



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, May 19, 2009

PRESENT: Alds. Nikcevich, Walsh, Berdan, Birschel, Dennik, Ewerdt, Hanson, Herzog, Jay, Krol, McBride -11

EXCUSED: Alds. Organ, Stepaniak, Donegan, Meaux

ALSO PRESENT: Mr. Archambo, City Administrator; Mr. Kesner, City Attorney; Mr. Braier, Finance Director; Mr. Kappel, Public Works Director; Police Chief Weber; 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. Hanson that the reading of the minutes of the last regular meeting be dispensed with and they be approved as printed. -11

APPOINTMENTS BY THE MAYOR

Senior Commission

Gary J. Metz, 2250 N. 107th Street
Pat Miller, 8844 Stickney Avenue
Sue Braden, 1934 N. 69th Street
(Terms end 4/30/12)

Foregoing appointments held as this was the first reading.

Civic Celebration Commission

Patrick McNally, 9646 W. Palmetto Avenue
(Term ends 12/31/13)

It was moved by Ald. Krol, seconded by Ald. Nikcevich to concur with the foregoing appointment under suspension of the rules. -11

Senior Commission

Ald. Linda Nikcevich, Aldermanic Liaison

Civic Celebration Commission

Ald. Cheryl Berdan, Aldermanic Liaison

Foregoing provided for information only.

APPLICATIONS, COMMUNICATIONS, ETC.

1. Wauwatosa Water Utility, Statement of Receipts and Disbursements for the period ending April 30, 2009
Place on file
2. Letter from Alex Marlis, Sts. Constantine & Helen Greek Orthodox Church, 2160 Wauwatosa Avenue, requesting a Street Festival permit for their annual Grecian Festival 2009 to be held June 12-14, 2009
Community Development Committee
3. City of Wauwatosa, Statement of Financial Condition for the period ending April 30, 2009
Place on file
4. Notices of Claim: David Robles, 2122 N. 93rd Street; Gloria Lange, 1135 N. Glenview Avenue
City Attorney
5. City of Wauwatosa, Bank Reconciliation of Depository Accounts for the period ending April 30, 2009
Place on file
6. Letter from Bob A. Gintoft, Vice President, WEDC, 6147 Washington Circle, regarding the review of the URS consultants' Economic Development Vision, Structure and Implement Plan
Place in existing file
7. Letter from Barry N. Breen, U.S. Environmental Protection Agency (EPA), regarding Wauwatosa's selection to pursue negotiations for cooperative agreements for two assessment grants funded through the American Recovery and Reinvestment Act (ARRA) of 2009
Community Development Director
8. Letter from Nelson R. Bregon, Department of Housing and Urban Development (HUD), regarding the city's Fiscal Year 2009 allocations for the Office of Community Planning and Development's formula programs
Community Development Director
9. Letter from Aprille A. Spoor, N34 W23100 Circle Ridge, Pewaukee, appealing the Council's decision to deny her operator license
Legislation, Licensing & Communications Committee

FROM THE COMMITTEE ON EMPLOYEE RELATIONS FOR INTRODUCTION

1. Ordinance amending Section 2.59 of the city code reclassifying the Deputy Treasurer position from Grade 10 to Grade 9 and renaming the position to Treasurer's Office Business Supervisor
Re-referred to originating committee

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION

1. Ordinance creating Section 1.34 of the city code establishing a process for the naming of City property

Re-referred to originating committee

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-115

WHEREAS, the City of Wauwatosa advertised for bids pursuant to State law for the contract as the official newspaper for the City's legal publications; and

WHEREAS, the sole bid received was from Community Newspapers, Inc.; and

WHEREAS, the bid received from Community Newspapers, Inc. remained unchanged from last year;

NOW, THEREFORE, BE IT RESOLVED THAT the bid of Community Newspapers, Inc. as the official newspaper of the City of Wauwatosa shall be accepted as submitted in its bid.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-116

WHEREAS, the City of Wauwatosa Building and Safety Division has applied to become an agent of the State of Wisconsin – Department of Commerce, Division of Safety & Buildings, pursuant to Sec. 101.12(am) of the Wisconsin Statutes, qualifying it to operate as a “one-stop shop” for plan review in the economic development process in performing plan reviews otherwise performed by the Department of Commerce; and

WHEREAS, such review status requires the City to reimburse the State 12% of the State of Wisconsin fee schedule while retaining the additional fees according to the State of Wisconsin fee schedule; and

WHEREAS, the change in agent status and the State's newly adopted fee schedule occurred after the passage of the 2009 City of Wauwatosa budget;

NOW, THEREFORE, BE IT RESOLVED THAT the “Building and Safety Division” portion of the City of Wauwatosa consolidated fee schedule is hereby amended to reflect the fees for current applications and for building, planning, examination and inspection fees as outlined in the memorandum of the Chief Building Official on May 4, 2009 and presented to the Committee on Budget & Finance at its May 12, 2009 meeting.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-117

**RESOLUTION AUTHORIZING THE ISSUANCE OF \$9,400,000
GENERAL OBLIGATION PROMISSORY NOTES AND THE ISSUANCE AND SALE OF
\$9,400,000 NOTE ANTICIPATION NOTES, SERIES 2009 IN ANTICIPATION THEREOF**

WHEREAS, the Common Council of the City of Wauwatosa, Milwaukee County, Wisconsin (the "City") hereby finds and determines that it is necessary, desirable and in the best interest of the City to raise funds for the purpose of paying the cost of constructing and equipping a new fire station (the "Project"), and there are insufficient funds on hand to pay said costs;

WHEREAS, the Common Council hereby finds and determines that the Project is within the City's power to undertake and therefore serves a "public purpose" as that term is defined in Section 67.04(1)(b) of the Wisconsin Statutes;

WHEREAS, cities are authorized by the provisions of Chapter 67, Wisconsin Statutes, to borrow money and to issue general obligation promissory notes for such public purposes;
WHEREAS, it is the finding of the Common Council that it is necessary, desirable and in the best interest of the City to authorize the issuance of and covenant to issue general obligation promissory notes (the "Securities") to provide permanent financing for the Project;

WHEREAS, the Securities have not yet been issued or sold;

WHEREAS, cities are authorized by the provisions of Section 67.12(1)(b), Wisconsin Statutes, to issue note anticipation notes in anticipation of receiving the proceeds from the issuance and sale of the Securities; and

WHEREAS, it is the finding of the Common Council that it is necessary, desirable and in the best interest of the City to authorize the issuance and sale of note anticipation notes pursuant to Section 67.12(1)(b), Wisconsin Statutes (the "Notes"), in anticipation of receiving the proceeds from the issuance and sale of the Securities, to provide interim financing to pay the cost of the Project.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1. Authorization of Securities. The City hereby authorizes the issuance and declares its intention and covenants to issue the Securities pursuant to the provisions of Chapter 67, Wisconsin Statutes, in an amount sufficient to retire any outstanding note anticipation notes issued for the purpose of paying the cost of the Project.

Section 2. Authorization of the Notes. In anticipation of the sale of the Securities, for the purpose of paying the cost of the Project, there shall be borrowed pursuant to Section 67.12(1)(b), Wisconsin Statutes, the principal sum of NINE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$9,400,000) from a purchaser to be determined by subsequent resolution of the Common Council (the "Purchaser").

Section 3. Sale of the Notes. To evidence such indebtedness, the Mayor and City Clerk are hereby authorized, empowered and directed to make, execute, issue and sell to the Purchaser for, on behalf

of and in the name of the City, the Note aggregating the principal amount of NINE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$9,400,000).

Section 4. Terms of the Notes. The Notes shall be designated "Note Anticipation Notes, Series 2009"; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered 1 and upward; shall be dated, and shall mature in the years and principal amounts as specified by subsequent resolution of the Common Council.

Section 5. Award of the Notes. At a subsequent meeting, the Common Council shall consider taking further action to provide the details of the Notes and to award the Notes to the Purchaser.

Section 6. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09- 118

RESOLUTION AUTHORIZING THE BORROWING OF \$5,300,000; AND PROVIDING FOR THE ISSUANCE AND SALE OF TAXABLE GENERAL OBLIGATION PROMISSORY NOTES (BUILD AMERICA BONDS - DIRECT PAYMENT) THEREFOR

WHEREAS, the Common Council of the City of Wauwatosa, Milwaukee County, Wisconsin (the "City") hereby finds and determines that it is necessary, desirable and in the best interest of the City to raise funds for the purpose of paying the cost of various public improvements included in the City's 2009 Capital Project Plan, including repairing and upgrading streets, parks, storm and sanitary sewers (the "Project"), and there are insufficient funds on hand to pay said costs;

WHEREAS, the general nature and location of each element of the Project is set forth in the City's Capital Project Plan which is incorporated herein by this reference;

WHEREAS, the Common Council hereby finds and determines that the Project is within the City's power to undertake and therefore serves a "public purpose" as that term is defined in Section 67.04(1)(b) of the Wisconsin Statutes;

WHEREAS, cities are authorized by the provisions of Section 67.12(12) of the Wisconsin Statutes to borrow money and to issue general obligation promissory notes for such public purposes;

WHEREAS, it is the finding of the Common Council that it is desirable and in the best interest of the City to take the steps necessary to irrevocably designate the general obligation promissory notes to be qualified "Build America Bonds - Direct Payment" within the meaning of Subsection 54AA(g) of the Internal Revenue Code of 1986, as amended (the "Code") and the applicable regulations promulgated under the Code (the "Regulations") so that the City may claim refundable credits with respect to each

interest payment on the general obligation promissory notes, payable to the City by the Secretary of the United States Department of the Treasury ("Treasury");

WHEREAS, because the Common Council will designate the general obligation promissory notes to be qualified Build America Bonds - Direct Payment, the interest on the general obligation promissory notes will be includible in gross income for federal income tax purposes under Subsection 54(f)(1) of the Code; and

WHEREAS, the Common Council of the City hereby finds and determines that Taxable General Obligation Promissory Notes (Build America Bonds - Direct Payment) (the "Notes") in the amount of \$5,300,000 should be issued, and it is now necessary and desirable to authorize their issuance and sale.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1. Authorization of the Notes. For the purpose of paying the cost of the Project, there shall be borrowed pursuant to Section 67.12(12) of the Wisconsin Statutes, the principal sum of FIVE MILLION THREE HUNDRED THOUSAND DOLLARS (\$5,300,000) from a purchaser to be determined by subsequent resolution of the Common Council (the "Purchaser").

Section 2. Sale of the Notes. To evidence such indebtedness, the Mayor and City Clerk are hereby authorized, empowered and directed to make, execute, issue and sell to the Purchaser for, on behalf of and in the name of the City, the Notes aggregating the principal amount of FIVE MILLION THREE HUNDRED THOUSAND DOLLARS (\$5,300,000).

Section 3. Terms of the Notes. The Notes shall be designated "Taxable General Obligation Promissory Notes (Build America Bonds - Direct Payment)"; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered 1 and upward; shall be dated, and shall mature in the years and principal amounts as specified by subsequent resolution of the Common Council.

Section 4. Award of the Notes. At a subsequent meeting, the Common Council shall consider taking further action to provide the details of the Notes; to award the Notes to the Purchaser; and to levy a direct annual irrepealable tax sufficient to pay the principal of and interest on the Notes as the same becomes due as required by law.

Section 5. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-119

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Deann Crawford for damages be and the same is hereby denied and placed on file for the reason that no liability exists on the part of the City;

BE IT FURTHER RESOLVED THAT the City Clerk is hereby authorized and directed to notify said claimant of this action of the Common Council as provided by law.

It was moved by Ald. Ewerdt, seconded by Ald. Krol to approve the five foregoing resolutions. -11

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 5/6/09 – 5/19/09

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 5/6/09 – 5/19/09: \$1,646,736.71

It was moved by Ald. Hanson, seconded by Ald. Krol that each and every one of the accounts of bills and claims be allowed and ordered paid. Roll call vote, Ayes 11.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-120

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to Cameryne Roberts, 61 North LLC for Juniper 61, 6030 W. North Avenue, Wauwatosa, WI, to encroach onto City right-of-way with sidewalk restaurant seating, the precise dimensions of which must at all times remain sufficient for ADA accessibility on the public sidewalk, and subject to the applicant(s) 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 applicant(s).

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-121

WHEREAS, the Board of Public Works has accepted the work of Reconstruct Hart Park West Tennis Courts and work incidental thereto in the City of Wauwatosa under Contract 08-32 and the same is ready for final payment.

NOW, THEREFORE, BE IT RESOLVED by the Board of Public Works of the City of Wauwatosa, Wisconsin as follows:

Section 1. That the work of Reconstruct Hart Park West Tennis Courts and work incidental thereto under Contract 08-32 is hereby accepted.

Section 2. That the proper City officers be and they are hereby authorized and directed to draw and sign a City order in the sum of ten thousand four hundred ninety-eight dollars and five cents (\$10,498.05) in favor of Payne & Dolan, Inc. as the final payment under said contract, upon receipt of waivers of lien and for labor and materials furnished under said contract, and upon receipt of an affidavit stipulating compliance with wage rate requirements.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-122

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 Snorek Construction, Inc., for the work of concrete sidewalk repair and work incidental thereto under Contract 09-19 at and for their bid price of \$307,813.00, this being the lowest and best bid.

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

It was moved by Ald. Krol, seconded by Ald. Nikcevich to approve the three foregoing resolutions. -11

There being no further business, the meeting adjourned at 7:38 p.m.

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Carla A. Ledesma, CMC, City Clerk