



**CITY OF WAUWATOSA**  
MEMORIAL CIVIC CENTER  
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**BOARD OF PUBLIC WORKS**  
Monday, May 20, 2013 – 8:30 a.m.

PRESENT: Ms. Enders, Development Dir.; Ms. Ledesma, City Clerk; Mr. Mainus, Bldg. Insp.;  
Mr. Ruggini, Finance Dir. – 4

EXCUSED: Mr. Kesner, City Atty.

ALSO PRESENT: Mr. Wehrley, City Engr.; Mr. Porter, Public Works Dir.; Mr. Knapp, Building Insp.

Ms. Enders as Vice-Chair called the meeting to order at 8:36 a.m.

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

Moved by Ms. Ledesma, seconded by Mr. Mainus  
to accept the minutes as printed. Ayes: 4

**Exception to City Code 15.28.030 for fence exceeding the maximum height – 8616 W. North Avenue.**

The Board reviewed an appeal application from Sendik's Food Market, 8616 W. North Avenue, for permission to install a six-foot fence on the east elevation of the building for equipment screening and an eight-foot fence on the west elevation for dumpster screening.

Eric Neumaun, MSI General Corporation, discussed the request with the Board. He said the store is remodeling and as part of the remodel the food preparation area will be relocated to the basement area. Because of this the ventilation hood needs to be relocated to the east end of the building. The venting unit itself will be installed within the setback allowed. In order to screen this area properly they requested permission to install a six-foot fence instead of the 4' 6" fence that the city code permits.

Mr. Neumaun also requested a code variance for a fence around the dumpster. They would like to install an eight-foot fence where code only permits a six-foot fence.

Mr. Neumaun answered questions that the fence will be a metal decorative panel style fence and would be anywhere from three to five-feet away from the sidewalk. He noted that landscaping will be done around the fencing as well.

Mr. Neumaun explained that there will be an 18" curb wall installed for the dumpster area fence line, in the parking lot, which will increase in height as the grade drops for ease of snowplowing.

Tom Gerlach, Wisconsin Garden & Pet, 8520 W. North Avenue, expressed concern as they were not aware of what was being planned. Mr. Gerlach said he would like to see an actual plan design.

Attorney John Laskowski spoke on behalf of Red Migliaccio, 2325 N. 86<sup>th</sup> Street, neighbor of Sendik's. He said Mr. Migliaccio who lives directly to the north of Sendik's was opposed to the expansion. He had concerns about the dedicated alley way which has been partially taken over. Attorney Laskowski expressed

concerns about constant noise from the venting fans. Complaints have been filed with the City in regards to leaves being blown in the alleyway late at night, and garbage complaints have gone unanswered.

Atty. Laskowski said his client, Red Migliaccio, would like to discuss being compensated for loss of alleyway from the prior expansion.

Mr. Neumaun presented a land survey and that they were not on Mr. Migliaccio's parcel. The concrete on alley is city owned and with the remodel, the loading dock would be closed up. He also said the eight-foot fence height should not affect any sunlight to Mr. Migliaccio's parcel. The height requested is more for aesthetic purposes.

Mr. Ruggini suggested this item be held until Sendiks could address concerns of the neighbors. Mr. Neumaun was willing to meet with them right away to see if they could settle their differences. He requested that action be taken today.

Ms. Enders felt that the objections by Mr. Migliaccio were for the prior expansion and not related to today's request. She asked that any concerns regarding prior complaints be brought to her to be addressed. Ms. Enders felt that some of the proposals being made by Sendiks' would actually help Mr. Migliaccio. The Board decided to hold this item temporarily and address it again at the end of the meeting if possible.

**Request for lease agreement and outdoor seating- 7511 Harwood Avenue.** The Board reviewed a request by Karen Wilman-Salituro, Arte Wine and Painting Studio, 7511 Harwood Avenue, for a lease agreement and outdoor seating.

Ms. Wilman-Salituro explained that she would like to have outdoor seating for her art studio. The proposed locations are five tables with three chairs in the front of the business and tables and chairs for 14 in the Root Common area. The table placement in front of the building leaves a four to five foot walkway.

Ms. Wilman-Salituro noted that there will be planter boxes installed with a fence rail for screening purposes. There will also be umbrellas on the tables.

Mr. Wehrley suggested a better site plan be submitted showing more details. There was concern expressed about the umbrella's hanging over the walkway for taller people and there wouldn't be enough clearance room. Ms. Wilman-Salituro said that the planters will be similar to what is being used at Café Holander.

Ms. Wilman-Salituro advised that the table size adjacent to the building is 30 x 30. Mr. Wehrley expressed concern that there would not be enough room with the chairs closest to the walkway and suggested these be removed from the plans. He suggested there only be ten seats for the five tables in this location, two chairs at each of the five tables. This location should be included in the easement request.

Ms. Ledesma asked for a better explanation of the number of total occupancy for the outside as there was a discrepancy in the numbers requested and the plan drawing. Ms. Wilman-Salituro said there would be a total of 29 for outside seating. Ms. Wilman-Salituro said that there would be a total occupancy inside and outside of 49. At this time they are requesting occupancy group B, which is for a number of persons under 50, per code. It was noted that this number must also include personnel.

The Board asked if contact had been made with the fire department regarding total occupancy. Ms. Wilman-Salituro insisted this meeting is only for her encroachment/lease agreement per the resolution passed in Community Development. Mr. Mainus asked about the toilets as there are code issues regulating the number of toilet rooms required. Ms. Wilman-Salituro again said she is only here for her occupancy. Mr. Mainus explained that any approvals made by the Board of Public Works will be contingent upon all other items

addressed in the resolution approved by Community Development and that is why these other matters are being asked of her.

Mr. Ruggini asked how the fee is determined for this easement. The City Attorney will draw up a lease agreement based upon square footage.

Mr. Mainus asked to see plans for the toilet rooms prior to this approval for municipal code purposes.

The Board recommended approval of the encroachment to Council contingent upon City resolution R-13-080 by the Community Development Department as follows:

1. outdoor hours of operation per the Plan Commission recommendation of Monday through Friday 4:00 p.m. to midnight, Saturday 11:00 a.m. to midnight, and Sunday 11:00 a.m. to 6:00 p.m.
2. the conditional Use approval can be revoked with a 60 day notice when the Village plane is implemented
3. be in compliance with building and fire code regulations
4. modification of the existing beer license and obtaining the appropriate liquor license
5. six month staff review
6. approval of an encroachment/lease by the Board of Public Works; and
7. obtaining the necessary licenses and permits.

Ms. Salituro said she knows that her approval is not met until all of the requested items are taken care of. She said she is still working on getting the appropriate liquor license.

The Board of Public Works also requested that a lease agreement be negotiated with the City Attorney. The City Engineer requested a more substantial plan be submitted showing the exact location of tables and chairs along with umbrella locations and size. The City Clerk clarified that the outside seating is for a maximum of 24 chairs as well. Total occupancy inside and outside is for a total of 49 which includes their personnel.

Mr. Knapp said as long as the lease agreement with Arte Wine and Painting Studio, stipulates all of the above, he felt it would be fine.

Moved by Mr. Mainus, seconded by Mr. Ruggini  
to recommend approval to Council contingent upon:  
Outdoor hours of operation per the Plan Commission  
recommendation of Monday through Friday 4:00 p.m. to  
midnight, Saturday 11:00 a.m. to midnight, and Sunday  
1:00 a.m. to 6:00 p.m.; the Conditional Use approval can be  
revoked with a 60 day notice when the Village plane is implemented;  
be in compliance with building and fire code regulations; modification  
of the existing beer license and obtaining the appropriate liquor license;  
six month staff review; approval of an encroachment/lease by the  
Board of Public Works; obtaining the necessary licenses and permits,  
a lease agreement be negotiated with the City Attorney; a substantial plan  
submitted with table, chair and umbrella locations and with the clarification  
that the outside seating is for a maximum of 24 chairs. Ayes: 4

**Encroachment onto public right-of-way request – 2322 N. 66<sup>th</sup> Street.** The Board reviewed a request by Terrence and Renee Stein, 2322 N. 66<sup>th</sup> Street, to build a retaining wall abutting the City sidewalk. Mr. Stein said he understood that the City generally prefers to have the retaining walls 18 inches from the sidewalk, and was willing to take the risk of damage to the wall in the event of sidewalk removal or repairs.

The retaining wall would be in two sections approximately 22 feet long and two feet high. A cap would be installed on top of each wall.

Mr. Wehrley suggested putting the wall 12 inches off of the sidewalk which was agreeable to Mr. Stein. Mr. Wehrley told Mr. Stein to contact Diggers Hotline to make sure the water shut-off would not be underneath the retaining wall location.

Mr. Mainus questioned the wall appearance toward the neighboring home. Mr. Stein said the wall would meet the grade and the neighbor had no problems with the wall.

Moved by Ms. Ledesma, seconded by Mr. Mainus  
to recommend approval to Council of a twelve-inch  
setback for a retaining wall. Ayes: 4

**Request for tent set-up in parking lot during the East Gran Prix Bike Race – 6715 W. North Avenue.**

The Board reviewed a request by Martin Beaudoin, Shepherds in Tosa, 6715 W. North Avenue, to set up a tent and sell food and beverages at his adjoining parcel, 6707 W. North Avenue on June 30, 2013 for the East Tosa Gran Prix bike race.

Martin Beaudoin, 6715 W. North Avenue, said that he owns the adjoining laundromat at 6707 W. North Avenue and would like to set up a tent in that parking lot during the bike race. He presented a drawing of two proposed tent locations that would work while still providing parking spaces for laundromat customers. Mr. Beaudoin noted that there was also parking in the back of the laundromat.

Mr. Beaudoin responded to questions that the tent would be set up and torn down the same day and that he would be contacting the fire department for inspection. He said food would be prepared in their kitchen, wrapped and then taken outside.

Moved by Ms. Ledesma, seconded by Mr. Ruggini  
to approve the request for use of the parking lot at  
6707 W. North Avenue contingent upon fire and health  
department approvals. If requesting an extension to your  
liquor license, committee approval is also necessary. Ayes: 4

**Request by Veit and Company to work outside the normal working hours for the falling of the Roundy's water tower.**

Pete Salamo, 2445 S. 179<sup>th</sup> Street, New Berlin said that they would like to work off hours to tear down the Roundy's water tower. He said they will cut the legs off of the tower and let it fall to the east, and would like to do this work during the hours of 4:00 a.m. – 7:00 a.m. the week of May 20<sup>th</sup>, weather permitting. Mr. Salamo said they would like to do this when there would be less traffic on Hwy 45 to avoid onlookers from the motoring traffic.

Mr. Wehrley said he would prefer the work be done between the hours of 4:00 a.m. – 6:00 a.m. The Board expressed appreciation to Mr. Salamo for their safety concerns of the motoring public.

Moved by Mr. Ruggini, seconded by Mr. Mainus  
to recommend approval of the request to work outside  
the normal working hours, from 4:00 a.m. – 6:00 a.m. Ayes: 4

**Contract 13-02 /Project 3002 Sanitary Sewer Improvements – Award of Bid.** Mr. Wehrley said that this is for work on sanitary sewer improvements at (portions of 100<sup>th</sup> Street, 103<sup>rd</sup> Street, 104<sup>th</sup> Street, 105<sup>th</sup> Street, 106<sup>th</sup> Street, 108<sup>th</sup> Street, 110<sup>th</sup> Street, Congress Street, and Courtland Avenue). Mr. Wehrley said that three bids were received and recommended award to Visu-Sewer, Inc. in the amount of \$699,045.44, the lowest and best bid.

Moved by Mr. Ruggini, seconded by Ms. Ledesma to recommend  
to Council award of Contract 13-02 to Visu-Sewer, Inc., in  
the amount of \$699,045.44. Ayes: 4

**Request by Canadian Pacific Railroad to work outside normal hours for rehab work at the N. 72<sup>nd</sup> St. and W. State Street railroad crossing.** Robert LeDuc, Utilities Manger with Canadian Pacific Railroad, said there is a need for rehab work at the 72<sup>nd</sup> Street and State Street railroad crossing.

Mr. LeDuc requested to work the hours from 3:00 p.m. – 11:00 p.m. from May 20<sup>th</sup> – May 23, 2013. He said generators would be used for lighting after 8:30 p.m. Lighted barricades will be put in place.

Mr. Wehrley discussed traffic control and said that the Parks Department and the Senior Center at Hart Park have been advised of this closure. The Board requested the surrounding businesses and the apartment complex be notified promptly of this work being done.

Moved by Mr. Ruggini, seconded by Mr. Mainus  
to approve the foregoing contingent upon notification  
to surrounding businesses and apartment complex. Ayes: 4

**Memorandum of Understanding with Wisconsin DOT summarizing future US 45 and Hwy. 100 improvements for the Mayfair Collection.** Mr. Wehrley that this is for an agreement with the City of Wauwatosa for future US 45 and Highway 100 improvements for the Mayfair Collection development site on Burleigh Street east of US 45. Mr. Wehrley said that the DOT does not do agreements with developers, they only work with municipalities.

Moved by Ms. Ledesma, seconded by Mr. Ruggini to recommend  
to Council approval of the Memorandum of Understanding with  
Wisconsin Department of Transportation for future improvements  
along Mayfair Collection corridor. Ayes: 4

**Exception to City Code 15.28.030 for fence exceeding the maximum height – 8616 W. North Avenue-continued discussion prior to meeting adjournment.** Eric Neumaun, MSI General Corporation said he met with Tom Gerlach from Garden & Pet and the neighbor, Red Migliaccio and his attorney, John Laskowski. He showed the plans and explained the project details. Mr. Neumann said he would be taking the neighbors' concerns to the store owner today.

Mr. Neumaun noted that one of the rooftop units will be relocated which would help the noise that Mr. Migliaccio expressed concern about. He explained the fence screening sizes and type saying these will be aesthetically appealing and felt it is the right thing to do. There will be a light replaced with an LED light so not to be as bright for the neighbor.

Mr. Mainus noted that final fence approval must be met with the Design Review Board and any motion made would be contingent upon their approval.

Mr. Ruggini requested that the store keep a bike rack somewhere on the property.

Moved by Mr. Mainus, seconded by Ms. Ledesma to recommend approval of a six-foot fence at the east location and eight-foot fence at the west location for screening purposes, keep a bike rack onsite and contingent upon fence design approval from the Design Review Board. Ayes: 4

**Encroachment into public right-of-way request for three storage pods – 8616 W. North Avenue.**

Eric Neumaun, MSI General Corporation, discussed the request for encroachment for three storage pods holding building materials during the remodeling of the store from June through October. Mr. Neumaun explained that during the different phases of construction, materials will need to be stored in these pods. He requested a temporary encroachment along 86<sup>th</sup> Street for duration of construction.

Tom Gerlach, Wisconsin Garden & Pet, expressed concerns of a loss of five or six parking spots on 86<sup>th</sup> Street, difficulty for delivery trucks to maneuver getting into Garden & Pets parking lot with the pods parked there, delivery trucks for Sendik's park on 86<sup>th</sup> Street for hours at a time and where would they park. Mr. Gerlach had some alternate suggestions for pod storage: next to the east side of their building on the grass, or on the setback in front of their building, on North Avenue in front of their store, however that would displace employee parking. Mr. Gerlach felt Sendik's should use their own property as a staging area for their project instead in inconveniencing the neighboring businesses.

Mr. Neumaun said he was willing to look for alternate solutions to take back to Mr. Balistreri. He asked if the sidewalk on 86<sup>th</sup> Street could be shut off; he asked where it would make most sense with respect to city and neighbors.

Ms. Enders suggested they look at using part of their parking lot for these storage pods. Mr. Neumaun noted that the store did not want to lose any parking spaces in their lot. Suggestions included the loading dock or to relocate the propane and cart corral by the building. The Board did not want the storage pods placed on North Avenue for safety concerns of the motoring traffic. Placing the storage pods on 86<sup>th</sup> Street would be a hardship. The alleyway was also suggested as a temporary spot. A street occupancy permit could possibly be waived if a request were made to but the pods in their loading dock.

Mr. Neumaun advised that after meeting with Red Migliaccio and his attorney, Mr. Migliaccio misunderstood that there was not going to be a store expansion. There were not concerns of fencing or storage pods, Mr. Migliaccio was unhappy about past expansions and that his complaints were never addressed.

Mr. Ruggini suggested that Mr. Neumaun discuss options with Mr. Balistreri. He said the City would be more than willing to consider use of alley and maybe consider placement of one pod in the street. He felt it should be avoided closing off of the sidewalk due to ADA. Mr. Ruggini encouraged the owners to find a more neighbor friendly solution.

Moved by Mr. Ruggini, seconded by Mr. Mainus  
to recommend to Council denial of the encroachment  
request. Ayes: 4

**Water Pumpage Report.** With April 2013 pumpage of 115,078,000 gallons, the year-to-date total stands at 482,828,000 gallons of water pumped, ahead of this time last year. The Vice-chair ordered the report placed on file.

**Partial payments and contract updates.** Mr. Wehrley said work is ongoing on various projects in the City.

### RESOLUTION

BE IT RESOLVED, By the Board of Public Works of the City of Wauwatosa, Wisconsin that the proper City Officers be and they are hereby authorized and directed to issue City orders in favor of the contractor listed below in the amount listed in the column headed "Amount" as partial payment for work completed as indicated on the attached exhibit pursuant to the terms of the contract noted.

<u>Contractor</u>	<u>Payment No.</u>	<u>Contract No.</u>	<u>Amount</u>
Super Excavators, Inc.	4A	12-101 UWM Innovation Park Improvements – Division A/ Project 7001A	\$ 81,278.30
Super Excavators, Inc.	4B	12-101 UWM Innovation Park Improvements – Division B Project 7001	\$161,724.98

BE IT FURTHER RESOLVED, By the Board of Public Works of the City of Wauwatosa, Wisconsin that the proper City Officer be and they are hereby authorized an directed to issue City orders in favor of the contractor listed below in the amount listed in the column headed "Amount" as billable amounts for authorized work to be completed as indicated on the Attached Exhibits pursuant to the terms of the contract noted.

<u>Contractor</u>	<u>Change Order</u>	<u>Contract No.</u>	<u>Amount</u>
Super Excavators, Inc.	No. 1	12-101 UWM Innovation Park Improvements – Division A/ Project 7001A	\$2,000.00

BE IT RESOLVED, By the Board of Public Works of the City of Wauwatosa, Wisconsin that the proper City Officers be and they are hereby authorized and directed to issue City orders in favor of the contractor listed below in the amount listed in the column headed "Amount" as partial payment for work completed as indicated on the attached exhibit pursuant to the terms of the contract noted.

<u>Contractor</u>	<u>Payment No.</u>	<u>Contract No.</u>	<u>Amount</u>
Rawson Contractors, Inc.	8	12-98/3004 2012 Lift Station Improvements	\$3,504.12
Vinton Construction Co.	3	12-14/4003 100 <sup>th</sup> Street Relief Storm Sewer	\$440,568.20
American Sewer Services, Inc.	7	12-07/3003 Ravenswood Sanitary Sewer Imp.	\$117,561.39

Moved by Mr. Ruggini, seconded by Ms. Ledesma  
to approve the foregoing. Ayes: 4

The meeting adjourned at 10:16 a.m.

mks

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Secretary to the Board