



CITY OF WAUWATOSA
MEMORIAL CIVIC CENTER
7725 WEST NORTH AVENUE
WAUWATOSA, WI 53213
Telephone: (414) 479-8917
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COMMON COUNCIL
Regular Meeting, Tuesday, December 7, 2004

PRESENT: Alds. Casey, Grimm, Herzog, Jenkins, Kopischke, Krill, Krol, Maher, McCarthy, Stepaniak, Subotich, Sullivan, Treis, Bruderle-Baran, Becker, Birschel -16

ALSO PRESENT: Mr. Wontorek, City Administrator; Mr. Braier, Finance Director; Mr. Kesner; City Attorney; Mr. Kappel, Dir. of Public Works; Ms. Welch, Community Dev. Director; Police Capt. Sutter; Fire Chief Redman; 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. -16

PUBLIC HEARING

The first item of business was a public hearing to consider the following proposed ordinance:

ORDINANCE

AN ORDINANCE AMENDING SECTION 24.23.015 BY INCLUDING A PROVISION TO ALLOW TATTOO AND BODY PIERCING ESTABLISHMENTS AS A CONDITIONAL USE IN THE AA BUSINESS DISTRICT

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

Part 1. That Section 24.23.015 is amended to include the following as a conditional use:

Tattoo and Body Piercing Establishments.....7299

Part 2. This ordinance shall take effect and be in force from and after its passage and publication.

Proof of publication is in the file.

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI --

The City Plan Commission, to whom was referred the request by Heather A. Thompson and David M. Lee for an amendment to the zoning code to allow tattooing/body piercing facilities as a Conditional Use in the AA Business District, recommends to the Common Council that the request be denied as there are significant quality of life concerns associated with adding this amendment.

Dated this 14th day of October 2004.

Nancy L. Welch, Secretary
City Plan Commission

No one of the public present wished to be heard in favor of the proposed ordinance.

No one of the public present wished to be heard in opposition to the proposed ordinance.

No one of the public present wished to be heard either for or against the proposed ordinance or had any comments or questions.

The public hearing was declared closed.

Ordered held to the next Common Council meeting, December 21, 2004.

PUBLIC HEARING

The second item of business was a public hearing to consider streets proposed for improvement in 2005.

RESOLUTION

WHEREAS, the Common Council of the City of Wauwatosa, Wisconsin, held a public hearing at the Council Chambers in the City Hall at 7:30 p.m. Local Time, on the 7th day of December, 2004 for the purpose of hearing all interested persons concerning the preliminary resolution and report of the Board of Public Works on the proposed improvement by repaving of the following streets. Sidewalk replacement cost, on those streets so indicated, is included in the assessment rate for the paving work.

<u>Street & Location</u>	<u>Ald. Dist.</u>	<u>Width</u>	<u>Pavement Constr. Type</u>	<u>Assessed Sidewalk Work</u>
59th Street Wisconsin Ave. to Wells St.	4	24'	B	Yes
61st Street Wisconsin Ave. to Wells St.	4	24'	B	Yes
75th Street 220' south of Clarke St. to W. Center St.	5	30'	B	Yes
114th Street Gilbert Ave. to W. North Ave.	7	30'	C	No
115th Street W. North Ave. to W. Center St.	7	30'	C	No
117th Place W. Center St. to Hadley St.	6	30'	C	No
117th Street Hadley St. to Locust St.	6	30'	C	No
Fairwood Ct. Cul-de-sac to N. 120 th St.	6	30'	C	No
Ludington Ct. Ludington Ave. to Cul-de-sac	2	30'	C	No
Meadow Court east end to west end	6/7	30'	C	No
Pasadena Blvd. W. North Ave. to north city limits	6	36'	B	Yes

Wright Street N. 68 th Street to N. 74 th Street	5	30'	B	Yes
Alley Burleigh St.–Locust St./N. 122 nd St. to N. 124 th St. (n/s leg)	7,8	19'	A – Conc.	No
Alley Burleigh St.–Locust St./N. 122 nd St. to N. 124 th St. (e/w leg)	7,8	20'	C	No
Alley Center St.–Clarke St./70 th St.–71 st St.	5	18'	A – Conc.	No
Alley Center St.–Clarke St./71 st St.–72 nd St.	5	18'	A – Conc.	No
Alley Center St.–Clarke St./72 nd St.–Lefebber Ave.	5	18'	A – Conc.	No
Alley Center St.–Clarke St./Lefebber Ave.–73 rd St.	5	18'	A – Conc.	No
Alley Center St.–Clarke St./73 rd St.–74 th St.	5	18'	A – Conc.	No
Alley Center St.–Hadley St./Lefebber Ave.–east city limit	5	20'	A – Conc.	No
Alley North Ave.–Jackson Park Blvd./East End–N. 81 st St.	2	20'	C	No
Alley North Ave.–Jackson Park Blvd./N. 81 st St.–N. 83 rd St.	2	20'	C	No

* Joint project with City of Milwaukee (Milwaukee lead agency).

Original Construction: New (Conc.) or (Asph.) Grading, placing new concrete curb and gutter, and concrete or asphalt pavement surface (as indicated) on a new stone or asphalt base.

Reconstruction: Type “A” (Asph.) or (Conc.) Completely removing existing curb and gutter and existing pavement, placing new concrete curb and gutter (excluding alleys), and asphalt or concrete pavement surface on a new base.

The above repaving type also includes placing necessary water and sewer service pipes and storm sewer and appurtenances; relaying sanitary sewer and storm sewer as required; relocating existing street lighting system where necessary; constructing new concrete driveway approaches and replacing concrete sidewalks which are disturbed by other construction, which are defective, or which have a hazard potential.

Repaving: Type “B” (Asph.) Completely removing existing curb and gutter, milling the existing asphalt pavement as required, and placing new concrete curb and gutter and asphalt pavement surface on the existing road base.

The above repaving type also includes placing necessary water and sewer service pipes and storm sewer and appurtenances; relaying sanitary sewer and storm sewer as required; relocating existing street lighting system where necessary; constructing new concrete driveway approaches and replacing concrete sidewalks which are disturbed by other construction, which are defective, or which have a hazard potential.

Repaving: Type “C” (Asph.) Milling the existing pavement as required, repairing curbs (and abutting approaches and sidewalks where necessary), and surfacing with asphalt pavement. Also included is the placing of necessary water and sewer service pipes and storm sewer and appurtenances, and relaying sanitary sewer and storm sewer as required.

and has heard all persons desiring audience at such hearing;

NOW, THEREFORE, BE IT RESOLVED, By the Common Council of the City of Wauwatosa, Wisconsin as follows:

Section 1. That the report of the Board of Public Works in connection with the construction of the above-described permanent public improvement, including preliminary plans and specifications therefor, is hereby adopted and approved.

Section 2. That the Board of Public Works is directed to carry out the work of such permanent improvement in accordance with the report of the Board of Public Works.

Section 3. That payment for said permanent improvement be made by assessing the cost to the property improved as indicated in said report.

Section 4. That the assessments shown on the report, are true and correct and are hereby confirmed.

Section 5. That the owners of the respective parcels of land fronting or abutting the street improvements, on which a public hearing has been held and preliminary assessments have been confirmed, shall have payment of the special assessments scheduled as follows:

(a) Each special assessment and special charge, pursuant to Section 66.0627 of the Wisconsin Statutes, levied in an amount of \$200 or less against any parcel of land in the City of Wauwatosa shall be entered in the tax rolls in one installment.

(b) All assessments will be collected in installments as provided below, except such assessments on property where the owner of the same shall file with the City Clerk within 30 days from date of billing, a written notice that he elects to pay the special assessment on his property to the City Treasurer on or before the next succeeding November 1, unless the election is revoked in writing 30 days prior to November 1. If, after making such election, said property owner fails to make the payment to the City Treasurer, the City Clerk shall place the entire assessment, and applicable interest, on the next succeeding tax roll.

(c) Each special assessment for improvements levied in an amount exceeding \$200 against any parcel of land in the City of Wauwatosa shall be entered in the tax rolls in five equal annual installments of principal together with interest at the rate of twelve percent (12%) per year or the percentage rounded out to the next highest whole percentage number above the interest rate paid by the City for the sale of corporate purpose bonds, which include the project which is the subject of the special assessment, whichever figure is less, on the unpaid balance of said assessment. Individual assessments shall run concurrently except as provided under Section 3.08.040 of the City Code.

(d) Each special assessment levied against any parcel of land in the City of Wauwatosa for the installation of sanitary sewer main or water main or construction of permanent street pavement shall not be entered in the tax roll until all installments of special assessments for sanitary sewer or water main or construction of permanent street pavement levied previously against the same parcel of land have been entered into the tax rolls and have been paid. Such subsequent special assessment shall be deferred and only interest at the rate of twelve percent (12%) per year, or the percentage rounded out to the next highest whole percentage number above the interest rate paid by the City for the issuance of General Obligation Debt, which include the project which is the subject of the special assessment, whichever figure is less, on such subsequent special assessment shall be carried into the tax rolls in addition to the scheduled installments of such prior assessments. After the last installment of such prior special assessment has been entered in the tax rolls, installments of the subsequent special assessment shall, beginning with the next subsequent tax roll, be entered in the tax rolls pursuant to Section 3.08.030 of the City Code.

(e) Whenever special assessments are levied against the frontage and side of a corner parcel of land in the City of Wauwatosa for the installation of sanitary sewers or water mains or construction of permanent pavements arising out of the same public works project, such special assessments levied against a corner parcel of land shall be deemed to be two separate special assessments, and the special assessment levied against the frontage of the corner parcel of land shall first be scheduled on the tax rolls for payment as provided in Section 3.08.030 of the City Code and the special assessment levied against the side of the corner parcel of land shall be scheduled on the tax rolls pursuant to (c) above, following such scheduling of the special assessment levied against the frontage of the corner parcel of land.

(f) Notwithstanding the provisions of (c) and (d) above, any owners of parcels of land assessed may at their option elect to pay both the scheduled installments of prior assessments as well as scheduled installments of subsequent special assessments on the same tax rolls as entered on those tax rolls pursuant to Section 3.08.030 of the City Code.

(g) If, after special assessments have been placed on the tax rolls in installments or otherwise, the taxpayer fails to pay the same within the time allowed for payment of general taxes, the same shall become delinquent and shall be treated in the same manner and subject to the same laws as delinquent general property taxes.

Section 6. The properties against which the assessments are proposed are benefited. Such benefits may include, but are not necessarily limited to, enhancement of value or marketability, improved drainage, improved pedestrian safety (walks), improved vehicular access, improved skid resistance and cross sectional elements.

Section 7. The City Clerk is directed to publish this resolution in the Wauwatosa News Times, official paper of the City of Wauwatosa.

Section 8. The City Clerk is further directed to mail a copy of this resolution to every property owner within the limits of the assessment district whose name appears on the assessment roll and whose post office address is known, or can with reasonable diligence be ascertained.

Proof of publication and affidavit of mailing are in the file.

The Board of Public Works recommended approval of the proposed 2005 street improvement program on November 1, 2004.

No one of the public present wished to be heard in favor of the proposed resolution.

No one of the public present wished to be heard in opposition to the proposed resolution.

The Mayor inquired if any of the public present wished to be heard either for or against the proposed resolution or had any comments or questions.

Milton Knuijt, 2860 N. Park Drive, spoke regarding the proposed improvement of Meadow Court. He surveyed other residents on the street who feel it is in very good condition; there are no holes or bumps, so why is improvement proposed? Will residents be charged for water and sewer improvements? No one has reported problems with water or sewer lines. Since he lives on Park Drive and only drives a very short distance on Meadow Court to access his driveway, why is he being charged so much for the work? How were the proposed costs to residents figured?

Mr. Kappel explained that the street was constructed in 1964 and last seal coated in 1992. A Type C construction is proposed, which is just an asphalt overlay and curb repairs as needed. There have been some water pressure problems and main breaks in this area; these are driving the underground improvements.

Special assessment costs are based on the front or side yard footage of a property.

James Wick, 2915 N. 122nd Street, posed questions regarding the north/south and east/west legs of the alley between Burleigh and Locust Streets and between N. 122nd and N. 124th Streets. These homes were constructed in the mid 1960's with garages facing the street. The developer placed constraints on these properties prohibiting the use of the alley; garbage is collected from the street side of the properties. Landscaping and fencing about the alley. Why should they be assessed for the alley's improvement?

When four-family apartments were building along N. 124th Street a few years later, the alley was constructed in concrete at the apartment owners' request and expense. The apartment dwellers are the only ones who use this alley.

Chester Obukowicz, 2935 N. 122nd Street, agreed with his neighbors that this represents an unfair assessment since residents are not allowed use of the alley. The alley has not deteriorated because of use by residents prohibited from doing so.

Dave McDonald, 2615 N. 75th Street, questioned the need to resurface N. 75th Street since it isn't showing signs of deterioration.

Mr. Kappel responded that N. 75th Street was constructed in asphalt in 1929 and last resurfaced in 1975. The proposed Type B construction has not been performed on this street for 30 years. The street has a marginal ride with poor-to-non-existent curbs.

Brandon Young, 7209 W. Wright Street, asked whether proposed assessments for Wright Street were uniform. A November 2003 appeals court decision involving Rice Lake discussed the application of special assessments on a front footage basis. Since he lives on a corner lot, he has been charged in the past for N. 72nd Street at 100% (for 50 feet of frontage) and now at 50% (for 140 feet of frontage) for Wright Street. Other residents on Wright Street are only paying on 50 feet of frontage. Therefore, the assessment is unfair. The aforementioned court case discusses other methods of assessing that are more equitable. Perhaps the city ought to reconsider its policy.

Mr. Kesner noted that he did review the Rice Lake case in light of Wauwatosa's assessment policy and is still comfortable that the city's policy is within reasonable limits, since the 50% discount is provided for side yards. He promised to again review the case prior to the Council's final decision on the 2005 street program.

The public hearing was declared closed.

Ordered held to the next Common Council meeting, December 21, 2004.

OLD BUSINESS

ORDINANCE 04-29

AN ORDINANCE AMENDING CHAPTERS 24.23.015, 24.23.020, 24.24.015, 24.24.020, 24.26.020, 24.26.025, 24.27.015, 24.27.020, 24.34.020, 24.34.025, 24.36.020, 24.36.025, 24.38.020 to correct designations of special and conditional uses

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

Part 1. The following special uses listed in Chapter 24.23.020 AA Business District are moved to Chapter 24.23.015 Conditional Uses:

Amusement places	Automobile wash services
Video tape rental and sales	Gasoline service stations
Drinking places	Hotels and motels
Eating places	Nursery schools and infant care
Eating places (restricted to carry-out facilities)	Nursery schools and day care centers
Groceries	Physical fitness and health studios
Motion picture theaters	Professional schools
Secondhand merchandise	Rapid rail transit and street railway right-of-way
Automobile leasing services	
Automobile repair or storage services	

The following uses listed in Chapter 24.24 AA Commercial District are moved from Section 020 Special Uses to Section 015 Conditional Uses:

Hotels and motels
Eating places
Groceries

The following uses listed in Chapter 24.26 AA Professional Office District are moved from Section 025 Special Uses to Section 020 Conditional Uses:

Eating places

The following uses listed in Chapter 24.27 Village Trade District are moved from Section 020 Special Uses to Section 015 Conditional Uses:

Bed and Breakfast	Elementary schools-private
Drinking places	Secondary schools-private
Eating places	Recreation centers-public
Groceries	Rapid rail transit and street railway right-of-way
Churches, synagogues, and temples	

The following uses listed in Chapter 24.34 AA Light Manufacturing District are moved from Section 025 Special Uses to Section 020 Conditional Uses:

Offices
Medical clinics when accessory to a permitted use

The following uses listed in Chapter 24.36 AA Industrial District are moved from Section 025 Special Uses to Section 020 Conditional Uses:

Offices

Medical clinics when accessory to a permitted use

Section 24.38.020 AA Institutions District Special Uses is now changed to Section 24.38.020 AA Institutions District Conditional Uses.

Part 2. This ordinance shall take effect and be in force from and after its passage and publication.

OLD BUSINESS

ORDINANCE 04-30

AN ORDINANCE AMENDING SECTION 24.52 OF THE CODE OF THE CITY OF WAUWATOSA PERTAINING TO BOARD OF APPEALS

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

Part I. Section 24.52 of the Code of the City of Wauwatosa is hereby amended to read as follows:

Chapter 24.52 BOARD OF APPEALS

24.52.0 10 Established--Purpose.

There is hereby established a "board of zoning appeals" for the city of Wauwatosa for the purpose of hearing appeals, and granting variances and exceptions to the provisions of this title.

24.52.030 Powers.

The board of zoning appeals shall have the following powers:

1. Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or design review board, in the enforcement of this title;
2. Variances. To authorize variances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the zoning ordinance shall be observed, public safety and welfare secured, and substantial justice done. Use variances shall not be granted;
3. Permits. The board may reverse, affirm wholly or partly, modify the requirements appealed from and issue or direct the issue of a permit;
4. Interpretations. To hear and decide applications for interpretation of the zoning regulations and of the zoning districts;
5. Substitutions. To hear and decide applications for substitutions of more restrictive non-conforming uses for nonconforming uses in existing buildings provided no structural alterations are made except as otherwise permitted under the terms of this ordinance. Whenever the board permits such a substitution, the use may not thereafter be changed without reapplication to the board of appeals;
6. Temporary Uses. To hear and decide applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses. The permit shall be temporary, revocable, subject to any conditions required by the board of appeals and shall be issued for a period not to exceed twelve months. Compliance with all other provisions of this title shall be required.

24.52.050 Applications.

A. Any person, firm or corporation filing an application with the board of appeals must accompany the application with a fee of thirty-five dollars, payable to the city treasurer. In no event shall applicant be given a refund of the fee or any part thereof.

B. Applications for appeals, variances, or for special exceptions shall be made in writing to the board of appeals by filing the same with the chief inspector at least twenty days prior to the date of the hearing and shall include the following:

1. Names and addresses of the applicant, owner of the site, architect or professional engineer;
2. Description of the subject site by lot, block, and recorded subdivision, or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; proposed accessory or incidental uses essential thereto; number of employees; and the zoning district within which the subject site is located;
3. Plat of survey prepared by a registered land surveyor showing all of the information required under Chapter 15.10 for building and zoning permit;
4. Additional information as may be required by the board of appeals, city plan commission or building inspector;

C. A notice of such application shall be forwarded to the common council and the aldermen of the ward wherein the property is located.

24.52.060 Hearings-- When held.

The board of appeals shall hold a public hearing upon each appeal, **or** application for a variance.

24.52.070 Hearings--Notice--Publication.

The board of appeals shall give prior notice by publication in the official city newspaper listing the time, date, place and a description of the appeal; **or** variance.

24.52.080 Hearings--Notice--Mailing.

The chief inspector shall give written notice of the time, date and place of the board of appeals meeting at which the appeal; **or** application for a variance will be considered by:

1. Regular first class mail to the owners of any real estate in the city of Wauwatosa for which application for a variance has been made, when such owners are not the applicants and have not requested such variance
2. Regular first class mail to adjoining property owners.

Such notices shall be deposited in the U .S. mail at least seven days prior to the board of appeals meeting at which such appeal; or application for a variance is to be considered.

24.52.100 Hearings--Application--Plan commission report.

A. The board of appeals shall request the city plan commission to review the following applications:

1. Interpretations of zoning regulations;
2. Interpretations of zoning districts or district boundaries;
3. Substitutions of more restrictive nonconforming uses for existent nonconforming uses within existing buildings;
4. Unclassified uses;

B. The board of appeals may request the city plan commission to review any other application. The transcript of the board of appeals public hearing shall be forwarded to the city plan commission to assist in the formulation of its recommendation. No action shall be taken upon such application prior to receipt of the report of the city plan commission, provided however, that if such report is not received by the board of appeals within sixty days of the date of its request, action may be taken.

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

OLD BUSINESS

ORDINANCE 04-31

AN ORDINANCE AMENDING SECTION 24.48 OF THE CODE OF THE CITY OF WAUWATOSA PERTAINING TO SPECIAL USES

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

Part I. Section 24.48 of the Code of the City of Wauwatosa is hereby amended to read as follows:

Chapter 24.48 SPECIAL USES

24.48.010 Purpose--Categories.

The development and execution of this title is based upon the division of the city into districts, within which the use of land and buildings and the location of buildings or structures, or the location of buildings or structures as related to the land are essentially uniform. It is recognized, however, that there are special uses which, because of their unique character cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon the neighborhood and upon the public need for the particular use. Such special uses fall into two categories:

1. Uses operated by a public agency or publicly regulated utilities, or uses traditionally affected with a public interest.
2. Uses entirely private in character, but of such nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

24.48.020 Authorization.

The plan commission may authorize the Director of Community Development to issue a special use permit following a public hearing, review and a determination of findings as required by this chapter.

24.48.030 Existing uses.

Any use located in a district wherein such use is classified as a special use and which existed prior to February 1, 1972 is declared to be a conforming special use.

24.48.040 Changes and amendments--Application required.

No permit for expansion, alteration in the arrangement, change in use, or in any condition or restriction imposed on the original special use permit shall be issued until an application for amendment of the special use permit has been filed and considered in accordance with all procedures set forth in this chapter.

24.48.050 Vacant, abandoned or discontinued special uses.

Special uses which are vacant, abandoned or discontinued for a period exceeding two years must receive plan commission approval to reinstate their use.

24.48.060 Hearings--Notice--Mailing.

The Director of Community Development shall give written notice of the time, date and place of the board of appeals meeting at which the application for a special use will be considered by regular first class mail to (1) those owners of any real estate in the city of Wauwatosa for which application for a special use has been made, when such owners are not the applicants and have not requested such

special use; (2) owners of real estate in the city of Wauwatosa located within two hundred feet of the boundaries of the real estate for which a special use permit has been requested;

Such notices shall be deposited in the U.S. mail at least seven days prior to the meeting at which such application for a special use permit is to be considered.

24.48.070 Findings--Special uses.

No special use permit shall be granted by the plan commission unless it finds that the following conditions exist and so indicates in the minutes of its proceedings.

- 1. Special Use Demand Necessary for Public Convenience. That a special use is deemed necessary for the public convenience at that location;
- 2. Protection of Public Health, Safety and Welfare. That the special use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected;
- 3. Protection of Property Value. That the special use will not cause substantial injury to the value of other property in the neighborhood in which it is located.

24.48.080 Conditions and restrictions.

The city plan commission may impose such conditions and restrictions upon any zoning permit ordered or authorized, or upon the location, arrangement, construction and operation of a special use as may be deemed necessary to promote the general objectives of this title and to protect the value of property in the neighborhood. Conditions and restrictions may include but are not limited to landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hour of operation, signs, improved traffic circulation, deed restrictions, highway access restrictions, increase yards, building area, height or off-street parking or loading requirements.

24.48.090 Appeals

Appeals of any decision by the city plan commission regarding a special use application may be made to the board of zoning appeals pursuant to Chapter 24.52.

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

OLD BUSINESS

ORDINANCE 04-32

AN ORDINANCE AMENDING CHAPTER 24.24 BY ADDING MASSAGE THERAPY AS A CONDITIONAL USE IN THE AA COMMERCIAL DISTRICT

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

Part 1. That Section 24.24.015 is amended to include the following as a conditional use:

Massage Therapy6518

Part II. This Ordinance shall take effect and be in force from and after its passage and publication.

APPOINTMENTS BY THE MAYOR

Design Review Board A

Jim Ruzicka, 2127 N. 74th Street (reappointment)
Peter Muller, 8120 W. Woodland Avenue (reappointment)
(Term ends 12/31/06)

Design Review Board B

Patricia Bohach, 4284 Raymir Place (reappointment)
Carmen Bolger-Linna, 12030 W. Hadley Street (reappointment)
James Olsen, 11625 Underwood Parkway (Chair) (reappointment)
(Terms end 12/31/06)

Design Review Board C

Robert Kennedy, 2312 N. 80th Street (reappointment)
John Kissinger, 1924 N. 83rd Street (reappointment)
Mark Linsere, 2402 N. 72nd Street (reappointment)
Dennis Scherr, 2380 N. 100th Street (reappointment)
Ursula Twombly, 2641 N. 81st Street (reappointment)
(Terms end 12/31/06)

Civil Service Commission

Christy Brooks, 8837 Jackson Park Blvd. (reappointment)
John F. Hovel, 2559 N. 97th Street (reappointment)
Thomas Mongan, 8425 W. Clarke Street (reappointment)
(Terms end 9/30/07)

Redevelopment Authority

Mark Sobczak, 2616 N. 90th Street (reappointment)
(Term ends 10/31/09)

Historic Preservation Commission

Brian Cumming, 7410 Watson (reappointment)
Sharon Eiff, 1417 Lombard Court (reappointment)
John Klett, 6133 Washington Blvd. (reappointment)
(Terms end 12/31/06)

Board of Review

Bill Bode, 6930 Cedar Street (reappointment)
(Term ends 6/30/09)

Foregoing appointments ordered held as this was the first reading.

APPLICATIONS, COMMUNICATIONS, ETC.

1. City of Wauwatosa Bank Reconciliation of Depository Accounts as of October 31, 2004;
Investment Summary as of November 30, 2004

Place on file

2. Special Use application for a take-out deli/coffee shop at 9122-30 W. North Avenue
Plan Commission, Board of Zoning Appeals
3. Conditional Use application to operate a tanning salon at 11050 W. Blue Mound Road
Plan Commission, Committee on Community Development
4. Conditional Use application to operate a massage therapy establishment at 7601 Harwood Avenue
Plan Commission, Committee on Community Development
5. Donations: Total of \$175 from Charles & Mary Lou Reuter, Richard and Susan Bennet, Roland and Arlaine Bloedorn, Roland and Arlene Krickhahn, Pearl Schultz, and Celeste & Craig Sanford in memory of Oliver Reuter to the Fire Department Diedrich Special Endowment Fund
Place on file
6. Notices of Claim: Dave Orłowski, 11418 W. North Avenue
Lisa Jansen, Zimmerman Design Group, 7707 Harwood Avenue
John T. Mullen, 4922 W. Wells St.
City Attorney
7. Conditional Use application to conduct basketball games in the gymnasium of Building C at 9501 Watertown Plank Road
Plan Commission, Committee on Community Development

FROM THE COMMITTEE ON TRAFFIC & SAFETY FOR INTRODUCTION

1. Ordinance amending Section 11.32.080 of the City Code by removing parking restrictions on W. Clarke Street east of N. 62nd Street
Re-refer to originating committee

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION

1. Ordinance amending the Zoning Code to change interior yard setbacks for principal buildings on corner lots in the Estate, AAA, and AA Single Family Residence Districts
Re-refer to originating committee
2. Ordinance amending the Zoning Code to regulate retail establishments over 50,000 square feet
Re-refer to originating committee

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-04-259

WHEREAS, Adam Hangos, 6974 N. Raintree Court, #D, Milwaukee, WI, applied for an operator's license in conjunction with his employment at P. F. Changs, 2500 N. Mayfair Road, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT Adam Hangos is hereby issued an operator's license for the period ending June 30, 2005;

BE IT FURTHER RESOLVED THAT the Wauwatosa Police Department is hereby directed to conduct a further review of the criminal records concerning Mr. Hangos six months from the date of

this license issuance and is directed to report back to the Legislation, Licensing and Communications Committee if any new concerns regarding Mr. Hangos' fitness for this operator's license are found.

It was moved by Ald. Treis, seconded by Ald. Sullivan to approve the foregoing resolution. -16

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-04-260

WHEREAS, John E. Hoffman, 2400 Mayfair Lt. Partnership, has applied for a Conditional Use in the AA Commercial District at 2421 N. Mayfair Road to operate a massage therapy establishment 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 John E. Hoffman, 2400 Mayfair Lt. Partnership, for a Conditional Use in the AA Commercial District at 2421 N. Mayfair Road to operate a massage therapy establishment.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-04-261

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, January 4, 2005, in the 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 amending Chapters 24.07.120, 24.08.130, and 24.10.120 to change the side yard setbacks for corner lots in single-family residence districts.

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.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-04-262

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, January 4, 2005, in the 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

amending Chapters 24.23.090 and 24.24.035 to create additional restrictions on the development of large retail sites.

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.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-04-263

WHEREAS, the Homeland Security Presidential Directive/HSPS-5 establishes the National Incident Management System (NIMS); and

WHEREAS, the NIMS establishes a single, comprehensive approach to domestic incident management to ensure that all levels of government across the Nation have the capability to work efficiently and effectively together using a national approach to domestic incident management; and

WHEREAS, the NIMS provides a consistent nationwide approach for Federal, State and local governments to work together to prepare for and respond to, and recover from domestic incidents regardless of the cause, size or complexity; and

WHEREAS, the NIMS provides for interoperability and compatibility among Federal, State and local capabilities and includes a core set of concepts , principles, terminology and technologies covering the incident command system, unified command, training, management of resources and reporting; and

WHEREAS, beginning October 1, 2004 all Federal departments and agencies shall make adoption of the NIMS a requirement for providing Federal preparedness assistance through grants, contracts or other activities to local governments;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa hereby adopts the National Incident Management System (NIMS) as its system of preparing for and responding to disaster incidents.

It was moved by Ald. Kopischke, seconded by Ald. Krill to approve the four foregoing resolutions. -16

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-04-264

WHEREAS, the Village of Wauwatosa Business Improvement District submitted to the Committee on Budget & Finance its 2005 budget, work plan and a draft of the certified audit, which documents also include assessments to be placed on the tax bills of affected businesses; and

WHEREAS, the Committee on Budget & Finance has requested further information and revisions of the work plan on the budget and certified audit; and

WHEREAS, Committee members and representatives of the BID Board agreed that the proposed assessments are accurate and do reflect the intentions of the entire BID Board for a revised assessment methodology;

NOW, THEREFORE, BE IT RESOLVED THAT the 2005 assessments for the Village of Wauwatosa Business Improvement District as provided to the Committee on Budget & Finance on November 30, 2004, are hereby approved and shall be included on the tax bills of affected businesses;

BE IT FURTHER RESOLVED THAT the Village of Wauwatosa Business Improvement District is hereby directed to return to the Committee on Budget & Finance this necessary documentation regarding the 2005 work plan, budget and certified audit.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-04-265

WHEREAS, effective October, 2004, the Milwaukee County House of Corrections raised the amount charged to the City of Wauwatosa Municipal Court for housing individuals who are ordered committed for not paying Municipal Court citations; and

WHEREAS, without increased funding for the year 2004, the budget line to pay for said housing will remain overdrawn;

NOW, THEREFORE, BE IT RESOLVED THAT the sum of \$37,000.00 is hereby transferred from the Reserve for Contingencies to the Sundry Contractual Services Account of the Municipal Court budget to cover the remaining 2004 costs for prisoner housing at the Milwaukee County House of Corrections.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-04-266

WHEREAS, the 2005 premium rates for medical and dental HMO's set forth below are effective January 1, 2005, and

WHEREAS, the 2004 rates for the self insured dental plan were \$24.02 single and \$67.50 family and the suggested 2005 rates will change to \$27.24 single and \$79.00 family, and

WHEREAS, the 2004 rates for the self insured medical plan were \$600.14 single and \$1,452.33 family and the suggested 2005 rates will increase to \$630.15 single and \$1,524.95 family, and

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wauwatosa that the following insurance rates are approved:

- (1) HMO 2005 medical and dental premium rates set forth below;
- (2) Self insured dental rates are \$27.24 single and \$79.00 family;
- (3) Self insured medical rates are \$630.15 single and \$1,524.95 family.

HMO Health Insurance Premiums per Month

United Healthcare – No Vision	2004	2005	Percent Increase
Single Coverage	\$489.24	\$511.71	4.6%
Family Coverage	\$1,361.34	\$1,423.87	4.6%

UnitedHealthcare –Vision	2004	2005	% Increase
Single Coverage	\$495.39	\$517.86	4.5%
Family Coverage	\$1,376.24	\$1,438.77	4.5%

Dental Insurance Premiums per Month

Care Plus	2004	2005	% Increase
Single Coverage	\$22.89	\$24.03	5.0%
Family Coverage	\$72.23	\$75.84	5.0%

Dentacare	2004	2005	% Increase
Single Coverage	\$35.99	\$37.36	3.8%
Family Coverage	\$109.60	\$113.76	3.8%

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-04-267

WHEREAS, the fees collected by Wauwatosa City departments were reviewed and discussed by the Budget Committee during budget review; and

WHEREAS, any changes recommended in fees are reasonably related to changed conditions in City finances and the cost of providing the appropriate services; and

WHEREAS, the 2005 consolidated fee schedule for the City of Wauwatosa has been made available for review at the offices of the Wauwatosa City Clerk;

NOW, THEREFORE, BE IT RESOLVED THAT the 2005 consolidated fee schedule is hereby approved as recommended by the Budget Committee during the budget review process and made available for public review at the office of the City Clerk.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-04-268

WHEREAS, the Wauwatosa Police Department is currently researching a digital solution to replace in-squad video recorders; and

WHEREAS, the Milwaukee Police Department is also investigating a digital video solution and will perform a 60 day test from 12 different vendors during early 2005; and

WHEREAS, the current budget of \$105,000.00 for digital video systems is unspent; and

WHEREAS, the City of Wauwatosa Police Department will have available \$10,000.00 from its wage account to transfer into the In-Car Video Account for the year 2005;

NOW, THEREFORE, BE IT RESOLVED THAT the transfer of \$10,000.00 from the Police Department Wage Account to the In-Car Video Account is hereby approved;

BE IT FURTHER RESOLVED THAT the entire amount in the In-Car Video Account be carried forward into the 2005 City of Wauwatosa budget.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-04-269

WHEREAS, the City of Wauwatosa had previously approved participation in the Mutual Aid Box Alarm System (MABAS), along with numerous departments in southeast Wisconsin and northern Illinois; and

WHEREAS, the Milwaukee County Emergency Management Bureau has received approval of a grant from the Office of Justice Assistance in the State of Wisconsin for implementation of the MABAS Countywide; and

WHEREAS, Milwaukee County Emergency Management Bureau has allocated \$25,400.000 to the City of Wauwatosa to install dispatch equipment, a mobile repeater and tone receiver, and other equipment for implementation of MABAS; and

WHEREAS, grant funds would provide 100% of the cost of these installations;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa Fire Department is hereby authorized to accept \$25,400.00 as its portion of the OJA grant for implementation of MABAS;

BE IT FURTHER RESOLVED THAT the necessary purchases of equipment for said implementation from Milwaukee 2-Way, sole-source vendor for these items, and the purchase of a Firefighter Accountability System (PASSPORT) in an amount not to exceed \$2,500.00 are hereby approved and the competitive bidding process is hereby waived for this purchase.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-04-270

WHEREAS, the City of Wauwatosa recognizes that there are alternative methods of tree trimming that could be utilized to increase the Forestry Section's productivity; and

WHEREAS, in this action the City of Wauwatosa Common Council has declared its intent to provide for the training of the Forestry Superintendent and four arborists to be trained and outfitted with tree climbing gear; and

WHEREAS, the City of Wauwatosa has already established funds for the training and needed equipment in the 2005 Forestry operating budget; and

WHEREAS, the Department of Natural Resources offers an Urban Forestry Grant Program that would cost share this training and purchase of equipment, the application of which has been completed and the award is contingent on Common Council acceptance;

NOW, THEREFORE BE IT RESOLVED that the Common Council of the City of Wauwatosa requests funds and assistance available from the Wisconsin Department of Natural Resources under the urban Forestry Grant Program for 2005, and will comply with state rules for the program; and

BE IT FURTHER RESOLVED that the Finance Director is authorized to accept the grant on behalf of the City of Wauwatosa and that the Director of Public Works is authorized to sign documents, and take necessary action to undertake, direct, and complete approved grant activities.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-04-271

WHEREAS, the Traffic Control Account for 2004 is likely to have unexpended funds at the end of budget year 2004; and

WHEREAS, the ongoing project to purchase LED lamps for the City’s traffic signals requires approximately \$65,000.00 of additional lamps to be purchased;

NOW, THEREFORE, BE IT RESOLVED THAT any remaining funds in the 2004 traffic control account at the end of 2004, up to the amount of \$65,000.00, shall hereby be authorized to be transferred to the 2005 traffic control lamp account for the continued installation of LED signal lamps, and said funds shall be carried over into the 2005 budget.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-04-273

WHEREAS, the 2004 Forestry Salary Account contains unspent budgeted funds due to retirements during the year 2004; and

WHEREAS, the Park Board has requested that the department facilitate the funding and hire TLG Research, Inc. to conduct a residential needs survey of residents of the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the amount of \$3,500.00 is hereby transferred from the Forestry Salary Account to the Parks Sundry Contractual Services Account, which amount shall be carried forward into the 2005 Parks budget;

BE IT FURTHER RESOLVED THAT these funds are to be utilized to hire TLG Research, Inc., Wauwatosa, WI to survey residents on community recreational needs pursuant to the proposal provided to the Parks Board.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-04-274

WHEREAS, the area –wide sanitary sewer overflows which occurred in May, 2004, have caused the Wisconsin Department of Justice to begin the process of seeking additional controls on infiltration and inflow into the City of Wauwatosa sanitary sewer system; and

WHEREAS, replacement of sanitary sewer manhole covers is an important step in an I & I reduction effort which must be completed by the City; and

WHEREAS, unused monies are available in the Stormwater Capital Projects Account and the Storm Sewer Spot Improvements Account for the year 2004;

NOW, THEREFORE, BE IT RESOLVED THAT the amount of \$175,000.00 is hereby transferred from the 2004 Stormwater Capital Projects Account into the Sanitary Sewer Improvements Account;

BE IT FURTHER RESOLVED THAT the amount of \$150,000.00 is hereby transferred from the 2004 Storm Sewer Spot Improvements to the Sanitary Sewer Improvements Account;

BE IT FURTHER RESOLVED THAT all funds so transferred shall be carried over into the 2005 budget year;

BE IT FINALLY RESOLVED THAT the appropriate City officials are hereby authorized to solicit bids for the replacement of up to 2,500 sanitary sewer manhole lids, a number which shall be limited by the amount of available funds at the time of purchase.

It was moved by Ald. Bruderle-Baran, seconded by Ald. Stepaniak to approve the ten foregoing resolutions. -16

FROM THE COMMITTEE ON BUDGET AND FINANCE

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI –

The Committee on Budget and Finance, to whom was referred the matter of the request and petition from Richard Achter, 1745 N. 116th Street, for compensation for paving of N. 116th Street, recommends to the Common Council that the matter be placed on file.

Dated this 30th day of November 2004.

Committee on Budget and Finance

It was moved by Ald. Bruderle-Baran, seconded by Ald. Stepaniak to approve the foregoing report. Roll call vote, Ayes 14, Noes 2 (McCarthy, Birschel)

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-04-272

WHEREAS, the 2004 Public Works budget included funds for purchase and installation of a card access security system at the Public Works building; and

WHEREAS, the Chief Inspector has indicated to the Director of Public Works that a similar system will be sought during the year 2005 for the Municipal Complex, for which the two departments would likely be able to combine efforts and obtain the advantages of a larger uniform system;

NOW, THEREFORE, BE IT RESOLVED THAT the amount of \$10,000.00 in the 2004 Public Works budget allocated for purchase and installation of a card access security system in the Public Works building is hereby authorized to be carried over into the 2005 budget for the same purpose.

It was moved by Ald. Bruderle-Baran, seconded by Ald. Stepaniak to approve the foregoing resolution. -16

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 11/17/04 – 12/7/04 --

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 11/17/04 – 12/7/04: \$1,275,983.27

It was moved by Ald. Casey, seconded by Ald. Bruderle - Baran that each and every one of the accounts of bills and claims be allowed and ordered paid. Roll call vote, Ayes 16.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-04- 275

WHEREAS, the Wauwatosa purchasing department has received bids for the purchase of stone, sand, and gravel to meet 2005 requirements; and

WHEREAS, it has been past practice to award the bid to multiple bidders for purchases during 2005 on an as needed basis because of price, convenience and availability;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa purchasing department is hereby authorized to purchase stone, sand, and gravel for the year 2005 from any of the five bidders submitting bids, with individual purchases being evaluated on an as needed basis pursuant to price, convenience, and availability.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-04- 276

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 American Sewer Services, Inc., for the work of sanitary sewer spot improvements and water main modifications in portions Stickney Avenue, N. 83rd Street, an easement from 210 feet north of Maple Terrace to Honey Creek Parkway, Hillcrest Drive, Hillside Lane, Glenview Avenue, N. 85th Street, Ravenswood Circle, Menomonee River Parkway, and Jackson Park Boulevard, except for the water system modifications in Hillcrest Drive which have been deleted from the contract, and work incidental thereto under Contract 04-31 at and for their reduced bid price of \$269,105.00, this being the lowest and best bid subject to the availability of funds.

BE IT FURTHER RESOLVED that the proposed water main modifications in Hillcrest Drive be omitted from the contract.

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

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-04- 277

WHEREAS, the City of Wauwatosa Fire Department currently has three used and obsolete fire trucks, #F209, F208, and F305; and

WHEREAS, these vehicles were advertised for sale in the Statewide Municipal and Fire Chiefs publications; and

WHEREAS, the Fire Department has received proposals for the purchase of these three vehicles as outlined specifically in a memorandum of the Fire Chief dated December 2, 2004, to the Board of Public Works;

NOW, THEREFORE, BE IT RESOLVED THAT the three used and obsolete fire trucks described as Fleet #F209, F208, and F305, are hereby declared to be surplus and are to be disposed of pursuant to the proposals outlined in the Fire Chief's December 2, 2004 memorandum.

It was moved by Ald. Herzog, seconded by Ald. Kopischke to approve the three foregoing resolutions. -16

There being no further business, the meeting adjourned at 8:05 p.m.

cal

Carla A. Ledesma, CMC, City Clerk