



# CITY OF WAUWATOSA

## COMMON COUNCIL

MINUTES • MARCH 5, 2013

**Regular Meeting**

**Common Council Chambers**

**7:30 PM**

7725 West North Avenue, Wauwatosa, WI 53213

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

**EXCUSED:** Ald. Ewerdt

**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; Ms. Ledesma, City Clerk

Mayor Ehley in the Chair

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

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

### **APPOINTMENTS BY THE MAYOR**

1. Board of Parks & Forestry

**Tom Ertel, 7440 Oakhill Avenue (term expires 4/30/16)**  
**Lisa Blair, 639 N. 79th Street (term expires 4/30/16)**  
**George Haas, 7425 W. Garfield Avenue (term expires 4/30/16)**

2. Civic Celebration Commission

**Dan Lofy, 1744 N. 118th Street (term expires 12/30/15)**  
**John Hallanger, 1255 N. 68th Street (term expires 12/30/16)**

3. Board of Health

**Dr. Christine Shaw, 2353 N. Lefebber Avenue (term expires 12/31/18)**

**Foregoing appointments ordered held as this was the first reading**

### **APPLICATIONS, COMMUNICATIONS, ETC.**

1. Notices of Claims: Zina Hunt, 4266 N. 104th Street, Milwaukee; Christel Prade, 2539 N. 97th Street; Atty. Alvin R. Ugent, 6714 W. Fairview Avenue, Milwaukee, on behalf of John Kutz;

claim for public improvement lien, and notices of claims on payment bonds for public projects by Atty. Carl Metz on behalf of Concrete Specialties Company

**City Attorney**

2. Request by Alex Marlis, Sts. Constantine & Helen Greek Orthodox Church, 2160 Wauwatosa Avenue, for a Street Festival Permit for its annual Grecian Festival on June 7-9, 2013

**Community Development Committee**

3. Request for a change of Zoning from AA Light Manufacturing District to Business Planned Development District for a Meijer store at 11123 W. Burleigh Street by David Behrens, GreenbergFarrow, applicant

**Plan Commission, Committee on Community Development**

4. Request for Final Planned Development approval at 11123 W. Burleigh Street, David Behrens, GreenbergFarrow, applicant

**Plan Commission, Committee on Community Development**

5. Letter from Dean Heyl, International Franchise Association, 1501 K Street NW, Suite 350, Washington DC, opposing the proposed amendment to the Wauwatosa Municipal Code which would restrict 'formula restaurants' from N. 60th Street of Wauwatosa Avenue

**Development Department, Add to existing file**

**FROM THE COMMITTEE ON TRAFFIC & SAFETY**

1. Resolution authorizing the use of approximately \$7,500 of WI DOT traffic mitigation funds for a traffic calming pilot program on N. 103rd and N. 104th Streets between Wisconsin Avenue and Blue Mound Road

**RESOLUTION R-13-39**

WHEREAS, the Traffic & Safety Committee was provided with an educational presentation by Ken Voigt of Ayres & Associates regarding traffic calming measures the City could undertake to mitigate traffic problems in different parts in the City of Wauwatosa; and

WHEREAS, the Traffic & Safety Committee recognizes the need for a traffic calming pilot program on North 103rd and 104th Streets, between Wisconsin Avenue and Blue Mound Road in advance of the Zoo Interchange construction;

NOW, THEREFORE, BE IT RESOLVED THAT appropriate City officials are hereby authorized to utilize up to \$7,500.00 of Wisconsin DOT traffic mitigation funds for a traffic calming pilot program on North 103rd and 104th Streets, between Wisconsin Avenue and Blue Mound Road in the City of Wauwatosa.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jason Wilke, Alderman
<b>SECONDER:</b>	Gregory Walz-Chojnacki, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>EXCUSED:</b>	Ewerdt

#### **FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

1. Resolution approving a Conditional Use in the AA Single Family Residence District at 12215 Watertown Plank Road to operate a Stein Gardens & Gifts, Jerome Schmitt, Stein Gardens & Gifts, and Joseph Kresl, Hawks Nursery, applicants

Committee recommended approval 7-0

#### **RESOLUTION R-13-40**

WHEREAS, Jerome Schmitt, Stein Gardens & Gifts, and Joseph Kresl, Hawks Nursery, have applied for a Conditional Use in the AA Single Family Residence District at 12215 Watertown Plank Road, to operate Stein Gardens & Gifts, 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 Jerome Schmitt, Stein Gardens & Gifts, and Joseph Kresl, Hawks Nursery, to operate a Stein Gardens & Gifts in the AA Single Family Residence District at 12215 Watertown Plank Road, subject to the following:

1. Hours of operation 8:00 a.m. to 10:00 p.m. with exceptions during holidays
2. Employees will park on the street during holidays and follow the posted street parking regulations
3. Installation of an additional retaining block for water run off
4. Deliveries be limited to after 7:00 a.m. and prior to closing time
5. Particulates and noise be contained to the site as best as possible
6. Obtaining any additional permits and licenses

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jeffrey Roznowski, Alderman
<b>SECONDER:</b>	Bobby Pantuso, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>EXCUSED:</b>	Ewerdt

2. Resolution approving a Conditional Use in the Village Trade District at 1417 Wauwatosa Avenue to operate a Q'doba restaurant, Jerry Mortier, The Redmond Co, and Michael Pranke, 1417 Wauwatosa LLC., applicants

Committee recommended approval 6-0

**RESOLUTION R-13-41**

WHEREAS, Jerry Mortier, The Redmond Co, and Michael Pranke, 1417 Wauwatosa LLC., have applied for a Conditional Use in the Village Trade District at 1417 Wauwatosa Avenue, to operate Q'doba restaurant, 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 Jerry Mortier, The Redmond Co, and Michael Pranke, 1417 Wauwatosa LLC., to operate a Q'doba restaurant in the Village Trade District at 1417 Wauwatosa Avenue, subject to the following:

1. hours of operation from 10:30 a.m. to 10 p.m. daily
2. outdoor seating for 12
3. obtaining any additional permits and licenses

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jeffrey Roznowski, Alderman
<b>SECONDER:</b>	Bobby Pantuso, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>EXCUSED:</b>	Ewerdt

3. Resolution approving a Land Division by Certified Survey Map at 1425 Discovery Parkway, David Gilbert, UWM Real Estate Foundation, applicant

Committee recommended approval 7-0

**RESOLUTION R-13-42**

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin that

permission be and the same is hereby granted to David Gilbert, UWM Real Estate Foundation, for a Land Division by Certified Survey Map at 1425 Discovery Parkway. The location of the parcel is more particularly described as follows:

Being a division of Lot 1 of Certified Survey Map No. 8401 in the Northwest ¼, Southeast ¼, and the Southwest ¼ of the Southeast ¼ of Section 20 and the Northeast ¼ and the Northwest ¼ of the Northeast ¼ of Section 29 in the Township 7 North, Range 21 East, in the City of Wauwatosa, Milwaukee County, Wisconsin

All in accordance with the application attached hereto and made a part of this resolution, and in compliance with Section 24.56.010 of the Code of the City of Wauwatosa and subject to the payment of all outstanding special assessments on the aforescribed property which is being subdivided and (2) completion of and recording of cost access easement agreements.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Jeffrey Roznowski, Alderman
<b>SECONDER:</b>	Bobby Pantuso, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>EXCUSED:</b>	Ewerdt

4. Resolution approving an amendment to a Business Planned Development at 1425 Discovery Parkway to construct ABB at Innovation Campus, Kevin Mantz, Zilber/KM Development, and David Gilbert, UWM Real Estate Foundation, applicants

Committee recommended approval 7-0

**RESOLUTION R-13-43**

WHEREAS, Kevin Mantz, Zilber/KM Development, and David Gilbert, UWM Real Estate Foundation have applied for an amendment to a Business Planned Development at 1425 Discovery Parkway to construct ABB at Innovation Campus, 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 approval of an amendment to a Business Planned Development to Kevin Mantz, Zilber/KM Development, and David Gilbert, UWM Real Estate Foundation, to construct ABB at Innovation Campus at 1425 Discovery Parkway, subject to the following:

1. approval by appropriate city staff related to utilities, engineering, traffic, fire and building codes
2. continue to explore the use of permeable pavers in the parking lot
3. obtaining all necessary licenses and permits

<b>RESULT:</b>	<b>ADOPTED [14 TO 1]</b>
<b>MOVER:</b>	Jeffrey Roznowski, Alderman
<b>SECONDER:</b>	Bobby Pantuso, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Donegan, Dubinski, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>NAYS:</b>	Hanson
<b>EXCUSED:</b>	Ewerdt

**FROM THE COMMITTEE ON BUDGET & FINANCE**

1. Resolution approving application to MMSD for jurisdictional transfer of Schoonmacher Creek to the District

Committee recommended approval 8-0

**RESOLUTION** R-13-44

WHEREAS, Schoonmacher Creek is located in the eastern part of the City of Wauwatosa flowing from north to south and discharging to the Menomonee River near 63rd Street and State Street; and

WHEREAS, the watershed of Schoonmacher Creek drains both portions of the City of Wauwatosa and the City of Milwaukee; and

WHEREAS, in past years flooding alongside and at the lower portions of Schoonmacher Creek have caused street flooding and property damage, which conditions might be exasperated by planned work by Milwaukee Metropolitan Sewerage District in the Menomonee River basin; and

WHEREAS, MMSD would be in the best position to address flood abatement on Schoonmacher Creek while coordinating on a regional basis with ongoing work in the Menomonee River and related flood control projects;

NOW, THEREFORE, BE IT RESOLVED THAT proper City officials are hereby authorized and directed to petition the Commission of the Milwaukee Metropolitan Sewerage District to take jurisdiction over and proceed with action to abate the regional flooding along Schoonmacher Creek pursuant to Section 13.05 of the Rules of Milwaukee Metropolitan Sewerage District.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Craig Wilson, Alderman
<b>SECONDER:</b>	Peter Donegan, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>EXCUSED:</b>	Ewerdt

2. Resolution approving a Level 3 fund transfer of \$159,600 for the purchase of two Public Works Department Trucks

Committee recommended approval 8-0

**RESOLUTION R-13-45**

WHEREAS, the 2012 City of Wauwatosa budget included funds for the purchase of two Public Works Department asphalt trucks, the funds for which were not spent during the calendar year 2012; and

WHEREAS, rather than being carried over to the 2013 budget, the funds for the two asphalt trucks were lapsed into the fund balance in the Equipment Reserve Fund; and

WHEREAS, the Department of Public Works PRIME Team's recommendation for new trucks is now complete and the department is ready to purchase the trucks;

NOW, THEREFORE, BE IT RESOLVED THAT a transfer of funds in the amount of \$159,600.00 from the Fleet Equipment Reserve Fund balance to the 2013 General Purpose Equipment Fund is hereby approved;

BE IT FURTHER RESOLVED THAT the appropriate City officials are hereby authorized to expend the funds transferred for the purchase a new asphalt trucks consistent with the description provided by the Director of Public Works in his memo of February 22, 2013.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Craig Wilson, Alderman
<b>SECONDER:</b>	Peter Donegan, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>EXCUSED:</b>	Ewerdt

3. Resolution approving the Zilber TIF assistance request for the ABB development

**RESOLUTION R-13-46**

WHEREAS, a Project Plan Amendment for Wauwatosa Tax Incremental Finance District #6 provides for the ability to fund structured parking associated with private development when it contributes positively to the overall development plan for UWM Innovation Campus; and

WHEREAS, the Budget & Finance Committee has considered the financial viability of providing the structured parking and related development assistance consistent with the Project Plan to Zilber Property Group ("Zilber") for the purpose of constructing a 90,000 square foot office building to be leased to ABB, Inc.; and

WHEREAS, the terms of said tax incremental financing assistance are described on the term sheet which is attached hereto and incorporated herein;

NOW, THEREFORE, BE IT RESOLVED THAT the proposed development assistance described on the attached term sheet for Zilber for the purpose of constructing a 90,000 square foot building for ABB, Inc.. which assistance is consistent with and anticipated by the amended project plan for Wauwatosa Tax Incremental District #6, is hereby approved.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Craig Wilson, Alderman
<b>SECONDER:</b>	Peter Donegan, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>EXCUSED:</b>	Ewerdt

#### 4. Bills & claims

##### BILLS AND CLAIMS FOR THE PERIOD 2/20/13 - 3/5/13 --

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 2/20/13 - 3/5/13: \$24,443,116.08

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

<b>RESULT:</b>	<b>ADOPTED [14 TO 0]</b>
<b>MOVER:</b>	Kathleen Causier, Alderwoman
<b>SECONDER:</b>	John Dubinski, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>ABSTAIN:</b>	Donegan
<b>EXCUSED:</b>	Ewerdt

#### FROM THE BOARD OF PUBLIC WORKS

1. Resolution accepting the right-of-way at UWM Innovation Park for the balance of Discovery Parkway and Eschweiler Drive, and naming the street 'Eschweiler Drive'

#### RESOLUTION R-13-47

WHEREAS, on this date, the Common Council has approved a land division by Certified Survey Map, which is more particularly described as:

A division of Lot 1 of certified survey map No. 8401 in the northwest 1/4, southeast 1/4 and the southwest 1/4 of the southeast 1/4 of Section 20, and the northeast 1/4 and the northwest 1/4 of the northeast 1/4 of Section 29, in Township 7 North, Range 21 East, in the City of Wauwatosa, Milwaukee County, WI.

NOW THEREFORE BE IT RESOLVED THAT the Common Council of the City of Wauwatosa does hereby accept the Dedications of Public Rights-of-Way described on the approved Certified Survey Map for public road purposes, and

BE IT FURTHER RESOLVED THAT the north/south roadway described thereon connecting Watertown Plank Road to Swan Boulevard and depicted on Sheet 3 of said Certified Survey Map is hereby named Discovery Parkway;

BE IT FINALLY RESOLVED THAT the roadway proceeding west from Discovery Parkway as depicted more particularly on Sheet 5 of said Certified Survey Map is hereby named Eschweiler Drive.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Tim Hanson, Alderman
<b>SECONDER:</b>	Donald Birschel, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>EXCUSED:</b>	Ewerdt

2. Resolution retaining four pre-qualified utility contractors to perform repair work to the city's water distribution system on an 'as-needed' basis

**Board recommended approval 5-0**

**RESOLUTION R-13-48**

WHEREAS, the Wauwatosa Purchasing Department has requested bids for pre-qualification statements and pricing from utility contractors to perform repair work to the City's water distribution system for calendar year 2013; and

WHEREAS, each of the four bidders reflected in the memorandum from the Purchasing Department dated February 21, 2013 provides different advantages based upon the price, convenience, and availability;

NOW, THEREFORE, BE IT RESOLVED that each of the four vendors described in the memorandum from the Purchasing Department are pre-qualified to perform repair work to the City's water distribution system for calendar year 2013 on an as-needed basis, with individual purchase being made on the basis of price, convenience, and availability.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Tim Hanson, Alderman
<b>SECONDER:</b>	Donald Birschel, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>EXCUSED:</b>	Ewerdt

3. Resolution awarding the bid for ready mix concrete for the 2013 spring/summer repair season to six qualified vendors on an 'as-needed' basis, based on price, convenience, and availability

**Board recommended approval 5-0**

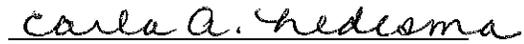
**RESOLUTION R-13-49**

WHEREAS, the Wauwatosa Purchasing Department has requested bids for ready mix concrete for the spring/summer 2013 repair season; and

WHEREAS, each of the six bidders reflected in the memorandum from the Purchasing Department dated February 19, 2013 provides different advantages based upon the price, convenience, and availability;

NOW, THEREFORE, BE IT RESOLVED that each of the six vendors described in the memorandum from the Purchasing Department is hereby qualified to provide ready mix concrete for the spring/summer 2013 repair season on an as-needed basis, with individual purchase being made on the basis of price, convenience, and availability.

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Tim Hanson, Alderman
<b>SECONDER:</b>	Donald Birschel, Alderman
<b>AYES:</b>	Berdan, Birschel, Causier, Donegan, Dubinski, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Walz-Chojnacki, Wilke, Wilson
<b>EXCUSED:</b>	Ewerdt

  
Carla A. Ledesma, CMC, City Clerk