



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, November 18, 2008

PRESENT: Alds. Herzog, Jay, Krol, Maher, McBride, meaux, Nikcevich, Organ, Purins, Stepaniak, Walsh, Birschel, Donegan, Ewerdt, Hanson -15

EXCUSED: Ald. 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; Health Officer Kreuser; Police Capt. Weiss; Mr. Wojcehowicz, Water Utility Supt.; Ms. Aldana, HR Dir./Asst. City Attorney; Ms. Nielsen, Nursing Supr.; 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. 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 first order of business was the following resolution held after the public hearing on November 11, 2008:

RESOLUTION R-08-226

WHEREAS, a summary of the proposed budget for the year 2009 has been published in the official newspaper of the City on October 23, 2008, together with the notice of public hearing on the proposed budget to be held on November 11, 2008; and

WHEREAS, said public hearing was held at the time and place stated in said notice and opportunity given to everyone present who desired to be heard on the proposed 2009 budget;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT pursuant to said hearing as follows:

1. That the departmental balances, if any, in the general appropriations account shall, on December 31, 2008 revert to the Unappropriated General Fund Balance, except for the following:

<u>Account No.</u>	<u>Account Title</u>
113	Youth Commission
114	Historic Preservation Commission
211-5980-015	Restitution – Crime Prevention
211-5980-020	Police - Expenditures from Donations
211-5980-060	Federal Reimbursement Program
211-5980-061	Drug Prevention & Educ. Fund
211-5980-150	Drug Asset Forfeiture
211-5980-155	DCI Task Force Forfeiture
221-5980-015	Fire Expenditures from Donations
223	Fire Equipment Reserve
421-5980-015	Health – Expenditures from Donations
522	July Fourth
551-5980-015	Parks – Expenditures from Donations
551-5980-016	Parks – Expenditures from Donations – Sr. Center

2. That there be and there is hereby appropriated for the various City purposes for the year 2008, the amounts as shown in the attached estimated 2008 budget and for the year 2009, the amounts shown in the attached proposed budget as amended by the Budget Committee.

3. That the revenues and expenditures for the Debt Service Fund, Special Revenue Funds, Capital Projects Fund, Proprietary Funds, Insurance Reserve Funds and the Water Utility Fund are also approved as amended.

4. That the position distribution be amended to reflect those positions created or abolished by the budget.

5. That the 2009 consolidated fee schedule is hereby approved as recommended by the Budget Committee during the budget review process and made available for public review at the office of the City Clerk,

BE IT FURTHER RESOLVED THAT the sum of \$ 35,527,935 be and it is hereby levied and assessed upon all of the taxable property, both real and personal, in the City of Wauwatosa, assessed for taxation in said City for the year 2009 for City purposes.

It was moved by Ald. Maher, seconded by Ald. Purins to approve the foregoing resolution. –

It was moved by Ald. Purins, seconded by Ald. Maher to amend the budget to place contingencies on \$95,000 allocated to the Community Development Department (Sundry Contractual Services of the Urban Planning budget) for the purpose of executing recommendations in the Horton/URS study, and subject to release by the Common Council. Roll call vote, Ayes 15.

Roll call vote on motion as amended, Ayes 14, Noes 1 (Jay)

APPOINTMENTS BY THE MAYOR

Civil Service Commission

John Schapekahm, 653 N. 77th Street (reappointment)
(Term expires 9/30/11)

Citizens' Advisory Capital Improvements Committee

Pamela Matthews, 4139 N. 110th Street (reappointment)
(Term ends 6/30/11)
Jason Kohout, 9995 W. North Avenue
(Term ends 6/30/09)

Forgoing appointments ordered held as this was the first reading.

APPLICATIONS, COMMUNICATIONS, ETC.

1. Summons and complaint: Diane Dagen, 8444 Hill Street
City Attorney
2. Wauwatosa Water Utility Statement of Receipts and Disbursements for the period ending October 31, 2008
Place on file
3. E-mails from Meg Miller, 2466 N. 72nd Street and Harris and Heidi Ladd, 2505 N. 72nd Street in support of continued funding for the Wauwatosa Economic Development Corporation in the 2009 budget
Add to existing file
4. E-mails from Meg Miller, 2466 N. 72nd Street; Robyn Beckley Vining, 2546 N. 66th Street; and Dawn Zehren, 2334 N. 64th Street in support of continued funding for the Wauwatosa Health Department in the 2009 budget
Place in existing file
5. City of Wauwatosa, Bank Reconciliation of Depository Accounts for the period ending October 31, 2008
Place on file
6. City of Wauwatosa, Statement of Financial Condition, for the period ending October 31, 2008
Place on file
7. Notice of Claim: Tom McDermott, Acuity, 2480 Memorial Drive
City Attorney
8. E-mail from Katherine Lazarski, 2602 N. 68th Street, in support of continued funding for the Wauwatosa Economic Development Corporation in the 2009 Budget
Add to existing file
9. Email from Tiger and Gail Beyer II, 2557 N. 66th Street in support of continued funding for the Health Department in the 2009 Budget
Add to existing file

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION

1. Amendment to Chapter 15.32.070 Failure to Comply by adding Section 2 allowing re-inspection fees

Re-referred to originating committee

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-08-227

WHEREAS, Kathryn L. Gucwa, 1422 E. Russell Avenue, Milwaukee, WI, has applied for an operator's license in conjunction with her employment at The Crowne Plaza Hotel, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Kathryn L. Gucwa, 1422 E. Russell Avenue, Milwaukee, WI, is hereby issued an operator's license for the period ending June 30, 2009.

It was moved by Ald. Birschel, seconded by Ald. Organ to approve the foregoing resolution. -15

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

ORDINANCE O-08-27

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

AN ORDINANCE AMENDING SECTION 11.32.080 OF THE CODE OF THE CITY OF WAUWATOSA ADDING TWO HOUR PARKING ON THE SOUTH SIDE OF THE 6500 BLOCK OF WEST NORTH AVENUE

Part I. The "North Avenue – south side" portion of the Schedule of Streets, and Portions, subsection of Section 11.32.080 of the Wauwatosa Municipal Code is hereby amended by adding the following:

"(c) from N. 65th to N. 66th Street"

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

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

ORDINANCE O-08-28

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

AN ORDINANCE AMENDING SECTION 11.34.060 OF THE CODE OF THE CITY OF WAUWATOSA REGARDING PARKING IN THE BLANCHARD STREET LOT

Part I. Section 11.34.060 A.1. of the Wauwatosa Municipal Code is hereby amended by adding the following at the end:

“or in designated all-day spaces”

Part II. Section 11.34.060 A.2. of the Wauwatosa Municipal Code is hereby amended by adding at the end:

“except for the 6 spaces designated 3 hour parking between 7:00 a.m. and midnight”

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

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

ORDINANCE O-08-29

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

AN ORDINANCE AMENDING SECTIONS 11.34.070 & SECTION 11.32.080 OF THE CODE OF THE CITY OF WAUWATOSA REGARDING PARKING IN THE 72ND STREET MUNICIPAL LOT AND PARKING ON 71ST AND 72ND STREETS

Part I. Section 11.34.070 A.1. of the Wauwatosa Municipal Code is hereby amended by changing the word “six” to read “fourteen”

Part II. Section 11.34.070 B. of the Wauwatosa Municipal Code is hereby amended to read, in its entirety as follows:

“Two spaces are designated for handicapped parking only.”

Part III. The “North 71st Street – east side” portion of the Schedule of Streets, and Portions subsection of Section 11.32.080 of the Wauwatosa Municipal code is hereby amended by deleting the following:

“(c)”

Part IV. The “North 71st Street – west side” portion of the Schedule of Streets, and Portions, subsection of Section 11.32.080 of the Wauwatosa Municipal Code is hereby amended by deleting the following:

“(c)”

Part V. The “North 72nd Street – east side” portion of the Schedule of Streets and Portions, subsection of Section 11.32.080 of the Wauwatosa Municipal Code is hereby amended by deleting the following:

“(c)”

Part VI. The “North 72nd Street – west side” portion of the Schedule of Streets, and Portions, subsection of Section 11.32.080 of the Wauwatosa Municipal Code is hereby amended by deleting the following:

“(c)”

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

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

ORDINANCE O-08-30

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

AN ORDINANCE AMENDING SECTION 11.34.075 OF THE CODE OF THE CITY OF WAUWATOSA DELETING TWO SECTIONS OF PARKING IN THE 69TH STREET MUNICIPAL LOT

Part I. Section 11.34.075 A.1. of the Wauwatosa Municipal Code is hereby deleted

Part II. Section 11.34.075 2.B. of the Wauwatosa Municipal Code is hereby deleted and recreated to read as follows:

2.B. One space is designated for handicapped parking only.

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

It was moved by Ald. Meaux, seconded by Ald. Stepaniak to adopt the four foregoing ordinance. -15

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-08-228

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT permission be and the same is hereby granted to Ewald Real Estate 2201, LLP and Ewald Real Estate 2215, LLP for a Land Combination in the AA Business District at 2201 and 2215 North Mayfair Road. These parcels are more particularly described as follows:

Parcel A being the NE QUAR SEC 19 7 21 BEG IN E LI & 624.98 FT S OF NE COR OF SD QUAR SEC TH W 480.80 FT TH S 309.18 FT TH E 487.14 FT TH N ON QUAR SEC LI 309.12 FT TO BEG EXC E 60 FT FOR ST, in the City of Wauwatosa, County of Milwaukee, State of Wisconsin, and

Parcel B being the NE QUAR SEC 19 7 21 BEG IN E LI & 520.90 FT S OF NE COR OF SD QUAR SEC TH W PAR TO N QUAR SEC LI 478.66 FT TH S ALG C & NW ROW 104.10 FT M.L TH E PAR TO N QUAR SEC LI 480.80 FT TH N ON E QUAR SEC LI 104.08 FT TO PLACE OF BEG EXC E 60 FT THEREOF FOR STREET, in the City of Wauwatosa, County of Milwaukee, State of Wisconsin.

All in accordance with the application attached hereto and made a part of this resolution, and in compliance with Section 24.56.010 of the Code of the city of Wauwatosa and subject to the payment

of all outstanding special assessments on the aforescribed property which is being subdivided and contingent upon final sale of the two parcels to a single owner.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

ORDINANCE O-08-31

AN ORDINANCE AMENDING SECTION 15.02.170 AND PORTIONS OF CHAPTER 24.47 OF THE WAUWATOSA MUNICIPAL CODE REGARDING TECHNICAL AMENDMENTS TO FLOODPLAIN REGULATIONS.

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

Part I. Section 15.02.170 A. 3. of the Wauwatosa Municipal Code is hereby renumbered to 4., and a new section 15.02.170 A. 3. is hereby created to read as follows:

3. All additions, remodeling and placement of fill or new construction on any parcel which is subject to the provisions of Ch. 24.47 of the Wauwatosa Municipal Code, provided that the certification described in sec. 15.02.170 F., below, is provided by the applicant.

Part II. Section 15.02.170 F. of the Wauwatosa Municipal Code is hereby created to read in its entirety as follows:

Certificate of Occupancy – Floodplain. For any project subject to the provisions of Chapter 24.47 of the Wauwatosa Municipal Code, no certificate of occupancy shall be issued until the applicant has submitted a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered engineer or architect that floodproofing measures meet the requirements of sub. 24.47.110. E.2.

Part III. Section 24.47.100 A. 2. d. of the Wauwatosa Municipal Code is hereby amended to read in its entirety as follows:

d. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed fifty percent (50%) of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph;

Part IV. Section 24.47.100 A. 2. e. of the Wauwatosa Municipal Code is hereby amended to read in its entirety as follows:

e. Except as provided in subsection A.2., if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the

structure to its pre-damaged condition equals or exceeds fifty percent (50%) of the structure's present equalized assessed value.

Part V. Section 24.47.100 C. 3. c. of the Wauwatosa Municipal Code is hereby amended to read in its entirety as follows:

c. in combination with other previous modifications or additions to the building, does not equal or exceed fifty percent (50%) of the present equalized assessed value of the building.

Part VI. Section 24.47.140 of the Wauwatosa Municipal Code is hereby amended to include an additional definition for the term "Start of Construction" to read as follows:

"Start of Construction" - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-08-229

WHEREAS, the City of Wauwatosa has been asked to enter into a Programmatic Agreement with Milwaukee County which would also include the Federal Highway Administration, U.S. Army Corps of Engineers, and Wisconsin State Historic Preservation Officer in order to ensure appropriate recognition and consideration of historic roads and bridges within the Milwaukee County Park System including the Milwaukee County Parkways located within the City of Wauwatosa; and

WHEREAS, the Programmatic Agreement would ensure that historic properties for which the City has some responsibility are appropriately recognized and considered in the course of developing rehabilitation and/or reconstruction projects in regard to historic structures and infrastructure; and

WHEREAS, entering into the programmatic agreement would not have any negative impact on the City of Wauwatosa and would provide for expedited review if federally funded projects involving historic structures require such review in the future;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to enter into a Programmatic Agreement with Milwaukee County, the Federal Highway Administration, U.S. Army Corps of Engineers, and the Wisconsin State Historic Preservation

Officer consistent with the agreement presented to the Committee on Community Development at its meeting of November 11, 2008.

It was moved by Ald. Herzog, seconded by Ald. Hanson to adopt the foregoing ordinance and to approve the two foregoing resolutions. -15

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-08-230

WHEREAS, the Wauwatosa Economic Development Corporation has previously solicited proposals for preparation of a Community and Economic Development Vision, Organizational Structure, Process, and Work Plan and selected Horton/URS as the vender to prepare the plan at a cost of \$15,700.00; and

WHEREAS, ongoing discussions regarding funding of WEDC require that funds originally allocated for this study be utilized to continue operations during the first quarter of 2009; and

WHEREAS, the results of the study would benefit both the City and WEDC by providing guidance and future economic development operations; and

WHEREAS, sufficient funds are available in 2008 Community Development Block Grant Administrative Funds to pay the cost of the study being prepared by Horton/URS;

NOW, THEREFORE, BE IT RESOLVED THAT \$15,700.00 of the 2008 City of Wauwatosa CDBG Administrative Funds are hereby reallocated for the purpose of executing an agreement between the City of Wauwatosa and the Horton/URS for preparation of a Community and Economic Development Vision Organizational Structure Process and Work Plan;

BE IT FURTHER RESOLVED THAT City officials are hereby authorized to execute an agreement for preparation of said plan.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-08-231

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Julie Raaum 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-08-232

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Joe & Jill Petryczkiewicz 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-08-233

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by James Fonk 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-08-234

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Keith & Robyn Grover 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-08-235

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Patrick Cleaver 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. Maher, seconded by Ald. Ewerdt
to approve the six foregoing resolutions. -15

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 11/5/08 – 11/18/08 --

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 11/5/08 – 11/18/08: \$2,149,776.61

It was moved by Ald. Meaux, seconded by Ald. Walsh
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-08-236

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to Sean P. Phelan of Phelan Development, 7707 Harwood Avenue, Wauwatosa, WI, to encroach onto City right-of-way with a mechanical lift in the sidewalk on State Street, subject to approval of design and installation by the City Engineer, and also 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) along with approval of the loading doors.

It was moved by Ald. Maher, seconded by Ald. Birschel
to approve the foregoing resolution. -15

There being no further business, the meeting adjourned at 8:43 p.m.

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Carla A. Ledesma, CMC, City Clerk