



CITY OF WAUWATOSA  
MEMORIAL CIVIC CENTER  
7725 WEST NORTH AVENUE  
WAUWATOSA, WI 53213  
Telephone: (414) 479-8917  
Fax: (414) 479-8989

### **COMMON COUNCIL**

**Regular Meeting, Tuesday, September 21, 2004**

**PRESENT:** Aids. Jenkins, Kopischke, Krill, Krol, Maher, McCarthy, Stepaniak, Subotich, Sullivan, Treis, Bruderle-Baran, Becker, Casey, Grimm, Heins -15

**EXCUSED:** Ald. Herzog

**ALSO PRESENT:** Mr. Wontorek, City Administrator; Mr. Braier, Finance Director; Mr. Kesner; City Attorney; Mr. Wehrley, City Engineer; Ms. Welch, Community Development Director; Police Chief Weber; Fire Chief Redman; Mr. Cameron, Admin. Asst; Ms. Ledesma, City Clerk; Ms. Williams, Deputy City Clerk

Mayor Estness in the Chair

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

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

### **OLD BUSINESS**

The following ordinance was held after the public hearing on September 7, 2004:

#### **ORDINANCE** O-04-23

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF WAUWATOSA BY REZONING THE PROPERTIES LOCATED AT 12132 WEST CAPITOL DRIVE AND 4100 NORTH 124<sup>TH</sup> STREET FROM AA LIGHT MANUFACTURING DISTRICT TO AA BUSINESS DISTRICT

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

Part 1. The Official Zoning Map of the City of Wauwatosa is hereby amended to reflect the following change:

Parcels 1 and 2 of Certified Survey Map 6764 in the SW ¼ of Section 6, Town 7 North, Range 21 East, in the City of Wauwatosa, County of Milwaukee, State of Wisconsin are Rezoned from AA Light Manufacturing District to AA Business District.

Part II. The City Administrator is hereby directed to change the Official Zoning Map of the City of Wauwatosa to conform to the provisions of the Ordinance, and said Map is declared amended accordingly.

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

It was moved by Ald. Heins, seconded by Ald. Maher to adopt the foregoing ordinance. Roll call vote, Ayes 15.

### **APPOINTMENTS BY THE MAYOR**

Wauwatosa Youth Commission  
Pam Matthews, 4139 N. 110th Street  
(Term ends 8/31/07)

Citizens' Advisory Capital Improvements Committee  
Terrance Brown, 2463 N. 96th Street  
(Term ends 6/30/07)

It was moved by Ald. Bruderle-Baran, seconded by Ald. Krol to concur with the foregoing appointments. -15

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

1. Southeastern Wisconsin Regional Planning Commission 2003 Annual Report  
**Place on file**
2. Notice of Claim: Oliver N. Williams, 5268 N. 38th Street, Milwaukee  
**City Attorney**
3. City of Wauwatosa Statement of Financial Condition as of 8/31/04  
**Place on file**
4. Wauwatosa Water Utility Statement of Receipts and Disbursements for month ended August 31, 2004  
**Place on file**
5. Canvass of votes of the Special Recall Primary Election held September 14, 2004  
**Place on file**
6. From the Wisconsin Dept. of Transportation, Finding of No Significant Impact for the Milwaukee-Madison Passenger Rail Corridor Study  
**Place on file**
7. Special Use application for a day care center at 6230 W. North Avenue  
**Plan Commission, Board of Zoning Appeals**

### **FROM THE COMMITTEE ON TRAFFIC & SAFETY FOR INTRODUCTION**

1. Ordinance amending Section 11.32.080 of the City Code by prohibiting parking on the west side of N. 99th Street between W. Blue Mound Road and W. Wisconsin Avenue  
**Re-refer to originating committee**

2. Ordinance amending Section 11.32.080 of the City Code by removing the parking restriction in front of 10627 W. Hibbard Avenue  
**Re-refer to originating committee**
3. Ordinance amending Section 11.32.080 of the City Code by prohibiting parking from the west end of the driveway at 12017 Watertown Plank Road to a point 30 feet west  
**Re-refer to originating committee**

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION R-04-191**

WHEREAS, Gail Mickelson, 26820 Lakeview Drive, Wind Lake, WI, has applied for an operator's license in conjunction with her employment at Marshall Fields, 2500 N. Mayfair Road, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Gail Mickelson, 26820 Lakeview Drive, Wind Lake, WI, is hereby issued an operator's license for the period ending June 30, 2005.

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION R-04-192**

WHEREAS, Shanna Aldrich, 710 Arcadian Avenue, Waukesha, WI, applied for an operator's license in conjunction with her work at Biggs Roadhouse, 1900 N. Mayfair Road, Wauwatosa; and

WHEREAS, a background investigation revealed two previous felony convictions which were only five months apart, one of which was not listed on Ms. Aldrich's application; and

WHEREAS, the circumstances surrounding the previous convictions, and the seriousness of her previous convictions, are factors substantially related to the responsibilities of persons holding operator's licenses in the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the operator's license application of Shanna Aldrich is hereby denied;

BE IT FURTHER RESOLVED THAT the Clerk shall notify Ms. Aldrich in writing of this decision and the reasons for the denial.

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION R-04-193**

WHEREAS, Michelle Henne, W350 N6651 Norwegian Road, Oconomowoc, WI, has applied for an operator's license in conjunction with her employment at Eddie Martinis, 8612 Watertown Plank Road, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Michelle Henne, W350 N6651 Norwegian Road, Oconomowoc, WI, is hereby issued an operator's license for the period ending June 30, 2005; subject to a six-month review.

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION R-04-194**

WHEREAS, Tina Schrimpf, N95 W24993 Highway Z, Colgate, WI, applied for an operator's license in conjunction with her work at The Greek Village, 113<sup>th</sup> and Blue Mound Road, Wauwatosa; and

WHEREAS, a background investigation revealed one previous felony conviction which was not listed on Ms. Schrimpf's application; and

WHEREAS, the circumstances surrounding the previous conviction, the seriousness of her previous conviction, and not listing this on her application, are factors substantially related to the responsibilities of persons holding operator's licenses in the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the operator's license application of Tina Schrimpf is hereby denied;

BE IT FURTHER RESOLVED THAT the Clerk shall notify Ms. Schrimpf in writing of this decision and the reasons for the denial.

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION R-04-195**

WHEREAS, Jacqueline Jenkins, 8037 W. Coldspring Road, Greenfield, WI, has applied for an operator's license in conjunction with her employment at Noodles & Company, 7700 W. State Street, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Jacqueline Jenkins, 8037 W. Coldspring Road, Greenfield, WI, is hereby issued an operator's license for the period ending June 30, 2005.

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION R-04-196**

WHEREAS, Scott Starr, 17295 Oak Park Row, Brookfield, WI, applied for an operator's license in conjunction with his work at Jo Jo's Martini Lounge, 418 N. Mayfair Road, Wauwatosa; and

WHEREAS, a background investigation revealed two previous felony convictions which were not listed on Mr. Starr's application; and

WHEREAS, the circumstances surrounding the previous convictions, the seriousness of his previous convictions, and not listing them on his application, are factors substantially related to the responsibilities of persons holding operator's licenses in the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the operator's license application of Scott Starr is hereby denied;

BE IT FURTHER RESOLVED THAT the Clerk shall notify Mr. Starr in writing of this decision and the reasons for the denial.

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION** R-04-197

WHEREAS, Adam Rigg, 2030 N. Oakland Avenue, Milwaukee, WI, has applied for an operator's license in conjunction with his employment at Applebee's, 2500 N. Mayfair Road;

NOW, THEREFORE, BE IT RESOLVED THAT Adam Rigg, 2030 N. Oakland Avenue, Milwaukee, WI, is hereby issued an operator's license for the period ending June 30, 2005.

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION** R-04-198

WHEREAS, William Poull of the Club Tap, 8828 W. North Avenue, has requested a temporary extension of the licensed premises to include the front patio of his business on October 9 and 10, 2004 ;

NOW, THEREFORE, BE IT RESOLVED THAT the licensed premises of the Club Tap be extended to include the front patio on October 9 and 10, 2004, between the hours of 12:00 and 6:00 on the condition that the patio not be used after 6:00 p.m. and this temporary extension will not affect the special use request for outdoor dining for Lalli's Pizza and The Club Tap.

**FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS**

**RESOLUTION** R-04-199

WHEREAS, the Wauwatosa School District has applied for a fireworks user's permit for the purposes of conducting a fireworks display at Hart Park on Friday, October 1, 2004; and

WHEREAS, the Committee on Legislation, Licensing and Communications has reviewed their request;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the Clerk be authorized to issue a firework user's permit to the Wauwatosa School District for the purpose of conducting a firework's display on October 1, 2004 at approximately 9:30 p.m. at Hart

Park in the City of Wauwatosa 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 the Wauwatosa School District 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.

It was moved by Ald. Treis, seconded by Ald. Grimm to approve the nine foregoing resolutions. -15

**FROM THE COMMITTEES ON TRAFFIC AND SAFETY & BUDGET AND FINANCE**

**RESOLUTION R-04-200**

WHEREAS, construction to be completed by October 31, 2004, will require the closing of the intersection of W. Center Street and 91<sup>st</sup> Street near Christ King School; and

WHEREAS, during construction, traffic patterns will require an additional crossing guard during parts of the day at the intersection of W. Clarke and 91<sup>st</sup> Streets in the City of Wauwatosa; and

WHEREAS, the cost of an additional crossing guard to be temporarily assigned at the corner of W. Clarke and 91<sup>st</sup> Streets in the morning and after school hours only would be approximately \$1,200.00;

NOW, THEREFORE, BE IT RESOLVED THAT funding for a temporary crossing guard at the intersection of W. Clarke and N. 91<sup>st</sup> Streets in the City of Wauwatosa is hereby approved, to be employed only at the beginning and end of the school day, at a cost of up to \$1,200.00;

BE IT FINALLY RESOLVED THAT funding for this temporary crossing guard shall be transferred from the Reserve for Contingencies.

It was moved by Ald. Stepaniak, seconded by Ald. Krol to approve the foregoing resolution. Roll call vote, Ayes 15.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-04-202**

WHEREAS, in October of 2000 the President of the United States signed into law the "Disaster Mitigation Act of 2000" (PL 106-390) to amend the "Robert T. Stafford Disaster Relief and Emergency Act of 1988" which, among other provisions, requires local governments to adopt a pre-disaster mitigation plan in order to be eligible for hazard mitigation funding; and

WHEREAS, the City of Wauwatosa has worked closely with Milwaukee County Emergency Management to develop a county-wide pre-disaster mitigation plan that will serve the needs of Wauwatosa; and

WHEREAS, the City of Wauwatosa supports the Milwaukee County Pre-Disaster Mitigation Plan as a logical means toward protecting people and property from the potential devastating effects of natural hazards;

NOW, THEREFORE, BE IT RESOLVED THAT the Wauwatosa Common Council adopt, by way of this resolution, the "Milwaukee County Pre-Disaster Mitigation Plan" as approved by Wisconsin Emergency Management and the Federal Emergency Management Agency.

It was moved by Ald. Heins, seconded by Ald. Kopischke to approve the foregoing resolution. -15

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

#### **RESOLUTION R-04-201**

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT permission be and the same is hereby granted to Mt. Zion Lutheran Church to combine the parcels located at 12012 W. North Avenue, Wauwatosa. These parcels are more particularly described as follows:

Lots 1 and 2 and a part of Lot 3, Block 6B in the Oak Ridge Subdivision and a part of Lot 2 in the Charles T. Fisher Subdivision, in the Southeast ¼ of Section 18, in Township 7 North, Range 22 East, and a strip of land adjoining all located in the Southwest ¼ of the Southwest ¼ of Section 18, in Township 7, Range 21 East, in the City of Wauwatosa, County of Milwaukee, State of 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.

It was moved by Ald. Heins, seconded by Ald. Kopischke to approve the foregoing resolution. Ayes 14, Present 1 (McCarthy)

### **FROM THE COMMITTEE ON BUDGET AND FINANCE**

#### **RESOLUTION R-04-203**

WHEREAS, the Wauwatosa Flood Mitigation Project being funded by Milwaukee Metropolitan Sewerage District has required additional property acquisition activity by a contractor HNTB Corporation; and

WHEREAS, a proposed Amendment No. 9 to the Agreement for Real Estate Services for Phase 3 of the Wauwatosa Flood Mitigation Project was presented to the Committee on Budget and Finance,

which provides an increase of \$9,500.00 and the agreement to compensate HNTB for the additional work;

NOW, THEREFORE, BE IT RESOLVED THAT Amendment No. 9 to the Agreement for Real Estate Services for Phase 3 of the Wauwatosa Flood Mitigation Project with HNTB Corporation is hereby approved.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION** R-04-204

WHEREAS, the City of Wauwatosa is an entitlement community and an eligible recipient of Community Development Block Grant (CDBG) funds; and

WHEREAS, the Wauwatosa Economic Development Corporation (WEDC) wishes to receive CDBG funds for various eligible community projects; and

WHEREAS, the City of Wauwatosa finds that the WEDC meets the following qualifying criteria for designation as a Community Based Development Organization CBDO:

- a) WEDC is a corporation organized under State or local law to engage in community development activities, including economic development and housing activities, primarily within an identified geographic area of operation within the jurisdiction of the recipient; and
- b) WEDC has as its primary purpose the improvement of the physical, economic or social environment of its geographic area of operation by addressing one or more critical problems of the area, with particular attention to the needs of persons of low and moderate income; and
- c) WEDC is a non-profit organization, providing only monetary profits that are incidental to its operations to its members; and
- d) WEDC has at least 51% of the members of its governing board as owners or senior officers of private establishments and other institutions located in and serving its geographic area of operation; and
- e) WEDC is not an agent of the City of Wauwatosa and does not permit more than one-third of its governing body to be appointed by, or consist of, elected and other public officials or employees or officials of an ineligible entity; and
- f) WEDC requires the members of its governing body to be nominated and approved by the general membership of the organization, or by its governing body; and
- g) WEDC is not subject to requirements under which its assets revert to the recipient upon dissolution; and
- h) WEDC is free to contract for goods and services from vendors of its own choosing.

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa certifies that the Wauwatosa Economic Development Corporation meets the qualifications for designation as a Community Based Development Organization (CBDO).

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-04-205**

WHEREAS, the reconstruction of 124<sup>th</sup> Street from Ruby to Hampton Avenue along with border of Wauwatosa and the Village of Butler is scheduled to be conducted in the year 2005; and

WHEREAS, the project is eligible for funding from DOT-TP/Urban monies; and

WHEREAS, Wauwatosa's sale of available STP credits to the Village of Butler at a rate of .75 per dollar of credit has been previously approved in an amount up to \$600,000.00 in credits; and

WHEREAS, the Village of Butler has indicated that it could purchase an additional \$176,521.95 worth of credits above and beyond the amount in their previous sale agreement;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa is hereby authorized to sell up to \$200,000.00 in STP credits to the Village of Butler, consistent with the terms of the previous STP sale agreement with the Village of Butler, for a total sale amount of up to \$800,000.00, at the previously agreed upon price of .75 per STP credit.

It was moved by Ald. Bruderle-Baran, seconded by Ald. Stepaniak to approve the foregoing resolution. -15

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-04-206**

WHEREAS, by the provisions of Section 24.66 of the Wisconsin Statutes, all municipalities may borrow money for such purposes in the manner prescribed; and

WHEREAS, by the provisions of Chapter 24 of the Wisconsin Statutes, the Board of Commissioners of Public Lands of Wisconsin is authorized to make loans from the State Trust Funds to municipalities for such purposes (Municipality as defined by Section 24.60(2) of the Wisconsin Statutes means a town, village, city, county, public inland lake protection and rehabilitation district, town sanitary district created under Section 60.71 or 60.72, metropolitan sewerage district created under Section 200.05 or 200.23, joint sewerage system created under Section 281.43(4), school district or technical college district);

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa, in the County of Milwaukee, Wisconsin, borrow from the Trust Funds of the State of Wisconsin, the sum of \$10,000,000.00 for the purpose of paying the City's unfounded pension liability and for no other purpose, the loan is to be payable within 20 years from the 15day of March preceding the date the loan is made. The loan will be repaid in annual installments with interest at the rate of 5.25% per

annum from the date of making the loan to the 15<sup>th</sup> day of March next and thereafter annually as provided by law;

BE IT FURTHER RESOLVED THAT there shall be raised and there is levied upon all taxable property, within the City of Wauwatosa, in the County of Milwaukee, Wisconsin, a direct annual tax for the purpose of paying interest and principal on the loan as they become due;

BE IT FURTHER RESOLVED THAT no money obtained by the City of Wauwatosa by such loan from the State be applied or paid out for any purpose excepting paying the City's unfunded pension liability without the consent of the Board of Commissioners of Public Lands;

BE IT FURTHER RESOLVED THAT in case the Board of Commissioners of Public Lands of Wisconsin agrees to make the loan, that the Mayor and Clerk of the City of Wauwatosa, in the County of Milwaukee, Wisconsin, are authorized and empowered, in the name of the City to execute and deliver to the Commission, certificates of indebtedness, in such form as required by the Commission, for any sum of money that may be loaned to the City pursuant to this resolution. The Mayor and Clerk of the City will perform all necessary actions to fully carry out the provisions of Chapter 24, Wisconsin Statutes, and these resolutions;

BE IT FINALLY RESOLVED THAT this preamble and these resolutions and the aye and no vote by which they were adopted, be recorded, and that the Clerk of this City forward this certified record, along with the application for the loan, to the Board of Commissioners of Public Lands of Wisconsin.

It was moved by Ald. Bruderle-Baran, seconded by Ald. Stepaniak to approve the foregoing resolution. -15

#### **FROM THE COMMITTEE ON BUDGET AND FINANCE**

BILLS AND CLAIMS FOR THE PERIOD 9/8/04 – 9/21/04 --

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 9/8/04 – 9/21/04: \$2,389,175.77

It was moved by Ald. Casey, seconded by Ald. Maher that each and every one of the accounts of bills and claims be allowed and ordered paid. Roll call vote, Ayes 15.

#### **FROM THE BOARD OF PUBLIC WORKS**

##### **RESOLUTION R-04-207**

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 Mainline Sewer & Water, Inc., Wauwatosa, WI, for the work of Harley Davidson Avenue water main extension and work

incidental thereto under Contract 04-05 at and for their bid price of \$461,577.98, this being the lowest and best base bid.

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

It was moved by Ald. Becker, seconded by Ald. Subotich to approve the foregoing resolution. Ayes 14, Present 1 (Casey).

There being no further business, the meeting adjourned at 7:50 p.m.

cal

---

Carla A. Ledesma, CMC, City Clerk