



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, June 3, 2008

PRESENT: Alds. Walsh, Birschel, Donegan, Hanson, Herzog, Jay, Krol, Maher, McBride, Meaux, Nikcevich, Organ, Purins, Stepaniak -14

EXCUSED: Alds. Ewerdt 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; Mr. Wehrley, City Engineer; 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. Organ, seconded by Ald. Jay 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

Civil Service Commission

John Schapekahn, 653 N. 77th Street
(term ends 9/30/08)

Civic Celebration Commission

Bobby Pantuso, 2414 N. 67th Street
(term ends 12/31/08)

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

APPLICATIONS, COMMUNICATIONS, ETC.

1. Conditional Use application to expand the existing cooling tower units at the WISVEST Terminal Energy Plant at 9250 W. Watertown Plank Road
Plan Commission, Committee on Community Development

2. Conditional Use application for a cocktail and piano lounge at 11302 W. Blue Mound Road
Plan Commission, Committee on Community Development
3. City of Wauwatosa Bank Reconciliation of Depository Accounts as of April 30, 2008
Place on file
4. Letter from Ald. Hanson regarding Section 15.14.330 of the city code pertaining to changeable copy signs
Community Development Director, Building Department
5. Notice of Claim: Gary M. McHugh, 1204 Kavanaugh Place
City Attorney
6. Email from Gregory Stano, regarding various issues facing the City of Wauwatosa
Public Works Director
7. City of Wauwatosa Investment Summary as of May 31, 2008
Place on file

FROM THE COMMITTEE ON EMPLOYEE RELATIONS FOR INTRODUCTION

1. Ordinance amending Section 2.59.040 of the city code to reclassify the Payroll and Benefits Manager Grade 10, to HR Generalist Grade 8
Re-refer to originating committee

FROM THE COMMITTEE ON TRAFFIC & SAFETY FOR INTRODUCTION

1. Ordinance amending Section 11.32.080 of the city code by prohibiting parking at any time on a portion of the east side of N. 117th Street south of the Burleigh frontage road
Re-refer to originating committee
2. Ordinance amending Section 11.32.080 of the city code by prohibiting parking at any time on a portion of the west side of N. 91st street between W. North Avenue and W. Meinecke Avenue
Re-refer to originating committee

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION

1. Ordinance repealing Section 7.32.100 of the city code to remove the sunset date provision of the sex offender residency ordinance
Re-refer to originating committee

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-08-106

WHEREAS, Rosa Marquez, 3521 E. Armour Avenue, #3, Cudahy, WI, applied for an operator's license in conjunction with her employment at Habaneros, 869 N. Mayfair Road, Wauwatosa; and

WHEREAS, the Committee on Legislation, Licensing & Communications requested on two occasions that Ms. Marquez appear before the Committee to discuss her record and on both occasions the applicant did not appear;

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

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

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

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

ORDINANCE O-08-13

AN ORDINANCE AMENDING WAUWATOSA CODE SECTION 11.36.190 TO PROHIBIT LEFT TURNS INTO THE ALLEY BEHIND 8725 WEST NORTH AVENUE

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

Part I. Section 11.36.190 of the Wauwatosa Municipal Code is hereby amended by adding the following:

20. At the south exit of the parking lot at 8725 West North Avenue into the alley behind said parcel

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

It was moved by Ald. Meaux, seconded by Ald. Krol to adopt the foregoing ordinance. Ayes 13, Noes 1 (Birschel)

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-08-107

WHEREAS, Alex Marlis, Agent for Sts. Constantine and Helen Greek Orthodox Church at 2160 Wauwatosa Avenue has applied for a street festival permit for the church's annual festival on June 13-15, 2008; and

WHEREAS, the Committee on Community Development recommends issuance of a permit subject to certain conditions;

1. The permit shall be valid only for conduct of Greekfest.
2. The festival shall be conducted on June 13 through 15, 2008. Hours of operation shall be June 13th 4:00 p.m. to 10:00 p.m.; June 14th Noon to 10:00 p.m.; and June 15th Noon to 10:00 p.m.
3. The permittee shall pay all costs incurred by the City for this event.

4. Noise associated with music and exhibits shall not be excessive as that term is defined by Section 7.48.040 of the Wauwatosa Municipal Code. The City in its sole discretion shall determine whether noise associated with the festival is excessive and upon request of the City the permittee shall immediately reduce the volume of said noise.
5. The permittee shall be responsible for removing all refuse associated with the event. Failure of the permittee to do so will result in additional charges by the City.
6. No carnival rides will be used.
7. Live music is permitted on Saturday, June 14th and Sunday, June 15th from 3:30 p.m. to 9:30 p.m.
8. The Police Department will develop a plan to eliminate parking on one side of the streets in the immediate area, as appropriate.
9. The church shall be responsible to provide and install signs directing patrons to the City Hall parking lot and to M & I Wauwatosa State Bank; the church parishioners shall be encouraged to park in the City Hall parking lot; a mechanism will be established to make announcements at the festival if a driveway is reported to be blocked.
10. Security will be provided during the event.
11. The church grounds and immediate neighborhood shall be patrolled daily to remove litter.
12. Neighbors will be invited to meet with church officials to review plans and discuss solutions to other potential concerns before the event.
13. The dumpster on the church grounds shall be removed by 5 p.m. on Monday, June 16, 2008. The Permittee shall provide a copy of its contract for removal of the garbage dumpster to the Director of Public Works. The semi-trailers shall be removed from the grass by 5 p.m. on June 16, 2008.
14. Beer sales shall end one-half hour before the closing of the festival each evening.
15. Temporary "NO PARKING AT ANY TIME" restrictions will be posted and will be in effect only during the hours of the festival on the north side of Rogers Avenue, between Wauwatosa Avenue and Underwood Avenue, and the west side of North 74th Street, between Kenwood and Garfield Avenues.
16. Officers assigned to this area and adjacent streets are to check the area frequently for traffic congestion and parking violations. No parking permission has been given in any of the "No Parking At Any Time" zones.
17. Barricades will be placed across Garfield Avenue and Wauwatosa Avenue, and at the north driveway to the church parking lot. A barricade and sign will also be placed on

Garfield Avenue at North 74th Street indicating that the street is open to local traffic only.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa THAT the City Clerk is authorized to issue a street festival permit to Sts. Constantine and Helen Greek Orthodox Church for the purpose of conducting the church's proposed festival subject to the conditions listed herein.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-08-108

WHEREAS, Mark Russert, agent for Cricket Communications, has applied for a Conditional Use in the AA Business District at 2323 N. Mayfair Road to install a wireless communications facility, 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 Mark Russert, agent for Cricket Communications, to install a wireless communications facility in the AA Business District at 2323 N. Mayfair Road subject to obtaining all other necessary licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-08-109

WHEREAS, Eboni Burgess has applied for a Conditional Use in the AA Business District at 10101 W. Capitol Drive for a full-service themed party venue, 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 Eboni Burgess for a full-service themed party venue in the AA Business District at 10101 W. Capitol Drive subject to the following conditions:

- 1) hours of operation are Monday through Friday from 11:30 a.m. to 8:00 p.m. and Saturday and Sunday from 10:30 a.m. to 8:00 p.m., and
- 2) obtaining all other necessary licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-08-110

WHEREAS, the Wauwatosa Historic Preservation Commission met and held a public hearing on May 7, 2008 to review the qualifications of a church located in the BB Two Family Residence District at 1511 Church Street for designation as a Wauwatosa Historic Property, and;

WHEREAS, the First Congregational Church located at 1511 Church Street was designated as a Wauwatosa Historic Landmark, has been listed on the National Register of Historic Places, has been designated a Milwaukee County Landmark, is listed in the Wauwatosa Historical Reconnaissance Study, is a contributing property within the Church Street Historic District and complies with Sections 1 and 3 of Chapter 24.55.040 of the code.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Wauwatosa, Wisconsin, upon the recommendation of the Wauwatosa Historic Preservation Commission and the findings of fact, hereby designates the First Congregation Church located at 1511 Church Street as a Wauwatosa Historic Property.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-08-111

WHEREAS, the City of Wauwatosa has previously approved site plans for a new Performance Pavilion at Hart Park to be constructed by the Wauwatosa Rotary Foundation; and

WHEREAS, the Wauwatosa Rotary Foundation has received donations sufficient for construction of the Pavilion; and

WHEREAS, representatives of the City of Wauwatosa and the Wauwatosa Rotary Foundation have negotiated an Agreement to provide for the construction and dedication of the Performance Pavilion; and

WHEREAS, the Agreement, a copy of which is attached hereto and incorporated herein, provides for the Wauwatosa Rotary Foundation to fund all construction of the Pavilion and dedicate ownership, upon completion, to the City of Wauwatosa, to be operated by the Wauwatosa Board of Parks and Forestry Commissioners;

NOW, THEREFORE, BE IT RESOLVED THAT the Agreement Between the City of Wauwatosa and the Wauwatosa Rotary Foundation for Construction and Dedication of the Rotary Performance Pavilion at Hart Park, a copy of which is attached hereto and incorporated herein, is hereby approved.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-08-112

WHEREAS, upon completion of construction of the Rotary Performance Pavilion at Hart Park, the Pavilion will be owned by a City of Wauwatosa, to be operated by the City of Wauwatosa Board of Parks and Forestry Commissioners; and

WHEREAS, the Board of Parks and Forestry Commissioners has indicated its intent to contract with a nonprofit organization to operate and provide programming for the Performance Pavilion; and

WHEREAS, operation and management would be conducted by Tosa Tonight, Inc., a newly formed organization which is currently seeking tax exempt status from the Internal Revenue Service; and

WHEREAS, an outline of the terms of the management agreement with Tosa Tonight, Inc. is reflected in the Memorandum of Understanding presented to the Committee on Community Development at its meeting of May 27, 2008, a copy of which is attached hereto and incorporated herein;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to enter into the Memorandum of Understanding with Tosa Tonight, Inc. related to management and operation of the Rotary Performance Pavilion at Hart Park, a copy of which is attached hereto and incorporated herein.

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

FROM THE COMMITTEE ON BUDGET AND FINANCE

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI –

The Committee on Budget and Finance, to whom was referred the matter of the audit and fiscal report for the fiscal year ending December 31, 2007, recommends to the Common Council that the matter be accepted and placed on file.

Dated this 27th day of May 2008.

Committee on Budget and Finance

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-08-114

WHEREAS, the City Engineer has issued a Request for Proposals regarding utility design work for previously authorized capital projects along Ruby Avenue in the City of Wauwatosa; and

WHEREAS, the response which was determined to be in the best interest of the City is the response of Ruckert-Mielke of Waukesha, WI, which proposal was recommended for approval in an amount not to exceed \$69,000.00 including reimbursable expenses;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa officials are hereby authorized to enter into an Agreement with Ruckert-Mielke, Inc. of Waukesha, WI, for the Ruby Avenue flood mitigation utility design project as outlined in their Request for Proposals for which responses were received May 14, 2008 in an amount not to exceed \$69,000.00 including the cost of reimbursable expenses.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-08-115

WHEREAS, the City Engineer for the City of Wauwatosa has described in a memorandum to the Budget & Finance Committee dated May 22, 2008, the need for a Phase 1 Limited Sanitary Sewer Evaluation Survey (LSSSES) for sewers tributary to Honey Creek Parkway and West Wisconsin Avenue; and

WHEREAS, the LSSSES is necessary as a result of findings that wet weather flows in this area can be up to 9 times higher than acceptable standards pursuant to the Peak Flow Performance Standards of the Metropolitan Milwaukee Sewerage District; and

WHEREAS, in a settlement dated December 13, 2005, the City of Wauwatosa along with 28 other municipalities tributary to MMSD entered into a stipulation with the Wisconsin Department of Justice in which it was agreed that the City of Wauwatosa will support and comply with MMSD's implementation of Peak Flow Performance Standards; and

WHEREAS, of eight proposals received in response to our Request for Proposals for this Phase 1 LSSSES, the proposal of R. A. Smith National, in an amount of up to \$225,000.00, was determined to be in the best interest of the City; and

WHEREAS, funding for this Phase 1 LSSSES can be provided utilizing 2007 carryover funds of up to \$225,000.00, although if the work is completed more quickly, the cost may be less, and some of these carryover funds may be available for future construction work on this project;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials of the City of Wauwatosa are hereby authorized to enter into an Agreement with R. A. Smith National, for a Phase 1 Limited Sanitary Sewer Evaluation Survey for sewers tributary to Honey Creek Parkway and W. Wisconsin Avenue pursuant to the proposal received from R. A. Smith National on May 15, 2008 at a cost of up to \$225,000.00;

BE IT FURTHER RESOLVED THAT funding for this Agreement is to be provided through the use of 2007 carryover funds, and any unused funds of the \$225,000.00 allocated for this contract shall be carried over into future years for continued LSSSES work in this area.

It was moved by Ald. Maher, seconded by Ald. Purins to approve the foregoing report and two foregoing resolutions. -14

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 5/21/08 – 6/3/08 --

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 5/21/08 – 6/3/08: \$1,874,533.00

It was moved by Ald. Krol, seconded by Ald. Organ
that each and every one of the accounts of bills and claims
be allowed and ordered paid. Roll call vote, Ayes 14

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-08-116

WHEREAS, the Wisconsin Department of Transportation and the Milwaukee County Transit System have proposed moving bus stops and a bus shelter at the intersection of N. Mayfair Road and W. Blue Mound Road, three corners of which are located in the City of Wauwatosa; and

WHEREAS, new bus stop locations and a repositioned bus shelter would allow the bus stops at this intersection to be more compliant with the Americans with Disabilities Act; and

WHEREAS, the details of the new locations were reflected in a proposal from the Wisconsin Department of Transportation dated May 21, 2008 and presented to the Board of Public Works at its meeting of June 2, 2008; and

WHEREAS, some concerns were raised regarding possible traffic backups with the new locations during busy times at the intersection;

NOW, THEREFORE, BE IT RESOLVED THAT the proposal for new bus stop locations for Milwaukee County Transit System at the intersection of N. Mayfair and Blue Mound Roads, as presented to the Board of Public Works at its June 2, 2008, meeting is hereby approved;

BE IT FURTHER RESOLVED THAT the Wauwatosa Engineering and Public Works Department are hereby directed to review the new bus stop and bus shelter locations, and if traffic problems are created as a result of these new locations, to bring them back to the Board of Public Works for further review.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-08-117

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 D. C. Burbach, Inc., for street/alley repaving and work incidental thereto on portions of Hadley Street, Mayfair Court, alley – W. Center Street/W. Clarke Street-N. 66th Street/N. 67th Street, alley – W. Fiebrantz Avenue/W. Capitol Drive – N. Mayfair Road/N. 110th Street, alley – W. Wright Street/W. Meinecke Avenue – N. 64th Street/N. 65th Street, alley – Jackson Park Boulevard/Stickney Avenue - Ludington Avenue/N. 90th Street, alley – Stickney Avenue/Menomonee River Parkway – N. 89th Street/N. 90th Street, alley – W. Wells Street/Menomonee Drive – N. 60th Street/west end, under Contract 08-06 at and for their bid price of \$437,275.00, 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. Purins, seconded by Ald. Herzog to approve the two foregoing resolutions. - 14

There being no further business, the meeting adjourned at 7:49 p.m.

cal

Carla A. Ledesma, CMC, City Clerk