



CITY OF WAUWATOSA

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BOARD OF PUBLIC WORKS

Regular Meeting, Monday, July 18, 2005 – 8:30 a.m.

PRESENT: Mr. Braier, Finance Dir.; Mr. Kesner, City Attorney; Mr. Wheaton, Chief Insp.

EXCUSED: Ms. Ledesma, Ms. Welch

ALSO

PRESENT: W. Kappel, Dir. of Public Works; W. Wehrley, City Engineer

Mr. Kesner in the Chair.

The Chair requested any additions or corrections to the minutes of the previous meeting.

It was moved by Mr. Wheaton, seconded by Mr. Braier to approve the minutes as printed. Ayes: 3

Appeal of Snow Removal Charges. By letter of May 19, 2005, Marion McDowell, 6829 Wellauer Drive, appealed snow removal charges of \$119 and \$133. The charges cover work done on January 10, 2005 for snow that ended on January 7 and on January 26, 2005 for snow that presumably ended some days prior. Mr. Kappel presented photos taken on the dates of violation documenting the condition of the sidewalk along the Blue Mound Road side of the property. Judging by the photos, he felt it unlikely that the snow had been thrown back on the walk by a snowplow. A similar charge was assessed and paid in 2004.

Ms. McDowell questioned the accuracy of the charges. She said that according to her contractor's records, it did not snow on January 9 or 26, 2005, although it did snow at both those times in 2004. The contractor shovels at 4 a.m. and also serves her neighbor. She confirmed that she received a notice in October 2004 about snow removal requirements along Blue Mound Road. She questioned the linear feet for which she was charged (63 feet on January 10 and 56 feet on January 26), stating that the Blue Mound side of her property is only 33 feet in length. Mr. Kappel subsequently obtained a plat of survey from which it was determined that the Blue Mound frontage is 65 feet. Ms. McDowell also questioned being assessed a mobilization charge since the city already had to send someone to handle snow on adjacent city property.

Mr. Braier said he has seen nothing to indicate the charges should be waived. It is evident that the snow was there and the city did the work.

It was moved by Mr. Braier, seconded by Mr. Wheaton to deny the appeal. Ayes: 3

Temporary/Seasonal Outdoor Display, Sale, and Storage at N. 124th and W. Burleigh Streets.

The Board reviewed a letter dated July 7, 2005, from Attorney Deborah Tomczyk, Reinhart, Boerner, Van Deuren, 1000 N. Water Street, requesting authorization for temporary/seasonal outdoor display, sale, and storage of merchandise at the proposed Lowe's store at N. 124th and W. Burleigh Streets. Submitted

drawings indicated that outdoor and seasonal materials would be stored, displayed and sold at the east end of the Lowe's building from April through September and holiday seasonal products from October through December. A developer's agreement requires Board approval of temporary or seasonal outdoor sales areas.

Robert Fiebig, representing Lowe's, said the designated area would be fairly clear in winter, although they may have snow blowers at the front of the store. During summer, they would have a display of flowers and shrubs in front of the garden center.

The Chair pointed out that the storage area for outdoor materials on the east side of the building displaces some parking spaces. Mr. Fox acknowledged that it temporarily reduces usable stalls. Although that use would be in located at the front of most of their stores, Mr. Fiebig said it was pushed to the side of the garden center here because of parking needs.

Mr. Wheaton noted that with the request covering April through September and October through December, it could be seen as permanent outdoor storage, which then should be part of the use permit. He noted that there has been an enforcement problem with expanding outdoor storage at a similar store in Wauwatosa.

Mr. Fiebig said that the request is customer-service oriented. Displaying grills and lawn mowers in this location is convenient for loading those items into customers' vehicles. Otherwise, it would be necessary to cordon off aisles to remove them from indoor shelves. This is also a competitive issue since the other home improvement retailer in this area displays those items outside the front of its store.

The Chair commented on the issue of equality and fairness in enforcing conditions for similar operations and suggested that stepped-up enforcement of requirements at the existing home improvement store should perhaps take place before approving this request.

It was moved by Mr. Wheaton, seconded by Mr. Braier to hold this matter until next January, in the interim increasing enforcement of outdoor sales, display, and storage limitations at the cited existing home improvement store. Ayes: 3

Overnight Parking in City Lot. The Board reviewed a request by Daniel Herbst, president of the Harwood Commons Condominium Association, 7850 Harwood Avenue, for overnight parking in the city parking lot at 7750 Harwood Avenue on July 21, 2005. Samuel Schaal, 7850 Harwood Avenue, was present representing the association. Due to resealing of the building's driveway and parking spaces on July 21, residents will be unable to drive on those surfaces for a 24-hour period. Approximately 10 vehicles would park overnight in the city's "brick paver" lot.

Mr. Kappel had no objection to the request. He noted that there is no other place nearby to park those vehicles. Parking permits could be obtained from his office, and police would be notified.

It was moved by Mr. Wheaton, seconded by Mr. Braier to approve overnight parking of approximately 10 vehicles in the city lot at 7850 Harwood Avenue by on July 21, 2005. Ayes: 3

Air Conditioner Variance – 2005 Underwood Avenue. The Board reviewed an application for a variance by Gross Heating on behalf of Kent Morins, 2005 Underwood Avenue, for placement of an air conditioning unit within the setback area of the north lot line. Jill Morins was present and displayed drawings of the site, pointing out the existing unit's present location and the proposed location where it would be somewhat screened by evergreens and cedars. The condenser unit is 5-6 years old. She indicated that neighbors are agreeable to the request.

It was moved by Mr. Braier, seconded by Mr. Wheaton to approve the requested variance contingent upon appropriate screening if the unit is visible from the street. Ayes: 3

The Chair requested that a detailed drawing showing the proposed location be submitted for the file.

Air Conditioner Variance – 1869 N. 71st Street The Board reviewed an application for a variance by Advanced Energy Concepts on behalf of Kathy and Brian Mintner, 1869 N. 71st Street, for placement of an air conditioning unit within the setback area of the north lot line. Joe Zettel of Advanced Energy Concepts was present. He presented photos of each side of the house and described difficulties with placement of the unit on the east, west, and south sides. The proposed north side location is screened from 71st Street.

It was moved by Mr. Braier, seconded by Mr. Wheaton to approve the requested variance contingent upon appropriate screening of the unit from Hillcrest Drive. Ayes: 3

Surplus Vehicles. Held from the previous meeting was a request by the Director of Public Works to retain two vehicles previously declared surplus. Mr. Kappel recommended retention of fleet #P-114, a police Ford Crown Victoria, which he noted is in better condition than fleet #P-120, a similar vehicle declared surplus at the last meeting. When the police vehicle purchase was made in 2004, it was felt that P-120 should be retained. When the purchased vehicles were received earlier this year, however, it was found that P-120 is actually in worse condition than P-114.

The department would also like to retain fleet #T-67, a salter-equipped dump truck, as a reserve plow truck through the winter season. Mr. Braier was concerned that there is a substantial monthly fixed cost for retaining the dump truck, which includes storage, insurance, and overhead amounts.

It was moved by Mr. Braier, seconded by Mr. Wheaton to recommend retention of fleet #P-114, which was previously declared surplus. Ayes: 3

It was moved by Mr. Braier, seconded by Mr. Wheaton to not change the surplus designation of fleet #T-67. Ayes: 3

Encroachment – 655 N. 79th Street. The Board reviewed an application by David and Angela Carron, 655 N. 79th Street, to encroach onto city property with a lawn irrigation system. Mr. Wheaton said this is a fairly typical installation that can be covered by an encroachment and hold harmless agreement. Mr. Wehrley indicated that there are no objections from engineering staff.

It was moved by Mr. Wheaton, seconded by Mr. Braier to recommend approval of the encroachment subject to execution of an encroachment

and hold harmless agreement. Ayes: 3

Reflective Paint on Concrete Steps on City Property – 1714 Church Street. The Board reviewed a letter from the Board of Trustees of First Church of Christ, Scientist, 1714 Church Street, requesting permission to paint a reflective strip on two concrete steps on city property. Mr. Kappel reported that elderly people reportedly have difficulty seeing the steps at night. The church will provide the material and labor.

It was moved by Mr. Wheaton, seconded by Mr. Braier to approve the request. Ayes: 3

Street Vendor License – 11737 W. Burleigh Street. The Board reviewed an application for a Street Vendor license by Allen Neu of Wisconsin Paralyzed Veterans of America for a parking lot event at AMF Bowlero, 11737 W. Burleigh Street, on July 23 and 24, 2005. Mr. Kappel stated that the group annually holds their wheelchair softball game at this site. There is ample space, and they do not intrude into the roadway.

It was moved by Mr. Wheaton, seconded by Mr. Braier to approve the Street Vendor license. Ayes: 3

Water Pumpage Report. The water pumpage report and billing analysis for June 2005 indicated that 218,919,500 gallons were pumped during the month, exceeding the 168,373,000 gallons pumped in June 2004 as well as both the three-year and ten-year averages. The Chair ordered the report placed on file.

Contract 05-7, Asphalt Paving Repaving – Award of Bid. The Board reviewed a memo from the Director of Public Works recommending award of Contract 05-7 to Payne & Dolan, Inc. at their bid price of \$511,591.34, this being the lowest of two bids. The amount budgeted for this work is \$541,900, and the engineer's estimate is \$495,000.

It was moved by Mr. Wheaton, seconded by Mr. Braier to recommend award to Payne & Dolan, Inc., at their bid price of \$511,591.34. Ayes: 3

Contract 05-03A, Sanitary Sewer and Storm Sewer Relay, Repair & Extension – Award of Bid. The Board reviewed a memo from the Director of Public Works recommending award of Contract 05-03A to American Sewer Services, Inc., at their bid price of \$280,101.80, this being the lowest of two bids. The engineer's estimate is \$281,959, and the budgeted amount available for remaining utility work associated with paving is \$300,836. A fund transfer has been requested to cover the city portion of the cost, and reallocation of CDBG funds is also needed to cover that portion of the work. Both matters also involve Contract 05-03B and will be addressed by the Budget & Finance Committee prior to Council action.

It was moved by Mr. Wheaton, seconded by Mr. Braier to recommend award to American Sewer Services, Inc., at their bid price of \$280,101.80, contingent upon appropriate funding. Ayes: 3

Contract 05-03B, Reconstruction of Fully Deteriorated Sewers Using a CIPP Relining Process – Award of Bid. The Board reviewed a memo from the Director of Public Works recommending award of Contract 05-03B to Visu-Sewer Clean & Seal, Inc., at their bid price of \$87,695.45, this being the lowest of

three bids. The engineer's estimate is \$128,9013.10, and the budgeted amount available for remaining utility work associated with paving is \$300,836. A fund transfer has been requested to cover the city portion of the cost, and reallocation of CDBG funds is also needed to cover that portion of the work. Both matters also involve Contract 05-03A and will be addressed by the Budget & Finance Committee prior to Council action.

It was moved by Mr. Wheaton, seconded by Mr. Braier to recommend award to Visu-Sewer Clean & Seal, Inc., at their bid price of \$87,695.45, contingent upon appropriate funding. Ayes: 3

Encroachment – 869 N. Mayfair Road. The Board reviewed an application by Promenade, 869 N. Mayfair Road, to encroach onto city property with a concrete patio, retaining wall, and a decorative fence for an outdoor seating area for a new restaurant. Mr. Wehrley reported that the encroachment is very minor and no utilities are affected.

It was moved by Mr. Braier, seconded by Mr. Wheaton to recommend approval of the encroachment subject to execution of an encroachment and hold harmless agreement. Ayes: 3

Cross Access, Easements, Drainage - Burleigh Square Project, N. 124th and W. Burleigh Streets. The Board reviewed a letter from Atty. Deborah Tomczyk, Reinhart, Boerner, Van Deuren, 1000 N. Water Street, requesting approval of certified survey maps, cross access, easements, and drainage for the Burleigh Square project at N. 124th and W. Burleigh Streets. The Chair reported that the certified survey maps break the project into four parcels with an overall storm water and utilities plan. An attached document sets out easements, covenants, conditions and restrictions by and between Lowe's Home Centers, Inc. and Continental 164 Fund LLC.

The Chair explained that the parcels are now under the same ownership but could be subdivided in the future. This document would then provide the ability for each owner to enforce rights against the others. Lots 2, 3 and 4, for example, have easements to send storm water across lot 1 to the detention ponds at the east end. There are similar provisions for water and sanitary sewers and a number of other Lowe's-specific restrictions on the use of the property.

Michael Fox of Continental Properties, said this is a standard document they use for every development. The Wisconsin Department of Commerce receives a copy for their approval. Mr. Fox displayed the site plan and elevations, pointing out the location of the proposed Lowe's building, adjacent undesignated uses, a separate Walgreens store, and two other out-lots.

Mr. Wehrley said that there is another issue with the parking lot side setback requirements for lots 1 and 2 where the property line splits some stalls and there is no setback. Each of the lots has street access. The parking lot layout is included in this document.

Mr. Fox noted that this agreement addresses maintenance of the detention ponds, pro-rating the cost among property owners. Continental Properties maintains control at this time, but Lowe's may directly control that element if the other parcels are sold. The Chair mentioned that there is a separate agreement, not before the Board, relating to the basins' drainage into Briggs and Stratton's settling ponds.

It was moved by Mr. Wheaton, seconded by Mr. Braier to recommend approval of the Certified Survey Maps and cross access, easements, and storm water drainage for the Burleigh Square project subject to approval by the State Department of Commerce and further subject to drainage being connected to a public drainage course; and to approve a variance from the city's parking lot requirements for setbacks on the west side of lot #1 and east side of lot #2 –

Mr. Fox reported that surface water will be routed underground to the detention ponds through a storm sewer pipe. There is an easement agreement with Briggs & Stratton that will govern maintenance of the pipe going from those detention ponds to the Briggs settling ponds. The engineering has not yet been finalized on a number of other storm water management techniques including bio-swales and some permeable pavement.

Vote on the motion, Ayes: 3

Contract Updates. Mr. Wehrley updated the progress of contractor work on Wright Street, Pasadena Boulevard, 61st Street, 115th Street, and Swan Boulevard. Sealcoating will start tomorrow with Wauwatosa Avenue work likely starting very early Wednesday morning. Sidewalk work is about halfway complete, and it is likely the contractor will exceed the end-of-July completion date. Work on the salt dome and 64th Street reservoir continues. North Avenue street lighting is essentially complete.

The meeting adjourned at 9:30 a.m.

Secretary to the Board

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