

CITY OF WAUWATOSA  
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**COMMUNITY DEVELOPMENT COMMITTEE MEETING**  
**Tuesday, February 11, 2003**

PRESENT: Alds. Becker, Ecks, Heins, Herzog, Kopischke, Krol, Sullivan, Treis -8

ALSO

PRESENT: N. Welch, Community Dev. Dir.; T. Kucharski, Parks & Forestry Supt.; Mayor Estness

Ald. Heins in the Chair called the meeting to order at 8:22 p.m.

**Land Division – 1730 N. 69th Street**

The committee reviewed a request by Pat Barwig and Joe Luedtke for a Land Division in the BB Two Family Residence District at approximately 1730 N. 69th Street. Ms. Welch reported that the plan is to divide equally a 60-foot parcel at approximately 1730 N. 69th Street, giving 30 feet each to the properties at 1734 N. 69th Street and 1722 N. 69th Street. The land division would not result in any non-conforming lots. The Plan Commission recommended approval.

Joe Luedtke, 1722 N. 69th Street, said he would like to have the extra space and made an offer to Ms. Barwig to purchase a portion of the empty lot separating the two properties. Ms. Barwig spoke in favor of the land division at the Plan Commission meeting.

Moved by Ald. Herzog, seconded by Ald. Kopischke to recommend to Council approval of the land division. Ayes: 8

**Proposed Memorandum of Understanding on Law Enforcement on County Grounds**

Mayor Estness reported that the proposed Memorandum of Understanding (MOU) with Milwaukee County on law enforcement on the county grounds is the result of continuing work involving the county and our legal staff. It maps out methodology for consideration of assuming the policing of the private entities on the grounds and defines a process for identifying non-tax-revenue sources to cover costs so that there is no effect on the county or city tax levy. It allows for a two-year period of transition.

Moved by Ald. Treis, seconded by Ald. Herzog to recommend to Council execution of the proposed Memorandum of Understanding –

Ald. Kopischke commended the negotiating team on beginning this process. He asked what assurances we have, if any, that the revenue source will meet our costs and if there is a mechanism to share the risk on that with the county.

Mr. Kesner described the MOU as an agreement to come to an agreement in the future. The original directive from the Common Council was not to negotiate but to discuss, which was also the directive to county staff. The revenue that comes to the city from the sources that are identified will initially be turned around and paid to the sheriff's department for performing these services until the city gradually assumes them. The services will be a separately budgeted item in the police budget, and we will be able to define the level of service based on the revenue. This is not expected to be anything like the fire contract where we took on new employees and capital investments. In response to further questions, Mr. Kesner said it is his impression that the private entities will probably want a lower

level of service than they get now. The MOU provides for putting into place a procedure for the city to invoice the private entities. Approval of the MOU would provide authorization to negotiate.

Ald. Krol expressed discomfort with the MOU because there is no fiscal analysis and it is unknown if the things it commits us to will be in our best financial interest. He noted that there is provision for notification by the county 60 days before the sale of property, but it doesn't commit the owner to any kind of payment. He felt that there should be some sort of written or expressed responsibility incorporated into the deed for non-taxable entities to reimburse the city for services. He commented that he would not want to change the existing fire protection agreement. He said he is not comfortable conceding that we have a responsibility at this time.

Ald. Sullivan noted his previously expressed reluctance to move forward because of his belief that this is an attempt by the county to shift the tax burden while claiming to have balanced their budget and not raised taxes. He outlined specific concerns with the MOU. Page 1, he said, speaks of the Mayor but does not mention the Common Council. He saw the MOU as potentially too broad, speaking specifically of law enforcement in the first paragraph but on page 2 speaking of municipal services and assets such as police service, fire protection, streets and utilities. He felt that shifting the tax burden should be included in the list of the county's motivations on pages 2 and 3. On page 3, in addition to detailing Wauwatosa's need for access to a revenue source and necessary resources, he would like to see added assurance that any kind of funding source will be permanent and devoid of additional tax burden on the city. He was also concerned with language on page 3 relating to incremental phase-out of sheriff's resources and language at the top of page 4 vesting the county with veto power but not giving the city similar power. He noted that he would not want to count on the county to provide notification of a pending land sale and was concerned about the city's negotiating position with entities on the county grounds and our ability to enforce a certain cost. It apparently would be our burden to go to those entities if our cost goes up, he noted. This is potentially signing us onto a whole new relationship with an entity with whom we have negotiated a storm water utility fee agreement that has not been honored. We may not be comfortable with this entity, but we are vesting them with all these powers. We may ultimately be forced into doing this, he said, but he will continue to say that it is a potential tax deficit.

The Mayor reiterated that the intended result is that there would be no impact on either the county or city tax levy. The county is going to get out of the business of being a landlord; the private entities will be purchasing their property, and we will have an obligation to provide protective services. Non-profit entities already have agreements with the county for reimbursement for services, and we understand that arrangement will continue although it hasn't yet been defined. We can't talk about specifics, the Mayor said, unless there is an understanding that we are moving ahead. If we are not at least participating in a discussion, we will be in a worse situation than when the county budget was passed and we found that we were to provide this service as of January 1. The Mayor added that she has made it clear that we are not taking over responsibility for the mental health facilities. We are basically talking about five non-profit entities and need to find a way to do this in a way that transitions, doesn't compromise health and public safety, and is tax neutral.

Mr. Kesner said that as the entities individually become private they will no longer be covered by the county law enforcement services as they exist now. An important consideration from our standpoint is that we not take these duties on piecemeal. We have arranged a transition to take on specific duties in an orderly fashion and at our own pace over a two-year period.

Ald. Ecks commented that he is saddened by the sale of land on the county grounds, but we have no control over this. He said that the City's discussion team has exceeded expectations and he favors authorizing them as a negotiating team.

Ald. Becker asked why fire protection would be discussed and whether any of the private entities pay a stormwater fee. The Mayor answered that the county has continually been told that the fire protection agreement is not up for discussion. Mr. Kesner said that the stormwater fee waiver in exchange for allowing MMSD to proceed with detention basins applies to all county land in the city. The county pays the fee under protest for areas attributable to the hospitals. Mayor Estness noted that we are awaiting a report from the SEWRPC study requested by the county on the proposed detention basins. If we get information favorable to our position and the county continues to drag its feet, then that issue has recourse; but these are separate issues that either rise or fall on their own merits.

Ald. Becker spoke of the difficulty in explaining the situation to people whose taxes went up and see this as a burden. The Mayor again spoke of a result that is tax neutral to both the county and city. There is an identified revenue stream. There is no guarantee that we will provide the same level of staffing that the county has, which is where the economy of scale that our police department is looking at comes in.

Moved by Ald. Treis, seconded by Ald. Kopischke to convene into closed session per Wis. Stat. 19.85(1)(e), Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business when competitive or bargaining reasons required a closed session, with the option to reconvene in open session. Ayes: 8

The committee convened into closed session at 9:06 p.m.

It was moved by Ald. Krol, seconded by Ald. Ecks to reconvene in open session. Ayes: 8

The committee reconvened in open session at 9:25 p.m.

Ald. Krol reiterated his earlier comments. He was concerned about potential financial burden to the city and said he sees the MOU almost as a contract because it encumbers the city with certain understandings that could become contract items in the future. He said that he would like to know more about expenditures before negotiating and is not comfortable with some of the areas in which this document commits us.

Ald. Sullivan indicated that he appreciates the intent to design something that is tax neutral but is concerned about our negotiating situation with the various entities as we go forward. There is a good possibility that the tax impact in the future could be extremely problematic, he said.

Ald. Kopischke called the question.

Roll call vote on the motion: Ayes: 5; Noes: 2 (Krol, Sullivan); Present: 1 (Becker)

### **Tree Trimming Policy**

Ald. Becker questioned Mr. Kucharski about maintenance of shrubs and flower beds in the Village area. Mr. Kucharski explained the role of Beautification Committee volunteers who are steadily moving along in the process of maintaining specific areas.

Ald. Becker then raised questions about tree trimming policies, specifically questioning why it took two employees three hours to trim three trees in his neighborhood. Mr. Kucharski indicated he would have to look at the specific situation and circumstances and report back to Ald. Becker.

Addressing a further question from Ald. Becker about trees in the Milwaukee Avenue area that seem to need pruning, Mr. Kucharski explained that he has nine arborists to cover 30,000 trees in the city. He receives 300-400 calls in the summer from homeowners requesting tree trimming. They have a valid request but responding to those scattered sites is not necessarily efficient, which is why he came up with a plan to address specific areas each year in conjunction with the city's annual sealcoating program. Staff numbers and other responsibilities along with the fact that there are many senior employees with maximum vacation time each year allows only so much time for pruning. Stop sign clearing is a priority, and training pruning is very important since it ensures that young trees won't have problems like those being found now with lindens that weren't pruned properly in their early years. Additional funding provided this year to contract out elm work will help free up laborers to work on pruning requests.

Mr. Kucharski said that they are making their best effort to address concerns through planning. Even with a plan they are still not doing structural pruning that would minimize the loss of trees or loss of limbs. It is very difficult to prioritize, he said, and it is painful to see the need in areas like that cited by Ald. Becker where work is not scheduled

for awhile. The ideal situation would be to go into a large area with 4-6 arborists. With two people, one person is in the truck and the other is supervising and perhaps cutting up branches on the ground or chipping debris. He cannot send out a truck with one person. Pruning requests are handled on a first-come first-served basis, addressing each as best as possible and as fast as possible.

Ald. Krol raised questions and concerns about tree trimming and removal work by utility companies. Mr. Kucharski explained the relationship with the utility companies, noting that there is some current activity due to a project involving a substation at Hart Park.

### **Proposed Ordinance – Approval of Garages and Storage Buildings**

The proposed ordinance creates Section 24.54.020 D allowing administrative review of certain Design Review projects based upon standardized criteria.

Moved by Ald. Sullivan, seconded by Ald. Kopischke to recommend to Council adoption of the proposed ordinance. Ayes: 8

### **Proposed Outdoor Burning Ordinance**

The proposed ordinance repeals Chapter 12.28 of the Code and creates Chapter 14.24 regarding outdoor burning.

Moved by Ald. Sullivan, seconded by Ald. Kopischke to recommend to Council adoption of the proposed ordinance. Ayes: 8

### **Development Proposals for Public Works Site**

Referring to her February 3, 2003, memo, Ms. Welch said she has provided some background and census statistics and can provide more statistical information if desired. She also provided a Business Journal article about the residential housing market in the metropolitan area that had some insights on apartment and condominium demand. She distributed a spreadsheet summary of the eight proposals for the 18-acre site under discussion based on the original submissions. The last column indicates where there were changes to the original proposals.

Ms. Welch said that a critical issue has been density, with typical residential density being from 6 to 9 units per acre, and the issue of sewer credits is also important. She and the City Engineer have looked at basin capacity and new development occurring in this particular basin and calculated that there is enough capacity to sustain residential growth of 893 persons. Using appropriate factors, that translates to 257 two-bedroom units or 595 one-bedroom units. Capacity for townhouses with three or more bedrooms or mixed use proposals would need to be calculated.

Ald. Treis noted that additional information has continued to be submitted and other issues and questions have arisen since information was originally given to this committee in December. He mentioned the current proposal by Wisconsin Lutheran College for a recreational site on county-owned land and the issue of sewer credits and density. He advised narrowing down specifics and proceeding slowly, taking 2-4 weeks to come up with answers before narrowing down choices.

Ald. Sullivan said that his motion at the last meeting for a straw vote is even more appropriate now. The committee has seen the proposals and cannot in good conscience ask developers to continue to wait. He acknowledged a letter from Ald. McCarthy given to committee members tonight stating that the proper deliberative process would be through the Joint Committee on the Comprehensive Plan. He felt, however, that the Community Development Committee is the representative body to provide direction on this matter.

Moved by Ald. Sullivan that committee members each rank their top three preferences and then tally up the top three vote-getters and move forward

with recommending those three plans for Council approval to proceed with further discussion – Motion dies for lack of a second.

Alds. Treis and Sullivan debated the merits of a two-week hold considering that there may be some revisions based on the sewer calculations. Dave Murphy of Bielinski Development commented on the need to know about sewer credits and density to come up with a proposal that meets the city's requirements. The Chair stated that some criteria should be established on which to make selections; the spreadsheet indicates many areas where information is lacking. Ald. Krol felt there should be an assumption that developers could adjust the size of their projects to address sewer requirements mentioned for the first time tonight. He advocated coming back in two weeks with individual top three choices after further review of comparative information.

Ald. Herzog noted that the motion at the previous meeting would have kept all eight proposals in the picture while individually ranking the top three to get an idea of any emerging pattern. If we can't get to that state, he said, we should at least get to the point of determining density or type of units. He noted Ms. Welch's statement in her memo of February 3, 2003, that townhouses, well-managed apartments, or condominiums may be the best option for meeting the widespread needs of Wauwatosa.

Moved by Ald. Herzog, that committee members each choose the three that they like but not eliminate any one, giving developers the opportunity to drop out, amend, or otherwise reconsider their proposals –

The Chair expressed concern with perhaps starting at the wrong end by not first talking about what is important concerning issues such as estimated tax revenue or density and sewer capacity.

Motion seconded by Ald. Kopischke

Ald. Kopischke agreed that the developers need some direction. The details will be part of what is negotiated and identified as we move along. As a group intended to set policy and be broad thinking, this committee should look at the concept and give guidance so that staff can talk more in depth to those developers who rank high,

Ald. Becker noted that some developers quoted a purchase price and some didn't; some would pay for infrastructure and some wouldn't. Information on what is buildable or workable is lacking. Ms. Welch responded that some of those issues would need to be worked through. She noted that estimated engineering costs were stated as part of the proposal. Associated with the sewer credits and base flow, developers were not informed that there is insufficient capacity for *peak* flow. A system that would eliminate all infiltration and inflow would have to be negotiated.

The Chair asked if the developers would be able to come back with revisions related to sewer ratios. Helmut Toldt of Toldt Development said that his calculations for the number of residents would not exceed requirements.

Roll call vote on the motion, Ayes: 4; Noes: 4 (Becker, Krol, Treis, Heins)  
Motion fails.

Moved by Ald. Krol, seconded by Ald. Treis that committee members come back in two weeks with their top three preferences and then select the top three developers to move forward with –

Ald. Ecks reported that a police department accident study of 115th Street will be available at the end of the week. He believes that 115th Street cannot be the sole access to this area but must be matched with Walnut Road. His target would be to create a low-turnover community with some stability having affordable, very high quality housing units that are probably relatively small. We need to attract people who are in their first really good job, perhaps at the Research Park or Medical Center, and hold them through several life stages, he said. Ald. Krol commented that those types of people tend to move on in five years or so because that is the length of the average job. He suggested balancing that demographic with elderly residents. If there is interest in the proposed sports complex, he noted, the next two weeks would offer an opportunity to get relevant cost information.

Roll call vote on the motion, Ayes: 4; Noes: 4 (Ecks, Herzog, Kopischke, Sullivan)  
Motion fails.

Ald. Herzog reiterated the need to provide direction. Ald. Kopischke noted that a straw vote would not be binding; they can be told it is fluid and may change in two weeks.

Moved by Ald. Kopischke, seconded by Ald. Ecks that committee members each briefly discuss the elements important to them, using examples if they so wish, but without the need to vote or choose three top choices. Ayes: 8

Committee members offered their individual comments:

- Ald. Sullivan liked having multiple uses and something of a neighborhood as in the Toldt project. He would like to see more on an apartment complex and preferred the Thomson proposal over that of Metropolitan. He would also like to see more on Spectrum Development's proposal, which he saw as creative use of the property.
- Ald. Kopischke said the three he mentioned at the previous meeting [Toldt, Thomson, Spectrum] still interest him the most. Multiple uses would be great in terms of creating a neighborhood. He felt that a recreational facility could be a draw not just to people from outside the community but for people who would want to live close to it and for the creative class demographic that is part of what needs to be considered.
- Ald. Herzog found Toldt's mixed use creative and liked the open concept plan. He also liked apartments as proposed by Metropolitan, commenting that they seem to know how to get the right mixture for this community. His third choice would be either Thomson or Bielinski—he liked Bielinski's numbers but had some reservations based on past impressions of their homes, and he also liked the concept of elderly housing but felt the density should be lower or mixed with other uses.
- Ald. Ecks felt that elderly housing should not be the primary focus here and that a sports complex would not be appropriate because of traffic and access considerations. He suggested using the abandoned railroad line as a possible link to the Oak Leaf Trail, which would be appealing to a younger demographic.
- Ald. Krol favored mixed use development with townhouses, apartments, and condos. He was uncertain about the sports complex. He was concerned with quality of construction, tax potential, and the potential purchase price.
- Ald. Becker liked the apartment townhouse complex, which he felt is needed in the area. but should be dropped to about 250 units. He liked seeing green space and open areas such as proposed by Metropolitan. He was more concerned with the cost of infrastructure and who will bear it than with the purchase price. Since access to Mayfair Road is not possible, he felt the sports complex would be a good idea in another location.
- Ald. Treis said he would like to see quality units with a mixture of elderly and regular housing. He noted that there are certain elements where elderly housing might affect the sewer credits.
- Ald. Heins said that a combination involving elderly might be advantageous from a sewer credit standpoint. She had concerns about traffic and, because of that, density. If changing from Light Industrial zoning is advantageous in terms of tax benefits, that benefit should be significant enough to make bringing in more people and traffic worthwhile. She could not support the sports complex at this point due to lack of information and the feeling that the tax benefit there would be considerably less. She has not ruled out some retail, particularly in the nature of a small convenience store since there is no store or bus line within walking distance.

Mr. Murphy commented that the foregoing information would have been beneficial before RFP was issued. His company felt that Wauwatosa was looking for the best value for tax dollars, but he is now hearing something completely different from what they derived from the RFP. He would like to submit a proposal to address the new information and indicated he could do that in two weeks. Mr. Toldt said that allowing revisions is fundamentally unfair to everyone else who spent time, creative energy and research to find out what is needed here. There were further comments by Mr. Murphy and Mr. Toldt on the issue of submitting a price and whether that was required by the RFP. Ms. Welch said that the RFP did not set any priority; it did not say that any bid item would be the determining factor—those are things that need to be worked out.

Moved by Ald. Ecks, seconded by Ald. Krol to hold the matter for two weeks, allowing developers to make changes if they so desire, and to seek a high priority on the next agenda –

Ms. Welch explained that placing this item at the end of the agenda was a courtesy to those appearing on other agenda items that would not require as much time or discussion.

Mr. Toldt said that changes from the original proposals were already seen in the presentations two weeks ago. As originally presented, the projects are fundamentally different from each other. The developers each used their own talents to present what they felt would be best. He suggested that allowing changes now would be close to plagiarism. He added that it is entirely reasonable for a developer to attempt to improve the initial proposal. It is the nature of a creative process to discard ideas and try new ones, but it is fundamentally different to discard the original concept and make an entirely new proposal.

Ald. Krol responded that the committee would give some consideration to someone who came up with a particular proposal from the start. He told Mr. Toldt that he could add anything to help the committee better understand his proposal, such as explaining the sewer capacity ratio or potential purchase price. This committee will submit its conclusions to the Common Council, but they could potentially send it back to committee for some other action.

Phil Schultz of Horizon Development said his company submitted a proposal for senior housing but they also do mixed generational developments. He asked what the rules would be for resubmissions and in what form they would be allowed, i.e., re-presentation at the next meeting or submission of written materials to committee members, or submissions to Ms. Welch. He said he tends to agree with Mr. Toldt. In the end, if everyone is allowed to return, the developer who promises the most will be chosen.

Ald. Herzog noted that the RFP states that none of the eight has to be picked. He would need to know the purchase price or what our costs would be before making any choices. It seems the committee will have to hear additional presentations, then either pick from what is available or scrap it and put out an RFP with more demands or more specificity, which he felt would be unlikely. Ms. Welch expressed uncertainty about how many responses another RFP would elicit.

Noting that he has been an alderman and has also been on village staff, Mr. Murphy commented that one option would be to hire a planner, determine what you want, and then put it together and issue an RFP. Ms. Welch responded that there is no need to hire a planner. She tried to initiate a planning process, but the committee did not opt to take it up at the time, which is why the blanket RFP was issued. The problem boils down to making a decision, she said. No one is coming forward and saying this is our vision for the site

Mr. Toldt commented that the committee is probably used to seeing projects presented as developments and is not accustomed to thinking of developments in terms of creating a neighborhood. While it is natural in the evaluation process to try to pin down the value of the land and the economic benefit, it should not be the only consideration. It is a mistake to put too much emphasis on the conventional approach of maximizing return, i.e., how much money for the acreage and how much in taxes. Infrastructure costs, unforeseen things that aren't known up front, costs for signalization, managing traffic issues, sewer and water lines must also be considered; and the more spent there typically results in less spent on buildings. That is part of the natural maximization of profit that a developer goes through and so does the community. The best neighborhoods were developed for profit, but it is important to not lose sight that a neighborhood will evolve in the next few years and mature over the next generation. The city will derive taxes from this development over the next 100 years.

Ald. Ecks called the question.

Vote on the motion, Ayes: 7; Noes: 1 (Sullivan)

The meeting adjourned at 11:14 p.m.

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Carla A. Ledesma, City Clerk  
Wauwatosa, Wisconsin