



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, February 5, 2008 – 8:03 p.m.

PRESENT: Alds. Maher, Meaux, Minear, Purins, Stepaniak, Becker, Birschel, Didier, Donegan, Ewerdt, Grimm, Hanson, Krill, Krol -14

EXCUSED: Alds. Herzog and Treis

ALSO PRESENT: Mr. Archambo, City Administrator; Mr. Kesner, City Attorney; Mr. Braier, Finance Director; Mr. Kappel, Public Works Director; Ms. Welch, Community Development Director; Police Chief Weber; Fire Chief Redman; Asst. Fire Chiefs Anton and Hevey; Deputy Fire Chief Rice; Ms. Ledesma, City Clerk; Ms. Van Hoven, Deputy City Clerk

Mayor Estness in the Chair

The Mayor called the meeting to order at 8:03 p.m.

Mayor Estness and Common Council President Becker presented children's librarian Jean Ann VonRohr with a proclamation on the occasion of her retirement.

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

Board of Health

Maureen McNally, 9200 W. Wisconsin Avenue (reappointment)
(Term ends 12/31/12)

Design Review Board B

Timothy Wiberg, 12317 W. Ripley Avenue (reappointment)
(Term ends 12/31/09)

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

APPLICATIONS, COMMUNICATIONS, ETC.

1. Letter from Gregory A. Stano, 4430 N. 88th Street regarding the city's plan for salt distribution during storms for the remainder of the winter season
Public Works Dir.
2. Conditional Use application for a French patisserie and café at 7610 Harwood Avenue
Plan Commission, Community Development Committee
3. Conditional Use application for a fiber conversion cabinet at 7900 Harwood Avenue
Plan Commission, Community Development Committee
4. Conditional Use application for a fiber conversion cabinet at 1615 Wauwatosa Avenue
Plan Commission, Community Development Committee
5. Conditional Use application for outdoor seating for Pizzeria Piccola in the vacant lot at between 7602 and 7534 W. State Street
Plan Commission, Community Development Committee
6. Letter from Nelson R. Bregon, U.S. Department of Housing and Urban Development regarding the Community Development Block Grant allocations for Fiscal Year 2008
Planning Department
7. Notice of Claims: Froedtert Memorial Lutheran Hospital's, Sports Medicine Center, 8700 Watertown Plank Road and Sargeant Health Center, 9200 W. Wisconsin Avenue for the purpose of recovery of unlawful tax by the City of Wauwatosa
City Attorney
8. Notice of Claims: Covenant Healthcare System, Inc. for the following: 1) 201 N. Mayfair Road, Parcel #411-9994-03 on N. Mayfair Road and N. 110th Street, regarding a refund of 2007 real property taxes and personal taxes paid to the City of Wauwatosa in 2008; 2) 201 N. Mayfair Road and Parcel #411-9994-03 on N. Mayfair Road regarding an excessive assessment of 2007 real property taxes paid in 2008; and 3) 4500 Harley Davidson Avenue and personal property regarding a refund of 2007 real property taxes and person property taxes paid in 2008
City Attorney
9. Notice of Claims: Teamsters Local Union 200 and the Wisconsin Health Fund, 6200 W. Blue Mound Road regarding unlawfully assessed property taxes by the City of Wauwatosa
City Attorney
10. Notice of Claims: Milwaukee Deputy Sheriff's Assoc. and Scott Kultz, 821 W. State Street, Milwaukee regarding violation of Wisconsin State Statute 51.30(3) by the City of Wauwatosa pertaining to unauthorized disclosure
City Attorney
11. Letter from Kevin L. Shafer, Exec. Dir., Milwaukee Metropolitan Sewerage District, 260 W. Seeboth Street, Milwaukee regarding an Intergovernmental Cooperation Agreement with the City of Wauwatosa relating to water quality monitoring activities on the Menomonee River
City Attorney, City Engineer, Public Works Dir.
12. City of Wauwatosa Investment Summary as of January 31, 2008
Place on file

FROM THE COMMITTEE OF THE WHOLE

RESOLUTION

A RESOLUTION CALLING FOR A REFERENDUM ELECTION TO APPROVE THE ISSUANCE OF GENERAL OBLIGATION BONDS IN A TOTAL AMOUNT NOT TO EXCEED \$12,500,000 FOR PURPOSES OF REPLACING WAUWATOSA FIRE STATION #1

WHEREAS, the Common Council of the City of Wauwatosa has indicated its intention to issue general obligation bonds in a total amount not to exceed \$12,500,000 for purposes of acquiring land and constructing a new fire station near the location of the existing Fire Station #1; and

WHEREAS, City of Wauwatosa Charter Ordinance 20.13, which previously limited the total principal amount of general obligation bonds and notes which may be issued by the City in any calendar year without a referendum, has been repealed by the Common Council, with such repeal having an effective date of February 11, 2008; and

WHEREAS, the Common Council has indicated that, despite the repeal of Charter Ordinance 20.13, it wishes to ask the voters in the City of Wauwatosa to approve the issuance of general obligation bonds for such fire station construction in a referendum question to be placed on the ballot at the next general election, April 1, 2008; and

WHEREAS, it is possible that the effective date of the repeal of Charter Ordinance 20.13 could be delayed pursuant to the procedures encompassed in sec. 66.0101(5) of the Wisconsin statutes, in which case the Common Council intends to proceed with the referendum question on the April 1, 2008 ballot under the terms of that ordinance;

NOW THEREFORE BE IT RESOLVED THAT the issuance of general obligation bonds for construction of a new fire station to replace Fire Station #1 shall be subject to favorable approval by a majority of the qualified electors of the City of Wauwatosa casting votes at a referendum election to be held at the next regularly scheduled election on April 1, 2008 on the following question:

“Shall the City of Wauwatosa be authorized to borrow a total amount not to exceed \$12,500,000 by issuing general obligation bonds for the purpose of acquiring land, constructing and equipping a new fire station to replace the existing Fire Station #1 in the City of Wauwatosa?”

BE IT FURTHER RESOLVED THAT in the event that the repeal of City of Wauwatosa Charter Ordinance 20.13 has not become effective as of the date of the April 1, 2008 general election, this referendum question shall be sufficient to meet the provisions of that Charter Ordinance provision as it existed prior to its repeal.

It was moved by Ald. Krill, seconded by Ald. Stepaniak to approve the foregoing resolution, including the language drafted by the city attorney for the referendum wording. –

It was moved by Ald. Ewerdt, seconded by Ald. Donegan to amend the motion to change the amount to \$11.5 million dollars. Roll call vote, Ayes 14

Roll call vote on motion, as amended, Ayes 14.

The amended resolution is as follows:

AMENDED RESOLUTION R-08-07

A RESOLUTION CALLING FOR A REFERENDUM ELECTION TO APPROVE THE ISSUANCE OF GENERAL OBLIGATION BONDS IN A TOTAL AMOUNT NOT TO EXCEED \$11,500,000 FOR PURPOSES OF REPLACING WAUWATOSA FIRE STATION #1

WHEREAS, the Common Council of the City of Wauwatosa has indicated its intention to issue general obligation bonds in a total amount not to exceed \$11,500,000 for purposes of acquiring land and constructing a new fire station near the location of the existing Fire Station #1; and

WHEREAS, City of Wauwatosa Charter Ordinance 20.13, which previously limited the total principal amount of general obligation bonds and notes which may be issued by the City in any calendar year without a referendum, has been repealed by the Common Council, with such repeal having an effective date of February 11, 2008; and

WHEREAS, the Common Council has indicated that, despite the repeal of Charter Ordinance 20.13, it wishes to ask the voters in the City of Wauwatosa to approve the issuance of general obligation bonds for such fire station construction in a referendum question to be placed on the ballot at the next general election, April 1, 2008; and

WHEREAS, it is possible that the effective date of the repeal of Charter Ordinance 20.13 could be delayed pursuant to the procedures encompassed in sec. 66.0101(5) of the Wisconsin statutes, in which case the Common Council intends to proceed with the referendum question on the April 1, 2008 ballot under the terms of that ordinance;

NOW THEREFORE BE IT RESOLVED THAT the issuance of general obligation bonds for construction of a new fire station to replace Fire Station #1 shall be subject to favorable approval by a majority of the qualified electors of the City of Wauwatosa casting votes at a referendum election to be held at the next regularly scheduled election on April 1, 2008 on the following question:

“Shall the City of Wauwatosa be authorized to borrow a total amount not to exceed \$11,500,000 by issuing general obligation bonds for the purpose of acquiring land, constructing and equipping a new fire station to replace the existing Fire Station #1 in the City of Wauwatosa?”

BE IT FURTHER RESOLVED THAT in the event that the repeal of City of Wauwatosa Charter Ordinance 20.13 has not become effective as of the date of the April 1, 2008 general election, this referendum question shall be sufficient to meet the provisions of that Charter Ordinance provision as it existed prior to its repeal.

FROM THE COMMITTEE ON EMPLOYEE RELATIONS

RESOLUTION R-08-08

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT the collective bargaining agreement for the years 2008 through 2010, which has been negotiated between the City of Wauwatosa and the Wauwatosa Peace Officers' Association, a summary of which is attached hereto, be and hereby is approved.

It was moved by Ald. Purins, seconded by Ald. Maher to approve the foregoing resolution. Roll call vote, Ayes 13, No 1 (Donegan)

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-08-09

WHEREAS, Andrew R. Fawley, 3133 S. 84th Street, Milwaukee, WI, applied for an operator's license in conjunction with his employment at Habanero's, 869 N. Mayfair Road, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Andrew R. Fawley is hereby issued an operator's license for the period ending June 30, 2008;

BE IT FURTHER RESOLVED THAT the Wauwatosa Police Department is hereby directed to conduct a further review of the criminal records concerning Mr. Fawley six months from the date of this license issuance and is directed to report back to the Legislation, Licensing and Communications Committee if any new concerns regarding Mr. Fawley's fitness for this operator's license are found.

It was moved by Ald. Krol, seconded by Ald. Grimm to approve the foregoing resolution. Roll call vote, Ayes 12, Noes 2 (Becker, Ewerdt)

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-08-10

WHEREAS, Catherine A. Warren, 13120 Kittridge Court, Brookfield, WI, has applied for an operator's license in conjunction with her employment at Alioto's, 3041 N. Mayfair Road, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Catherine A. Warren, 13120 Kittridge Court, Brookfield, WI, be issued an operator's license for the period ending June 30, 2008.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-08-11

WHEREAS, William Poull of the Club Tap, 8828 W. North Avenue, has requested a temporary extension of the licensed premises to include the rear parking lot on February 17, 2008;

NOW, THEREFORE, BE IT RESOLVED THAT the licensed premises of the Club Tap be extended to include the rear parking lot on February 17, 2008, between the hours of 12:00 and 6:00 pm on the condition that refuse resulting from this event will be thoroughly cleaned by the premises owner and any outdoor music will be kept to a minimal volume.

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

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-08-12

WHEREAS, James Keegan, Milwaukee County Parks, has applied for a Conditional Use in the Parks and Open Space District at 3535 N. Mayfair Road to construct an irrigation pump station at Currie Park, 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 James Keegan, Milwaukee County Parks, to construct an irrigation pump station at Currie Park in the Parks and Open Space District at 3535 N. Mayfair Road subject to the following conditions:

- 1) final approval by the City Engineer and Water Superintendent, and
- 2) obtaining all necessary licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-08-13

WHEREAS, G2 Properties IV, LLC, has applied for a Conditional Use in the Trade District at 6823 West North Avenue to modify the hours and allow accessory uses at the Rosebud Theater, 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 G2 Properties IV, LLC, to modify the hours and allow accessory uses at the Rosebud Theater in the Trade District at 6823 West North Avenue subject to the following conditions:

- 1) hours of operation 8:00 a.m. to midnight Monday through Thursday, 8:00 a.m. to 2:00 a.m. on Friday, 9:00 a.m. to 2:00 a.m. on Saturday, and 9:00 a.m. to midnight on Sunday, and
- 2) obtaining all necessary licenses and permits.

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

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-08-14

WHEREAS, the 2007-08 winter weather has required the use of salt for road safety above and beyond the amount currently stored and budgeted; and

WHEREAS, despite salt saving measures being undertaken by the Department of Public Works, it is necessary to make available funds for the purchase of additional salt from reserves for the remainder of the current winter season; and

WHEREAS, reserves are available for the purchase of up to 1,090 tons of salt at a cost of \$34.14 per ton, with a total cost of \$37,212.90 if the full amount is needed;

NOW, THEREFORE, BE IT RESOLVED THAT an amount of \$37,212.90 is hereby allocated from the Reserve for Contingencies for the purchase of up to 1,090 tons of road salt from reserves which are available to the City of Wauwatosa, and the Director of Public Works is hereby authorized to draw on the monies for the purchase of such salt as needed for the remainder of 2008.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-08-15

WHEREAS, the 2008 Community Development Block Grant amounts were originally budgeted by the Common Council based on a projection of CDBG funds which would be available; and

WHEREAS, actual grant amounts from the Community Development Block Grant Program is now known to be approximately 1% less than originally projected; and

WHEREAS, the Community Development Block Grant Committee determined that the most equitable manner in which to absorb the changes among previously allocated CDBG funds is to apply the reduction equally across-the-board to all recipients of the 2008 CDBG funding grants; and

WHEREAS, a breakdown of the specific original and actual grant amounts is contained in the memorandum of the Assistant Planner dated January 23, 2008, a copy of which is attached hereto and incorporated herein;

NOW, THEREFORE, BE IT RESOLVED THAT the CDBG grants for the 2008 budget are hereby reduced to the “actual” allocations reflected in the January 23, 2008, memorandum of the Assistant Planner and presented to the Budget & Finance Committee at its meeting of January 29, 2008.

It was moved by Ald. Stepaniak, seconded by Ald. Krill
to approve the two foregoing resolutions. -14

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 1/16/08 – 2/5/08 --

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 1/16/08 – 2/5/08: \$32,501,916.09

It was moved by Ald. Meaux, seconded by Ald. Ewerdt
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-08-16

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, March 4, 2008 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 matters relating to the City’s intent to perform street construction work in the City of Wauwatosa.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-08-17

WHEREAS, the City of Wauwatosa Engineering and Public Works staff has been meeting with the Milwaukee Metropolitan Sewerage District and its consultant for over two years in an effort to draft a Capacity, Management, Operation and Maintenance (CMOM) strategic plan for Wauwatosa; and

WHEREAS, the CMOM strategic plan as presented to the Board of Public Works provides for attainment of certain goals by mid-2009, medium range goals by the year 2011, and the remainder of its goals by 2015; and

WHEREAS, many of the aspects of the plan as drafted have already been completed or have already been undertaken as part of other DNR mandates, and long range planning of the Engineering and Public Works Department staff has been working toward similar goals;

NOW, BE IT RESOLVED THAT the Capacity Management Operation and Maintenance (CMOM) Program strategic plan as drafted in cooperation with the Milwaukee Metropolitan Sewerage District and presented to the Board of Public Works at its meeting on February 4, 2008, is hereby approved.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-08-18

WHEREAS, the Milwaukee Metropolitan Sewerage District has worked with member communities along the Menomonee River to devise a formula to jointly fund water quality monitoring along the Menomonee River as required by permits, including Wauwatosa's, under the Wisconsin Pollution Discharge Elimination System; and

WHEREAS, a one time payment of \$7,680.76 is required for participation in this joint water quality monitoring effort, which amount has been budgeted in 2008; and

WHEREAS, an Intergovernmental Cooperation Agreement with MMSD has been drafted and reviewed by the City Attorney and found to be appropriate to execute for this purpose;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to execute the proposed Intergovernmental Cooperation Agreement with the Milwaukee Metropolitan Sewerage District for water quality monitoring on the Menomonee River and the expenditure of funds under that Agreement is hereby authorized.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-08-19

WHEREAS, Contract 07-16, Portland Avenue Bridge Scour Repair, is required to obtain a separate Department of Natural Resources permit for a portion of work outside of the bridge area; and

WHEREAS, the delay in receiving the separate DNR permit would create difficulties in performing the work near the bridge itself, which work would be best done during the low water flow of the winter season; and

WHEREAS, the most efficient use of resources for the City would be to remove those portions of the contract work which are outside the bridge area and require a separate permit, thus allowing work at the bridge area to continue during the low water winter season;

NOW, THEREFORE, BE IT RESOLVED THAT Change Order No. 1 to Contract 07-16, as recommended and described by the Civil Engineer in his February 1, 2008, memorandum to the Board of Public Works, is hereby approved.

It was moved by Ald. Maher, seconded by Ald. Ewerdt
to approve the four foregoing resolutions. -14

There being no further business, the meeting adjourned at 9:23 p.m.

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Carla A. Ledesma, CMC, City Clerk