



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, November 4, 2008

PRESENT: Alds. Krol, Maher, McBride, Meaux, Nikceвич, Organ, Purins, Stepaniak, Walsh, Birschel, Donegan, Ewerdt, Jay, Hanson, Herzog – 15

EXCUSED: Ald. Treis

ALSO PRESENT: Mr. Archambo, City Administrator; Mr. Kesner, City Attorney; Mr. Kappel, Public Works Director; Ms. Welch, Community Development Director; Police Chief Weber; Police Capt. Weiss; Fire Chief Redman; Mr. K. Rusch, Admin. Intern; Ms. Van Hoven, Deputy City Clerk; Ms. Steinke, Recording Clerk

Mayor Didier in the Chair

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

The Mayor and Common Council President Jim Krol present a plaque in recognition of Officer Paul Leist who has been named Crime Prevention Practitioner of the Year.

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. –15

OLD BUSINESS

The following item was held after a public hearing on October 21, 2008:

ORDINANCE O-08-25

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

AN ORDINANCE AMENDING CHAPTER 24.02 DEFINITIONS AND CHAPTER 24.04.110 PERMITTED OBSTRUCTIONS IN REQUIRED YARDS AND COURTS

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

Part 1. Chapter 24.02 is amended to add the following:

24.02.518 Trellis.

A vertical frame of lattice work used as a screen or as a support for climbing plants. The trellis, exclusive of the planting materials, shall not exceed a maximum opacity of 50%. The length of a trellis shall not exceed the maximum trellis height, which is eight feet and no trellis units shall be joined to create a continuous barrier. A trellis is not an arbor.

Part 2. Chapter 24.04.110 is hereby amended to read as follows:

Obstructions	Residential District				
	Front Yards	Rear Yards	Side Yards- Interior	Side Yards- Abutting a Street	Courts
Trellises	P 14,16	P 14	P 14	P 14,15, 16	P 14

- 14 Trellis units must be separated by a distance that equals their width.
- 15 On side yards abutting a street, a trellis may be placed the side of a yard along the side street provided that it is at least 18 inches off of the side property line and does not obstruct the vision triangle. The vision triangle is an area formed by measuring 20 feet along each property line from the corner where the two street sides of the property meet. Connecting these two lines with a diagonal line completes the triangle and forms the corner vision triangle.
- 16 Requires Design Review Board approval.

Part 3. This ordinance shall take effect and be in force from and after its passage and publication.

OLD BUSINESS

The following item was held after a public hearing on October 21, 2008:

RESOLUTION R-08-214

WHEREAS, the City of Wauwatosa requests that the City vacate the entirety of that street rights-of-way within the boundaries of Hart Park including portions of N. 71st, 72nd, 73rd, 74th, 75th Street that are located south of W. State Street and north of the Menomonee River and Chestnut Street between 68th Street and 75th Street as well as that portion of River Parkway that is west of 68th Street within the City limits of Wauwatosa; and

WHEREAS, the owners of the properties abutting this public way have been notified;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa hereby abandons and vacates that public way identified as street rights-of-way within the boundaries of Hart Park including portions of N. 71st, 72nd, 73rd, 74th, 75th Street that are located south of W. State Street and north of the Menomonee River and Chestnut Street between 68th Street and 75th Street as well as that portion of River Parkway that is west of 68th Street within the City limits of Wauwatosa in accordance with Sec. 66.1003 of the Wisconsin Statutes.

It was moved by Ald. Herzog, seconded by Ald. Birschel to adopt the foregoing ordinance and to approve the foregoing resolution – 15

APPOINTMENTS BY THE MAYOR

Civil Service Commission –

Gary Reusch, 6208 W. Washington Blvd., term ending 9/30/2011

Village of Wauwatosa Business Improvement District – New Appointments

Larry Greves, American North, Inc. & the UPS Store, 6650 W. State Street

Bobby Pantuso, George Webb Corp., 7410 W. State Street

Kami Dowdle, National City Bank, 6810 W. State Street

Gail Sauter, Aurora Psychiatric Hospital, 1220 Dewey Avenue

Village of Wauwatosa Business Improvement District – Reappointments

Linda Burg, The Little Read Book, 7603 W. State Street

Jaime Kristof, Village Popcorn, 7707 W. Harwood Avenue

Erin McCarthy, Waterstone Bank, 78500 W. State Street

Bill Brown, Bartolotta Restaurant Group, 6005 W. Martin Drive

It was moved by Ald. Krol, seconded by Ald. Maher
to approve the foregoing appointments – 15

APPLICATIONS, COMMUNICATIONS, ETC.

1. Conditional Use application by Jennifer B. Wright, for an emergency generator for a pump station in the Parks & Open Space District located at 741 Honey Creek Parkway
Plan Commission, Committee on Community Development
2. Land Combination application by Ewald Real Estate 2201, LLP and Ewald Real Estate 2215, LLC in the AA Business District for property located at 2201 and 2215 N. Mayfair Road
Plan Commission, Committee on Community Development
3. Special Use application by James J. Krol for a garage with a roof height over 16 feet in the AA Single Family Residence District located at 7828 Milwaukee Avenue
Plan Commission
4. Notice of Claims: Tom and Carol Winkel, 1812 N. 74th Street
City Attorney
5. Summons and Complaint: HSBC Bank USA, National Association, c/o America's Servicing Company, 3476 Stateview Blvd., Fort Mill, SC
City Attorney
6. Email from James Benz, former Wauwatosa Mayor, expressing concern about the city's consideration to eliminate the continued funding of the Wauwatosa Economic Development Corporation
Place in file
7. Emails from the following people in support of the Conditional Use permit for Dave and Buster's restaurant on N. Mayfair Road: 1) Jon Steltenpol, 2570 N. 84th Street, 2) Bobby Pantuso, 2414 N. 67th Street, 3) Amy Mickelsen, 2204 Ludington Avenue, 4) Brian Stepp, 2611 N. 86th Street, 5) Mark Magnarini, 6926 Auburn Avenue, 6) Gary Peik, 7832 Jackson Park Blvd., 7) Jonathan Norman, 8134 Stickney, 8) Jonathan Norman, 8134 Stickney, 9) Craig A. Ewald, Pres., Ewald Automotive Group, Inc., 2201 N. Mayfair Road, and 10) Jerrold E. Fix, 7014 Hillcrest Drive
Place in file
8. Emails from the following people in opposition to the Conditional Use permit for Dave and Buster's restaurant on N. Mayfair Road: 1) Gary J. Metz, 2250 N. 107th Street, 2) Scott Tennes, 535 N. 121st Street
Place in file

APPLICATIONS, COMMUNICATIONS, ETC.

9. City of Wauwatosa, Investment Summary for the period ending October 31, 2008
Place in file
10. Emails from the following people in support of the Conditional Use permit for Dave and Buster's restaurant on N. Mayfair Road: 1) Barb Smith, 756 N. Milwaukee Street, Milwaukee; 2) Jim Lange, Asst. Vice Pres., North Shore Bank; 3) Greg Ricci, 2430 N. Harding Blvd.; 4) Starlette Johnson, Pres. & COO, Dave and Buster's restaurant, 2481 Manana Drive, Dallas, Texas
Place on file
11. Email from Louie Pagoudis, Biggs Roadhouse, N. Mayfair Road in opposition to the Conditional Use permit for Dave and Buster's restaurant on N. Mayfair Road
Place on file

FROM THE COMMITTEE ON TRAFFIC AND SAFETY FOR INTRODUCTION

1. Ordinance amending Section 11.32.080 of the code adding two-hour parking on the south side of the 6500 block of W. North Avenue
Re-referred to originating committee
2. Ordinance amending Section 11.34.060 of the code adding six all-day parking spaces to the middle level and six three-hour parking spaces to the upper level of the Blanchard Street municipal parking lot
Re-referred to originating committee
3. Ordinance amending Section 11.32.080 and 11.34.070 of the code removing parking restrictions 150 feet north and south of W. North Avenue on N. 71st Street and N. 72nd Streets and to add all-day parking in two rows of the N. 72nd Street municipal parking lot
Re-referred to originating committee
4. Ordinance amending Section 11.34.075 of the code removing daytime parking restrictions in the N. 69th Street municipal parking lot
Re-referred to originating committee

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION

1. Amendment to Section 24.47 pertaining to technical changes to the Floodplain Ordinance
Re-referred to originating committee

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

ORDINANCE O-08-26

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

AN ORDINANCE ADDING AN ON-STREET HANDICAPPED PARKING AREA AT 2506 WAUWATOSA AVENUE

Part I. Section 11.32.490 of the Wauwatosa Municipal Code is hereby amended by adding an additional subsection #5 which states:

“On the east side of Wauwatosa Avenue north of the bus stop at 2506 Wauwatosa Avenue”

Part II. This ordinance shall become effective on and after its date of publication.

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

RESOLUTION R-08-215

WHEREAS, crossings of the Canadian Pacific Railway at N. 68th Street in the City of Wauwatosa and also at Harwood Avenue in the City of Wauwatosa are currently in need of maintenance and improvement; and

WHEREAS, the Canadian Pacific Railway has offered to work cooperatively with the City of Wauwatosa to provide smoother railroad crossings at these locations which would exceed state standards for crossing maintenance, provided that the City of Wauwatosa contributes certain costs and materials as part of the project, as more particularly described in the October 14, 2008, memorandum of the City Engineer to the Traffic & Safety Committee; and

WHEREAS, funding for costs of materials and other City obligations at the Harwood crossing could be paid out as part of the 2009 Pavement Repair budget, and costs for the City portion of improvements to the N. 68th Street railroad crossing can be paid for from budgeted funds in the State Street Tax Incremental Financing District;

NOW, THEREFORE, BE IT RESOLVED THAT City officials are hereby authorized to enter into an Agreement with Canadian Pacific Railway for 2009 railroad crossing upgrades at N. 68th Street and at Harwood Avenue in the City of Wauwatosa with the City's share of costs for said upgrades to be funded as indicated above.

It was moved by Ald. Maher, seconded by Ald. Meaux
to approve the foregoing ordinance and resolution – 15

FROM THE COMMITTEE ON LEGISLATION, LICENSING & COMMUNICATIONS

RESOLUTION R-08-216

WHEREAS, Laura K. Stuehn, 12725 W. Cleveland Avenue, New Berlin, WI, has applied for an operator's license in conjunction with her employment at The Grand Piano, 113th and Bluemound Road, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Laura K. Stuehn, 12725 W. Cleveland Avenue, New Berlin, WI, is hereby issued an operator's license for the period ending June 30, 2009.

FROM THE COMMITTEE ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-08-217

WHEREAS, Beer Capitol Distributing, Inc. 1400 N. 113th Street, Wauwatosa, WI, has applied for a Beer Wholesaler license; and

NOW, THEREFORE, BE IT RESOLVED THAT a Beer Wholesaler license be awarded to Beer Capitol Distributing, Inc., 1400 N. 113th Street, Wauwatosa, WI, for the period ending June 30, 2009.

It was moved by Ald. Birschel, seconded by Ald. Nikceovich to approve the two forgoing resolutions – 15

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-08-219

WHEREAS, the Common Council has determined that it is in the best interest of the City of Wauwatosa to construct a new Fire Station to replace the current Fire Station #1, which new Fire Station is to be located on the west side of Underwood Avenue immediately north of the existing station as identified more specifically in Exhibit A attached hereto and incorporated herein (hereafter “Project Area”) which shall represent the basis for the acquisition plat identifying the properties to be acquired; and

WHEREAS, public necessity demands that the City acquire properties necessary to construct this new Fire Station; and

WHEREAS, the voters of the City approved of funding the new Fire Station in a City-wide referendum in April, 2008; and

WHEREAS, the Common Council has approved borrowing the necessary funds for the actual acquisition of properties within the Project Area; and

WHEREAS, the acquisition of properties not already owned by the City, or approved for purchase, within the Project Area shall be in accordance with Chapter 32.06 of the Wisconsin Statutes;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa declares that the acquisition of properties not already owned by or under contract to the City within the Project Area is a public necessity and that the City will proceed with the acquisition of said properties;

BE IT FURTHER RESOLVED THAT appropriate staff for the City of Wauwatosa are hereby authorized to file a relocation order attached hereto as Exhibit B, together with the acquisition plat, dated this day of resolution, with the Clerk of Milwaukee County.

It was moved by Ald. Herzog, seconded by Ald. Krol to approve the foregoing resolution – 15

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION

WHEREAS, Jay L. Tobin has applied for a Conditional Use for a a full-service eating and drinking establishment that also has games and arcades in the AA Business District at 2201 and 2215 North Mayfair Road and;

WHEREAS, the Committee on Community Development has recommended denial of the application after finding that the establishment and operation of the conditional use will be detrimental to the public health, safety, morals, comfort or general welfare and will impair or diminish the uses, values, and enjoyment of other property in the neighborhood based upon a projected increase in traffic, inadequate security plan, hours of operation, inadequate landscaping, and location of the building on the site.

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa, Wisconsin hereby denies a request for a Conditional Use to Jay L. Tobin for a full-service eating and drinking establishment that also has games and arcades in the AA Business District at 2201 and 2215 North Mayfair Road.

The following resolution approving the Conditional Use was introduced by Ald. Herzog.

RESOLUTION

WHEREAS, Jay L. Tobin has applied for a Conditional Use in the AA Business District at 2201 & 2215 North Mayfair Road for a full-service eating and drinking establishment that also has games and arcades 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 Jay L. Tobin for a full-service eating and drinking establishment that also has games and arcades in the AA Business District at 2201 & 2215 North Mayfair Road subject to the following conditions:

- 1) anyone under the age of 21 must be accompanied by a guardian; and
- 2) hours of operation 11:00 a.m. to 1:00 a.m. Sunday through Thursday and 11:00 a.m. to 1:30 a.m. Friday and Saturday; and
- 3) obtaining the necessary licenses and permits; and
- 4) a required dress code specifying “neat and clean” attire; and
- 5) no smoking policy; and
- 6) security plan with the Wauwatosa Police Department to meet the needs of the Community subject to ongoing review; and
- 7) compliance with the conditions identified by the DOT; and
- 8) landscape plan including a fence along the adjacent property to the south; and
- 9) approval of the signage plan by the Design Review Board; and
- 10) parking plan addressing concerns with parking lot access and the need for overflow; and
- 11) locating the building closer to the road.

It was moved by Ald. Herzog, seconded by Ald. Donegan
to approve the forgoing resolution –

It was moved by Ald. Maher, seconded by Ald. Hanson
to amend the original motion by changing the hours of
operation for Dave and Buster’s restaurant to 11:00 a.m.
to 11:00 p.m. Monday through Friday, 11:00 a.m. to

12:30 a.m. on Saturday and 10:00 a.m. to 11:00 p.m. on Sunday. Roll call vote, Ayes: 3, Noes: 12 (Krol, Meaux, Nikcevich, Organ, Purins, Stepaniak, Walsh, Birschel, Donegan, Ewerdt, Jay, Herzog)

Motion failed.

It was moved by Ald. McBride, seconded by Ald. Purins to amend the original motion to require the applicants to submit their building design to an aesthetic review by the Community Development Director in addition to the Design Review Board process as part of a developer's agreement --

The mover and second withdrew the motion.

The mover and second agreed to add an amendment to the original motion adding a 60-90-and 180-day security review to condition number 6.

It was moved by Ald. Herzog, seconded by Ald. Donegan to approve the following amended resolution. Roll call vote Ayes: 13, Noes: 1 (Hanson), Present: 1 (Birschel)

The amended resolution is as follows:

AMENDED RESOLUTION R-08-218

WHEREAS, Jay L. Tobin has applied for a Conditional Use in the AA Business District at 2201 & 2215 North Mayfair Road for a full-service eating and drinking establishment that also has games and arcades 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 Jay L. Tobin for a full-service eating and drinking establishment that also has games and arcades in the AA Business District at 2201 & 2215 North Mayfair Road subject to the following conditions:

- 1) anyone under the age of 21 must be accompanied by a guardian; and
- 2) hours of operation 11:00 a.m. to 1:00 a.m. Sunday through Thursday and 11:00 a.m. to 1:30 a.m. Friday and Saturday; and
- 3) obtaining the necessary licenses and permits; and
- 4) a required dress code specifying "neat and clean" attire; and
- 5) no smoking policy; and

- 6) security plan with the Wauwatosa Police Department to meet the needs of the community subject to an ongoing review including at 60, 90, and 180 days; and
- 7) compliance with the conditions identified by the DOT; and
- 8) landscape plan including a fence along the adjacent property to the south; and
- 9) approval of the signage plan by the Design Review Board; and
- 10) parking plan addressing concerns with parking lot access and the need for overflow; and
- 11) locating the building closer to the road.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-08-220

WHEREAS, the Community Development Block Grant Committee reviewed project proposals submitted to the Committee for the year 2009; and

WHEREAS, the recommendations of the CDBG Committee for 2009 funding approvals are specifically described in a memorandum from City Planning staff dated October 22, 2008, a copy of which is on file in the office of the City Clerk and available for public review; and

NOW, THEREFORE, BE IT RESOLVED THAT the 2009 Community Development Block Grant Project request funding in the amounts recommended by the CDBG Committee as reflected in the memorandum from Planning staff dated October 22, 2008 are hereby approved.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-08-221

WHEREAS, the Wauwatosa City Clerk has incurred additional unbudgeted expenses for part-time personnel as a result of a heavy volume of electors wishing to register to vote and voting by absentee ballot in advance of the November 4, 2008, election; and

WHEREAS, workloads have also required that existing full-time employees of the Wauwatosa City Clerk's office have been unable to take off accumulated overtime as typical, and rather will need to be paid for their overtime; and

WHEREAS, an additional \$1,400.00 is required to in the Elections budget pay the temporary part-time employees scheduled to work extra hours in advance of the elections and an additional \$2,800.00 in the Clerk's budget is required for overtime pay for regular employees;

NOW, THEREFORE, BE IT RESOLVED THAT \$4,200.00 be transferred from the Reserve for Contingencies with \$1,400.00 being transferred to the Elections budget Regular Pay and \$2,800.00 to City Clerk Overtime Pay.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-08-222

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Joseph Driscoll for property damage 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. Maher, seconded by Ald. Krol to approve the three foregoing resolutions – 15

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 10/22/08 – 11/04/08 --

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 10/22/08 – 11/4/08: \$2,758,386.60

It was moved by Ald. Meaux, seconded by Ald. Purins that each and every one of the accounts of bills and claims be allowed and ordered paid. Roll call vote Ayes: 15

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-08-223

WHEREAS, WE Energies has indicated that, in order to provide appropriately sized underground electrical service for a new street lighting cabinet, it requires the installation and maintenance of a new transformer in a corner of the Blanchard Street Municipal Parking Lot; and

WHEREAS, installation of the new transformer requires an underground utility Easement in favor of WE Energies which consists of a 12 foot wide strip of land running east to west across the parking lot of Blanchard Street; and

WHEREAS, the Easement granted to WE Energies for this purpose is more particularly described in the WE Energies Distribution Easement Underground document and its exhibits which is attached to this resolution and incorporated herein;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa does hereby approve granting of the above-described Easement for purposes of underground electrical service across the Blanchard Street Municipal Parking lot in the City of Wauwatosa, and appropriate City officials are hereby authorized to execute the necessary documentation granting said Easement.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-08-224

WHEREAS, the Wauwatosa purchasing department has received bids for the purchase of stone, sand, and gravel to meet 2009 requirements; and

WHEREAS, it has been past practice to award the bid to multiple bidders for purchases during 2009 on an as needed basis because of price, convenience and availability;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa purchasing department is hereby authorized to purchase stone, sand, and gravel for the year 2009 from any of the eight bidders submitting bids, with individual purchases being evaluated on an as needed basis pursuant to price, convenience, and availability.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-08-225

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to Brett West of West Development Partners, 1836 N. 49th Street, Wauwatosa, WI, to encroach onto City right-of-way with a 2,400 square foot area along the southern edge adjacent to Walnut Road, 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).

It was moved by Ald. Maher, seconded by Ald. Walsh
to approve the three foregoing resolutions – 15

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

Susan Van Hoven, Deputy City Clerk

svh