



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, February 17, 2009**

PRESENT: Alds. Stepaniak, Walsh, Birschel, Donegan, Ewerdt, Hanson, Jay, Krol, Maher, McBride, Meaux, Nikcevich, Organ -13

EXCUSED: Ald. Herzog

ALSO PRESENT: Mr. Archambo, City Administrator; Ms. Aldana, Asst. City Attorney/HR Director; Mr. Kappel, Public Works Director; Ms. Welch, Community Development Director; Police Capt. Weiss; 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. -13

### **APPOINTMENTS BY THE MAYOR**

#### **Board of Health**

Leslie F. Martin, MD, 6814 W. Wells Street (reappointment)  
(term ends 12/31/13)

Foregoing appointment ordered held as this was the first reading.

### **APPLICATIONS, COMMUNICATIONS, ETC.**

1. Letter from Peter Russo, Pres., Wauwatosa Village Task Force, Inc., requesting a permit for the use of the Village area for Tosafest 2009 to be held on September 11<sup>th</sup> and 12<sup>th</sup>  
**Community Development Committee**
2. Letter from Eugene Nickel, 555 Robertson Street, expressing concern about outdoor consumption of alcohol on the bridge in the Village in close proximity to schools  
**Add to existing file**
3. City of Wauwatosa Investment Summary for the period ending January 31, 2009  
**Place on file**
4. City of Wauwatosa Water Utility Statement of Receipts and Disbursements for the period ending January 31, 2009  
**Place on file**

**APPLICATIONS, COMMUNICATIONS, ETC.** (cont.)

5. Notice of Claim: Stephen Cady & Clare O'Brien, 2555 Lefebber Avenue  
**City Attorney**

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION**

1. Ordinance amending the zoning code from AA Light Manufacturing District to Business Planned Development at 1234 N. 62<sup>nd</sup> Street for 148 residential apartment units  
**Re-referred to originating committee**

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

**RESOLUTION** R-09-34

WHEREAS, Gerald M. Pfeifer, 2000 W. National Avenue, Milwaukee, WI, has applied for an operator's 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's licenses in the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the operator's license application of Gerald M. Pfeifer is hereby denied;

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

It was moved by Ald. Birschel, seconded by Ald. Ewerdt  
to approve the foregoing resolution. 12-1 (Donegan)

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

**RESOLUTION** R-09-35

WHEREAS, James M. Feroah, 6922 Hillcrest Drive, Wauwatosa, WI, has applied for an operator's license in conjunction with his employment at P. F. Changs China Bistro at Mayfair Mall, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT James M. Feroah, 6922 Hillcrest Drive, Wauwatosa, WI, is hereby issued an operator's license for the period ending June 30, 2009.

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

**RESOLUTION** R-09-36

WHEREAS, Nicole M. Hoffmeier, 2881 S. 92<sup>nd</sup> Street, West Allis, WI, has applied for an operator's license in conjunction with her employment at Bluemound Gardens, 11703 W. Blue Mound Road, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Nicole M. Hoffmeier, 2881 S. 92<sup>nd</sup> Street, West Allis, WI, is hereby issued an operator's license for the period ending June 30, 2009.

It was moved by Ald. Birschel, seconded by Ald. Ewerdt to approve the two foregoing resolutions. -13

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**ORDINANCE** O-09-01

AN ORDINANCE TO CREATE CHAPTER 6.06 OF THE WAUWATOSA MUNICIPAL CODE RELATING TO MANDATING OF EMPLOYEE BENEFITS FOR PRIVATE BUSINESSES

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

Part I. Chapter 6.06 of the Wauwatosa Municipal Code of the City of Wauwatosa is hereby created to read:

Chapter 6.06 – Employee Benefits for Private Businesses

Section 6.06.010 Mandating of Employee Benefits for Private Businesses. No ordinance of the City of Wauwatosa, nor any other municipal ordinance, shall mandate that any business entity, other than the City itself, provide certain wages or benefits to its employees or set forth the amount or type of any employee wages or benefits provided by an employer located within the City limits.

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

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**ORDINANCE** O-09-02

AN ORDINANCE REPEALING AND RECREATING SECTION 15.14.200 OF THE WAUWATOSA MUNICIPAL CODE TO ALLOW ADDITIONAL SIGNAGE ON BUILDINGS IN THE MEDICAL CENTER AND INSTITUTIONS DISTRICT

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

Part I. Section 15.14.200 of the Wauwatosa Municipal Code is hereby repealed and recreated in its entirety to read as follows:

**15.14.200 Medical center and institutions district.**

A. Approval Required by Milwaukee Regional Medical Center. Each occupant shall submit copies of sign plans to the Milwaukee Regional Medical Center for approval prior to applying for the city for a permit. Two copies of the approved sign plans shall be submitted to the city upon application for a sign permit.

B. Total Amount of Signage Allowed.

1. Buildings 75 feet in height or less - The total amount of signage permitted for each building shall be determined by multiplying the lineal front footage of the main building facing the adjacent roadway by a factor of two. The gross allowable signage shall not exceed 400 square feet.

2. Buildings more than 75 feet in height – The total amount of signage permitted for each building shall be determined by multiplying the lineal front footage of the main building facing the adjacent roadway by a factor of two plus an additional 5.5 square foot for every vertical foot of building elevation. The gross allowable signage shall not exceed 900 square feet.

The owner of a multiple tenant commercial building (MTCB) is responsible for dividing the gross allowable sign square footage among all occupants of the multi-use building.

3. Directional signs shall not exceed six square feet in area and shall not exceed eighteen feet in height. These signs shall not be placed on city right-of-way or block vision of vehicular traffic. Directional signs do not require a permit and are not included in the calculation of the gross allowable sign square footage.

C. Type and Total Number of Signs Allowed.

1. No building may have more than three signs and such signs must be monument or wall type with the exception that each business premises located on the ground floor of a MTCB shall be entitled to a wall sign or awning sign not exceeding thirty-two square feet in area. Monument signs may not extend over the public right-of-way and may not exceed one hundred square feet in area on each side. A building with over three hundred feet of lineal front footage on the premises lot may have an additional permanent sign not exceeding one hundred square feet in area.

2. Buildings more than 75 feet in height are permitted a wall sign larger than 100 square feet provided such sign is located within the top two stories of the building elevation.

a. The square footage of this wall sign shall be included in the gross allowable sign square footage for the building under sub. B.2., above, and shall not cause the gross allowable sign square footage to exceed the gross allowable sign square footage permitted for the building.

b. This sign shall be included the maximum number of signs permitted under sub. C.1. above.

c. No sign described under this provision shall be permitted if any residential zoned property is located within 400 feet in the direction which the sign faces.

3. Traffic signs not on city right-of-way are permitted without restriction and do not require permits (i.e., stop, yield, symbols).
4. Logos are considered a part of signage and are calculated as part of the gross allowable sign square footage.

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

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-09-37**

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT a public hearing be held before the Common Council in the Council Chambers at 7:30 p.m. Local Time, on Tuesday, March 17, 2009, in the City Hall of the City of Wauwatosa, Wisconsin at which time all persons interested, or their agents or attorneys, will be heard concerning a proposed ordinance rezoning the property located 1234 N. 62<sup>nd</sup> Street from AA Light Manufacturing District to Business Planned Development District.

BE IF FURTHER RESOLVED THAT the City Clerk be and is hereby directed to publish the proper notices of said hearing as required by law.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

TO THE COMMON COUNCIL, CITY OF WAUWATOSA –

The Committee on Community Development, to whom was referred the matter of the disposition of Underwood Avenue properties in anticipation of fire station construction, recommends to the Common Council that the matter be placed on file.

Dated this 10th day of February 2009.

Committee on Community Development

It was moved by Ald. Hanson, seconded by Ald. Birschel to adopt the two foregoing ordinances, and approve the foregoing resolution and report. -13

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-09-38**

WHEREAS, Diablos Rojos, Inc. has requested permission to utilize City owned property adjacent to its proposed business location at 7707 Harwood Avenue for its business purposes, including the Harwood pedestrian bridge, with outdoor seating and various infrastructure improvements; and

WHEREAS, utilization of City property at this location would be in the public interest and has been supported by the Village of Wauwatosa Business Improvement District;

NOW, THEREFORE, BE IT RESOLVED THAT Diablos Rojos, Inc. is granted permission to utilize City property, including the Harwood pedestrian bridge with a monthly rental rate of \$250.00 in season and \$10.00 per day off season per the attached lease which is attached hereto and incorporated herein;

BE IT FURTHER RESOLVED THAT annual increases shall be tied to the greater of 2% or the CPI; the fountain shall be removed at the end of the lease if requested by the City; fountain shall be covered with appropriate cover during the off-season; outdoor use of fountain be allowed through November 1<sup>st</sup> with additional days as appropriate; and with the understanding that full outdoor use will be allowed during HartFest and Tosafest in 2009 but a change may be made thereafter if deemed necessary.

It was moved by Ald. Hanson, seconded by Ald. Birschel to approve the foregoing resolution. -13

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-09-39**

WHEREAS, the extended warranty on the Trane air handler in the City of Wauwatosa Municipal Complex has expired; and

WHEREAS, the most economical option to protect the City's investment in this produce over the next five years is to enter into a 5-year maintenance contract offered by the original equipment manufacturer, the Trane Company; and

WHEREAS, the service fees for the 5-year agreement are described in the Purchasing Manager's memorandum to the Budget & Finance Committee dated January 30, 2009;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to enter into a 5-year service contract with the Trane Company for purposes of maintaining the Trane air handler at the Municipal Complex, consistent with the terms described in the January 30, 2009, memorandum of the Purchasing Manager.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**ORDINANCE O-09-03**

AN ORDINANCE AMENDING WAUWATOSA CODE SECTION 3.20.090 OF THE WAUWATOSA MUNICIPAL CODE TO MODIFY THE PROCEDURE BY WHICH USED CITY-OWNED VEHICLES ARE DECLARED SURPLUS

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

Part I. The final two sentences of Section 3.20.090 of the Wauwatosa Municipal Code are hereby amended to read as follows:

The City Purchasing Manager (or in the case of vehicles, the Board of Public Works) shall have the power to dispose of all supplies, materials, and equipment not needed for public use or that may have become unsuitable for public use. Any such disposal shall be conducted in a manner which is in the best interest of the City, and shall not require approval of the Common Council, except in the case of vehicles with a present value of greater than \$25,000.00.

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

It was moved by Ald. Maher, seconded by Ald. Ewerdt to approve the foregoing resolution and to adopt the foregoing ordinance. -13

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

BILLS AND CLAIMS FOR THE PERIOD 2/4/09 – 2/17/09 --

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 2/4/09 – 2/17/09: \$1,636,851.54

It was moved by Ald. Meaux, seconded by Ald. Maher that each and every one of the accounts of bills and claims be allowed and ordered paid. Roll call vote, Ayes 13.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-09-40**

WHEREAS, the Common Council of the City of Wauwatosa did, by resolutions passed and dated March 18, 2008 and April 15, 2008, approve and adopt a report of the Board of Public Works in connection with repaving, and work appurtenant thereto, in the following streets:

<u>Street &amp; Location</u>	<u>Ald. Dist.</u>	<u>Exist &amp; (Prop.) Width</u>	<u>Pavement Construction Type</u>	<u>Assessed Sidewalk Work</u>
N. 73 <sup>rd</sup> Street – W. Center Street to North City Limit	5	30'	B – Asph.	Yes
N. 74 <sup>th</sup> Street – W. Clarke Street to W. Center Street	5	24'	B – Asph.	Yes
N. 74 <sup>th</sup> Street – W. Center Street to North City Limit	5	30'	B – Asph.	Yes
N. 75 <sup>th</sup> Street – W. Center Street to North City Limit	5	30'	B – Asph.	Yes
N. 84 <sup>th</sup> Street – W. North Avenue to W. Wright Street	6	30'	B – Asph.	Yes
N. 85 <sup>th</sup> Street – W. Meinecke Avenue to North City Limit	6	30'	B – Asph.	Yes
Elm Lawn – South End to Watertown Plank Road	3	30'	B – Asph.	Yes
W. Hadley Street – N. 117 <sup>th</sup> Street to N. 124 <sup>th</sup> Street	6,7	30'	C – Asph.	No

Mayfair Court – N. 117 <sup>th</sup> Street to Cul-De-Sac	6	30'	C – Asph.	No
Robertson Avenue – W. Wisconsin Avenue to Avon Court	3	30'	B – Asph.	Yes
Alley – W. Center Street-W. Clarke Street/N. 66 <sup>th</sup> Street-N. 67 <sup>th</sup> Street	5	18'/20'	C-- Asph.	No
Alley – W. Fiebrantz Avenue-W. Capitol Drive/N. Mayfair Road-N. 110 <sup>th</sup> Street	8	20'	C---Asph.	No
Alley – W. Wright Street-W. Meinecke Avenue/N. 64 <sup>th</sup> Street-N. 65 <sup>th</sup> Street	5	20'	A – Conc.	No
Alley – Jackson Park Boulevard-Stickney Avenue/Ludington Avenue-N. 90 <sup>th</sup> Street	2	20'	A – Conc.	No
Alley – Stickney Avenue-Menomonee River Parkway/N. 89 <sup>th</sup> Street-N. 90 <sup>th</sup> Street	2	18'	A – Conc.	No
Alley – W. Wells Street-Menomonee River Parkway/N. 60 <sup>th</sup> Street-West End	4	20'	A – Conc.	No

WHEREAS, the construction of the improvement above-described having now been completed in the aforementioned streets, it is the desire of the Board of Public Works to place the special assessments on the tax roll.

WHEREAS, it is the desire of the Board of Public Works to adjust the assessments for approaches and service walks, contained in said report, in relation to the costs of construction involved.

WHEREAS, the Director of Public Works has prepared amended special assessments taking into account the aforementioned differences.

NOW, THEREFORE, BE IT RESOLVED, By the Common Council of the City of Wauwatosa, Wisconsin, as follows:

Section 1. That the special assessments for paving set forth in the aforesaid reports of the Board of Public Works, approved by resolution passed and dated as listed are hereby directed to be entered upon the tax roll as hereinafter set forth and as reiterated in the special assessments attached hereto.

Section 2. That the attached amended special assessments for approaches and service walks, against the respective lots, tracts, and parcels of land abutting on the aforementioned streets be and the same are hereby approved and adopted and are directed to be entered upon the tax roll as hereinafter set forth.

Section 3. That the owners of the respective parcels of land fronting or abutting the street improvements on which public hearings have been held and preliminary assessments have been confirmed, shall have payment of the special assessments scheduled as follows:

(a) Each special assessment and special charge, pursuant to Section 66.0627 of the Wisconsin Statutes, levied in an amount of \$200 or less against any parcel of land in the City of Wauwatosa shall be entered in the tax rolls in one installment.

(b) Each special assessment for improvements levied in an amount exceeding \$200. against any parcel of land in the City of Wauwatosa shall be entered in the tax rolls in five equal annual installments of principal together with interest at the rate of twelve percent (12%) per year or the percentage rounded out to the next highest whole percentage number above the interest rate paid by the City for the sale of corporate purpose bonds, which include the project which is the subject of the special

assessment, whichever figure is less, on the unpaid balance of said assessment. Individual assessments shall run concurrently except as provided under Section 3.08.040 of the City Code.

(c) Each special assessment levied against any parcel of land in the City of Wauwatosa for the installation of sanitary sewer main or water main or construction of permanent street pavement shall not be entered in the tax roll until all installments of special assessments for sanitary sewer or water main or construction of permanent street pavement levied previously against the same parcel of land have been entered into the tax rolls and have been paid. Such subsequent special assessment shall be deferred and only interest at the rate of twelve percent (12%) per year, or the percentage rounded out to the next highest whole percentage number above the interest rate paid by the City for the issuance of General Obligation Debt, which include the project which is the subject of the special assessment, whichever figure is less, on such subsequent special assessment shall be carried into the tax rolls in addition to the scheduled installments of such prior assessments. After the last installment of such prior special assessment has been entered in the tax rolls, installments of the subsequent special assessment shall, beginning with the next subsequent tax roll, be entered in the tax rolls pursuant to Section 3.08.030 of the City Code.

(d) Whenever special assessments are levied against the frontage and side of a corner parcel of land in the City of Wauwatosa for the installation of sanitary sewers or water mains or construction of permanent pavements arising out of the same public works project, such special assessments levied against a corner parcel of land shall be deemed to be two separate special assessments, and the special assessment levied against the frontage of the corner parcel of land shall first be scheduled on the tax rolls for payment as provided in Section 3.08.030 of the City Code and the special assessment levied against the side of the corner parcel of land shall be scheduled on the tax rolls pursuant to (c) above, following such scheduling of the special assessment levied against the frontage of the corner parcel of land.

(e) Notwithstanding the provisions of (c) and (d) above, any owners of parcels of land assessed may at their option elect to pay both the scheduled installments of prior assessments as well as scheduled installments of subsequent special assessments on the same tax rolls as entered on those tax rolls pursuant to Section 3.08.030 of the City Code.

(f) If, after special assessments have been placed on the tax rolls in installments or otherwise, the taxpayer fails to pay the same within the time allowed for payment of general taxes, the same shall become delinquent and shall be treated in the same manner and subject to the same laws as delinquent general property taxes.

Section 4. That the City Clerk publish the installment assessment notice, as by Section 66.54 of the Wisconsin Statutes provided, including therein that the owners of the property benefited by said improvement may elect within thirty (30) days from the date of said notice to pay the said assessment on their property on or before the next succeeding November 1.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-09-41**

BE IT RESOLVED, By the Common Council of the City of Wauwatosa, Wisconsin, that the attached account of the expense of sidewalk repairs under Contract 08-19 Concrete Sidewalk Repairs be submitted to the Finance Director in accordance with Section 66.615(3)(f) of the Wisconsin Statutes.

BE IT FURTHER RESOLVED, that the City Clerk be and she is hereby directed to send out the proper bills to the owners of the property, as listed in the accompanying assessment for sidewalk repairs under Contract 08-19 Concrete Sidewalk Repair.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-09-42**

WHEREAS, the Wauwatosa Purchasing Department has requested bids for emulsion and street patching materials for the Spring/Summer 2009 repair season; and

WHEREAS, each of the five bidders reflected in the memorandum of the Purchasing Manager dated February 9, 2009, provide different advantages based upon the price, convenience and availability;

NOW, THEREFORE, BE IT RESOLVED THAT each of the five vendors described in the memorandum of the Purchasing Manager are hereby qualified to provide emulsion and street patching materials for the Spring/Summer 2009 repair season on an as-needed basis, with individual purchases being made on the basis of price, convenience and availability.

It was moved by Ald. Krol, seconded by Ald. Walsh  
to approve the three foregoing resolutions. -13

There being no further business, the meeting adjourned at

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Carla A. Ledesma, CMC, City Clerk