



CITY OF WAUWATOSA  
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**COMMUNITY DEVELOPMENT COMMITTEE MEETING**  
**Tuesday, October 27, 2009**

PRESENT: Aids. Birschel, Dennik, Hanson, Herzog, McBride, Meaux, Nikceovich, Stepaniak - 8

ALSO N. Welch, Community Dev. Dir.; A. Kesner, City Atty.; J. Archambo, City Admin.;  
PRESENT: W. Kappel, Dir. of Public Works

Ald. Herzog as Chair called the meeting to order at 8:00 p.m.

**Conditional Use – 6913 W. North Avenue**

Ms. Welch outlined a request by Michael Feker of a Conditional Use in the Trade District at 6913 W. North Avenue for an outdoor dining area at the rear of the Il Mito restaurant property. The patio would consist of approximately eight tables with fencing and landscaping as well as downward lighting and light music. Proposed hours of operation are 11 a.m. to 11 p.m. There is an existing fence along the south property line, and the applicant plans to install fencing on the east property line and on the west side of the patio to screen an existing residence. The Plan Commission unanimously recommended approval.

Ms. Welch provided aerial photos showing the configuration of the subject property (6913-15-17) and the adjacent area. She noted that there is a 30-32 inch-wide gangway along the western edge of the building that serves as access to North Avenue. There is no access to the side streets. Both the fire and building departments have expressed concern about safe egress from the patio, although the fire marshal visited the site today and was somewhat reassured by the fact that there are two means of egress through the building, one by way of the restaurant and one by way of the applicant's adjacent cooking school. An egress plan should be submitted.

Michael Feker, 6913 W. North Avenue, said that the city code requires a 36-inch walkway. He reported that he has been able to widen the walkway to 32 inches for its entire length. The fire marshal walked through yesterday and saw the three means of egress.

Ald. Nikceovich said that there was considerable discussion at the Plan Commission about egress and other aspects of the plan, and the commissioners seemed to be fairly satisfied that the plans were very sensitive to neighbors. She noted that many supportive e-mails are part of the file and said she has received only one call in opposition and three in favor. She felt that the applicant should be extended the same opportunity for a patio as that given to Cranky Al's to the east.

Moved by Ald. Nikceovich, seconded by Ald. Dennik to recommend to Council approval of the Conditional Use contingent upon submission of an acceptable ingress/egress plan. Ayes: 8

**Ordinance – Regulation of Inoperable Vehicles**

The committee reviewed a proposed ordinance amending Title 11 of the Code regarding regulation of inoperable vehicles. Mr. Kesner explained that the ordinance was drafted to address a situation where a vehicle appears to be inoperable but is licensed and registered. The code currently restricts enforcement action to ticketing. It does not

provide a definition of inoperable vehicles. The ordinance is modeled on an Eau Claire ordinance with some added parameters including a notice provision allowing the owner to respond. In addition, there is an exception for people in the business of fixing vehicles as long as they are kept inside. The penalty provision provides for increases as action moves forward. After multiple violations, the situation would fall under the provisions of the public nuisance ordinance. The ordinance would significantly increase the city's power to address inoperable vehicles on private property. Mr. Kesner indicated that he is considering some minor tweaks to the ordinance including adding a reference to the *appearance* of being inoperable.

Ald. McBride supported proceeding, citing two situations in his district in the past six months that the current ordinance could not address. He noted that the ordinance would come back to committee for further discussion.

Moved by Ald. McBride, seconded by Ald. Nikcevich to recommend to Council introduction of the ordinance –

Ald. Birschel brought up the question of an individual with inoperable vehicles that are prized collectible cars. Mr. Kesner said that currently even collectible vehicles that are inoperable and unregistered are prohibited. Whether a vehicle is collectible is hard to discern, and he would have concerns about leaving it wide open. He will attempt to develop some language to address collector cars.

Ald. Nikcevich explained that this matter arose through a request by several residents in her district who complained of a very unsightly van that is detracting from the neighborhood. The owner registers and licenses the vehicle but drives only once or twice a year.

Further discussion included concerns about language on issues such as “operational “and how often a vehicle would need to be moved to be considered as such.

Vote on the motion, Ayes: 8

### **Ordinance – Building Height**

The committee reviewed a proposed ordinance amending Chapter 24.102.090 of the Code to revise the definition of building height. The Plan Commission unanimously recommended adoption; a public hearing was held on October 20.

Ms. Welch described this as a housekeeping issue. It defines building height as: “... the vertical distance measured from the established grade at the middle of the front of the building to the highest point of the roof. When a building is located on a natural terrace or slope the height may be measured from the average ground level at the building wall.” Staff had always relied on a definition in the building code, but building height was not included when the city adopted the international building code approximately a year ago. The proposed definition is consistent with the definition consistently used in the past.

Moved by Ald. Birschel, seconded by Ald. McBride to recommend to Council adoption of the ordinance. Ayes: 8

### **Recommendations from EDAC regarding Economic Development Position**

Ms. Aldana reported on the draft Economic Development Director job description, which has undergone final revisions by the Economic Development Advisory Committee (EDAC). The matter is here for this committee's opinion on the structure of the position. Salary will ultimately be an Employee Relations issue.

Alderman Dennik, EDAC chair, introduced the EDAC members present: Tim Kronquist, 10226 Park Ridge; Bob Simi, 2445 N. 81<sup>st</sup> Street; and Kathy Kuhn-Dirske, 2451 N. 93<sup>rd</sup> Street. The committee has been discussing the job description with the goal of establishing a placeholder in the 20010 budget. As it moves forward, they will

work with the Employee Relations Committee on establishing a grade for the position, which they are recommending at department director level. They hope to have a person on board by March 1.

Ald. Stepaniak asked what the position would do to help the North Avenue business district and other such districts. Ald. Dennik said that the biggest piece of what to do right away would be getting to know the community—the business districts, TIF districts, and other businesses in the city—so that we can retain what we already have. This will be a department of one, but that person will have latitude to decide what to do, with the council and EDAC steering in the best direction.

Mr. Simi commented on the Horton URS study's recommendation for two positions. The EDAC discussed adjusting the salary of the director-level position to accommodate a second individual for small businesses but concluded that the budget could not support both. Ms. Kuhn-Dirske added that the committee did pass a motion regarding the importance of small businesses and the need to address existing businesses.

Ald. Stepaniak suggested removing references in the job description to a Community Development Authority and changing "commission" to "committee" in references to the EDAC.

Ald. McBride also suggested a number of changes including: add "or higher" to degree references; designate skills such as proficiency with certain computer software as desirable rather than required. In terms of pay range, he said that he understands competing with the private sector but commented that this is the wrong time to create a new position in a pay range higher than that of the current highest paid employee.

Ald. Meaux urged caution on substituting a master's degree for experience without stating a minimum or maximum in terms of substitution. He recommended not to exceed 50%.

Ms. Aldana confirmed that this would be a civil service position per the authorizing ordinance, as are most positions with the exception of the City Administrator. As such, it would need to fit into existing pay scales and would be subject to civil service rules. The person could be considered an at-will employee until completion of the probationary period, which is typically one year. Regarding residency, Mr. Archambo said it is generally required of all directors but many have been granted exemptions.

Ald. Meaux saw this as a different type of department head position that is outcome and performance based with a very specific task operationally as well as a fair amount of flexibility. It may take more than a year to get to the next step, but the probationary period is lost by that time. He noted that the ordinance would have to be amended if the Council decides it should not be a classified position.

Mr. Kronquist said that the EDAC did discuss making it a contract position and there was some preference for an at-will situation, but there was a question of whether the ordinance allowed them to do that.

Ms. Aldana pointed out that an ordinance amendment would be needed to change the position from manager to director. She noted that there are appropriate ways under civil service to address unsatisfactory performance or situations where there is no longer a need.

Moved by Ald. Meaux, seconded by Ald. McBride to recommend to the Employee Relations Committee that the position be reclassified to director and created as a contract or at-will position rather than civil service –

Ald. McBride commented that in his experience as an employee attorney and former civil service commission member, he believes that the requirements to discharge someone are greater with civil service protection.

Vote on the motion, Ayes: 8

There were further comments about flexibility in terms of “desirable” rather than “required” attributes. Performance standards and measures were also discussed. Ms. Aldana noted that setting standards and goals would be more collaborative; the position reports to the City Administrator. Mr. Archambo explained the positions role, per the Horton URS study, in assisting the EDAC.

Ald. Nikceovich emphasized that a small business specialist is a high priority that she would still like to see funded. Her other concern is creating a marketing strategy to attract business. She agreed with the need to get a person on board and requested a representative of small businesses on the EDAC.

Moved by Ald. Dennik, seconded by Ald. Hanson to recommend approval of the job description with the stated changes. Ayes: 8

The meeting adjourned at 9:28 p.m.

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Carla A. Ledesma, City Clerk  
Wauwatosa, Wisconsin