



CITY OF WAUWATOSA  
MEMORIAL CIVIC CENTER  
7725 WEST NORTH AVENUE  
WAUWATOSA, WI 53213  
Telephone: (414) 479-8917  
Fax: (414) 479-8989

### COMMON COUNCIL

Regular Meeting, Tuesday, May 5, 2009

PRESENT: Alds. Organ, Stepaniak, Walsh, Berdan (7:45 p.m.), Birschel, Dennik (7:46 p.m.), Donegan, Ewerdt, Herzog, Jay, Krol, McBride, Meaux, Nikcevich -14

EXCUSED: Ald. Hanson

ALSO PRESENT: Mr. Archambo, City Administrator; Ms. Aldana, Asst. City Attorney/HR Director; Mr. Braier, Finance Director; Mr. Kappel, Public Works Director; Ms. Welch, Community Development Director; Police Chief Weber; Fire Chief Redman; 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.

The Mayor and Common Council President Krol presented certificates to the following students for their first- and second-place finishes in the Historical Society art contest:

JK- 1st Place: Liam Omernik, Lincoln School

JK- 2nd Place: Olivia Scallon, Lincoln School

SK- 1st Place: Beatrice Lazarski, Roosevelt School

SK- 2nd Place: Sophia Hardman, Lincoln School

First Grade- 1st Place: Margaret Froh, Roosevelt School

First Grade- 2nd Place: Natalie Land, Roosevelt School

Second Grade- 1st Place: Zoya Engelking, McKinley School

Second Grade- 2nd Place: Donique Cruickshank, McKinley School

Third Grade- 1st Place: Hannah Agpoon, Roosevelt School

Third Grade- 2nd Place: Kaitlyn Lehman, Lincoln School

Fourth Grade- 1st Place: Michaela Lonski, Jefferson School

Fourth Grade- 2nd Place: Charlie Buege, Lincoln School

Fifth Grade- 1st Place: Kayla Klein, Washington School

Fifth Grade- 2nd Place: Sarah Desch, St. Bernard School

## 7TH DISTRICT ALDERMANIC APPOINTMENT

It was moved by Ald. Birschel, seconded by Ald. Krol to nominate Cheryl Berdan as 7th District Alderperson. Roll call vote, Ayes 9, Noes 3 (Stepaniak, McBride, Nikceovich)

(Note: Upon his arrival at 7:46 p.m., Ald. Dennik requested that he be noted in the record as voting for the appointment of Cheryl Berdan.) -Ayes 10, Noes 3

City Clerk Carla Ledesma swore in Cheryl Berdan as 7th District Alderperson. -14

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. -14

## APPLICATIONS, COMMUNICATIONS, ETC.

1. Letter from Janie P. Morris, 1105 Glenview Avenue, appealing charges for snow removal  
**Public Works Director**
2. Letter from Gary Kandziora, 6130 W. Martin Drive, opposing change of zoning for 1234 W. 62<sup>nd</sup> Street  
**Place in existing file**
3. Notice of Claims: Kelly Ott, 7329 W. North Avenue, Wauwatosa; Linda Drachenberg, 2235 N. 60<sup>th</sup> Street Milwaukee; Meghan Deutsch, 5134 W. Wells Street, Milwaukee  
**City Attorney**
4. Conditional Use application in the BB Two Family Residence District located at 7916 Gridley Avenue for a fiber conversion cabinet, Kevin Stoeveken, AT&T and Patricia A. Boyd, applicants  
**City Plan Commission, Community Development Committee**
5. Conditional Use application in the AA Business District for a grocery located at 12140 W. Burleigh Street, Eric Thom, Continental 164 Fund LLC, applicant  
**City Plan Commission, Community Development Committee**
6. Letter from Gary A. Schmutzer, West Suburban Chamber of Commerce and John A. Balzer, Wauwatosa Economic Development Corporation in support of the Milwaukee County Board of Supervisors approving the proposed sale of approximately 89 acres of land at the County Grounds to the UWM Foundation  
**Mayor, Community Development Director**
7. City of Wauwatosa, Investment Summary for the period ending April 30, 2009  
**Place on File**
8. Email from Peter Hart in support of consideration for Robert Sigrist for the 7<sup>th</sup> District Aldermanic position  
**Place in existing file**

**FROM THE COMMITTEE ON EMPLOYEE RELATIONS**

**ORDINANCE O-09-08**

**AN ORDINANCE WAUWATOSA CODE SECTION TO ANNUAL SALARY INCREASES**

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

Part I. Section 2.59.030 is hereby amended to read as follows:

Eligibility for step increases and annual across-the-board salary increases.

- A. The common council delegates discretion to the city administrator as to whether to grant salary step increases to individual nonunion employees after an annual employee performance appraisal. The common council also delegates discretion to the city administrator to grant annual across-the-board salary increases as set by the common council to eligible individual nonunion members.
- B. The discretion exercised by the city administrator in granting salary step increases and annual across-the board salary increases as set by the common council shall be based upon a satisfactory employee performance appraisal conducted by the immediate supervisor or department director and other relevant information relating to or having an effect upon job performance. Although the formal performance appraisal should occur on or immediately prior to the employee's anniversary date, evaluation of employee performance should be done on an ongoing basis. Departments should advise the city administrator whether employees are performing satisfactorily so that eligibility may be considered for either salary increase.
- C. Any employee whose salary is at or above the highest step of the appropriate pay grade will receive no additional step increases.

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

It was moved by Ald. Donegan, seconded by Ald. Meaux  
To adopt the foregoing ordinance. -14

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION R-09-97**

WHEREAS, Aprille A. Spoor, 4889 Terry Avenue, Brown Deer, WI, applied for an operator's license in conjunction with her employment at The Cheesecake Factory, Wauwatosa; and

WHEREAS, after being notified by first class mail on two separate occasions, the applicant failed to appear before the committee twice;

NOW, THEREFORE BE IT RESOLVED THAT the operator's license application of Aprille A. Spoor is hereby denied;

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

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

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION** R-09-98

WHEREAS, on February 17, 2009 the Common Council denied the application of Gerald Pfeifer for an operator's license, and Mr. Pfeifer has asked to Common Council for reconsideration of that denial; and

WHEREAS, Gerald M. Pfeifer, 2000 W. National Avenue, Milwaukee, WI, has applied for an operator license in conjunction with his employment at the Baby Grand, 11302 W. Blue Mound Road, Wauwatosa; and

WHEREAS, it was found that Mr. Pfeifer failed to disclose information on his application which is substantially related to the responsibilities required of persons holding operator licenses in the City of Wauwatosa resulting in denial of his operator license;

WHEREAS, further investigation revealed that Mr. Pfeifer is likely to be able to successfully perform the duties of a licensed operator;

NOW, THEREFORE, BE IT RESOLVED THAT Gerald M. Pfeifer, 2000 W. National Avenue, Milwaukee, WI, is hereby issued an operator license for the period ending June 30, 2009 contingent upon payment of an outstanding fine from 2006.

It was moved by Ald. Birschel, seconded by Ald. Dennik to approve the foregoing resolution. 12-2 (Herzog, Organ)

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION** R-09-99

WHEREAS, Chris Anderson and Tom Accetta have applied for a Conditional Use in the AA Light Manufacturing District at 11829 W. Ripley Avenue for an ambulance garage 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 Chris Anderson and Tom Acetta for an ambulance garage in the AA Light Manufacturing District at 11829 W. Ripley Avenue subject to the following conditions:

- 1) hours of operation 24 hours daily, and
- 2) obtaining any necessary licenses and permits.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-09-100**

WHEREAS, Nancy Pinter and Chad Karwedsky have applied for a Conditional Use in the AAA Single Family Residence District at 4639 N. 92<sup>nd</sup> Street for an AT&T fiber optic cabinet, 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 Nancy Pinter and Chad Karwedsky for an AT&T fiber optic cabinet in the AAA Single Family Residence District at 4639 N. 92<sup>nd</sup> Street subject to the following conditions:

- 1) appropriate landscaping and screening, and
- 2) changing labels posted on cabinets from orange to a less obtrusive white, and
- 3) obtaining all other necessary licenses and permits.

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

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-09-101**

WHEREAS, the City of Wauwatosa is a qualified political subdivision of the State of Wisconsin; and

WHEREAS, the Wisconsin Worker's Compensation Act (Act) provides that employers covered by the Act either insure their liability with worker's compensation insurance carriers authorized to do this business in Wisconsin, or to be exempted (self-insured) from insuring liabilities with a

carrier and thereby assuming the responsibility for its own worker's compensation risk and payment; and

WHEREAS, the State and its political subdivisions may self-insure worker's compensation without a special order from the Department of Workforce Development (Department) if they agree to report faithfully all compensable injuries and agree to comply with the Act and rule of the Department; and

WHEREAS, the Budget and Finance Committee at its April 28<sup>th</sup>, 2009 meeting approved the continuation of the self-insured worker's compensation program, in compliance with Wisconsin Administrative Code DWD 80.60(3); and

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa does ordain as follows:

- (1) Provide for the continuation of a self-insured worker's compensation program that is currently in effect.
- (2) Authorize the Health and Productivity Coordinator to forward certified copies of this resolution to the Worker's Compensation Division, Wisconsin Department of Workforce Development.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-09-102**

WHEREAS, the current agreement for the provision of senior programming with the YMCA of Metropolitan Milwaukee, West Suburban Branch, expires on December 31, 2009; and

WHEREAS, the City of Wauwatosa Board of Parks and Forestry Commissioners have held several meetings to discuss the extension of the current agreement with the YMCA for provision of senior programming at the Hart Park Senior Center and has recommended support of a five year contract;

NOW, THEREFORE, BE IT RESOLVED THAT the Director of Public Works is hereby authorized to begin negotiations for a new agreement with the YMCA of Metropolitan Milwaukee, West Suburban Branch, for senior programming at Hart Park Senior Center.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-09-104**

WHEREAS, the City of Wauwatosa experienced a three guardrail accidents during the past winter which will require repair; and

WHEREAS, funds are currently not available in the roadways budget for such repairs due to high expenditures on road salt during the winter;

NOW, THEREFORE, BE IT RESOLVED THAT up to \$15,000.00 be appropriated from the Reserve for Contingencies to the Roadway Account for purposes of repairing guardrails as described in the Director of Public Works' memorandum dated April 23, 2009.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-09-105**

WHEREAS, the City of Wauwatosa in 2008 retained R. A. Smith National to perform a limited sanitary sewer evaluation survey for sanitary sewers tributary to Honey Creek Parkway and West Wisconsin Avenue, an area which has been identified by the Milwaukee Metropolitan Sewerage District to have exceeded its peak wet weather flow performance standards; and

WHEREAS, the survey identified defects which require correction in order to meet the peak wet weather flow performance standards; and

WHEREAS, repairing such defects promptly will provide the City with valuable information as to the amount of flow reduction which can be obtained through repairing sewers;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to issue a qualifications-based request for proposal for design and construction administration for sanitary sewer improvements on the sanitary sewers tributary to Honey Creek Parkway and West Wisconsin Avenue, with funds for such design and construction administration to be provided utilizing sanitary sewer spot improvement funding.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-09-106**

WHEREAS, the Assessor has discovered palpable errors and determined that rescissions should be made for the following properties in the following amounts for 2008 taxes:

Bluemound Preschool	822 N. 68 <sup>th</sup> St,	\$4,868.11
Trinity Episcopal Church	1707 Church St.	\$4,084.08
Froedtert Memorial Lutheran Hospital	9200 W. Wisconsin Ave.	\$59,155.47
Sears/MMSD	6001 W. State St.	\$89,173.38

NOW, THEREFORE, BE IT RESOLVED THAT, the taxes for the above properties in the above amounts be rescinded.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-09-108**

WHEREAS, the Annunciation Greek Orthodox Church Foundation and the City of Wauwatosa are involved in litigation regarding the tax exempt status of property at 9400 W. Congress; and

WHEREAS, the parties have agreed to settle the dispute with a partial refund of taxes by the City for tax years 2007 and 2008 for a total amount of \$144,533.62;

NOW, THEREFORE, BE IT RESOLVED THAT the City agrees to settle this litigation with a dismissal and full release of claims and a refund by the City of \$144,533.62.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-09-109**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Theresa Garner 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.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-09-110**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Glen Slonac 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. Donegan  
to approve the eight foregoing resolutions. -14

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-09-103**

WHEREAS, the 70<sup>th</sup> Street bridge in the City of Wauwatosa requires reconstruction; and

WHEREAS, the Capital Improvements Program originally anticipated design work for the 70<sup>th</sup> Street bridge replacement as a 2010 expenditure; and

WHEREAS, the possibility of utilizing American Recovery & Reinvestment Act (ARRA) funding for the construction of the bridge requires that design work be completed in 2009, such that final plans and specifications can be submitted by December 1, 2009; and

WHEREAS, funds are available in the Capital Improvements budget which could be used for meeting the design costs, which are estimated to be \$100,000 - \$150,000;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City staff are hereby authorized to issue a qualifications-based RFP for the design of the 70<sup>th</sup> Street bridge reconstruction project;

BE IT FURTHER RESOLVED THAT if the project is eligible for ARRA construction funding, staff may proceed with such project otherwise staff is to apply for funds to provide for reconstruction of the bridge through the Wisconsin Department of Transportation Local Bridge Program.

It was moved by Ald. Ewerdt, seconded by Ald. Donegan  
to approve the foregoing resolution. Ayes 13, Noes 1 (Jay)

#### **FROM THE COMMITTEE ON BUDGET AND FINANCE**

#### **RESOLUTION**

WHEREAS, the Mayor of Wauwatosa in a memorandum dated April 27, 2009, and presented to the Budget & Finance Committee, proposed a program for the sale of engraved bleacher seats at Hart Park in conjunction with construction of the new seating area; and

WHEREAS, the most cost efficient method of engraving will be to have such seats sold before July 20, 2009; and

WHEREAS, the proposal does not conflict with other long term discussions of the sale of naming rights for City property;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa does hereby support the program for sale of bleacher seats at Hart Park as described in the memorandum of the Mayor dated April 27, 2009.

It was moved by Ald. Ewerdt, seconded by Ald. Donegan  
to approve the foregoing resolution. --

It was moved by Ald. McBride, seconded by Ald. Birschel  
to amend the resolution by designating the Community  
Development Department (the Director, or her designee)  
to oversee the process and to develop an application form. --

Ald. Didier indicated that she and the steering committee would be overseeing the process.

Amendment withdrawn by Ald. McBride with consent of the Second.

It was moved by Ald. McBride, seconded by Ald. Birschel to amend the resolution to provide that the Mayor and Steering Committee be designated at the responsible parties for this project. -14

Motion as amended, -14.

The amended resolution is as follows:

**AMENDED RESOLUTION** R-09-107

WHEREAS, the Mayor of Wauwatosa in a memorandum dated April 27, 2009, and presented to the Budget & Finance Committee, proposed a program for the sale of engraved bleacher seats at Hart Park in conjunction with construction of the new seating area; and

WHEREAS, the most cost efficient method of engraving will be to have such seats sold before July 20, 2009; and

WHEREAS, the proposal does not conflict with other long term discussions of the sale of naming rights for City property;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa does hereby support the program for sale of bleacher seats at Hart Park as described in the memorandum of the Mayor dated April 27, 2009.

BE IT FURTHER RESOLVED THAT the Mayor and the Steering Committee shall have final authority over the appropriateness of donor's naming choices on the bleacher seats consistent with the guidelines expressed in the Mayor's April 27, 2009, memo.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**BILLS AND CLAIMS FOR THE PERIOD 4/22/09 – 5/5/09**

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 4/22/09 – 5/5/09: \$12,512,690.42

It was moved by Ald. Meaux, 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-09-111**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to John Simons, 7400 Hennessey Avenue and William Summers, 7406 Hennessey Avenue, Wauwatosa, WI, to encroach onto City right-of-way with a retaining wall, first course of which shall be below the bottom of the sidewalk, and subject to the applicant(s) executing unto the City of Wauwatosa 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-09-113**

WHEREAS, the public works transfer station has been damaged in at least two accidents; and

WHEREAS, there is a potential safety issue due to falling bricks;

WHEREAS, Ford Construction was called to mitigate the hazard by removing the loose brickwork on a time and material basis and charged \$11,094,12;

NOW, THEREFORE, BE IT RESOLVED THAT, the emergency purchase of repair services from Ford Construction is hereby approved.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-09-114**

WHEREAS, WE Energies proposes to install aerial lines to the Rotary Stage at Hart Park due to concerns about trenching through structural portions of the levee portion of the park; and

WHEREAS, staff recommends approval of a Distribution Easement for immediate service but further recommends that WE Energies convert to underground service for the rest of the work;

NOW, THEREFORE, BE IT RESOLVED THAT, the proposed Distribution Easement Agreement is hereby approved and the appropriate official is authorized to execute this agreement and that future electrical service work in Hart Park should be converted to underground service.

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

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-09-112**

WHEREAS, the Wauwatosa Purchasing Department obtained sealed bid proposals for construction of a new Fire Station No. 1; and

WHEREAS, J.P. Cullen & Sons, Inc. submitted the lowest overall bid based and is fully qualified to complete this project;

WHEREAS, City staff recommends accepting the base bid from J.P. Cullen & Sons, Inc. with adjustments by accepting alternate bid numbers 2, 5, 7, 9 and 12, with a resulting contract price of \$6,864,180

NOW, THEREFORE, BE IT RESOLVED THAT, the appropriate City officials are authorized to execute a contract with J.P. Cullen & Sons, Inc. based on the base bid and the adjustments of alternate bid numbers set forth above for a total contract price of \$6,864,180.

It was moved by Ald. Herzog, seconded by Ald. Krol to approve the foregoing resolution. –

It was moved by Ald. Krol, seconded by Ald. Meaux amend the resolution by including an additional \$188,000 for stone at cornices, window heads and sills instead of precast concrete. Roll call vote, Ayes 4 (Stepaniak, Krol, Meaux, Nikceovich), Noes 9, Present 1 (McBride). –Motion failed.

Roll call vote on original motion, Ayes 13, Present 1 (McBride)

There being no further business, the meeting adjourned at 8:27 p.m.

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Carla A. Ledesma, CMC, City Clerk