plan for the Village Business Improvement District
City Attorney
12. Proposed findings from Douglas S. Wood, Hearing Examiner, Office of Commissioner of Railroads, 610 N. Whitney Way, Madison regarding the petition of the WI Department of Transportation for alteration of a public crossing of the Soo Line Railroad Co. tracks with 68th Street and regarding Commissioner's motion addressing warning devices at public crossings of the Soo Line Railroad Co. in Wauwatosa
City Engineer
13. E-mail from Ald. McBride regarding a proposal to reduce the size of the Common Council and proposed changes in the Economic Development structure
Add to existing file
14. City of Wauwatosa, Investment Summary for the period ending June 30, 2009
Place on file

FROM THE COMMITTEE ON TRAFFIC & SAFETY FOR INTRODUCTION

1. Ordinance amending Section 11.32.080 of the Code prohibiting parking south of the driveway at 1252 Kavanaugh Place
Re-referred to originating committee

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-09-151

WHEREAS, Juan M. Ramirez, 1731 E. Howard Avenue, Milwaukee, WI, has applied for an operator's license in conjunction with his employment at The Cheesecake Factory, 2350 N. Mayfair Road, Wauwatosa, WI; and

WHEREAS, a background investigation revealed two previous convictions which were not listed on Mr. Ramirez's application; and

WHEREAS, failure to disclose such previous convictions are factors substantially related to the responsibilities of persons holding operator's licenses in the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the operator's license application of Juan M. Ramirez is hereby denied;

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

It was moved by Ald. Birschel, seconded by Ald. Organ to approve the foregoing resolution. -14

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

RESOLUTION R-09-150

WHEREAS, the Committee on Traffic and Safety has previously instituted a 90-day trial of parking restrictions on N. 72nd Street from State Street to Blanchard, N. 74th Street from State to Blanchard, and on W. State Street between N. 72nd and N. 74th Streets; and

WHEREAS, the business expansion which prompted the requested changes has only been open approximately 30 days at this time; and

WHEREAS, elected officials and staff believe a longer period of operation would be appropriate prior to making permanent changes;

NOW, THEREFORE, BE IT RESOLVED THAT the 90-day trial of parking restrictions at the locations stated above is hereby extended for an additional 90 days.

It was moved by Ald. Meaux, seconded by Ald. Stepaniak to approve the foregoing resolution. -14

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

RESOLUTION

WHEREAS, the Wisconsin Department of Transportation (WisDOT) is currently soliciting comments on the proposed options for the Zoo Interchange, and

WHEREAS, the City of Wauwatosa has spent numerous hours discussing and understanding the various options that have been presented for the Zoo Interchange, and

WHEREAS, in order to have a solution that will not overburden the local roadway system given the 2035 Southeastern Wisconsin Regional Planning Commission's (SEWRPC) traffic projections, and

WHEREAS, the Council desires a solution that looks forward to future transportation needs in the region,

NOW THEREFORE BE IT RESOLVED, that the Common Council of the City of Wauwatosa takes the following position with respect to the proposed reconstruction of the Zoo Interchange that:

1. The WisDOT continue to pursue an option for direct access from east and west bound I94 to the southwest corner of the Regional Medical Center rather than only at the Watertown Plank Road exit. The City of Wauwatosa is very concerned with the proposed travel corridors on N. Glenview and N. Mayfair Road (State Truck Highway 100) which are currently congested with traffic at peak hours.

2. The N-1 option which contains the bridge between the Regional Medical Center and the Milwaukee County Research Park be the specific option chosen for the south portion of the North Leg.
3. The full double loop interchange option be chosen for the North Avenue Interchange
4. The northbound Mayfair exit remain as a needed off ramp for northbound traffic
5. The preferred option for reconstruction of the interchange is the 6 lane alternative with the option to expand to 8 lanes when traffic conditions reach the expansion level for the north leg of the Zoo Interchange
6. The WisDOT make provisions for other future transportation options along the Zoo Interchange and Freeway corridor

AND BE IT FURTHER RESOLVED, that the City Clerk is authorized to send copies of this resolution to Governor Doyle, the City of Wauwatosa's representatives in the Wisconsin Legislature, Secretary of Transportation Busalacchi and the Wisconsin Department of Transportation expressing the concerns for the Zoo Interchange Project on behalf of the City of Wauwatosa.

It was moved by Ald. Meaux, seconded by Ald. Stepaniak to approve the foregoing resolution. –

It was moved by Ald. Jay, seconded by Ald. Herzog to amend the resolution by eliminating point #6. Roll call vote, Ayes 5 (Berdan, Birschel, Dennik, Herzog, Jay), Noes 9. Motion failed.

It was moved by Ald. Herzog, seconded by Ald. Jay to amend the resolution's point #6 to emphasize that point #6 does not necessarily endorse commuter rail or light rail. Roll call vote, Ayes 8, Noes 6 (Wilke, Krol, McBride, Meaux, Nikceovich, Stepaniak).

It was moved by Ald. McBride, seconded by Ald. Stepaniak to amend the resolution to add specific language concerning County Executive Scott Walker's proposal for express bus lanes, among other options, urging the Wisconsin DOT to so provide. Roll call vote, Ayes 4 (Wilke, McBride, Nikceovich, Stepaniak), Noes 10. Motion failed.

It was moved by Ald. McBride, seconded by Ald. Nikceovich to amend the resolution to eliminate point #6 from the resolution (as amended). Roll call vote, Ayes 10, Noes 4 (Dennik, Hanson, Herzog, Walsh).

Roll call vote on motion as amended, Ayes 14.

The amended resolution is as follows:

RESOLUTION R-09-149

WHEREAS, the Wisconsin Department of Transportation (WisDOT) is currently soliciting comments on the proposed options for the Zoo Interchange, and

WHEREAS, the City of Wauwatosa has spent numerous hours discussing and understanding the various options that have been presented for the Zoo Interchange, and

WHEREAS, in order to have a solution that will not overburden the local roadway system given the 2035 Southeastern Wisconsin Regional Planning Commission's (SEWRPC) traffic projections, and

WHEREAS, the Council desires a solution that looks forward to future transportation needs in the region,

NOW THEREFORE BE IT RESOLVED, that the Common Council of the City of Wauwatosa takes the following position with respect to the proposed reconstruction of the Zoo Interchange that:

1. The WisDOT continue to pursue an option for direct access from east and west bound I94 to the southwest corner of the Regional Medical Center rather than only at the Watertown Plank Road exit. The City of Wauwatosa is very concerned with the proposed travel corridors on N. Glenview and N. Mayfair Road (State Truck Highway 100) which are currently congested with traffic at peak hours.
2. The N-1 option which contains the bridge between the Regional Medical Center and the Milwaukee County Research Park be the specific option chosen for the south portion of the North Leg.
3. The full double loop interchange option be chosen for the North Avenue Interchange
4. The northbound Mayfair exit remain as a needed off ramp for northbound traffic
5. The preferred option for reconstruction of the interchange is the 6 lane alternative with the option to expand to 8 lanes when traffic conditions reach the expansion level for the north leg of the Zoo Interchange

AND BE IT FURTHER RESOLVED, that the City Clerk is authorized to send copies of this resolution to Governor Doyle, the City of Wauwatosa's representatives in the Wisconsin Legislature, Secretary of Transportation Busalacchi and the Wisconsin Department of Transportation expressing the concerns for the Zoo Interchange Project on behalf of the City of Wauwatosa.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-09-152

WHEREAS, Robert Gust and Steve Cooper, representing Verizon Wireless, have applied for a Conditional Use in the AA Commercial District at 2323 North Mayfair Road for a rooftop communications site with a shelter and wireless antennas, 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 Robert Gust and Steve Cooper, representing Verizon Wireless, for a rooftop communications site with a shelter and wireless antennas the AA Commercial District at 2323 North Mayfair Road subject to obtaining all other necessary licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-09-153

WHEREAS, Rosemary Krause and Janey Brandt have applied for a Conditional Use in the AA Single Family Residence District at Jefferson School, 6927 Maple Terrace, to operate before and after school programs including summer and other non-school holidays 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 Rosemary Krause and Janey Brandt to operate before and after school programs including summer and other non-school holidays in the AA Single Family Residence District at Jefferson School, 6927 Maple Terrace, subject to the following conditions:

- 1) hours of operation shall be 6:30 a.m. to 8:30 a.m. and 3:00 p.m. to 6:00 p.m. Monday through Friday, except on Wednesdays, which would start at 2:20 p.m.;
- 2) additionally the option to operate on school off days, Christmas and Easter vacations, and during the summer if enrollment is sufficient; and
- 6) subject to obtaining appropriate licensing and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-09-154

WHEREAS, Graham Packer, agent for T-Mobile, has applied for a Conditional Use in the AA Business District at 4100 North 124th Street for modifications to an existing cellular tower, 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 Graham Packer, agent for T-Mobile, for modifications to an existing cellular tower in the AA Business District at 4100 North 124th Street subject to obtaining all other necessary licenses and permits.

It was moved by Ald. Herzog, seconded by Ald. Hanson
to approve the three foregoing resolutions. -14

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

ORDINANCE

AN ORDINANCE CREATING WAUWATOSA CODE SECTION 1.34 ESTABLISHING A PROCESS FOR THE NAMING OF CITY PROPERTY

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

Part I. Section 1.34 of the Wauwatosa Municipal Code is hereby created to read in its entirety as follows:

Section 1.34. Naming of City Facilities

A. Definition, Purpose, and Preference.

1. As used in this ordinance, “City Property” shall include any building, facility, grounds, field, park, stadium, court, or other real property, or improvement to such real property or portion thereof (including, but not limited to, exterior amenities) owned or controlled by the City, except City streets. “City Property” also shall include programs administered by the City.
2. This ordinance shall govern the approval or rejection of applications for the naming of City Property, whether payment has been offered or sought in exchange for the naming privilege or a naming application has been made without an offer of compensation.
3. When considering whether to name City Property, it is the City’s preference to commemorate the contributions of individuals or families to the Wauwatosa and Milwaukee communities, to the State of Wisconsin, or to the United States of America. However, the City also may receive and consider applications to name City Property for an individual contributor or for a commercial enterprise or nonprofit entity.

B. Naming Criteria.

1. The City’s approval of a naming application is the conferral of a privilege, not a right, and at all times the City shall reserve the right to reject any naming application for any reason not prohibited by law.
2. City Property may be named for a commercial enterprise, but otherwise shall not be used for commercial advertising purposes.
3. The Common Council shall not approve any name for City Property which: (a) would cause confusion due to duplication or names sounding similar to existing facilities or programs in the Milwaukee metropolitan area; (b) would be discriminatory or derogatory considering race, gender, religious or political affiliation, (c) is associated in any manner with alcohol, tobacco, gambling, or other matters which might reflect poorly on the City or set an improper example for children; (d) is associated with any individual who, or family which, has not exhibited good character; or (e) is associated with any commercial enterprise or nonprofit entity which has engaged in practices which would reflect poorly upon the City.

4. Naming privileges shall be approved or rejected without regard to the individual's race, gender, religion, or national origin, or any criterion other than the appropriateness of the name, except as described in subsection (B)(5) below.

5. When considering whether to name City Property, it is the City's preference to commemorate the contributions of individuals or families to the Wauwatosa and Milwaukee communities, to the State of Wisconsin, or to the United States of America. However, the City also may receive and consider applications to name City Property for an individual contributor or for a commercial enterprise or nonprofit entity.

6. No application shall be approved for the name of a political party or organization, for a religious organization (including, but not limited to, a church, synagogue, or group of such entities), or for a group associated with opposition to religion, except that names may be approved which have incidental associations with such entities, such as alumni or athletic booster groups of private schools.

7. If a naming application involves an individual who has been formally associated with the City of Wauwatosa or who has held an elected or paid public office in the City or elsewhere, no such application shall be approved until at least five years have elapsed from the time that such an individual has terminated that association or left that public office.

8. As necessary in response to specific naming requests, the Board of Public Works shall request that City staff research market rates to provide appropriate monetary values assigned to the specific naming privileges for such City Property as is being requested at such time. Such prices shall be subject to Common Council approval.

C. Approval Procedure.

1. Except as specified in subsection (C)(2) below, all applications to name City Property shall be subject to approval by a majority of the members of the Common Council present at the meeting. Each such application shall first be presented to the Board of Public Works on a form specified by the Board, and shall include a comparison of the payment to be made to the City with payments made within the preceding five years to other governmental or nonprofit entities for naming privileges of similar programs or similar buildings, facilities, grounds, fields, parks, stadiums, courts, or other such property or improvements to such property.

2. Common Council approval shall not be required for the City to confer naming privileges in return for cash donations equal to or less than \$5,000 or non-cash donations with a market value equal to or less than \$5,000 as determined by the City's Finance Director, but all other requirements of this ordinance shall apply to such donations and such conferral of naming privileges.

3. If the Common Council approves the granting of a naming privilege, it shall specify the duration of the privilege. No naming privilege shall be approved for a term longer than 15 years, or for longer than the expected useful life of the City Property to be named, whichever is less, except that the Common Council may establish a term longer than 15 years, not to exceed the life of the City Property to be named, for such City Property where

the amount paid for the naming privilege has a cash or market value equal to or less than \$5,000 as determined by the City's Finance Director.

4. Any plaque or sign recognizing the approval of a naming privilege shall be subject to Board of Public Works or Common Council approval, consistent with the provisions previously outlined in this ordinance.

5. Naming applications shall not be accepted from any individual, commercial enterprise, nonprofit entity, or other person during the time that such a person has a zoning or licensing matter pending before the City.

6. Payments for naming privileges shall be used to renovate, expand, or maintain the specific City Property being named, unless the Common Council determines otherwise when approving the naming privilege.

7. Existing names shall not be changed without consideration of the historical significance of the existing name, the impact on the individual or organization previously named, and the cost and impact of changing existing signs, rebuilding community recognition, and updating such records as letterhead, databases, and promotional materials.

D. Terminations of Naming Privileges.

1. The City shall reserve the right to change or discontinue a program, or to demolish, alter, renovate, add to, or maintain City Property, for which a naming privilege has been granted, as the City's needs and programming evolve.

2. The City shall reserve the right to withdraw a naming privilege from any commercial enterprise or nonprofit entity for which City Property has been named which, during the term of the naming privilege, defaults on the agreed-upon payments for such privilege; ceases operations; or which is sold or merged or otherwise changes ownership or corporate form.

3. The City also shall reserve the right to withdraw a naming privilege when the individual, group, commercial enterprise, or nonprofit entity for which City Property has been named has brought dishonor upon himself, herself, or itself, or has brought or threatens to bring the City into disrepute, including (but not limited to) those situations in which subsection (B)(3) above has been violated.

4. If there has been a change as described in subsection (D)(2) and (3) above, the Common Council shall again undertake the approval procedure specified in subsection (C) above to determine if it is appropriate to continue the naming privilege or to impose conditions upon the continuance of that naming privilege.

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

It was moved by Ald. Herzog, seconded by Ald. Hanson to adopt the foregoing ordinance, and to amend it such that any references to the dollar amount of "\$5,000" be

changed to “\$10,000.” Roll call vote, Ayes 11, Noes 3
(Krol, Meaux, Walsh)

The amended ordinance is as follows:

ORDINANCE O-09-12

**AN ORDINANCE CREATING WAUWATOSA CODE SECTION 1.34 ESTABLISHING A
PROCESS FOR THE NAMING OF CITY PROPERTY**

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

Part I. Section 1.34 of the Wauwatosa Municipal Code is hereby created to read in its entirety as follows:

Section 1.34. Naming of City Facilities

A. Definition, Purpose, and Preference.

1. As used in this ordinance, “City Property” shall include any building, facility, grounds, field, park, stadium, court, or other real property, or improvement to such real property or portion thereof (including, but not limited to, exterior amenities) owned or controlled by the City, except City streets. “City Property” also shall include programs administered by the City.
2. This ordinance shall govern the approval or rejection of applications for the naming of City Property, whether payment has been offered or sought in exchange for the naming privilege or a naming application has been made without an offer of compensation.
3. When considering whether to name City Property, it is the City’s preference to commemorate the contributions of individuals or families to the Wauwatosa and Milwaukee communities, to the State of Wisconsin, or to the United States of America. However, the City also may receive and consider applications to name City Property for an individual contributor or for a commercial enterprise or nonprofit entity.

B. Naming Criteria.

1. The City’s approval of a naming application is the conferral of a privilege, not a right, and at all times the City shall reserve the right to reject any naming application for any reason not prohibited by law.
2. City Property may be named for a commercial enterprise, but otherwise shall not be used for commercial advertising purposes.
3. The Common Council shall not approve any name for City Property which: (a) would cause confusion due to duplication or names sounding similar to existing facilities or programs in the Milwaukee metropolitan area; (b) would be discriminatory or derogatory considering race, gender, religious or political affiliation, (c) is associated in any manner with alcohol, tobacco, gambling, or other matters which might reflect poorly on the City or set an

improper example for children; (d) is associated with any individual who, or family which, has not exhibited good character; or (e) is associated with any commercial enterprise or nonprofit entity which has engaged in practices which would reflect poorly upon the City.

4. Naming privileges shall be approved or rejected without regard to the individual's race, gender, religion, or national origin, or any criterion other than the appropriateness of the name, except as described in subsection (B)(5) below.

5. When considering whether to name City Property, it is the City's preference to commemorate the contributions of individuals or families to the Wauwatosa and Milwaukee communities, to the State of Wisconsin, or to the United States of America. However, the City also may receive and consider applications to name City Property for an individual contributor or for a commercial enterprise or nonprofit entity.

6. No application shall be approved for the name of a political party or organization, for a religious organization (including, but not limited to, a church, synagogue, or group of such entities), or for a group associated with opposition to religion, except that names may be approved which have incidental associations with such entities, such as alumni or athletic booster groups of private schools.

7. If a naming application involves an individual who has been formally associated with the City of Wauwatosa or who has held an elected or paid public office in the City or elsewhere, no such application shall be approved until at least five years have elapsed from the time that such an individual has terminated that association or left that public office.

8. As necessary in response to specific naming requests, the Board of Public Works shall request that City staff research market rates to provide appropriate monetary values assigned to the specific naming privileges for such City Property as is being requested at such time. Such prices shall be subject to Common Council approval.

C. Approval Procedure.

1. Except as specified in subsection (C)(2) below, all applications to name City Property shall be subject to approval by a majority of the members of the Common Council present at the meeting. Each such application shall first be presented to the Board of Public Works on a form specified by the Board, and shall include a comparison of the payment to be made to the City with payments made within the preceding five years to other governmental or nonprofit entities for naming privileges of similar programs or similar buildings, facilities, grounds, fields, parks, stadiums, courts, or other such property or improvements to such property.

2. Common Council approval shall not be required for the City to confer naming privileges in return for cash donations equal to or less than \$10,000 or non-cash donations with a market value equal to or less than \$10,000 as determined by the City's Finance Director, but all other requirements of this ordinance shall apply to such donations and such conferral of naming privileges.

3. If the Common Council approves the granting of a naming privilege, it shall specify the duration of the privilege. No naming privilege shall be approved for a term longer than 15

years, or for longer than the expected useful life of the City Property to be named, whichever is less, except that the Common Council may establish a term longer than 15 years, not to exceed the life of the City Property to be named, for such City Property where the amount paid for the naming privilege has a cash or market value equal to or less than \$10,000 as determined by the City's Finance Director.

4. Any plaque or sign recognizing the approval of a naming privilege shall be subject to Board of Public Works or Common Council approval, consistent with the provisions previously outlined in this ordinance.

5. Naming applications shall not be accepted from any individual, commercial enterprise, nonprofit entity, or other person during the time that such a person has a zoning or licensing matter pending before the City.

6. Payments for naming privileges shall be used to renovate, expand, or maintain the specific City Property being named, unless the Common Council determines otherwise when approving the naming privilege.

7. Existing names shall not be changed without consideration of the historical significance of the existing name, the impact on the individual or organization previously named, and the cost and impact of changing existing signs, rebuilding community recognition, and updating such records as letterhead, databases, and promotional materials.

D. Terminations of Naming Privileges.

1. The City shall reserve the right to change or discontinue a program, or to demolish, alter, renovate, add to, or maintain City Property, for which a naming privilege has been granted, as the City's needs and programming evolve.

2. The City shall reserve the right to withdraw a naming privilege from any commercial enterprise or nonprofit entity for which City Property has been named which, during the term of the naming privilege, defaults on the agreed-upon payments for such privilege; ceases operations; or which is sold or merged or otherwise changes ownership or corporate form.

3. The City also shall reserve the right to withdraw a naming privilege when the individual, group, commercial enterprise, or nonprofit entity for which City Property has been named has brought dishonor upon himself, herself, or itself, or has brought or threatens to bring the City into disrepute, including (but not limited to) those situations in which subsection (B)(3) above has been violated.

4. If there has been a change as described in subsection (D)(2) and (3) above, the Common Council shall again undertake the approval procedure specified in subsection (C) above to determine if it is appropriate to continue the naming privilege or to impose conditions upon the continuance of that naming privilege.

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

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-155

WHEREAS, the City Clerk has indicated that unexpectedly large commercial cases being heard by the Board of Review in 2009 have resulted in a shortfall of funds to pay for court reporter expenses for the Board of Review; and

WHEREAS, the City Clerk has indicated that a transfer of \$1,100.00 from the Reserve for Contingencies would provide the necessary funds for current and forthcoming court reporter expenses associated with the Board of Review;

NOW, THEREFORE, BE IT RESOLVED THAT the amount of \$1,100.00 is hereby approved for transfer from the Reserve for Contingencies to the City Clerk's Sundry Contractual Services Account in order to pay for current and forthcoming court reporter expenses associated with the Board of Review in 2009.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-156

WHEREAS, the City of Wauwatosa Purchasing Manager requested bids for the processing and printing, under a multi-year contract, of real estate tax bills and monthly water bills; and

WHEREAS, the combination of price and service provided by Mailcom Consulting appears to be in the best interest of the City;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City staff are hereby authorized to issue a purchase order for the processing of real estate tax bills and monthly water bills to Mailcom, Inc. pursuant to the bid received on May 1, 2009, for a period of 46 months, with a provision for renewal thereafter for two additional one-year periods upon mutual consent of the parties.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-157

WHEREAS, the State of Wisconsin contract for road salt purchases in advance of the 2009-2010 winter season reflects a 42% increase over past prices; and

WHEREAS, in order to assure an adequate supply for the 2009-2010 season the Department of Public Works has determined it should order 1,000 tons of additional salt to be stored at the Public Works yard; and

WHEREAS, the additional unbudgeted cost of this early fill for road salt requires an amount of \$54,000.00 to be transferred from the Reserve for Contingencies;
NOW, THEREFORE, BE IT RESOLVED THAT the amount of \$54,000.00 is hereby authorized to be transferred from the Reserve for Contingencies to the appropriate account for the purchase of

1,000 tons of early fill road salt at the price of \$54.00 per ton, and said purchase, pursuant to the State of Wisconsin contract, is hereby approved.

It was moved by Ald. Krol, seconded by Ald. Walsh to approve the three foregoing resolutions. -14

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 6/17/09 – 7/07/09 --

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 6/17/09 – 7/07/09: \$10,510,857.25

It was moved by Ald. Meaux, seconded by Ald. Walsh that each and every account of bills and claims be allowed and ordered paid. Roll call vote, Ayes 14

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-158

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to the Village Business Improvement District, Wauwatosa, WI, to encroach onto City right-of-way for various activities for the Soiree De Village (July 16 – 18, 2009), subject to applicants executing unto the City an indenture setting forth the terms, provisions and conditions relating to the granting of the aforesaid permission by said City to said applicants.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-159

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to the Village Business Improvement District, Wauwatosa, WI, to encroach onto City right-of-way for various activities for the Take A Seat Event June through September 12, 2009, subject to applicants executing unto the City an indenture setting forth the terms, provisions and conditions relating to the granting of the aforesaid permission by said City to said applicants.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-162

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 less than 3.00; and

WHEREAS, after receiving an "A" on the one credit financial management section and an "F" on the three credit collection system section, the City of Wauwatosa's overall grade point average is 1.00;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa to accept the 2008 Compliance Maintenance Annual Report (CMAR) and that the following recommendations and actions be immediately taken to address and correct problems and deficiencies of the collection system as identified in the Compliance Maintenance Annual Report (CMAR) in order to maintain compliance with effluent limitations and permit conditions and eliminate Sanitary Sewer Overflows (SSO):

- 1) Continue with the City's accelerated Inflow and Infiltration elimination program.
- 2) Continue with its current sanitary sewer collection system operational procedures and make improvements where necessary.
- 3) Initiate additional engineering studies in areas where there may be inadequate capacity.
- 4) Perform orderly and timely repairs and maintenance.
- 5) Add newly identified troubled spots to a monthly maintenance schedule.

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-09-164

WHEREAS, AT & T has been required to relocate its facilities in Hart Park due to the construction of the Hart Park athletic fields and bleachers; and

WHEREAS, the proposed route of the new location for AT&T facilities was presented to the Board of Public Works at its meeting of July 6, 2009; and

WHEREAS, AT&T has requested a 6-foot wide easement along this route in order to place and maintain its facilities at a minimum depth of five feet;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City staff are hereby authorized to execute an Easement Agreement with AT&T for the relocation of its facilities within the area of the Hart Park athletic field consistent with the new locations provided to the Board of Public Works on July 6, 2009, subject to final approval by engineering staff and the Wauwatosa City Attorney.

FROM THE BOARD OF PUBLIC WORKS

TO THE COMMON COUNCIL, CITY OF WAUWATOSA –

The Board of Public Works, to whom was referred the matter of the *Capacity, Management, Operations, and Maintenance (CMOM) Program*, recommends to the Common Council that the matter be placed on file.

Dated this 6th day of July 2009.

Board of Public Works

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-166

WHEREAS, Amcore Bank, at the time it developed its property at 2367 N. Mayfair Road in the City of Wauwatosa, was requested to dedicate an area of land along the northern border of that parcel for purposes of the extension of the public road known as West Meinecke Avenue; and

WHEREAS, a survey reflecting the areas to be dedicated for public street was presented to the Board of Public Works at its meeting on July 6, 2009;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa hereby accepts the dedication of land for purposes of public right-of-way at a portion of West Meinecke Avenue west of North Mayfair Road in the City of Wauwatosa, as more particularly described in the survey describing the public right-of-way dedication presented to the Board of Public Works on July 6, 2009, is hereby accepted by the City of Wauwatosa and declared to be a portion of a public way to be known as West Meinecke Avenue.

It was moved by Ald. Birschel, seconded by Ald. Dennik to approve the five foregoing resolutions and one foregoing report. -14

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION

WHEREAS, Pursuant to the Agreement Between the City of Wauwatosa (the “City”) and the Wauwatosa Rotary Foundation, Inc. (the “Foundation”) for Construction and Dedication of the

Rotary Performance Pavilion At Hart Park (the “Construction Agreement”), which was approved by the Common Council on June 3, 2008, the Foundation has now completed construction of the “Rotary Performance Pavilion” (the “Facility”); and

WHEREAS, the Foundation has formally notified the Mayor of the City that it is prepared to transfer ownership of the Facility to the City; and

WHEREAS, Paragraph 2.10 of the Construction Agreement, provides that, upon completion of construction of the Facility, the Foundation will demonstrate to the City that the Facility is free and clear of all liens and encumbrances, and shall transfer title and possession of the Facility to the City, along with the rights to enforcement of any warranties and guarantees regarding construction or materials used therein; and

WHEREAS, The City of Wauwatosa is satisfied that all Foundation obligations under the Construction Agreement have been met, and that the Facility is free and clear of liens and encumbrances;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa hereby accepts the donation of the Facility from the Foundation pursuant to the terms of the Construction Agreement;

BE IT FURTHER RESOLVED THAT the Facility shall be named the “ROTARY PERFORMANCE PAVILION”; and

BE IT FURTHER RESOLVED THAT the City shall permit only the following signage/banners to be placed directly on or be attached to the Facility itself, either temporarily or permanently: the Rotary International Emblem, the name “Rotary Performance Pavilion” and the logo of the WaterStone Bank, SSB (or any successor corporation, with the approval of the Foundation); and

BE IT FURTHER RESOLVED THAT no performance activities shall be permitted on the top/roof of the Facility; and

BE IT FURTHER RESOLVED THAT The City shall allow the Wauwatosa Rotary Foundation, Inc. to provide, at its own expense, appropriate recognition of donors to the Facility on plaques placed on the east and west sides of the back portion of the Facility or on a newly constructed structure or structures placed nearby the Facility in a manner consistent with the donor recognition plan previously approved by the Common Council.

BE IT FURTHER RESOLVED THAT The City shall ensure, either if it enters into a Management Contract with another entity to manage and provide programming content for the Facility or if the City and/or the Wauwatosa Parks Board manages and provides programming content for the Facility itself, the right of the Wauwatosa Rotary Foundation, Inc. or the participating Rotary Clubs (Rotary International of Wauwatosa and Wauwatosa Mayfair Rotary Club) to utilize the Facility to conduct a total of up to four (4) events each year for their own purposes and without costs to them for such utilization.

It was moved by Ald. Birschel, seconded by Ald. Dennik
to approve the foregoing resolution. –

It was moved by Ald. McBride, seconded by Ald. Birschel to amend the resolution to include the city's deep thanks to the Wauwatosa Rotary Foundation for their contribution to the city, and for the hard work of its members -14.

Vote on motion, as amended, -14.

The amended resolution is as follows:

RESOLUTION R-09-165

WHEREAS, Pursuant to the Agreement Between the City of Wauwatosa (the "City") and the Wauwatosa Rotary Foundation, Inc. (the "Foundation") for Construction and Dedication of the Rotary Performance Pavilion At Hart Park (the "Construction Agreement"), which was approved by the Common Council on June 3, 2008, the Foundation has now completed construction of the "Rotary Performance Pavilion" (the "Facility"); and

WHEREAS, the Foundation has formally notified the Mayor of the City that it is prepared to transfer ownership of the Facility to the City; and

WHEREAS, Paragraph 2.10 of the Construction Agreement, provides that, upon completion of construction of the Facility, the Foundation will demonstrate to the City that the Facility is free and clear of all liens and encumbrances, and shall transfer title and possession of the Facility to the City, along with the rights to enforcement of any warranties and guarantees regarding construction or materials used therein; and

WHEREAS, The City of Wauwatosa is satisfied that all Foundation obligations under the Construction Agreement have been met, and that the Facility is free and clear of liens and encumbrances;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa hereby accepts the donation of the Facility from the Foundation pursuant to the terms of the Construction Agreement;

BE IT FURTHER RESOLVED THAT the Facility shall be named the "ROTARY PERFORMANCE PAVILION"; and

BE IT FURTHER RESOLVED THAT the City shall permit only the following signage/banners to be placed directly on or be attached to the Facility itself, either temporarily or permanently: the Rotary International Emblem, the name "Rotary Performance Pavilion" and the logo of the WaterStone Bank, SSB (or any successor corporation, with the approval of the Foundation); and

BE IT FURTHER RESOLVED THAT no performance activities shall be permitted on the top/roof of the Facility; and

BE IT FURTHER RESOLVED THAT The City shall allow the Wauwatosa Rotary Foundation, Inc. to provide, at its own expense, appropriate recognition of donors to the Facility on plaques placed on the east and west sides of the back portion of the Facility or on a newly constructed structure or structures placed nearby the Facility in a manner consistent with the donor recognition plan previously approved by the Common Council.

BE IT FURTHER RESOLVED THAT The City shall ensure, either if it enters into a Management Contract with another entity to manage and provide programming content for the Facility or if the City and/or the Wauwatosa Parks Board manages and provides programming content for the Facility itself, the right of the Wauwatosa Rotary Foundation, Inc. or the participating Rotary Clubs (Rotary International of Wauwatosa and Wauwatosa Mayfair Rotary Club) to utilize the Facility to conduct a total of up to four (4) events each year for their own purposes and without costs to them for such utilization.

BE IT FINALLY RESOLVED THAT The Wauwatosa Common Council and the citizens of the City of Wauwatosa express their deepest thanks to the Wauwatosa Rotary Foundation for their contributions to the community.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-160

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 C.W. Purpero, Inc., for the work of sanitary sewer, storm sewer and water main rely, repair, and extension, and work incidental thereto in portions of W. Blue Mound Road, Auburn Avenue, Kinsman Street, N. 68th Street, and the alley between W. North Avenue and W. Meinecke Avenue from N. 66th Street to the east end, under Contract 09-04A at and for their bid price of \$229,911.30, this being the lowest and best bid.

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

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-161

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 Terra Engineering Construction Corporation for the work of reconstruction of fully deteriorated sewers using a structural C.I.P.P. relining process, and work incidental thereto in portions of W. Blue Mound Road, N. 99th Street, Auburn Avenue, Kinsman Street, N. 68th Street, and the easement from Geralayne Circle to M.I.S. MH 20' south of Honey Creek under Contract 09-04B at and for their bid price of \$72,023.11, this being the lowest and best bid.

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

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-163

WHEREAS, Contract 09-75 Fire Station #1 originally included the purchase of materials by the construction contractor, J. P. Cullen & Sons, on a taxable basis for use in the construction of the Fire Station; and

WHEREAS, direct purchase of the materials necessary for the construction of the Fire Station by the City of Wauwatosa would allow the purchases to be exempt from sales taxes; and

WHEREAS, a subsidiary corporation of the contractor, which subsidiary corporation is known as Builder's Supply Corporation, has the capability of coordinating the entire purchase of the materials by the City of Wauwatosa in an amount estimated at \$2,000,000., resulting in a potential sales tax savings of \$112,000.00; and

WHEREAS, Builder's Supply Corporation would charge only 2% of the cost of materials to provide this coordination service, resulting in a net savings to the City of approximately \$72,000.00 as compared to the cost of a taxable purchase by the contractor directly;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to execute a change order on contract 09-75 Fire Station #1 to remove the purchase of materials from the contract, resulting in a reduction of \$2,112,000.00 in the value of that contract;

BE IT FURTHER RESOLVED THAT appropriate City officials are hereby authorized to execute a purchase order to Builder's Supply Corporation of up to \$2,000,000 for the tax-exempt purchase of all materials required for construction of the Fire Station by J. P. Cullen & Sons under contract #09-75, in addition to a fee of 2% of the total cost of materials which would be provided to Builder's Supply Corporation in exchange for this service for a total of up to \$2,040,000, and competitive bidding for this purchase pursuant to the ordinance of the City of Wauwatosa is hereby waived;

BE IT FINALLY RESOLVED THAT the purchase order and change order shall only be executed on the condition that J. P. Cullen & Sons and Builder's Supply Corporation shall provide the same warranties regarding quality and suitability of purchased products as though the products were purchased directly by J. P. Cullen & Sons for the purpose.

It was moved by Ald. Birschel, seconded by Ald. Jay
to approve the three foregoing resolutions. -14

There being no further business, the meeting adjourned at 8:30 p.m.

cal

Carla A. Ledesma, CMC, City Clerk