



CITY OF WAUWATOSA

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COMMUNITY DEVELOPMENT COMMITTEE MEETING Tuesday, May 11, 2010

PRESENT: Alds. Birschel, Herzog, Jay, Meaux, Nikceovich, Organ, Pantuso, Wilke

ALSO N. Welch, Community Dev. Dir.; A. Kesner, City Attorney; W. Kappel, Dir. of Public
PRESENT: Works; J. Archambo, City Admin.

Ald. Herzog as Chair called the meeting to order at 8:00 p.m.

Village BID Sign Code Changes

The committee reviewed a proposed ordinance amending Section 15.14.240.A of the Code to address requirements for sandwich board signs in the Village of Wauwatosa Business Improvement District (BID). City Attorney Kesner reported that the change removes ownership of Village sandwich board signs from the BID to individual businesses while protecting Village aesthetics.

Kathy Ehley, 7437 Kenwood Avenue, Executive Director of the Village BID, noted that the current ordinance, which allows eight signs at an annual cost of \$120 each, dates to 1994 when the Village had far fewer businesses. This has been difficult to manage as the number of businesses in the Village has grown. The BID has worked closely with the city to arrive at this proposal.

Russ Drover, 7530 W. State Street, submitted a statement and a petition with 13 signatures expressing concerns about the ordinance. He felt that the specific fee should be included in the ordinance itself rather than just by reference to the city's fee schedule, and he questioned whether there are true administrative costs associated with the annual fee. He also questioned proposed language stating that sign styles are to be approved by the BID, stating the businesses clearly want to be in charge of the rendering, layout style, and overall design of their signs. He said that he does not object to allowing more sandwich board signs in the Village but believes that clearer wording is needed.

Katherine Ross, owner of the Yoga Center, 7810 Harwood Avenue, said that a BID committee spent considerable time on this issue, which is very important to Village businesses, particularly restaurants. The BID would not control sign content but did want to make sure there were not too many different styles on the street. Ms. Ehley added that they selected two styles—one has a dark metal frame and a writable surface and the other is a white plastic portable sign. Both are the most typical used and probably the least expensive.

In answer to Mr. Drover's concerns, Mr. Kesner said the proposed language is widely used nationwide to distinguish between sign design, which can be regulated, and sign content, which may not be. The ordinance applies only to the style and design of the sign structures. Use of a fee schedule is an approved method of outlining fees that was recently upheld in a different context by the Wisconsin Court of Appeals. City costs include review of permit applications, inspections, and enforcement.

Ald. Pantuso said that he served on the BID committee that addressed this issue and will vote present.

Ald. Wilke asked about including language to allow future use by other business alliances. Mr. Kesner explained that this section of the Code applies only to the Village Business Improvement District. At this time sandwich board signs are not permitted anywhere else in the city. The Council could allow use in the future by other formally organized districts that would be in a position to self-regulate that use.

Moved by Ald. Meaux, seconded by Ald. Nikcevich to recommend to Council adoption of the ordinance –

Ald. Nikcevich said that businesses should be aware that this is a very highly regulated type of signage, and they should work with area business directors if they want to promote the use. She believes that the North Avenue district is not yet in a position to proceed in that direction.

Vote on the motion, Ayes: 7; Present: 1 (Pantuso)

Conditional Use – Wireless Antennas at 11100 W. Center Street

The committee reviewed a request by Frank Dobbs, agent for Clearwire, to a Conditional Use in the AAA Single Family Residence District at 11100 W. Center Street to install wireless broadband antennas and associated equipment on an existing cellular tower at Whitman Middle School. Ms. Welch reported that any supplemental equipment would be within the existing area set aside for that purpose.

Frank Dobbs, Clearwire, 244 Lakeshore Drive, Fontana, said that Clearwire would probably launch their services here next year.

Moved by Ald. Pantuso, seconded by Ald. Birschel to recommend to Council approval of the Conditional Use. Ayes: 8

Street Festival Permit – VillageGreen Street Fair, Harwood and Underwood Avenues

The committee reviewed a request by the Village Business Improvement District (BID) for a Street Festival permit for a proposed VillageGreen Street Fair on September 25, 2010. It would require closing Underwood and Harwood Avenues from 7 a.m. to 8 p.m., which includes setup and take-down time. This would be a family-oriented festival aimed at educating and informing people of the benefits of green, organic, and eco-friendly products and services. It will include exhibitors, live music, activities, food and tastings, demonstrations, a children's area, clothing swap, fashion show, and speakers.

Mr. Kappel reported that the organizers submitted signatures of support from most of the businesses on the one-way streets that would be closed. The event would piggy-back with the farmers market and the Historical Society's Little and Big Red Ride on the same day. City staff, including public works and police, will work with the BID committee regarding street closures and times.

Lisa Allen, 7532A W. State Street, Co-Chair of the BID Events Committee, said that the fair is modeled after an event in Plymouth, Michigan. As a resident, business owner, and member of the BID, she promoted doing a similar event here. This year it is tied into the harvest and the farmers market but may be held at a different time of year if continued as an annual event.

Ald. Meaux suggested seeking some publicity through Visit Milwaukee.

Moved by Ald. Meaux, seconded by Ald. Pantuso to recommend to Council approval of the permit. Ayes: 8

Farmers Market Ordinance

City Attorney Kesner withdrew the proposed farmers market vendor license. The Health Department has indicated that existing ordinances and their own procedures would adequately cover this new use.

City of Waukesha Request for Lake Michigan Water

Mr. Kappel, Director of Public Works, presented an overview of the request by the City of Waukesha for Lake Michigan water, supplementing an April 20, 2010 memo to the committee. The city became aware of the potential for Waukesha to file for diversion in late 2008 at which time Underwood Creek was mentioned as a potential route for returning wastewater to Lake Michigan. Waukesha is under Wisconsin Department of Natural Resources (WDNR) orders because of a high level of arsenic in their water, which is expensive to remove. As they grow and continue to use their deep well aquifer, it will eventually be depleted. They have investigated shallow wells as a supplementary supply, an option that has been controversial in neighboring communities.

Returning Lake Michigan water via Underwood Creek would be accomplished through a series of pipelines. Effluent would be processed at Waukesha's wastewater treatment plant, piped to the border of Wauwatosa, and dumped into Underwood Creek at a yet to be named location; it would travel from there to Lake Michigan. The two issues for Wauwatosa are water quantity and water quality.

We are in Step 1 of the process. Waukesha has not yet filed an official application, although they have posted a draft on their website. WDNR must provide an Environmental Impact Statement (EIS) based on information Waukesha provides. Once published, there will be a 45-day comment period and a public hearing.

In Step 2, once the application is filed, the DNR will proceed with review. After another public hearing, the DNR could allow them to apply for additional permits, but it seems likely that action would be held to the final stage.

If the DNR approves the diversion application, Step 3 would be submitting it to the regional body (individual Great Lakes states and Canadian provinces of Ontario and Quebec) and to the Great Lakes-St. Lawrence River Basin Water Resources Council. This is an international issue and the first test of the Great Lakes Compact, which took seven years to complete.

In Step 4, the regional body will hold a public meeting in Wisconsin to receive comments. Step 5 allows the regional body 90-days within which to conclude its review of the DNR submittal. Final findings on the application by the Great Lakes-St. Lawrence River Basin Water Resources Council and then a final determination by the DNR occur under Step 6. The final step includes issuance of state permits, which may be preceded by additional public hearings.

Attorney Paul Kent of Anderson and Kent, S.C. has been retained on behalf of the City of Wauwatosa and has responded to an initial DNR letter. He joined staff in touring the Underwood Creek area recently. Mr. Kent's specialty is the DNR permitting process. He represents municipal wastewater utilities statewide and is very familiar with DNR's wastewater permitting process.

Mr. Kappel and City Attorney Kesner responded to comments and questions from committee members:

- Waukesha's well system would have to be separated prior to connecting to Lake Michigan water since the two systems cannot be mixed; they could retain shallow wells as an emergency system.

- A dedicated pipeline from Milwaukee would serve Waukesha and possibly Brookfield, but hard engineering including locations would occur after an application is approved.
- MMSD is responsible for flood management in the waterway and has an interest in seeing that no additional flooding occurs. They have taken a neutral position on the proposal. Waukesha's design would allow them a maximum flow of no more than 20 cubic feet per second to Underwood Creek; the flood control project was built for a capacity of 6,000 cubic feet per second. During high water times, Waukesha would divert to the Fox River rather than to Underwood Creek.
- There has been some preliminary discussion about the possibility of an intergovernmental agreement at which point it would be appropriate to discuss reimbursement of expenses. This is potentially a \$160 million project for Waukesha.
- Most of the waterway's rights are public under state law, although there might be some private rights involved as well.
- In 2000, the DNR's concern was that Underwood Creek might be too low; in drought situations, it dries up. There could be some advantages to a more constant flow. Adding 20 cfs to the waterway could potentially improve habitat in that area of the stream, but there are not yet enough facts to support that.
- 20 cfs is the maximum flow calculated in the future with a 54% growth factor in consumption over time. The flow probably would peak in the early years at 13 cfs, but 20 cfs is the maximum that they would be capable of and that would be allowed.
- MMSD's long range plan is to remove all of the concrete channels in Underwood Creek, which would improve overall water quality. Assistance toward that goal was acknowledged as something we could request of Waukesha.

Mr. Kappel advised following the process closely and gathering more facts. Mr. Kesner said that it is important to remember that the Great Lakes Compact and implementing legislation require DNR to pass administrative rules to implement it. They are moving forward to get an idea of how it works before doing that, using existing rules that apply.

The importance of the entire watershed was emphasized by Ald. Meaux. This is a unique area and a very important decision, he said. Mr. Kappel displayed a map of the Menomonee River basin and said that there may not be immediately needs in Wisconsin so much as in other states. Mr. Kesner added that some western Chicago suburbs have been drawing water for years that they return to Lake Michigan by pipeline. The key to any future requests from communities in the seven states and two Canadian provinces is that any diversion must have zero net effect.

Moved by Ald. Jay, seconded by Ald. Nikcevich to place this report on file. Ayes: 8

Since this item was on the agenda only as a presentation to the committee, comment forms were available for public input and inclusion in the record. Jean E. Davidson, 1957 River Park Court, listed concerns relating to the volume of water in Underwood Creek, expansion of the Waukesha economic base and possible unfair competition with Milwaukee County; need for an economic impact assessment. A form was turned in by Richard Bachman, 2229 N. 115th Street with no written comments.

Update on Southeastern Wisconsin Watersheds Trust, Inc.

Mr. Kappel, Director of Public Works, presented on update on the Southeastern Wisconsin Watersheds Trust, Inc. (SWWT or "Sweet Water"). The trust was formed two years ago as a result of the Great Rivers Great Lakes Conference. The group recently hired an executive director and formed watershed action teams to advise the executive steering council on important watershed issues. Mr. Kappel or the city's storm water engineer have been attending most of the team meetings. The effort is not publicly funded.

The organization is currently seeking community volunteers for the Menomonee River Watershed Action Team, which would augment local efforts to clean up the Menomonee River. Mr. Kappel distributed copies of a brochure produced to assist with volunteer recruitment. Various community groups including the Village Improvement District, the Neighborhood Association Council, and the Senior Center are being contacted. Action teams will look into the broad categories in the watershed of public health/bacteria, habitat improvement, and reduction of phosphorus loading.

Mr. Kappel displayed a map of priority areas, noting that Wauwatosa has issues in all three categories. He described some of the “hot spots” and said that with our aging infrastructure we are working on all fronts to resolve problems.

Moved by Ald. Organ, seconded by Ald. Birschel to place this report on file. Ayes: 8

The meeting adjourned at 9:21 p.m.

Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin

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