



CITY OF WAUWATOSA

7725 WEST NORTH AVENUE
WAUWATOSA, WI 53213
Telephone: (414) 479-8917
Fax: (414) 479-8989
<http://www.wauwatosa.net>

COMMON COUNCIL

Regular Meeting, Tuesday, October 4, 2011

PRESENT: Alds. Nikcevich, Organ, Pantuso, Roznowski, Walsh, Wilke, Wilson, Berdan, Birschel, Causier, Donegan, Ewerdt, Hanson, Jay, McBride, Meaux (7:33 p.m.) -16

ALSO PRESENT: Mr. Archambo, City Administrator; Mr. Kesner, City Attorney; Mr. Porter, Public Works Director; Mr. Ruggini, Finance Director; Mr. Wojcehowicz, Water Utility Supt.; Police Chief Weber; Ms. Welch, Community Development Director; Ms. Ledesma, City Clerk

Mayor Didier in the Chair

The Mayor called the meeting to order at 7:30 p.m.

The first order of business was presentation of certificates to the Beautification Committee's 2011 Yards of Distinction award recipients. Mayor Didier and Kathy Lichter of the Beautification Committee made presentations to the following:

District 1

Nancy Robjohns, 2155 N. 68th Street
Allison & Steven Nicol, 6624 W. Garfield Avenue
Susan & Michael Schall, 6630 Vista Avenue

District 2

Larry & Judi Parmeter, 8143 Richmond Court
Margaret & James Dooley, 7825 Stickney Avenue
Daniel & Annette Kirchen, 7819 Stickney Avenue

District 3

Gayle & Tim Brown, 144 N. 88th Street
Vilas Kraut, 322 N. 116th Street
Bonnie & Robert Goldstein, 8606 Glencoe Circle

District 4

Jerome & Patricia Styberg, 6804 W. Wisconsin Ave.
Mary Ann Spakowicz, 7305 Blanchard Street
Sandra Greenfield, 668 N. 77th Street

District 5

David & Vanessa Cefalu, 2446 N. 66th Street
Richard & Margaret Raabe, 2420 Lefebber Avenue
Kim & Christopher Meidl, 2515 Lefebber Avenue

District 6

Jason Bott, 2403 N. 91st Street
Adam & Jennifer Blissett, 2624 N. 90th Street
David & Gennifer Fassbender, 2325 N. Pasadena Blvd.

District 7

Ann Griswold, 1257 N. 121st Street
Sharon Randolph, 1321 N. 118th Street
Jack Bothwell & Rob Krohlow, 2406 N. 117th Street

District 8

Alpha Wetenkamp, 3642 Menomonee River Parkway
Donna & James Doucette, 3816 N. 101st Street

Commercial

Schmidt & Bartelt Funeral Services, 10121 W. North Ave.
Dental Arts Associates, 11600 W. North Avenue
Apartment building (Tracy Spoerl), 9407 W. North Avenue
Children's Hospital Foundation, 1036 Innovation Drive
Cheesecake Factory, 2500 N. Mayfair Road

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. -16

APPOINTMENTS BY THE MAYOR

Community Development Authority

Susan Eick, 2417 N. 96th Street
Jennifer Wakefield, 1848 N. 84th Street
(Terms end 9/30/12)

Carol Maria, 2545 N. 100th Street
(Term ends 9/30/13)

Scott Busch, 2408 N. 85th Street
(Term ends 9/30/2014)

Jason Kohout, 9995 W. North Avenue
(Term ends 9/30/2015)

Ald. Michael Walsh and Ald. Craig Wilson
(Terms concurrent with terms on the Council)

Community Development Block Grant Board

Ellyn Steinke, 2737 N. 117th Place

Foregoing appointments ordered held as this was the first reading.

APPLICATIONS, COMMUNICATIONS, ETC.

1. Conditional Use request in the AA Business District for a massage therapy establishment at 10520 W. Blue Mound Road, Alice Van Sleet, Therapeutic Body Care and Larry Ruka, Ruka Family LLC, applicants

Plan Commission, Community Development Committee

2. Amendment to Business Planned Development for an Alterra Café at 6745 W. Wells Street, Sean Phelan, Phelan Development and William Ibach, Hyde Park, LLC, applicants

Plan Commission, Community Development Committee

3. Emails in support of prohibiting weapons in Wauwatosa public buildings and at public events:

Marge Maxwell, 7012 Milwaukee Ave.
Patricia Vaughn, 1287 Martha Washington
Karen Esche-Eiff, 2242 N. 73rd Street
Marc H. Gorelick, MD, Children's Hosp. WI
Ellen Boettcher, 1438 N. 69th St.
Cynthia and Robert Barczak, 7507 Maple Terr
Gary Johnson, 644 N. 68th St.
Christopher, Drager, 8222 Jackson Park Blvd.
Robert Nicol, 1936 N. 74th St.
George Stone, 6131 W. Wisconsin Ave.
Chris Lorenz, 217 N. 89th St.
Louise Ver Wert, 3312 N. Knoll Terr.
Anthony Zaffiro, 6904 W. Wisconsin Ave.
Thomas Paschke, 532 Crescent Ct.

Mary and Jon Reddin, 612 N. 70th St.
Angela Walker, 6437 W. North Ave.
Christopher Stephens, 7613 Harwood Ave.
Nancy Beaumier, 2748 N. Wauwatosa Ave.
BettyJo McLeod, 835 N. 60th St.
Kathleen Kopperud, 8129 W. Woodland Ave.
Tom Jozwik, 6318 W. Cedar St.
John Gielow, 1075 Glenview Ave.
Karen Jaeckels, 1921 N. 71st St.
Michael Walker, 7326 Hillcrest Dr.
Rose Miller, 2014 N. 72nd St.
James McClutchy, 1911 Underwood Ave.
Greg Walz-Chojnacki, 8007 Portland Ave.
James Leming, 8382 Portland Ave.

Kurt Gaetano, 2571 N. 80th St.
Donna Leone, 7111 Cedar St.
Jim and Rose Pickering, 6726 Revere Ave.
Joanne Schansky, 2030 Church St.
Matthew LaWall-Shane, 3827 N. 79th St.
BettyJo McLeod, 835 N. 60th St.
Patricia Vaughn, 1287 Martha Washington
Cynthia Burkwald, 8235 Avon Ct.
Joanne Lange, 2128 N. 73rd St.
Nancy Beaumier, 2748 N. Wauwatosa Ave.
Rev. Joe Jagodensky, SDS, 2259 N. 64th St.
Jean Jarosz, 8111 W. Meinecke Ave.
Marie Dupuis, 2277 Ludington Ave.
Marlene McIlheran, 1916 N. 85th St.
Amy Elliott, 7217 St. James St.
Robert Ryan, 969 N. 115th St.

Robin Luther, 2621 N. 65th St.
Beth Storey, 7725 Milwaukee Ave.
Leslie Frick, 8429 Kenyon Ave.
Thomas Paschke, 532 Crescent Ct.
Michael Walker, 7326 Hillcrest Ave.
Cathleen Bleidorn, 622 Elm Spring Ave.
Jacqueline Conarchy, 1830 Church St.
Dale & Terry Dulberger, 8205 Red Arrow Ct
Rev. Suzelle Lynch, 7502 W. Meinecke Ave.
Lisa & Craig Blumenthal, 2471 N. 94th S.
John Albert, 8220 Harwood Ave.
Carson Keyes, Jr., 11927 W. Diane Dr.
Patricia McFarland, 7616 Harwood Ave.
Jenny Chay, 6614 Hillcrest Dr.
Frank Shansky, 2030 Church St.

Add to existing file

4. Email in opposition to prohibiting weapons in Wauwatosa public buildings and at public events:
Michael Bartelt, 6420 Upper Parkway North

Add to existing file

5. Summons and Complaint: Rozalyn Brown, 2525 N. 51st Street, Milwaukee

City Attorney

6. Emails in support of prohibiting weapons in Wauwatosa public buildings and at public events:
Nancy Townsend & Robert Ryan, 969 N. 115th Street

Add to existing file

7. Email in opposition to prohibiting weapons in Wauwatosa public buildings and at public events:
Linda Carlson, 11031 W. Hope Avenue

Add to existing file

8. Letter from Linda Carlson, 11031 W. Hope Avenue, in favor of allowing weapons in city-owned buildings by property licensed persons

Add to existing file

FROM THE REDISTRICTING COMMITTEE FOR INTRODUCTION

Proposed ordinance amending Chapter 1.04 of the municipal code pertaining to districts and wards in the City of Wauwatosa

Hold for passage for two weeks

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-11-148

WHEREAS, the Wauwatosa School District has applied for a fireworks user's permit for the purposes of conducting a fireworks display at Wauwatosa West High School on October 14, 2011: and

WHEREAS, the Committee on Legislation, Licensing and Communications has reviewed their request;

NOW, THEREFORE, BE IT RESOLVED THAT the Clerk be authorized to issue a firework user's permit to the Wauwatosa School District for the purpose of conducting a fireworks display on October 14, 2011, at Wauwatosa West High School at a specific location to be designated by the

Wauwatosa Fire Chief, subject to all applicable laws and permit conditions, and subject further to all of the following:

1. Receipt by the City Clerk of a signed application and appropriate permit fee;
2. Receipt by the City Attorney of a Hold Harmless Agreement executed by the Wauwatosa School District in favor of the City of Wauwatosa;
3. Receipt by the City Attorney of a Certificate of General Liability Insurance evidencing liability coverage for the fireworks contractor naming the City of Wauwatosa as an additional insured.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-11-149

WHEREAS, the Wauwatosa School District has applied for a fireworks user's permit for the purposes of conducting a fireworks display at Wauwatosa East High School on October 7, 2011: and

WHEREAS, the Committee on Legislation, Licensing and Communications has reviewed their request;

NOW, THEREFORE, BE IT RESOLVED THAT the Clerk be authorized to issue a firework user's permit to the Wauwatosa School District for the purpose of conducting a fireworks display on October 7, 2011, at Wauwatosa East High School at a specific location to be designated by the Wauwatosa Fire Chief, subject to all applicable laws and permit conditions, and subject further to all of the following:

1. Receipt by the City Clerk of a signed application and appropriate permit fee;
2. Receipt by the City Attorney of a Hold Harmless Agreement executed by the Wauwatosa School District in favor of the City of Wauwatosa;
3. Receipt by the City Attorney of a Certificate of General Liability Insurance evidencing liability coverage for the fireworks contractor naming the City of Wauwatosa as an additional insured.

It was moved by Ald. Birschel, seconded by Ald. Causier to approve the two foregoing resolutions. -16

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

RESOLUTION R-11-147

WHEREAS, the Wisconsin Department of Transportation has requested that the City of Wauwatosa state a preference regarding the scope of proposed improvements on Glenview Avenue from Blue Mound Road to Wisconsin Avenue; and

WHEREAS, two alternatives were developed for discussion including a design proposed by the Department of Transportation and one prepared by the City of Wauwatosa staff which would have allowed parking in the curb lane during off peak hours and on weekends; and

WHEREAS, a public information meeting was held at the Wauwatosa Public Library on September 7, 2011, to gauge neighbors' reaction to the proposals, which session was attended by 34 residents who listened to a presentation of options by DOT and City staff representatives; and

WHEREAS, input at the meeting made it clear that the DOT option was supported unanimously by those in attendance at the meeting and also in comment forms filled out following the meeting, as well as a petition from ten homeowners, along with numerous emails also being received by staff and elected officials, all in support of the DOT proposal;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa hereby expresses its support of the DOT alternative presented for reconstruction of the area of Glenview Avenue between Blue Mound Road and Wisconsin Avenue.

It was moved by Ald. Meaux, seconded by Ald. McBride to approve the foregoing resolution. -16

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-11-150

WHEREAS Diane Mejta-Mortimer, Touching Humanity, has applied for a Conditional Use in the Trade District at 6922 W. North Avenue to operate a massage therapy establishment, 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 by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Diane Mejta-Mortimer, Touching Humanity, to operate a massage therapy establishment in the Trade District at 6922 W. North Avenue subject to the following:

1. Hours of operation 8:00 a.m. to 9:00 p.m. daily; and
2. obtaining all necessary licenses and permits.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-11-151

WHEREAS, John A. Vassallo has applied for a Conditional Use in the AA Business District at 10842 W. Blue Mound Road to modify the hours of operation for Mo's Irish Pub on weekends, 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 by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to John A. Vassallo to modify hours of operation for Mo's Irish Pub allowing for opening at 8:00 a.m. on Saturdays and Sundays in the AA Business District at 10842 W. Blue Mound Road subject to the following:

- 1) parking lot at 431-443 N. 108th Place being substantially completed by the end of 2011; and
- 2) obtaining all necessary licenses and permits.

It was moved by Ald. Organ, seconded by Ald. Meaux to approve the two foregoing resolutions. -16

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

ORDINANCE O-11-13

AN ORDINANCE CREATING SECTION 7.92.030 OF THE WAUWATOSA MUNICIPAL CODE OF ORDINANCES RELATING TO A PROHIBITION AGAINST ENTRY OR PRESENCE IN PUBLIC BUILDINGS WHILE CARRYING WEAPONS, AND OTHER CHANGES TO VARIOUS SECTIONS TO CONFORM TO 2011 WISCONSIN ACT 35.

The Common Council of the City of Wauwatosa does hereby ordain as follows:

Part I. Section 7.92.030 of the City of Wauwatosa Municipal Code of Ordinances is hereby created to read as follows:

7.92.030: Prohibition of Weapons in Municipal Buildings

- A. Pursuant to Wis. Stat. secs. 941.235 and 943.13 (1m) 4, no person shall enter or remain in any part of a building owned, occupied or controlled by the City of Wauwatosa while carrying a firearm or weapon.
- B. The City shall cause signage to be posted at all entrances to all buildings owned, occupied or under the control of the City of Wauwatosa providing notice that no person is to enter or remain in any such building while carrying a firearm. Such signs shall be at least five inches by seven inches.
- C. Nothing in this section shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Wis. Stat. sec. 941.23.

Part II. Section 7.02.010 entitled Statutes Adopted by Reference shall be amended to adding the following statutory references:

46. Sec. 175.60 License to Carry a Concealed Weapon
47. Sec. 946.71 Unlawful Use of License for Carrying Concealed Weapon
48. Sec. 948.61 Dangerous Weapons on School Premises.

Part III. Section 7.48.010 subsection 7 of the Wauwatosa Municipal Code of Ordinances shall be amended to read as follows:

7. Unnecessarily or willfully discharge any firearm or explosive, or in any other manner create any noise or disturbance, make any threats of violence, or resort to violence or flourish or use any weapons tending to disturb the peace and good order, or frighten any of the inhabitants of the city, unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, a person is not in violation of, and may not be charged with a violation of this section for loading, carrying or going armed with a firearm, without regard to whether the firearm is loaded or is concealed or openly carry and provided the person is licensed under Wis. Stat. sec. 175.60.

Part IV. Section 7.64.020 subsection A.3. of the Wauwatosa Municipal Code of Ordinances shall be amended to read as follows:

3. Has in his or her possession a firearm or dangerous weapon except as specifically permitted by state law;

Part V. Section 7.64.020 subsection B.3. of the Wauwatosa Municipal Code of Ordinances shall be amended to read as follows:

3. No firearms or dangerous weapons shall be allowed except as specifically permitted by state law.

Part VI. Section 7.65.030 subsection A. of the Wauwatosa Municipal Code of Ordinances shall be amended to read as follows:

A. Use of Firearms and Fireworks; Hunting with Bow and Arrow; Trapping. No person shall carry, fire or discharge any gun, pistol or firearm, nor any rocket, torpedo or other fireworks of any description, nor shall any person engage in trapping within any park or parkway without a written permit of the park commission nor shall any person hunt with bow and arrow within any park or parkway in all circumstances except as specifically permitted by state law. The word "gun" shall include air gun.

Part VII. Section 7.92.020 subsection A. of the Wauwatosa Municipal Code of Ordinances shall be amended to read as follows:

A. No person shall fire or discharge any revolver, pistol, shotgun, rifle, bow and arrow, or any other dangerous weapon as defined in Section 6.84.101 or 6.16.010 of this code. This section does not apply if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in s. 939.45 Wis. Stat.

Part VIII. That part of section 11.56.020 of the Wauwatosa Municipal Code of Ordinances referring to sec. 350.06 Wis. Stat. is hereby deleted.

Part IX. This ordinance shall take effect on November 1, 2011.

It was moved by Ald. Organ, seconded by Ald. Meaux to adopt the foregoing ordinance. Roll call vote, Ayes 12, Noes 4 (Organ, Berdan, Hanson, Jay)

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-11-152

WHEREAS, the City of Wauwatosa Water Utility provided a memo to the Budget & Finance Committee regarding a proposed amendment to the existing Lease Agreement with U. S. Cellular, which would allow that company to install additional cabling and antennas at the Water Utility's tower located at 108 N. Glenview Avenue; and

WHEREAS, as part of the Lease Amendment, the U. S. Cellular tower rental fee at the Glenview location would increase by \$150.00 per month, and would provide options for the tenant to extend the lease for additional 5 year terms through the year 2039, potentially generating over \$1.3 million in revenue for the Water Utility over the term of the lease;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to execute an Agreement amending the existing lease between the City of Wauwatosa Water Utility and U.S. Cellular regarding rental of facilities at the water tower located at 108 N. Glenview Avenue in the City of Wauwatosa, consistent with the terms described to the Committee on Budget & Finance at its meeting on September 27, 2011.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-11-153

WHEREAS, the City of Wauwatosa previously entered into an Agreement for professional services with Symbiont to provide assistance and support in applying for Brownfield Assessment Grants from the U. S. Environmental Protection Agency; and

WHEREAS, the success of the program has led to an effort to extend the program by applying for additional Brownfield Assessment Grant funds with the assistance of Symbiont; and

WHEREAS, it is anticipated that existing grant funds will be expended prior to the end of the year 2012, but it is understood that additional funds are available in 2012 for continuation of the Brownfield Assessment program;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City officials are hereby authorized to enter into a professional services agreement with Symbiont to apply for and administer additional Brownfield Assessment Grant funds from the U. S. Environmental Protection Agency as part of the Federal fiscal year 2012 grant competition.

It was moved by Ald. Walsh, seconded by Ald. Berdan to approve the two foregoing resolutions. -16

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 9/21/11 – 10/3/11 --

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 9/21/11 – 10/3/11: \$1,838,731.7

It was moved by Ald. Meaux, seconded by Ald. Wilson
that each and every account of bills and claims be allowed
and ordered paid. Roll call vote, Ayes 16

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-11-154

BE IT RESOLVED by the Common Council of the City of Wauwatosa that the proper city officials be and they are hereby authorized and directed to enter into a contract with MJ Construction, Inc., for the work of sanitary sewer relay and work incidental thereto under Contract 11-93, this being the lowest and best bid.

BE IT FURTHER RESOLVED that the surety deposits, if any, be returned to the unsuccessful bidders.

It was moved by Ald. Hanson, seconded by Ald. Walsh
to approve the foregoing resolution. -16

There being no further business, the meeting adjourned at 8:12 p.m.

cal

Carla A. Ledesma
Carla A. Ledesma, CMC, City Clerk