



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, March 3, 2009

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

ALSO PRESENT: Mr. Archambo, City Administrator; Mr. Kesner, City Attorney; Ms. Plass, Acctg. Manager; Mr. Kappel, Public Works Director; Ms. Welch, Community Development Director; Police Chief Weber; Fire Chief Redman; 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 7:32 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. -14

ALDERMANIC REPRESENTATIVE TO THE PLAN COMMISSION

It was moved by Krol, seconded by Ald. Nikcevich to appoint Ald. Don Birschel to the Plan Commission as the aldermanic representative to complete the term (April 2010) of former Ald. Atis Purins. -14

APPOINTMENTS BY THE MAYOR

Board of Health:

Leslie F. Martin, MD, 6814 W. Wells Street
(term ends 12/31/2013)

It was moved by Ald. McBride, seconded by Ald. Jay to concur with the foregoing appointment. -14

City Attorney

Alan Kesner, 940 Currie Place
(4-year term beginning July 17, 2009)

Foregoing appointment ordered held as this was the first reading.

APPLICATIONS, COMMUNICATIONS, ETC.

1. City of Wauwatosa Statement of Financial Condition for the periods ending December 31, 2008 and January 31, 2009
Place on file
2. Conditional Use application in the AA Business District for Hector's a Mexican Restaurant, 7118 W. State Street, to extend the hours of the outdoor patio until 2:00 a.m., Robert H. Messinger, applicant
City Plan Commission, Community Development Committee
3. Conditional Use application in the AA Business District for a coffee shop at 10425 W. North Avenue serving breakfast and lunch, Bud Ziebell and David G. Chapman, applicants
City Plan Commission, Community Development Committee
4. City of Wauwatosa, Bank Reconciliation of Depository Accounts for the period ending January 31, 2009
Place on File
5. E-mails from Lorelei Grotjahn, 264 N. 111th Street, Christopher Shepherd, 2630 N. 72nd Street, Steve Braun, 6832 Cedar Street, Roger Mater, 1268 N. 116th Street, Bill Andrae 2521 N. 94th Street, Anna Retzke, 2504 N. 73rd Street, Chris O'Donnell 2438 Lefebber Avenue, Kari Schwenker, 2207 N. 68th Street, Paul Shepherd, Chris Ament, 8015 Portland Avenue Gary Peik, 7832 Jackson Park Blvd., Carol Burmeister, 12000 W. Blue Mound Road Anna and Bill Shirtz, 1533 N. 122nd Street, Barb Gengler, 2409 Lefebber Avenue, Steve McGoldrick, 619 Elm Spring Avenue, Cary Biskupic, 6116 Washington Circle, Henry Bakemeyer, 924 Currie Place, Robert E. Rettler, 1923 N. 70th Street, Gary Kraft, 8818 Ravenswood Circle, Andrew Prociuk, 11816 W. Blue Mound Road, Tom Langer, 2407 N. 93rd Street, Clifford Andree, 8530 Stickney Avenue, Mark Van Engen, 4465 N. 109th Street, Craig Busche, 1209 N. 118th Street, Jeramey Jannene, 916 E. Lyon Street, Milwaukee, Carol Heup, 110 N. 87th Street, Ed Michaelis, 1440 N. 66th Street, and Douglas M. Dewire, MD, 545 Elm Spring Avenue, in opposition to the Regional Transit Authority proposal and a County-wide tax increase
Add to existing file
6. E-mails from Ed Werstein, Milwaukee, Julia Taylor, Pres., Greater Milwaukee Committee, Denise O'Meara, 1083 N. Perry Court, Rosemary Wehnes, Environmental Professional, 7922 Jackson Park Blvd., Kathleen McManus, 10218 W. North Avenue, Edward J. Zore, President & CEO, Northwestern Mutual, 720 E. Wisconsin Avenue, Milwaukee, Jill Gaertner, 6829 Terrace Court, Al Krueger, Comet Branding LLC, Mark Pfaltzgraff, 7814 W. Wisconsin Avenue, Mike McCallister, ProTek Writing Services, Dana Grueter, Young Professionals of Racine, and Tracy Sperko, 1820 N. 70th Street in favor of the Regional Transit Authority proposal
Add to existing file
7. Phone calls received in opposition to the formation of a Regional Transit Authority: Gerald Millard, 4466 N. Mayfair Road, Joseph and Joanne Griesbach, 2470 N. 91st Street, Dr. & Mrs. Wolski, 11203 W. North Avenue, Jim Fink, 2225 Lefebber Avenue, Ed Moore (257-0653), Mike Sieman (778-0575), Mrs. Richard Profio (778-1896), Val Blazich (771-0431), Joe Schwartz, 1065 N. 120th Street, Paul Hurz (640-5606), Bill Kaiserling (771-4433), Sandy Miner (774-2456) Patty and Bill Podewils, 6700 Revere Avenue, Michelle McCalligan (771-2589), Tracey and Steve McGoldrick, 619 Elmspring Avenue, Brian Faltinson (262-251-4503), John Kopriva, 7805 Mary Ellen Place, Eleanor Stevens, 7333 W. Wisconsin Avenue, John Eggers, 2434 N. 64th Street
Add to existing file

8. Letter from William F. Bruss, Senior Vice President & Gen. Counsel, Waterstone Bank, 11200 W. Plank Court, regarding concerns about the Conditional Use for Leff's Lucky Town
Add to existing file
9. Phone calls received in favor of the formation of a Regional Transit Authority: Joyce Boyland (964-3227), Maggie Haze, 621 N. 63rd Street, Dan Cody, 1436 N. 52nd Street, Milwaukee
Add to existing file

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

RESOLUTION

WHEREAS, THE Southeastern Wisconsin Regional Transit Authority (RTA) has requested that the City of Wauwatosa Common Council express its support for the State of Wisconsin 2009-10 budget proposal as follows:

1. Creation of the RTA as a permanent entity covering Kenosha and Milwaukee Counties and the urbanized area of Racine County,
2. Authorization for the RTA to subcontract with current operators for local bus transit service or assume operations as appropriate,
3. Authorization of up to 0.5% in sales tax for the purpose of transit,
4. Bonding authority for purposes of capital improvements; and

WHEREAS, the RTA has indicated that local bus transit systems are facing a funding crisis, that current bus service cuts have made many jobs inaccessible through the existing transit system, that the Southeastern Wisconsin region does not have sufficient funding to continue to fund transit via property tax as Wisconsin is one of the last remaining states to fund transit via that method and that enhanced connections to the Chicago area through the Regional Transit Authority will drive and promote economic development throughout the Southeastern Wisconsin region;

NOW, THEREFORE, BE IT RESOLVED THAT the Wauwatosa Common Council does hereby express support for the creation of a permanent RTA for Southeastern Wisconsin, providing the RTA the authority to subcontract with the current operators for local bus transit service or to assume operations as appropriate, to levy up to a 0.5% sales tax for transit purposes, and that the RTA Board be granted bonding authority to provide for necessary capital improvements in the future.

It was moved by Ald. Maher, seconded by Ald. Nikcevich to refer this matter to the Legislation, Licensing and Communications Committee for further discussion. Roll call vote, Ayes 4 (Stepaniak, Maher, McBride, Nikcevich), Noes 10. Motion failed.

It was moved by Ald. Meaux, seconded by Ald. Donegan to place this matter in file. Roll call vote, Ayes 7, Noes 7 (Walsh, Birschel, Ewerdt, Hanson, Herzog, Jay, Organ). Mayor Didier broke the tie by voting 'no.' Motion failed.

It was moved by Ald. Herzog, seconded by Ald. Ewerdt to pass a resolution expressing non-support for the Southeastern Wisconsin Regional Transit Authority proposal. Roll call vote, Ayes 8, Noes 6 (Stepaniak, Donegan, Maher, McBride, Meaux, Nikcevich).

The resolution is as follows:

AMENDED RESOLUTION R-09-43

WHEREAS, the Southeastern Wisconsin Regional Transit Authority (RTA) has requested that the City of Wauwatosa Common Council express its support for the State of Wisconsin 2009-10 budget proposal as follows:

1. Creation of the RTA as a permanent entity covering Kenosha and Milwaukee Counties and the urbanized area of Racine County,
2. Authorization for the RTA to subcontract with current operators for local bus transit service or assume operations as appropriate,
3. Authorization of up to 0.5% in sales tax for the purpose of transit,
4. Bonding authority for purposes of capital improvements; and

NOW, THEREFORE, BE IT RESOLVED THAT the Wauwatosa Common Council does not support the creation of a permanent RTA for Southeastern Wisconsin, providing the RTA the authority to subcontract with the current operators for local bus transit service or to assume operations as appropriate, giving the RTS the power to levy up to a 0.5% sales tax for transit purposes, nor that the RTA Board be granted bonding authority to provide for necessary capital improvements in the future.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-09-44

WHEREAS, James Glynn, 200 N. 80th Street, Milwaukee, WI, has applied for a direct seller's permit in Wauwatosa, WI, which application was denied by the Wauwatosa Police Department; and

WHEREAS, Mr. Glynn has appealed the denial to the Wauwatosa Common Council, which appeal was considered by the Committee on Legislation, Licensing and Communications at its meeting on February 24, 2009;

NOW, THEREFORE, BE IT RESOLVED THAT James Glynn, 200 N. 80th Street, Milwaukee, WI, is hereby issued a direct seller's permit for the period ending March 3, 2010.

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

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-09-45

WHEREAS, Peter Russo, president of the Wauwatosa Village Task Force, has applied for a Street Festival Permit to the Village area on September 11 & 12, 2009 for Tosafest; and

WHEREAS, the Committee on Community Development reviewed the request and recommends granting a Street Festival permit subject to the following restrictions:

1. Tosafest shall be conducted on Friday, September 11th from 2 p.m. to 11:30 p.m.; and on Saturday, September 12th from 11 a.m. to 11:30 p.m.; with take down and clean-up on Sunday, September 13th from 7 a.m. to 1:00 p.m.
2. Live and recorded music associated with the event shall cease no later than 11:00 p.m.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT a Street Festival permit be granted for Tosafest 2009 to use the Village area on September 11 & 12, 2009, subject to compliance with all state and municipal laws and ordinances.

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

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION

WHEREAS, Christopher Leffler has applied for a Conditional Use in the AA Business District at 7206 W. State Street for a restaurant with outdoor seating 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 Christopher Leffler for a restaurant with outdoor seating in the AA Business District at 7206 W. State Street subject to the following conditions:

- 1) hours of operation for the outdoor seating 11:00 a.m. until 11:00 p.m. daily, and
- 2) provision of a private security person to patrol a two-block perimeter during summer hours, and
- 3) obtaining any required licenses and permits.

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

It was moved by Ald. Ewerdt, seconded by Ald. Krol to amend the resolution by eliminating point #2 concerning use of a private security person, and inserting "to recommend security as deemed necessary by the business owner." --

Discussion ensued, whereupon Ald. Ewerdt amended his previous motion:

It was moved by Ald. Ewerdt, seconded by Ald. Krol to amend the resolution by eliminating point #2. Roll call vote, Ayes 14.

It was moved by Ald. Walsh, seconded by Ald. Herzog to amend point #1 by changing the hours of outdoor dining to read "from 11 a.m. to 2 a.m." Roll call vote, Ayes 4 (Walsh, Herzog, Jay, Meaux), Noes 10. Motion failed.

It was moved by Ald. Herzog, seconded by Ald. Walsh to amend point #1 by changing the hours of outdoor dining to read "from 11 a.m. to 12 a.m." Roll call vote, Ayes 5 (Walsh, Ewerdt, Herzog, Jay, Meaux), Noes 9. Motion failed.

Roll call vote on motion, as amended, Ayes 14.

The amended resolution is as follows:

RESOLUTION R-09-46

WHEREAS, Christopher Leffler has applied for a Conditional Use in the AA Business District at 7206 W. State Street for a restaurant with outdoor seating 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 Christopher Leffler for a restaurant with outdoor seating in the AA Business District at 7206 W. State Street subject to the following conditions:

- 1) hours of operation for the outdoor seating 11:00 a.m. until 11:00 p.m. daily, and
- 2) obtaining any required licenses and permits.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-47

WHEREAS, the 2009 City of Wauwatosa capital budget authorized up to \$30,000.00 for the purchase of 3 power lift ambulance cots for the City of Wauwatosa Fire Department; and

WHEREAS, final pricing for the new power lift cots from the sole-source vendor, including trade-ins, is \$30,936.00; and

WHEREAS, the additional \$936.00 is available from State of Wisconsin EMS grant funds provided to the City of Wauwatosa Fire Department;

NOW, THEREFORE, BE IT RESOLVED THAT the purchase of 3 power lift ambulance cots from Stryker EMS Equipment in Portage, Michigan, at a total cost of \$30,936.00 is hereby authorized with \$30,000.00 of the cost coming from the original Capital Budget and the difference of \$936.00 being provided by ACT-102 EMS grant funds available to the City of Wauwatosa Fire Department;

BE IT FURTHER RESOLVED THAT the competitive bidding process for this purchase is hereby waived.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-48

WHEREAS, the City of Wauwatosa Rain Garden Grant Reimbursement Program, funded with a 50/50 split between the Wisconsin Department of Natural Resources Urban Nonpoint Source Water Pollution Abatement Grant and City of Wauwatosa funds from the Stormwater Reserve, awarded 28 grants for \$17,996.00 to support the installation of 4,499 square feet of rain gardens in 2008; and

WHEREAS, the Director of Public Works has suggested an increase to reimbursement and increased maximum size for grant awards during the 2009 season, as well as additional awards for individuals who previously received grants in the year 2008;

NOW, THEREFORE, BE IT RESOLVED THAT the 2009 reimbursement rates for the City of Wauwatosa Rain Garden Grant Program are increased to \$5.00 per square foot with a maximum size of 500 square feet;

BE IT FURTHER RESOLVED THAT the 2008 grantees are permitted to apply for additional reimbursement at the 2008 rate for up to 500 square feet of rain garden;

BE IT FINALLY RESOLVED THAT \$37,500.00 from the City of Wauwatosa Stormwater Reserve is hereby authorized to be utilized as the City of Wauwatosa's matching funds for the DNR grant for this program.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-49

WHEREAS, White Oak Farm, LLC, has been processing yard waste and leaves at the City of Wauwatosa Public yard since the year 2005 and has been performing composting activities at the Public Works yard since 2007; and

WHEREAS, related portions of the current solid waste contract will expire at the end of the year 2012;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to execute a 4-year extension to the existing agreement with White Oak Farm, LLC, for yard waste, leaf, and compost processing at the City of Wauwatosa Public Works yard, with the option for two one-year extensions, in order that termination of the White Oak Farm, LLC, contract will coincide with the termination of the existing solid waste contracts with Waste Management and Onyx.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-50

WHEREAS, the Common Council has previously authorized the City of Wauwatosa staff to issue Requests for Proposals for sanitary sewer investigation analysis and design in initially prioritized areas within the City of Wauwatosa; and

WHEREAS, four responses were received to the latest proposals, all of which exceeded the presently available funds for 2009 sanitary sewer investigations; and

WHEREAS, proposals are capable of being limited such that they would only be authorized after the available funding of \$248,577.87; and

WHEREAS, the proposal of Mead and Hunt, Inc. for services associated with sanitary sewer investigations analysis and design is the proposal which is in the best interest of the City;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to enter into a professional services agreement with Mead and Hunt, Inc. for services associated with sanitary sewer investigations analysis and design up to an amount of \$248,577.87, pursuant to the proposal received on December 22, 2008.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-09-51

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Diane Trinko-Johnson 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-09-52

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by David Debruin 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-09-53

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by George Patterson 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 seven foregoing resolutions. -14

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 2/18/09 – 3/3/09 --

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 2/18/09 – 3/3/09: \$23,118,058.61

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-09-54

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to Andrew Schneider, Le Reve Patisserie & Café, 7610 Harwood Avenue, Wauwatosa, WI, to encroach onto City right-of-way with outdoor seating, 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) and subject to review to ensure that there is adequate clearance on the sidewalk.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-55

WHEREAS, the Wauwatosa Purchasing Department solicited bids for the supply of ready-mixed concrete products for the 2009 spring/summer repair season; and

WHEREAS, five vendors submitted bids for the products described, such that depending on the particular circumstances any one of the vendors could provide appropriate supplies in the best interest of the City based upon variations in price, convenience and availability;

NOW, THEREFORE, BE IT RESOLVED THAT the five separate vendors described in the memorandum of the Purchasing Manager dated February 20, 2009 are hereby authorized to supply ready-mixed concrete products to the City of Wauwatosa on an as-needed basis for the 2009 spring/summer repair season, with individual purchases to be made based upon the particular advantages of price, convenience and availability.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-09-56

WHEREAS, the Board of Public Works has accepted the work of Retaining Wall Replacement-Blanchard Street and work incidental thereto in the City of Wauwatosa under Contract 07-37 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 Retaining Wall Replacement-Blanchard Street under Contract 07-37 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 nine hundred sixty-one dollars (\$961.00) in favor of Burkhart Construction Corp. 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

TO THE COMMON COUNCIL, CITY OF WAUWATOSA –

The Board of Public Works, which has reviewed the *Annual Report of the Board of Public Works*, recommends to the Common Council that the report be accepted and placed on file.

Dated this 2nd day of March 2009.

Board of Public Works

It was moved by Ald. Krol, seconded by Ald. Birschel to approve the three foregoing resolutions and one foregoing report. -14

There being no further business, the meeting adjourned at 9:40 p.m.

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Carla A. Ledesma, CMC, City Clerk