



CITY OF WAUWATOSA
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BOARD OF PUBLIC WORKS

Regular Meeting, Monday, April 18, 2005 - 8:30 a.m.

PRESENT: Mr. Braier, Finance Dir.; Mr. Kesner, City Attorney; Ms. Ledesma, City Clerk; Ms. Welch, Community Dev. Dir. -4

EXCUSED: Mr. Wheaton

ALSO W. Kappel, Dir. of Public Works; W. Wehrley, City Eng.; K. Walbrant, Parks & Forestry
PRESENT: Supt.; J. Wojcehowicz, Water Supt.; Ald. Treis, 8th Dist.

Mr. Braier in the Chair.

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

It was moved by Mr. Kesner, seconded by Ms. Welch to approve the minutes as printed. Ayes: 4

Proposals for Tree Removal Services. The Board reviewed a memo from the Purchasing Manager reporting on proposals received for tree, stump, and swell removal of diseased elm trees in city street parkways, rights-of-way, parks, and green spaces. All bids exceeded the \$75,000 budgeted, but the scope of work will be limited to that amount. A separate memo from the Superintendent of Parks and Forestry recommended rejection of the low bid of American Landscape in favor of the second lowest bid of Dorshak Family Tree and Landscape.

Mr. Walbrant reported that he has been in contact with Todd Kucharski, the former Parks & Forestry Superintendent, who related some of the problems encountered with American Landscape when they held the 2003 contract. Mr. Kucharski felt that Wauwatosa work was definitely not a priority to them; he had a hard time getting them here to do the work. They didn't have the necessary equipment, and they did not meet the timeline. As an arborist who inspected a lot of their work at that time, Mr. Walbrant said he often found that city crews had to do a lot of follow-up work such as recutting stumps that were not cut to the agreed-upon measurement. Mr. Kappel added that some of the problems may have been due to their lack of a certified arborist on site to manage the work.

It was moved by Mr. Kesner, seconded by Ms. Ledesma to recommend to Council award to the second lowest bidder, Dorshak Family Tree and Landscape, based on previous experience indicating that award to the low bidder is not in the best interest of the city. Ayes: 4

Street Vendor License for Parking Lot Tent Sale at 8901 W. North Avenue. The Board reviewed an application by Randy Fortkamp, Sr., Furniture Clearance Center, for a Street Vendor license for a parking lot tent sale at 8901 W. North Avenue from May 24 through May 31, 2005, between 9 a.m. and 5 p.m. Mr.

Fortkamp was present and indicated that this is the store's' 12th annual tent sale. There have been no problems reported in connection with previous events.

It was moved by Mr. Kesner, seconded by Ms. Welch to approve the Street Vendor license. Ayes: 4

Contract 05-51, Swan Boulevard Water Main Relay and Extension – Plans and Specifications. Mr. Wojcehowicz reported that the plans and specifications were prepared by an outside contractor, Graef, Anhalt, Schloemer & Associates, Inc., who will also handle advertising for bids. The work area is on Swan Boulevard from Wright Street to the north city limits. There is an alternate for work in the alley south of Center Street from Swan Boulevard to N. 93rd Street. Work will take place during the summer, finishing in August before school starts.

Board Resolution

WHEREAS, it is the sense of the Board of Public Works of the City of Wauwatosa that it is necessary to construct Swan Boulevard Water Main Relay and Extension in the City and work incidental thereto under Contract 05-51;

NOW, THEREFORE, BE IT RESOLVED, By the Board of Public Works of the City of Wauwatosa, Wisconsin as follows:

Section 1. That the plans and specifications and form of contract and bond, together with the contract documents submitted therewith for furnishing all labor, material and equipment for Swan Boulevard Water Main Relay and Extension and work incidental thereto be and the same are hereby approved.

Section 2. That the work is intended to be done during the 2005 construction season in the City of Wauwatosa, all in accordance with said plans and specifications.

Section 3. That the work is to be let to the lowest responsible bidder following competitive bidding therefor.

Section 4. That Graef, Anhalt, Schloemer & Associates, Inc. is hereby authorized and instructed to advertise for bids for Contract 05-51 Swan Boulevard Water Main Relay and Extension on April 28 and May 5, 2005; bids are to be opened on May 12, 2005 and work to be completed by August 19, 2005 and to provide in so doing that bids may be submitted with a contract and bond, with sureties, as prescribed by the form furnished, complete with the exception of signatures on the part of the City; and in lieu of the foregoing provision that the bidder may accompany his bid with a certified check equal to five (5) percent of the bid, payable to the city as a guarantee that if his bid is accepted, he will execute and file the proper contract and bond within ten (10) days after the award, all in accordance with the provision of the Wisconsin Statutes.

Section 5. That the Wage Scale in the contract documents be and the same is hereby accepted.

It was moved by Ms. Ledesma, seconded by Ms. Welch to approve the foregoing. Ayes: 4

Sign for Proposed Rotary Construction Project in Village Fountain Area. David Lashinski, president of the Mayfair Rotary Club, displayed a temporary banner that the club would like to install in the Village fountain area to announce their proposed reconstruction project. The banner was already used briefly over a period of time that included the Village Easter egg hunt. They would later erect a permanent 4 ft. by 8 ft. sign. Internal fundraising has raised \$15,000, and they have formed five teams who will solicit the public. They are in the process of finalizing the general design presented to the Board and the Common Council earlier this year.

Mr. Kappel reported that the Design Review Board reviewed the conceptual design at the request of the Community Development Committee and had no comments. He will meet with the project's landscape architect tomorrow to talk about pre-construction demolition by city crews, but he would want to have information on final plans before beginning any work. Since final plans depend on the success of fundraising, they are flexible and could be scaled back. Funds will need to be in place by July to complete the work by the September 5th target date. There are still some issues with the water relay under this area that the city would like to abandon, and there are documents that will need to be in place. The matter of naming the area still must be considered by Council.

Mr. Kesner was concerned with creating an expectation by erecting a sign announcing a completion date. Mr. Lashinski said that tomorrow's meeting with Mr. Kappel will be the start of arriving at a final design. They are ready to keep moving on the next steps.

It was moved by Mr. Kesner, seconded by Ms. Welch to approve placement of the temporary sign until the beginning of Tosafest on September 5, 2005, the expected completion date . Ayes: 4

Mr. Wehrley requested coordination of any permanent sign with the engineering department.

Reconsideration of Approval of the Parking Lot at 7600 W. State Street.

It was moved by Mr. Kesner, seconded by Ms. Ledesma to reconsider action on the parking lot at 7600 W. State Street –

Mr. Kesner explained that his motion for reconsideration is based upon the following: 1) Although publicly noticed on the Board of Public Works agenda twice before being voted upon, interested members of the public were not aware of this until some on-site work began after approval. The Board was not aware of opposition to the lot until calls were received at that time. 2) One of reasons for approval cited by the applicant was the need to provide parking for at least one residential tenant in an adjacent building. City staff later learned that residential use there was never approved as a Conditional Use, which is a violation of the zoning code. 3) There were previous waivers of parking requirements for other business operations at this location.

Atty. Christopher Carson, 13500 Watertown Plank Road, Elm Grove, representing the property owner, Russell Drover, opposed reconsideration. He said that the Board did not meet in secret or fail to announce its meeting, and it made its decision at a publicly noticed meeting. He disputed the lack of a Conditional Use permit for residential use since this use existed prior to Mr. Drover's purchase of the building in 1985.

Vote on the motion to reconsider, Ayes: 4

Joe Bartolotta, owner of Ristorante Bartolotta, 7661 W. State Street, and Pizzeria Piccola, 7606 W. State Street, said he has made a sizable investment in the Village beginning 13 years ago and is committed to the area. The site presents a development opportunity for the city and the Village; but once it becomes a parking lot it will clearly remain a parking lot and any further opportunities are squandered. With surrounding parking spaces turning over every hour to hour and 15 minutes, Mr. Bartolotta said the loss of two parking spaces is actually 48 spots that will no longer be available for public use during his hours of operation. He felt there are

business owners in the Village who could assist Mr. Drover in future development of the vacant lot and said he has personally made offers to purchase or lease the land.

Mr. Carson said that Mr. Bartolotta doesn't own property in the Village and for some time used valet parking service for his restaurant. (Mr. Bartolotta said he has not offered valet parking for over a year.) Mr. Drover owns his property and has rights that adhere to that ownership. There is no net loss in parking since any street spaces that Mr. Drover or his tenant now use will be available to others.

Dan Seidner, a Wauwatosa resident and manager of the Chancery Pub and Restaurant, 7615 W. State Street, said the DeRosa Corporation and Joe DeRosa are firmly against this use of Village property. Loss of on-street parking is an immediate and obvious hindrance to businesses, and additional egress onto State Street will increase the already existing traffic hazard.

Asked to comment on the traffic situation, Mr. Wehrley indicated that roadways are safer with fewer conflicts. This does add additional conflict, but there are other drive approaches within the near vicinity, so it would not be the sole conflict and would not violate any driver expectancies.

Karen Jaeckels, 1921 N. 71st Street, owner of The Dog Spot at 7707 W. State Street, spoke of concern with meeting the development vision of the city and the Village Business Improvement District (BID). The BID Board is finalizing a strategic plan for the Village with the goal of making it a destination. A parking lot on a primary street would not be in the best interest of that mission. Mr. Drover has the right to develop the site but has had other opportunities there, as evidenced by contacts the BID has had.

Mark Zimmerman of Zimmerman Design Group, 7707 Harwood Avenue, said the site has been a "missing tooth" aesthetically since at least 1979. Parking is not the highest and best use. The same proactive vision applied recently to developing "big box" criteria should be applied to North Avenue and the Village where the charm of our city is displayed. He noted that the Community Development Director, who has the trained eye in looking at highest and best use, was the lone dissenter on approving the parking lot.

Lynn Raschka of StyLynn Baskets & Gifts, 7605 Harwood Avenue, said the number one concern is the loss of two parking spaces throughout the day, since those spots are used constantly.

Carl Templer, Manager of the Village BID, said that on April 7th the BID Board adopted a position opposing this parking lot.

Richard Lochrie of Lochrie and Associates, 7746 Menomonee River Parkway, said the meeting at which the parking lot was approved was properly noticed and conducted, and he appeared at the meeting but was not personally notified of it by the city. He said that 24 rather than 48 potential spaces, as cited by Mr. Bartolotta, would potentially be lost during the day. Although the BID Board voted to oppose this, no one has offered a "Plan B." Ald. Treis is the only person who has worked toward a solution for Mr. Drover, who has nothing in writing about Mr. Bartolotta's offer to buy the property.

Ald. Treis said he has been working with Mr. Drover to find suitable parking and would also like to work with him to develop his properties. He said that he personally doesn't think the parking lot at issue is the best use given existing hazards on State Street and would like to see it developed to enhance the area. He spoke of the need to work together to solve the problem, which may actually be more than the immediate issue of this vacant land. He would like to have more time to work with Mr. Drover.

Mr. Carson observed that the Chancery owner has a large parking lot with egress to State Street, but no one is complaining that he is cutting on-street parking. Likewise, no one is complaining that Mr. Bartolotta has 24 or 48 people in and out of parking spaces every day. The highest and best use is not relevant. Mr. Drover owns the property, and this is a personal rights protection problem.

Mr. Seidner said that if extending some time for reaching a better solution is an option, the DeRosa Corporation would be happy to be involved in any of those negotiations. Mr. Bartolotta added that if the issue is the need for parking spots for two tenants, it seems there would be an opportunity to find or facilitate two spots somewhere without using this land.

Mr. Kesner asked if Mr. Drover has received offers of economic alternatives or other uses or had any informal inquiries. Mr. Carson said that Mr. Drover has had no offers. Mr. Drover said he had one inquiry from Mr. Bartolotta after July 2004 but never heard anything further. Mr. Bartolotta said he was told by Mr. Drover at that time that he was going to create a parking lot.

Addressing the possibility of holding this to allow for further discussion of alternatives with Mr. Drover, Mr. Kesner said the two major issues that should be dealt with are providing parking spaces and economic use, i.e., getting something out of this property. Mr. Carson said they could consider discussions as long as they were in good faith about helping Mr. Drover accommodate his property rights concerns. He noted that the resale value of the property would be substantially increased with parking for the residential tenant.

Ms. Welch addressed a question from Ms. Ledesma of whether this would be considered a buildable lot. She said that economic feasibility would be a consideration given the size of the lot and the cost of construction, but it could be considered buildable given that setbacks in the Village Trade District are determined by the Common Council.

Ms. Welch explained that her position on this matter was based largely on concern with preserving a vision to protect all of the businesses in the Village. The city has expended considerable money there to provide municipal parking lots whereas business owners in other areas of the city must themselves provide for adequate parking before obtaining a building or occupancy permit. In reviewing zoning records, it was found that on at least two previous occasions when Mr. Drover wanted to put a business in one of his buildings that had inadequate parking, this Board granted a waiver of the parking requirement. In all cases, the Board has made decisions to promote businesses in the Village.

Noting Mr. Drover's long-term ownership, the Chair asked if a recent change precipitated the parking lot request. Mr. Drover said he felt it is needed for his tenants and thought about it for a number of years but didn't have time to devote to the issue until now. He said his tenant was given the temporary use of parking at an adjacent property but no guarantee that he could continue to park there.

It was moved by Mr. Kesner, seconded by Ms. Ledesma to hold this matter for two weeks to allow the parties involved time to discuss alternatives and seek a solution –

The Chair pointed out that many business owners appeared today and would probably feel the need to return if the matter is held. Mr. Kesner suggested that no input from the general public should be sought at the next meeting unless it concerns specific ideas being proposed or questions about good faith efforts that have been made. He indicated that he would be in contact with Mr. Drover through his attorney, and someone from the

city could help facilitate a meeting. Mr. Templer would be kept apprised of the status. Mr. Carson indicated his concurrence.

Vote on the motion, Ayes: 4

Contract Updates. Mr. Wehrley reported that permanent pavement restoration has been completed on Stickney Avenue and 83rd Street. The construction engineer will look at the 83rd Street work to determine if some crack filling or milling may still be needed. Work on this year's first utility contract will begin on Wright Street this month, starting at some distance from Roosevelt School per a request from the school. Asked about removal of play equipment from Hart Park, Mr. Wehrley said that the equipment was scheduled for demolition in connection with the MMSD flood plain project. MMSD expects to begin construction in July or August and will eventually replace the equipment. The school district found a use for the existing equipment at Eisenhower School where volunteers, staff, and a contractor coordinated with MMSD on removal and reinstallation.

Contract 02-3, Sanitary Sewer, Storm Sewer and Water Main Relay, Repair and Extension – Final Payment. Mr. Wehrley reported that the final cost of this project is under the budgeted amount but over the contract award amount by less than \$8,000.

Board Resolution

WHEREAS, the Engineering Services Section of the City of Wauwatosa has made final inspection of the work for the relay, repair and extension of sanitary sewers, storm sewers and water mains on N. 86th Street, Currie Avenue and Currie Place under Contract 02-03; and

WHEREAS, this contract is partially funded by the Federal Community Development Block Grant (CDBG) program and, therefore, is subject to that program's requirements and regulations; and

WHEREAS, this inspection showed that the Contractor has completed the work in an acceptable manner and in accordance with the terms of the contract; and

WHEREAS, the Director of Public Works has provided written certification as to said completion and that 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 original contract work, the extra work performed within the projects limits, the credits taken for work in the contract but not performed by the contractor and the emergency work performed outside the project limits under Contract 02-03 Sanitary Sewer, Storm Sewer and Water Main Relay, Repair and Extension 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 Twenty-eight Thousand Five Hundred Ninety Dollars and Four Cents (\$28,590.04) in favor of American Sewer Services, Inc., as final payment under said contract. The proper city officials shall hold the payment until receipt of waivers of lien for labor and materials furnished under said contract, receipt of an affidavit stipulating compliance with wage rate requirements and certification of compliance with Federal Community Development Block Grant (CDBG) requirements.

It was moved by Ms. Welch, seconded by Ms. Ledesma to approve the foregoing. Ayes: 3; Present: 1 (Kesner)

Water Pumpage Report. The water pumpage report and billing analysis for March 2005 showed 152,419,900 gallons pumped compared to 155,957,100 gallons in March 2004 and a three-year average of 473,040,200 gallons. The Chair ordered the report placed on file.

Crack Sealing Services. The Board reviewed a memo from the Purchasing Manager and the Public Works Director recommending award of the bid for approximately 208,000 square yards of pavement crack sealing for the 2005 construction season by Interstate Sealant and Concrete in the amount of \$72,800. The amount budgeted for this work is \$80,000. Mr. Wehrley reported that the city has had no previous experience with Interstate, but they have work with the state DOT on some of their projects.

It was moved by Mr. Kesner, seconded by Ms. Welch to recommend to Council award to Interstate Sealant and Concrete in the amount of \$72,800. Ayes: 4

Street Vendor License for Extension of Outdoor Garden Center at 4100 N. 124th Street. The Board reviewed an application for a Street Vendor license by Andrew Stachelski of The Home Depot for a temporary greenhouse structure or fenced corral from May 1 through August 1, 2005. The area would be at the front wall of the garden center and would displace 20 parking spaces.

Ms. Welch expressed some concern about loss of parking spaces, since there are not a lot of extra spaces in this lot. Another concern is past difficulties concerning outdoor storage and cleanup. Last year plants, fertilizer, and landscaping remained on the sidewalk well into the summer even though they were supposed to be kept within the garden area. Mr. Wehrley added that he has observed in the past that Home Depot has stored materials in the parking lot that, at times, blocked fire lanes and access to hydrants. There may also be some sheds on parking stalls.

It was moved by Mr. Kesner, seconded by Ms. Ledesma to approve a Street Vendor license contingent upon: 1) review of the lot by engineering staff for compliance with the approved parking lot plan; 2) removal of all materials from the extended area by August 2; 3) display and sale of only live materials in the extended area; and 4) provision of a 24-hour emergency phone number for contact in the event of concerns in connection with the temporary structure.
Ayes: 4

The meeting adjourned at 9:52 a.m.

Secretary to the Board

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