



CITY OF WAUWATOSA

COMMON COUNCIL

MINUTES • MARCH 19, 2013

Regular Meeting

Common Council Chambers

7:30 PM

7725 West North Avenue, Wauwatosa, WI 53213

PRESENT: Alds. Causier, Donegan, Dubinski, Ewerdt, Hanson, McBride, Moldenhauer, Organ, Pantuso, Roznowski, Tilleson, Wilke, Berdan, Birschel -14

EXCUSED: Alds. Walz-Chojnacki and Wilson

ALSO PRESENT: Mr. Archanbo, City Administrator; Mr. Kesner, City Attorney; Mr. Porter, Public Works Director; Mr. Ruggini, Finance Director; Fire Chief Ugaste; Police Chief Weber; Ms. Enders, Development Director; Ms. Ledesma, City Clerk

Mayor Ehley in the Chair

The Mayor called the meeting to order at 7:35 p.m.

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. -14

APPOINTMENTS BY THE MAYOR

1. Board of Parks and 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 4/30/16)

3. Board of Health

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

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

APPLICATIONS, COMMUNICATIONS, ETC.

1. Wauwatosa Water Utility Statement of Receipts and Disbursements for the months ended January 31, 2013 and February 28, 2013

Place on file

ORDINANCES FOR INTRODUCTION

1. Ordinance creating Chapter 7.94 of the Wauwatosa Municipal Code pertaining to false swearing

Refer to originating committee

ORDINANCE

AN ORDINANCE CREATING CHAPTER 7.94 OF THE MUNICIPAL CODE OF THE CITY OF WAUWATOSA PERTAINING TO FALSE SWEARING.

Section 7.94 False Swearing.

Part I. Section 7.94 of the Wauwatosa Municipal Code is hereby created to read as follows:

No person shall do any of the following:

- 1.) Under oath, or affirmation, or upon signing a statement, make or subscribe a false statement which he or she does not believe is true when such oath, or affirmation, or statement is authorized or required by law, by a public office, or governmental agency as a prerequisite to such officer or agency taking some official action.
- 2.) Make or subscribe two inconsistent statements under oath or affirmation, in regard to any matter respecting which an oath, affirmation, or statement is authorized or required by law or is required by any public officer or governmental agency as a prerequisite to such officer or agency taking some official action, under circumstances which demonstrate the witness or subscriber knew at least one of the statements to be false when made.

- 3.) Under oath, or affirmation, or upon signing a statement, make or subscribe a false statement which the person does not believe is true.

Part II. This ordinance shall take effect on and after its date of publication.

RESULT:	REFER TO ORIGINATING COMMITTEE
TO:	Community Development Committee

2. Ordinance amending Chapter 11.32.080 of the Wauwatosa Municipal Code by creating a parking prohibition along the frontage of 8639 W. Wisconsin Avenue

Refer to originating committee

ORDINANCE

AN ORDINANCE AMENDING SECTION 11.32.080 OF THE CODE OF THE CITY OF WAUWATOSA TO PROHIBIT PARKING ON THE SOUTH SIDE OF WEST WISCONSIN AVENUE

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

Part I. "Wisconsin Avenue - south side" portion of the schedule of streets, and portions, subsection of Section 11.32.080 of the Wauwatosa Municipal Code is hereby amended by adding the following:

- (a) along the frontage of 8639 W. Wisconsin Avenue

Part II. This ordinance shall take effect on and after its date of publication.

RESULT:	REFER TO ORIGINATING COMMITTEE
TO:	Community Development Committee

FROM THE COMMITTEE ON TRAFFIC & SAFETY

1. Resolution amending the official stop sign map of the City of Wauwatosa by creating a 4-way stop at the intersection of N. 81st Street and W. Meinecke Avenue

Committee recommended approval 5-0

RESOLUTION R-13-50

WHEREAS, at the meeting of September 25, 2012, the Traffic & Safety Committee instituted a 90 day trial by placing stop signs for traffic on N. 81st Street and Meinecke Avenue; and

WHEREAS, the Department of Public Works has reported that there were no accidents during the 90 day trial of stop signs and that the stop signs have been well liked by the neighborhood;

NOW, THEREFORE, BE IT RESOLVED THAT the official stop sign map of the City of Wauwatosa shall hereby be amended by adding the installed stop signs on North 81st Street and W. Meinecke Avenue in the City of Wauwatosa.

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

FROM THE COMMITTEE ON LEGISLATION, LICENSING & COMMUNICATIONS

1. Resolution issuing a fireworks user's permit to Bartolotta Fireworks Company for a private fireworks display on May 25, 2013 at Blue Mound Golf and Country Club, 10122 W. North Avenue

Committee recommended approval 4-0

RESOLUTION R-13-51

WHEREAS, Bartolotta Fireworks Co., Inc., has applied for a fireworks user's permit for the purposes of conducting a fireworks display for a wedding at Blue Mound Country Club on May 25, 2013; 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 Bartolotta Fireworks Co., Inc., for the purpose of conducting a fireworks display for a wedding on May 25, 2013, at Blue Mound Country Club 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:

Receipt by the City Clerk of a signed application and appropriate permit fee;

Receipt by the City Attorney of a Hold Harmless Agreement executed by Blue Mound Country Club in favor of the City of Wauwatosa;

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.

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

2. Resolution granting a Reserve "Class B" Liquor License and Class "B" Beer License to BelAir Cantina Tosa, Inc., d/b/a BelAir Cantina Tosa, 6817 W. North Avenue, Kristyn St. Denis, agent, for the period ending June 30, 2013, and approving an economic development grant

Committee recommended approval 4-0

RESOLUTION R-13-52

WHEREAS, BelAir Cantina Tosa, Inc., d/b/a BelAir Cantina Tosa, 6817 W. North Avenue, Wauwatosa, WI, Kristyn St. Denis, agent, has applied for a Reserve Class B liquor and Class B beer license;

NOW, THEREFORE, BE IT RESOLVED THAT a Reserve Class B liquor and Class B beer license be awarded to BelAir Cantina Tosa, Inc., d/b/a/ BelAir Cantina Tosa, 6817 W. North Avenue, Wauwatosa, WI, for the period ending June 30, 2013;

BE IT FURTHER RESOLVED THAT an economic development grant in the sum of \$9,500.00 pursuant to Section 6.08.475 of the Wauwatosa Municipal Code be and hereby is granted.

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

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

1. 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

RESOLUTION R-13-53

WHEREAS, Alex Marlis of Sts. Constantine and Helen Greek Orthodox Church at 2160 Wauwatosa Avenue has applied for a street festival permit for the church's annual festival on June 7-9, 2013; and

WHEREAS, the Committee on Community Development recommends issuance of a permit subject to certain conditions;

1. The permit shall be valid only for conduct of Grecian Festival 2013.
2. The festival shall be conducted on June 7 through 9, 2013. Hours of operation shall be June 7th 4:00 p.m. to 10:00 p.m.; June 8th Noon to 10:00 p.m.; and June 9th Noon to 10:00 p.m.
3. The permittee shall pay all costs incurred by the City for this event.
4. Noise associated with music and exhibits shall not be excessive as that term is defined by Section 7.48.040 of the Wauwatosa Municipal Code. The City in its sole discretion shall determine whether noise associated with the festival is excessive and upon request of the City the permittee shall immediately reduce the volume of said noise.
5. The permittee shall be responsible for removing all refuse associated with the event. Failure of the permittee to do so will result in additional charges by the City.

6. No carnival rides will be used.
7. Live music is permitted on Saturday, June 8th and Sunday, June 9th from 3:30 p.m. to 9:30 p.m.
8. The Police Department will develop a plan to eliminate parking on one side of the streets in the immediate area, as appropriate.
9. The church shall be responsible to provide and install signs directing patrons to the City Hall parking lot and to M & I Wauwatosa State Bank; the church parishioners shall be encouraged to park in the City Hall parking lot; a mechanism will be established to make announcements at the festival if a driveway is reported to be blocked.
10. Security will be provided during the event.
11. The church grounds and immediate neighborhood shall be patrolled daily to remove litter.
12. Neighbors will be invited to meet with church officials to review plans and discuss solutions to other potential concerns before the event.
13. The dumpster on the church grounds shall be removed by 5 p.m. on Monday, June 10, 2013. Permittee shall provide a copy of its contract for removal of the garbage dumpster to the Director of Public Works. The Permittee shall also obtain a dumpster permit from the Engineering Department before placing the dumpsters in the street. The semi-trailers shall be removed from the grass by 5 p.m. on June 10, 2013.
14. Beer sales shall end one-half hour before the closing of the festival each evening.
15. Temporary "NO PARKING AT ANY TIME" restrictions will be posted and will be in effect only during the hours of the festival on the north side of Rogers Avenue, between Wauwatosa Avenue and Underwood Avenue, and the west side of North 74th Street, between Kenwood and Garfield Avenues.
16. Officers assigned to this area and adjacent streets are to check the area frequently for traffic congestion and parking violations. No parking permission has been given in any of the "No Parking at Any Time" zones.
17. Flashing barricades will be placed across Garfield Avenue and Wauwatosa Avenue, and at the north driveway to the church parking lot. A flashing barricade and sign will also be placed on Garfield Avenue at North 74th Street indicating that the street is open to local traffic only.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa THAT the City Clerk is authorized to issue a street festival permit to Sts. Constantine and Helen Greek Orthodox Church for the purpose of conducting the church's proposed festival subject to the conditions listed herein.

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

- Resolution setting a public hearing date of May 7, 2013 to consider a change of zoning from AA Light Manufacturing to Business Planned Development District at 11123 West Burleigh Street, 3000 North 112th Street, and 2960 North 112th Street for a Meijer store

Committee recommended approval 8-0

RESOLUTION R-13-54

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT a public hearing be held before the Common Council in the Council Chambers at 7:30 p.m. Local Time, on Tuesday, May 7, 2013 in City Hall of the City of Wauwatosa, Wisconsin at which time all persons interested, or their agents or attorneys, will be heard concerning a proposed ordinance rezoning the properties located at 11123 West Burleigh Street, 3000 North 112th Street, and 2960 North 112th Street from AA Light Manufacturing District to Business Planned Development District.

BE IF FURTHER RESOLVED THAT the City Clerk be and is hereby directed to publish the proper notices of said hearing as required by law.

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

FROM THE COMMITTEE ON BUDGET & FINANCE

- Resolution approving a three-year service agreement with Emergency Communication Network LLC in the amount of \$33,162.03

Committee recommended approval 7-0

RESOLUTION R-13-55

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT the proper City officials be and hereby are authorized to enter into a three year contract with Emergency Communications Network, LLC (CodeRed) for an emergency notification system to replace the current City Watch application at a total cost of \$33,162.03, of which \$21,287.03 is due on or before April 1, 2013 for the first two years and \$11,875.00 due on or before March 2015;

BE IT FURTHER RESOLVED THAT \$12,000.00 from a Police Department grant will be used toward the initial payment and the rest of the funds will be addressed via future fund transfers.

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

2. *Resolution authorizing a settlement in the matter of Brown v. City of Wauwatosa

Committee recommended approval 7-0

RESOLUTION R-13-56

WHEREAS, there is a circuit court case pending against the City of Wauwatosa, captioned Brown v. Wauwatosa, and outside counsel has recommended a settlement of this matter in the amount of \$30,000 in exchange for a complete and final dismissal of all claims; and

WHEREAS, outside counsel for the City of Wauwatosa has arrived at the recommended settlement based on participating in mediation and considering depositions and the costs of further litigation; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Attorney and outside counsel are hereby authorized to execute a settlement of \$30,000 in the matter of Brown v. Wauwatosa, in exchange for a complete and final dismissal and extinction of all claims and the settlement as described by Assistant City Attorney Beth Aldana at the closed session of the committee is hereby approved.

RESULT:	ADOPTED [13 TO 0]
MOVER:	Tim Hanson, Alderman
SECONDER:	Peter Donegan, Alderman
AYES:	Berdan, Moldenhauer, Birschel, Causier, Roznowski, Donegan, McBride, Dubinski, Pantuso, Ewerdt, Hanson, Wilke, Organ
ABSTAIN:	Tilleson
EXCUSED:	Walz-Chojnacki, Wilson

3. Bills and Claims

It was moved by Ald. Causier, seconded by Ald. Dubinski that each and every one of the accounts of bills and claims be allowed and ordered paid. Roll call vote, Ayes 13, Present 1 (Donegan)

FROM THE BOARD OF PUBLIC WORKS

1. Resolution authorizing an encroachment onto city right-of-way with a fence and sunshade posts at 7118 W. State Street, subject to the execution of an encroachment agreement

Board recommended approval 3-0

RESOLUTION R-13-57

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to Hector's A Mexican Restaurant, 7118 W. State Street, Wauwatosa, WI, to encroach onto City right-of-way with sunshade posts and a fence, subject to the applicant executing unto the City of Wauwatosa an indenture setting forth the terms, provisions, and conditions relating to the granting of the aforesaid permission by said City to said applicant.

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

2. Resolution accepting a temporary easement from the UWM Real Estate Foundation for an access road off of Discovery Parkway to the proposed parking lot east of the planned ABB site

Board recommended approval 3-0

RESOLUTION R-13-58

BE IT RESOLVED THAT appropriate City officials are hereby authorized to enter into an Agreement with the UWM Real Estate Foundation for a temporary construction easement providing the ability to construct the necessary access road from Discovery Parkway to the common parking area being designed and constructed in preparation for development of a parking lot for the use of ABB, Ltd., consistent with the depiction approved to the Board of Public Works at its meeting of March 18, 2013.

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

3. Resolution approving the emergency purchase of repairs to an 8-inch sanitary sewer, with traffic control in the center northbound lane in the 600 block of N. Mayfair Road

Board recommended approval 3-0

RESOLUTION R-13-59

WHEREAS, during unrelated work at 620 N. Mayfair Road, it was discovered that an 8 inch sanitary sewer was missing approximately 4 feet of pipe and had an earthen void of approximately 8 cubic feet, which could have caused significant disruption in sanitary sewer service to local businesses and traffic on North Mayfair Road if not repaired immediately; and

WHEREAS, UPI, Inc. of New Berlin, WI, provided a quote to perform the repairs and institute necessary traffic control which was in the best interest of the City;

NOW, THEREFORE, BE IT RESOLVED THAT the emergency purchase of repair services from UPI, Inc. of New Berlin, WI, in the amount of \$11,970.00 for repairs completed on January 17, 2013, are hereby approved pursuant to Section 3.20.040 A.4. of the Wauwatosa Municipal Code.

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

Carla A. Ledesma

Carla A. Ledesma, CMC, City Clerk