



CITY OF WAUWATOSA
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COMMON COUNCIL
Regular Meeting, Tuesday, July 17, 2012

PRESENT: Alds. Berdan, Birschel, Causier, Donegan, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson -15

EXCUSED: Ald. Organ

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

Mayor Ehley in the Chair

The Mayor called the meeting to order at 7:45 p.m.

RESOLUTION R-12-127

WHEREAS, the regularly scheduled August 7th Common Council meeting will occur on the day of the National Night Out event; and

WHEREAS, numerous members of the Common Council and city staff may wish to participate in the post-sundown activities on that evening, but may not be able to do so if the meeting of the Common Council begins at 7:30 p.m.;

NOW, THEREFORE, BE IT RESOLVED THAT, the meeting of the Wauwatosa Common Council on August 7, 2012, shall begin at 6:30 p.m.

It was moved by Ald. Birschel, seconded by Ald. Pantuso to approve the foregoing resolution under suspension of the rules. -15

It was moved by Ald. McBride, seconded by Ald. Hanson that the reading of the minutes of the last regular meeting be dispensed with and they be approved as printed. -15

PUBLIC HEARINGS

The first items on the agenda were public hearings to consider proposed amendments to the zoning code.

Zoning code amendment adding funeral and interment services as a Conditional Use in the AAA Single Family Residence District.

Proof of publication is in the file.

The City Plan Commission has recommended approval of the request.

Ms. Enders explained that this zoning code amendment would apply city-wide; a specific application for a particular location has been submitted to the city for consideration.

The following members of the public present wished to be heard in favor of the proposed ordinance.

Russell Gnant, 129 Grand Avenue, Thiensville, and current president of Unity West Church, explained that their church was built in the 1970's at 4750 N. Mayfair Road, and enjoyed many productive years at that location. Falling membership, however, make it financially impossible to continue housing the church at this location; the building is being sold. The church feels that a funeral home at this location would be a compatible use for both the physical building, and for the surrounding neighborhood. In addition, were this property to house a funeral home rather than a church, it would become taxable.

Ted Larson, owner of Church and Chapel Real Estate LLC, 1875 N. Calhoun Road, Brookfield, stated that he and the other owners are interested in establishing another chapel at which to hold services. All embalming and other preparatory work will be conducted at their Brookfield facility. They are locally owned and operated and it is in their best interest to be good stewards of the property. It will be well-maintained

Rachel Schmidt of Brookfield is the real estate agent handling the sale. She indicated that new and innovative uses must be found for church properties as changing circumstances force churches to relocate. A funeral home is a compatible use for a former church.

Kurt Klapperich, CB Richard Ellis, observed that Wauwatosa has one funeral home, and seems able to support another. This location is the farthest northwest property in the city and is a good buffer between nearby residential uses and other commercial activities (service station, multi-unit housing). The Larsons will maintain and upgrade this property. Efforts have been made to reach out to surrounding property owners to address any concerns they might have. Results have been mixed. They have been unable to make contact with some property owners; some neighbors support the proposal, while some oppose it. He acknowledged that some surrounding property owners question whether their property values will be negatively affected with the presence of a funeral home. Hopefully Wauwatosa's assessor will address this question.

No one of the public present wished to be heard in opposition to the proposed ordinance.

No one of the public present wished to be heard either for or against the proposed ordinance or had any comments or questions.

The public hearing was declared closed. The matter will next appear on the Community Development Committee's July 31, 2012 agenda.

Application for change of zoning at 6005 Martin Drive. from AA Light Manufacturing to Business Planned Development District.

Proof of publication is in the file.

The City Plan Commission has recommended approval of the request.

Ms. Enders explained that this is a continuation of the rezoning previously approved for the first phase of this housing development.

The following members of the public present wished to be heard in favor of the proposed ordinance:

Ryan Schultz and Brett Haney, HSI Properties LLC, 20975 Swenson Dive, Waukesha, were present. Mr. Schultz explained that this proposal is a logical extension of the Enclave apartment development on State Street. The aforementioned project has been successful from a leasing standpoint and is a testimony to the desire of many individuals to live close the Village area. Design, materials, and quality will reflect that used at the Enclave.

No one of the public present wished to be heard in opposition to the proposed ordinance.

No one of the public present wished to be heard either for or against the proposed ordinance or had any comments or questions.

The public hearing was declared closed. The matter will next appear on the Community Development Committee's July 31, 2012 agenda.

APPOINTMENTS BY THE MAYOR

City Plan Commission (first reading):

Gloria Stearns, 1815 N. 116th Street, term ending 4/30/2015

Library Board (first reading):

Peter Holtz, 2650 N. 89th Street, term ending 6/30/2015

Ann Marie Perhach, 11637 W. Clarke Street, term ending 6/30/2015

Maureen Klein, 1816 Alta Vista Avenue, term ending 6/30/2015

Board of Review (first reading):

James Benz, 2504 N 83rd Street, term ending 6/30/2015

Foregoing appointments ordered held as this was the first reading.

APPOINTMENT BY THE COMMON COUNCIL PRESIDENT

VISIT Milwaukee (first reading):

Ald. Bobby Pantuso, 5th District, 2365 N. Lefebber Avenue

Foregoing appointments ordered held as this was the first reading.

APPLICATIONS, COMMUNICATIONS, ETC.

1. Notice of Claim: Theresa McAdams, 102 Heather Drive, North Prairie; Keith Pups, 4474 N. 107th Street, Wauwatosa
City Attorney
2. Summons and Complaint: Inland American Wauwatosa Research, 9900 Bren Road E., Minnetonka, MN; CVS Pharmacy, One CVS Drive, Woonsocket, RI; Milwaukee County Transit System, 1942 N. 17th Street, Milwaukee
City Attorney
3. Milwaukee Metropolitan Sewerage District 2011 Comprehensive Annual Financial Report and Journal of Proceedings of the 2011 Commission meetings
Place on file
4. Letter from Jim Maurer, 1839-1841 Ludington Avenue, with a petition requesting a change to the zoning code to allow six-foot fences in the rear and side yards of residential properties
Development Director
5. Water Utility Statement of Receipts and Disbursements for the period ending June 30, 2012
Place on file
6. Letter from Acquanita L. Harris-Patterson, 4735 N. Parkside Drive, opposing the Zoning Code amendment adding funeral and interment services and assembly as a Conditional Use in the AAA Single Family Residence District
Place in existing file
7. Donation from Russell Kozlowicz, P.O. Box 9, Winnebago, WI, in the amount of \$125.45 to the Police Department Community Support Division
Place on file

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION

1. Amendment to the zoning code adding funeral and interment services, and funeral assembly as a Conditional Use in the AAA Single Family Residence District
Re-referred to originating committee
2. Amendment to the zoning code changing the zoning at 6005 W. Martin Drive from AA Light Manufacturing to Business Planned Development District
Re-referred to originating committee

FROM THE COMMITTEE ON TRAFFIC & SAFETY FOR INTRODUCTION

1. Ordinance amending Chapter 11.32.080 of the city code to add a 3-hour parking zone on the west side of N. 85th Street at W. North Avenue
Re-referred to originating committee
2. Ordinance amending Chapter 11.32.080 of the city code to add ADA on-street parking at the Latvian Lutheran Church, 1853 N. 75th Street
Re-referred to originating committee
3. Ordinance amending Chapter 11.32.080 of the city code to add traffic restrictions at the intersection of Cedar Street, Maple Terrace, and N. 67th Street
Re-referred to originating committee

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-12-119

WHEREAS, Zachary T. Conard, 1159 N. 45th Street, Milwaukee, WI, has applied for an operator's license in conjunction with his employment at Il Mito, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Zachary Conard is hereby issued an operator's license for the period ending June 30, 2013, contingent upon a review of his record in six months;

BE IT FURTHER RESOLVED THAT the Wauwatosa Police Department is directed to review Mr. Conard's record six months after issuance of this initial license and report back to the Committee on Legislation, Licensing and Communications if any new significant issues or concerns are revealed at that time.

It was moved by Ald. Donegan, seconded by Ald. Walz-Chojnacki to approve the foregoing resolution. -15

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

RESOLUTION R-12-118

WHEREAS, the Traffic & Safety Committee and the Department of Public Works have been pursuing options to improve pedestrian safety at the intersection of Harwood Avenue and State Street; and

WHEREAS, the Engineering Services Division presented multiple options for redesign of the above-described intersection at the July 10, 2012, meeting of the Committee on Traffic and Safety; and

WHEREAS, Option "B", among the options presented, was the favored option by the Committee on Traffic and Safety; and

WHEREAS, the Wauwatosa Village Business Improvement District has also expressed a preference for the same design;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa does hereby express preference in redesign of the State Street median at the corner of W. State Street and Harwood Avenue in the City of Wauwatosa for Option "B" presented by the Engineering Services Division at the meeting of July 10, 2012.

It was moved by Ald. Wilke, seconded by Ald. McBride to approve the foregoing resolution. -15

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

ORDINANCE O-12-16

AN ORDINANCE AMENDING CHAPTER 24.36.020 BY ADDING ANIMAL DAY CARE AND BOARDING SERVICES AS A CONDITIONAL USE IN THE AA INDUSTRIAL DISTRICT

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

Part I. That Section 24.36.020 is amended to include the following as a conditional use:

Animal Day Care and Boarding Services.....8222

Part II. This Ordinance shall take effect and be in force from and after its passage and publication.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-12-120

WHEREAS, Lisa and Scott Hooper, Doggy Office, LLC., have applied for a Conditional Use in the AA Industrial District at 4530 North 124th Street to operate an animal day care and boarding service, 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 Lisa and Scott Hooper, Doggy Office, LLC., to operate an animal day care and boarding service in the AA Industrial District at 4530 North 124th Street, subject to the following:

1. Hours of operation Monday through Friday 5:30 a.m. to 7 p.m.; Saturday 8 a.m. to 5 p.m.; and Sunday 9 a.m. to 5 p.m.
2. Contacting the building inspector and fire marshal regarding any applicable requirements
3. obtaining all necessary licenses and permits

It was moved by Ald. Roznowski, seconded by Ald. Pantuso to adopt the foregoing ordinance and to approve the foregoing resolution. -15

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-12-121

WHEREAS, the City of Wauwatosa Water Utility has requested permission to submit a conventional rate case application to the Public Service Commission of Wisconsin; and

WHEREAS, the Water Utility provided additional financial information as requested at the June 26, 2012, meeting of the Committee on Budget & Finance; and

WHEREAS, the Wauwatosa Water Utility has not submitted a formal conventional rate case application since 2005;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa Water Utility is hereby approved to submit a conventional rate case application request with the Public Service Commission of Wisconsin;

BE IT FURTHER RESOLVED THAT long term budget issues for the Wauwatosa Water Utility will be reviewed during the 2013 budget deliberation process.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-12-122

WHEREAS, the Director of Public Works presented a proposed change order to the AECOM contract for development of a new solid waste request for proposals (RFP); and

WHEREAS, the new change to the RFP development contract is in such a dollar amount as it would require Council approval;

NOW, THEREFORE, BE IT RESOLVED THAT change order #1 to the RFP development and administration contracts with AECOM for solid waste services which would increase necessary time and expenses by an amount not to exceed \$11,170.00, is hereby approved.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION 12-123

WHEREAS, the City of Wauwatosa, Milwaukee County, Wisconsin (the "City") is presently in need of \$12,400,000 for public purposes, including paying the cost of street improvement projects, bridge repairs, park projects, storm and sanitary sewer improvements, police and fire equipment, automated refuse vehicles, projects in the North Avenue Strategic Plan and the Village Strategic Plan and other public improvements included in the City's Capital Improvement Plan (the "Projects");

WHEREAS, the Common Council hereby finds and determines that the Projects are within the City's power to undertake and therefore serve a "public purpose" as that term is defined in Section 67.04(1)(b), Wisconsin Statutes; and

WHEREAS, the Common Council of the City hereby finds and determines that general obligation promissory notes in the amount of \$12,400,000 should be issued pursuant to Section 67.12(12), Wisconsin Statutes.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1. Issuance of the Notes. The City shall issue General Obligation Promissory Notes, Series 2012 (the "Notes") in the amount of \$12,400,000 for the purposes above specified.

Section 2. Sale of the Notes. The Common Council hereby authorizes and directs that the Notes be offered for public sale. At a subsequent meeting, the Common Council shall consider such bids for the Notes as may have been received and take action thereon.

Section 3. Notice of Sale. The City Clerk (in consultation with Hutchinson, Shockey, Erley & Co. ("HSE")) is hereby authorized and directed to cause the sale of the Notes to be publicized at such times and in such manner as the City Clerk may determine and to cause copies of a complete, official Notice of Sale and other pertinent data to be forwarded to interested bidders as the City Clerk may determine.

Section 4. Official Statement. The City Clerk (in consultation with HSE) shall also cause an Official Statement to be prepared and distributed. The appropriate City officials shall determine when the Official Statement is final for purposes of Securities and Exchange Commission Rule 15c2-12 and shall certify said Statement, such certification to constitute full authorization of such Statement under this resolution.

Section 5. Award of the Notes. Following receipt of bids for the Notes, the Common Council shall consider taking further action to provide the details of the Notes; to award the Notes to the lowest responsible bidder therefor; and to levy a direct annual irrevocable tax sufficient to pay the principal of and interest on the Notes as the same becomes due as required by law.

Section 6. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

It was moved by Ald. Wilson, seconded by Ald. Hanson
to approve the three foregoing resolutions. -15

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 7/4/12 – 7/17/12 --

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 7/4/12 – 7/17/12: \$3,267,938.25

It was moved by Ald. Causier, seconded by Ald. Wilson
that each and every account of bills and claims be allowed
and ordered paid. Roll call vote, Ayes 14-0-1 Present (Donegan)

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-12-124

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 D. C. Burbach, inc., for the work of pavement and work incidental thereto under Contract 12/20/Projects 1612 and 1616 at and for the bid price of \$115,704.50, this being the lowest and best bid.

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

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-12-125

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, storm sewer and water man relay, repair and extension, and reconstruction of fully deteriorated sewers using a structural CIPP relining process, and work incidental thereto under Contract 12/06/Project Numbers 1001 and 1004, this being the lowest and best bid.

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

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-12-126

BE IT RESOLVED, By the Common Council of the City of Wauwatosa, Wisconsin that the following be and hereby are the policies for 2013 construction pertaining to street improvements and corresponding rates:

- (1) Due to the relative value of the benefits conferred upon different types of properties by the public improvements described herein, assessments for original permanent pavement shall be at the following rates per assessable foot based upon property classification:
 - a) \$64.00 for one or two family residences, churches, schools, public parks (“single family rate”)
 - b) \$80.00 for multiple family residences of three or more (1-1/4 x single family rate)
 - c) \$96.00 for business or commercial property (1-1/2 x single family rate)
 - d) \$128.00 for industrial property (2 x single family rate)
- (1.1) a) A pavement improvement that terminates only partially abutting a parcel of land, shall have only such *prorata* portion assessed in the year that the Final Resolution is adopted by the Common Council

- b) On streets that Federal and/or State Aid is not available, the rate of assessment may be adjusted to recover 60% of the paving costs.
- c) On streets where the City does not have maintenance jurisdiction, the rate of assessment may be adjusted to recover 60% of the paving costs abutting each parcel.
- d) On streets where sidewalks are to be newly constructed on one side only, in conjunction with a street scheduled for improvement, the cost of the sidewalk plus 25% for engineering and overhead may be prorated by total street frontage and added to the basic assessment for each property abutting said improvement or on both sides of that portion of said street.

(2) The assessments for reconstruction of a permanent pavement shall be at the following rates per assessable foot (average width) for one or two family residences (other classes proportioned as in (1) above).

- a) Repaving Type "A" \$46.00 for completely removing existing curb and pavement regrading and replacing with new concrete curb and gutter and either concrete pavement or asphalt pavement with a new road base.
- b) Repaving Type "B" \$36.80 for completely removing existing curb and gutter, milling the existing pavement as required, and replacing with concrete curb and gutter and asphalt pavement on the existing road base.
- c) Repaving Type "C" \$18.40 for replacing defective curb and gutter (not to exceed 25% of the total length of curb and gutter existing on the street segment to be improved), milling the existing pavement surface as required, and surfacing with new asphalt pavement or in-place recycling.

If Type "C" Repaving is required on arterial streets less than 25 years after Type "A" repaving has been performed, all one and two family residences shall receive an assessment credit equal to 4% of their previous Type "A" paving assessment for each year under 25 years.

If Type "A" repaving is required on arterial streets less than 20 years after Type "C" repaving has been performed, all one and two family residences shall receive an assessment credit equal to 5% of their previous Type "C" paving assessment for each year under 20 years.

To recover the cost of public sidewalk replacement when done in conjunction with repaving, the assessable rates may reflect an amount of \$13.00 added against each frontage foot of adjacent properties.

Sidewalk replacement when not assessed by frontage foot shall be assessed at actual cost plus the cost of engineering and overhead as described in paragraph 11.

Any property where the entire city sidewalk was replaced within twelve years may be exempt from sidewalk assessment provided walk is at proper grade and condition.

Drive approach replacement shall be assessed at actual cost plus the cost of engineering and overhead as described in paragraph 11.

(3) Alleys shall be considered individually assessable at actual cost plus the cost of engineering and overhead as described in paragraph 11 with the abutting property owner being assessed at

a unit rate per assessable foot for permanent new construction, reconstruction, or asphaltic resurfacing, as follows:

Property Classification Factors

- (a) 1-Unit - one and two family residences, churches, schools, public parks
- (b) 1-1/2 Units - three or more family residences, apartments (3 or more units)
- (c) 2 Units - business, commercial, industrial

Assessable Factors

- (a) Rear alley - Average of front and rear lot lines.
 - (b) Side alley - Average of front and rear lot lines.
 - (c) Rear and side alley - Single assessment only: average of front and rear lot lines.
 - (d) One and two family lots with primary vehicle access from a public street assessed at 50% of the unit rate.
- (4) (a) Side yards, consistent with the definition in sec. 24.02.340 of the Wauwatosa Municipal Code, for original permanent pavement, reconstruction of permanent pavement, and asphalt resurfacing shall be assessed at the rate of 50% of the assessable side yard footage, abutting on the street being improved, for 1 and 2 family, church, school, and public park uses only. All other classes of property shall be assessed for full assessable footage.
- (b) A platted or divided lot that extends through and abuts two streets, provided such lot does not consist of two or more platted or divided lots, shall have the longer of the two sides considered a side yard for purposes of assessment. The rate of assessment shall be determined as described in Paragraph (4) (a) herein.
- Should both abutting frontages be equal in length, the frontage first improved or reconstructed or resurfaced, as the case may be, shall be considered the front for assessment purposes. Irregular shaped lots may be assessed based on the actual abutting frontages.
- (c) Properties with 3 sides adjacent to streets shall have the two longest assessable footage sides assessed at 50%. Remaining side is assessed at 100% of assessable footage.
- (5) Permanent asphalt driveway approaches placed at existing driveways, in connection with the construction of original permanent pavement, shall be assessed at cost plus 12.5% for engineering and overhead.
- (6) Concrete drive approaches replaced under public contract, in connection with the construction of all permanent paving, shall be assessed at actual cost plus the cost of engineering and overhead as described in paragraph 11. Concrete drive approaches six years old or less are to be replaced at no cost, and those seven to twelve years old at one-half cost.
- (7) Defective permanent curb replaced either by contract or City forces, when requested by the property owner in writing, or replacements not in connection with the resurfacing of a permanent street, shall be assessed at the rate of \$45.00 per foot replaced.
- (8) Service walk replacement shall be assessed at actual cost plus the cost of engineering and overhead as described in paragraph 11, when done in conjunction with all permanent paving.

- (9) Costs of service walks removed and replaced with sod in conjunction with permanent paving or sidewalk repair contract are not assessed to abutting property owners.
- (10) Sidewalk, driveway approaches, and service walk removal and replacement, when not done in conjunction with permanent paving or when ordered replaced by the Board of Public Works due to deterioration or defective condition, when done under public contract, shall be assessed at cost plus 25% for engineering and overhead. Sidewalks and service walks when not done in conjunction with permanent paving, which require replacement because of city tree roots damaging same, shall receive a 1/3 credit.
- (11) To recover the cost of engineering and overhead in connection with repaving and related work involving special assessments, a charge of 12.5% shall be made against the contract amount of such work, unless a different amount is specifically stated in this resolution.
- (12) Drive approaches, sidewalk, service walk, and/or sodding replaced under public contract in excess of that required for construction of all permanent paving as determined by the Engineering Department, when requested by the property owner in writing, shall be assessed at actual cost plus the cost of engineering and overhead as described in paragraph 11.
- (13) Federal, state, and railroad properties are exempt from special assessments.
- (14) Street projects that have been postponed shall be assessed at the rate the project was originally approved by the Common Council unless the Common Council subsequently sets a new rate.
- (15) Special assessments in amounts greater than \$5,000.00 can be paid in annual installments up to ten (10) years.

It was moved by Ald. Hanson, seconded by Ald. Birschel
to approve the three foregoing resolutions. -15

There being no further business, the meeting adjourned at 8:22 p.m.

cal

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