



City of Racine

Meeting Agenda - Final

Common Council

City Hall
730 Washington Ave.
Racine, WI 53403
www.cityofracine.org

*Alderman Jeff Coe, Alderman Robert Anderson, Alderman Michael Shields
Alderman Jim Kaplan, Alderman David L. Maack, Alderman Sandy Weidner
Alderman Raymond DeHahn, Alderman Q.A. Shakoor, II, Alderman Thomas Friedel
Alderman Gregory Holding, Alderman Aron Wisneski
Alderman James T. Spangenberg, Alderman Ronald D. Hart, Alderman Robert Mozol*

Wednesday, January 2, 2008

7:00 PM

Room 205, City Hall

- A. Call To Order**
- B. Pledge of Allegiance To The Flag**
- C. Approval of Journal of Council Proceedings (Minutes)**
- D. Public Comments**
- E. Public Hearings**

[ZOrd.0008-07](#) An Ordinance to rezone 1321 State Street

To amend the map of the Zoning Ordinance of the City of Racine.

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

Part 1:

That the parcel of property located at 1321 State Street, and more particularly described as follows:

"SE 1/4 Section 8-3-23 Parcel 4 of CSM 2587 recorded as document 1954281 in the Racine County Register of Deeds Office. Said land being in the City of Racine, Racine County, Wisconsin"

be rezoned from "I-2" General Industrial District and "B-3" General Business District, to "B-2" Community Shopping District, and designated as Supplement No. _____, which Supplement is hereby made a part of this ordinance.

Part 2:

This ordinance shall take effect upon passage and the day after publication.

Passed by the Common Council:

Approved:

Mayor

Attest:

City Clerk

Fiscal Note: N/A

Sponsors: Gregory Holding

ZOrd.0009-07 An Ordinance to rezone 1014 Dr. Martin Luther King Jr. Drive

To amend the map of the Zoning Ordinance of the City of Racine.

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

Part 1:

That the parcel of property located at 1014 Dr. Martin Luther King Jr. Drive, and more particularly described as follows:

"The NW 1/4 of Section 9-3-23 Lot 33 as described in Volume 2335 page 122, as recorded with the Racine County Register of Deeds Office. Said land being in the City of Racine, Racine County, Wisconsin"

be rezoned from "O-I" Office Institutional District, to "R-3" Limited General Residence District, and designated as Supplement No. _____, which Supplement is hereby made a part of this ordinance.

Part 2:

This ordinance shall take effect upon passage and the day after publication.

Passed by the Common Council:

Approved:

Mayor

Attest:

City Clerk

Fiscal Note: N/A

Sponsors: Gregory Holding

F. Communications

Refer to Finance and Personnel Committee, by Ald. Friedel

[07-1573](#) Subject: Communication from the City Attorney requesting to meet with the appropriate committee to discuss the third party administration services of the United HealthCare Insurance Company.

Refer to Public Works and Services Committee, by Ald. Hart

[07-1493](#) Subject: Communication from a representative of Thoughts for Foods requesting permission to close the 300 block of Hamilton Street on March 1, 2008 for their annual event.

[07-1551](#) Subject: Communication from the Commissioner of Public Works/City Engineer requesting authorization to submit a Focus on Energy Grant application to WE Energies for the installation of energy efficient lighting at the Civic Center Parking Ramp.

[07-1552](#) Subject: Communication from the Commissioner of Public Works/City Engineer requesting authorization to submit a Focus on Energy Grant application to WE Energies for the installation of energy efficient lighting at the Festival Hall.

[07-1566](#) Subject: Request of the Director of Parks, Recreation & Cultural Services for permission to enter into an agreement with Mekus Studios to prepare plans and specifications for Mound Cemetery New Fountain and Crypts.

Refer to Public Safety and Licensing Committee, by Ald. Shakoor

[07-1578](#) Subject: Communication from the Purchasing Agent wishing to discuss award recommendations for Official Notice #14, Emergency Medical Supplies for the Racine Fire Department.

Refer to Traffic Commission, by Ald. Hart

[07-1576](#) Subject: Communication from the Racine County Sheriff's Department regarding revised parking allowed around the Law Enforcement Center.

Refer to Transit and Parking Commission, by Ald. DeHahn

[07-1567](#) Subject: Communication from the Assistant Commissioner of Public Works/Operations wishing to discuss implementing a policy on the sale of parking meter hoods in business districts.

G. Committee Reports

City Plan Commission Report, by Ald. Holding

07-1517

Subject: (Direct Referral) Request by Jamie Gordon of Gertrude's T-Shirts and More seeking a conditional use permit for clothing and accessories store at 1109 Washington Avenue.

Recommendation of City Plan Commission on 12-12-07: That the request by Jamie Gordon of Gertrude's T-Shirts & More seeking a conditional use permit for a clothing and accessories store at 1109 Washington Avenue be approved, subject to the following conditions:

- a. That the plans presented to the Plan Commission on December 12, 2007 be approved, subject to the following conditions.
- b. That all applicable building and occupancy permits be applied for.
- c. That the maximum hours of operation be 10:00 a.m. to 9:00 p.m., Monday through Saturday and 10:00 a.m. to 6:00 p.m. on Sunday.
- d. That a detailed sign plan be submitted to the Director of City Development for review and approval, that includes a plan to address window signage and display.
- e. That the property be maintained in that trash and debris on the sidewalk and other areas be properly disposed on a daily basis.
- f. That all trash and recyclables be stored in closed containers and screen from view.
- g. That all codes and ordinances be complied with and required permits acquired.
- h. That no minor changes be made from the conditions of this permit without approval of the Plan Commission and no major changes be made from the conditions of this permit without the approval of the Common Council.
- i. That this approval is subject to Plan Commission review for compliance with the listed conditions.

Fiscal Note: N/A

07-1518

Subject:(Direct Referral) Request by Rosemarie Barrette representing Cricket Communications, Inc. seeking a conditional use permit for a wireless communication facility at 1810 Phillips Avenue.

Staff Recommendation of City Plan Commission on 12-12-07: That the request by Rosemarie Barrette of Cricket Communications, Inc. seeking a conditional use permit for the installation of a wireless communication facility at 1810 Phillips Avenue be approved, subject to the following conditions:

- a. That the plans presented to the Plan Commission on December 12, 2007 be approved subject to the conditions contained herein.

- b. That the Cricket Communications, Inc. receive appropriate approvals from the Redevelopment Authority of the City of Racine for the use of this property.
- c. That all applicable permits be applied for through the Building Inspection Department.
- d. That the color of the antennas matches the color of the surface to which they are mounted.
- e. That all codes and ordinances be complied with and required permits acquired.
- f. That all appropriate FAA approvals be obtained and submitted to the Department of City Development, prior to the issuance of a building permit.
- g. That the operator provide to the City/County Communications Office within the Racine Police Department a current listing of all frequencies utilized by this facility and the name of a contact in charge of radio frequencies for the operator, and notify the City/County Communications Office of any changes in frequencies for this facility.
- h. That no minor changes be made from the conditions of this permit without the approval of the Plan Commission and no major changes be made from the conditions of this permit without the approval of the Common Council.
- i. That this permit is subject to Plan Commission review for compliance with the listed conditions.

Fiscal Note: N/A

07-1571

Subject: ZOrd.0008-07 is to rezone 1321 State Street from I-2 and B-3 to B-2.

Recommendation of the City Plan Commission on 12-12-07: That the ZOrd.008-07 be adopted.

Fiscal Note: N/A

07-1572

Subject: ZOrd.0009-07 is to rezone 1014 Dr. Martin Luther King Jr. Drive from O-I to R-3.

Recommendation of the City Development on 12-12-07: That the ZOrd.0009-07 be adopted.

Fiscal Note: N/A

Wastewater Commission Report, by Ald Hart

07-1510

Subject: Direct Referral - Communication from the General Manager of the Wastewater Utility wishing to discuss the Financial Assistance Agreement for Clean Water Fund Program, Project No. 4285-14, Basin Z Wastewater Storage Facility

Recommendation of the Finance and Personnel Committee on 12-10-07: The Mayor and City Clerk be authorized to enter into a Financial Assistance agreement with the Wisconsin Department of Administration for a Clean Water Fund Loan in the amount of \$3,481,931.

Fiscal Note: No City funds are involved with the Clean Water Fund Loan from the State of Wisconsin Department of Administration. The loan rate will be 2.475%. The loan will be repaid with Wastewater Utility funds.

Recommendation of the Wastewater Commission on 12/18/07: The Mayor and City Clerk be authorized to enter into a Financial Assistance Agreement with the Wisconsin Department of Administration for a Clean Water Fund Loan for the purpose of funding the Basin Z Wastewater Storage Facility project in the amount of \$3,481,931. Further recommends that \$3,481,931.00 in Wastewater Revenue Bonds be issued to the State of Wisconsin Clean Water Fund Program in exchange for a Clean Water Fund Loan in the same amount.

Fiscal Note: Funding will be provided by the Wastewater Utility.

07-1546

Subject: Comfort Resolution pertaining to Virginia St. and Michigan Blvd. Sanitary Sewer Project

Recommendation of the Wastewater Commission on 12/18/07: The Mayor and City Clerk be authorized and directed to sign the "Declaration of Official Intent to Reimburse" pertaining to Virginia St. and Michigan Blvd. Sanitary Sewer project.

Fiscal Note: Funding will be supplied by the Wastewater Utility.

H. Resolutions

Res.07-0571

Conditional Use Permit for 1109 Washington Avenue

Resolved, that the request by Jamie Gordon of Gertrude's T-Shirts & More seeking a conditional use permit for a clothing and accessories store at 1109 Washington Avenue be approved, subject to the following conditions:

- a. That the plans presented to the Plan Commission on December 12, 2007 be approved, subject to the following conditions.
- b. That all applicable building and occupancy permits be applied for.
- c. That the maximum hours of operation be 10:00 a.m. to 9:00 p.m., Monday through Saturday, and 10:00 a.m. to 6:00 p.m. on Sunday.
- d. That a detailed sign plan be submitted to the Director of City Development for review and approval, that includes a plan to address window signage and display.
- e. That the property be maintained in that trash and debris on the sidewalk and other areas be properly disposed on a daily basis.
- f. That all trash and recyclables be stored in closed containers and screen from view.
- g. That all codes and ordinances be complied with and required permits acquired.
- h. That no minor changes be made from the conditions of this permit without approval of the Plan Commission and no major changes be made from the conditions of this permit without the approval of the Common Council.

- i. That this approval is subject to Plan Commission review for compliance with the listed conditions.

Fiscal Note: N/A

Sponsors: Gregory Holding

Res.07-0578 Financial Assistance Agreement with Wisconsin Department of Administration

Resolved, that the Mayor and City Clerk be authorized and directed to enter into a Financial Assistance Agreement with the Wisconsin Department of Administration for a Clean Water Loan for the purpose of funding the Basin Z Wastewater Storage Facility project in the amount of \$3,481,931.

Further resolved, that \$3,481,931 in Wastewater Revenue Bonds be issued to the State of Wisconsin Clean Water Fund Program in exchange for a Clean Water Fund Loan in the same amount.

Fiscal Note: Funding will be provided by the Wastewater Utility.

Sponsors: Thomas Friedel

Res.07-0579 City of Racine, Wisconsin, "Declaration of Official Intent to Reimburse", Virginia Street and Michigan Blvd. Sanitary Sewer Project

Whereas, the City of Racine, Wisconsin, owns and operates regional wastewater treatment and conveyance facilities through the Racine Wastewater Utility; and

Whereas, improvements to the wastewater system are necessary and include the Virginia Street-Michigan Boulevard project identified as CWFP Project #4285-15 (the "Project"); and

Whereas, the Utility expects to obtain a loan to provide long-term financing for the Project from the Clean Water Fund Program; and

Whereas, construction of the Project is expected to proceed prior to the Clean Water Fund Program (the "CWFP") loan being available; and

Whereas, the City wishes to declare its intent to use its internal funds to temporarily fund the construction of the Project until the CWFP loan, or other long-term financing, can be obtained; and

Whereas, this resolution documents the City's intent to reimburse its internal funds, as required by Treasury Regulations 26 CFR 1.150-2, with tax-exempt bond proceeds.

Now, therefore, be it resolved, by the City Council of the City of Racine, Wisconsin, that:

1. Expenditures of Funds. The City or the Racine Wastewater Utility shall make expenditures as needed from funds on hand, including funds in the Wastewater Fund, to pay the cost of planning, engineering and construction of the Project until the CWFP loan proceeds become available.

2. Declaration of Official Intent. The City hereby officially declares its intent under Treasury Regulations, 26 CFR 1.150-2 to reimburse said expenditures with proceeds of the CWF loan, the aggregate principal amount of debt expected not to exceed \$2,500,000.

Fiscal Note: Funding will be supplied by the Wastewater Utility.

Sponsors: Thomas Friedel

Res.07-0580 Resolution Authorizing The Issuance And Sale Of Up To \$3,481,931 Wastewater Utility Revenue Bonds, Series 2008, And Providing For Other Details And Covenants With Respect Thereto

Whereas, the City of Racine, Racine County, Wisconsin (the "Municipality") owns and operates a wastewater utility system (the "System") which is operated for a public purpose as a public utility by the Municipality; and

Whereas, certain improvements to the System are necessary to meet the needs of the Municipality and the residents thereof, consisting of the construction of a project (the "Project") assigned Clean Water Fund Program Project No. 4285-14 by the Department of Natural Resources, and as described in the Department of Natural Resources approval letter for the plans and specifications of the Project, or portions thereof, issued under Section 281.41 of the Wisconsin Statutes, assigned No. S-2007-0013 and dated January 23, 2007 by the DNR; and

Whereas, under the provisions of Chapter 66 of the Wisconsin Statutes any municipality may, by action of its governing body, provide for purchasing, acquiring, constructing, extending, adding to, improving, operating and managing a public utility from the proceeds of bonds, which bonds are to be payable only from the revenues received from any source by such utility, including all rentals and fees; and

Whereas, the Municipality deems it to be necessary, desirable and in its best interest to authorize and sell wastewater utility revenue bonds of the Municipality payable solely from the revenues of the System, pursuant to the provisions of Section 66.0621 of the Wisconsin Statutes, to pay the cost of the Project; and

Whereas, the Municipality has previously issued its Wastewater Utility Refunding Revenue Bonds, Series 2004, dated November 1, 2004 (the "Senior Bonds") pursuant to Resolution No. 6169 adopted on October 5, 2004 (the "Senior Resolution"), which bonds are payable from the income and revenues of the System; and

Whereas, pursuant to Resolution No. 7363 adopted on April 19, 1994 (the "1994 Resolution"), the Municipality has also previously issued its Wastewater Utility Revenue Bonds, Series 1994, dated April 27, 1994 (the "1994 Bonds"), which are payable from the income and revenues of the System on a basis junior and subordinate to the Senior Bonds; and

Whereas, pursuant to Resolution No. 9712 adopted on March 18, 1997 (the "1997 Resolution"), the Municipality has also previously issued its Wastewater Utility Revenue Bonds, Series 1997, dated March 26, 1997 (the "1997 Bonds"), which are payable from the income and revenues of the System on a basis junior and subordinate to the Senior Bonds and on a parity with the 1994 Bonds; and

Whereas, pursuant to Resolution No. 1655 adopted on May 5, 1998 (the "1998 Resolution"), the Municipality has also previously issued its Wastewater Utility Revenue Bonds, Series 1998, dated May 27, 1998 (the "1998 Bonds"), which are payable from the income and revenues of the System on a basis junior and subordinate to the Senior Bonds and on a parity with the 1994 Bonds and the 1997 Bonds; and

Whereas, pursuant to Resolution No. 2640 adopted on August 2, 1999 (the "1999 Resolution"), the Municipality has also previously issued its Wastewater Utility Revenue Bonds, Series 1999, dated August 25, 1999 (the "1999 Bonds"), which are payable from the income and revenues of the System on a basis junior and subordinate to the Senior Bonds and on a parity with the 1994 Bonds, the 1997 Bonds and the 1998 Bonds; and

Whereas, pursuant to Resolution No. 3481 adopted on September 5, 2000 (the "2000 Resolution"), the Municipality has also previously issued its Wastewater Utility Revenue Bonds, Series 2000, dated September 27, 2000 (the "2000 Bonds"), which are payable from the income and revenues of the System on a basis junior and subordinate to the Senior Bonds and on a parity with the 1994 Bonds, the 1997 Bonds, the 1998 Bonds and the 1999 Bonds; and

Whereas, pursuant to Resolution No. 4544 adopted on March 19, 2002 (the "2002 Resolution"), the Municipality has also previously issued its Wastewater Utility Revenue Bonds, Series 2002, dated April 10, 2002 (the "2002 Bonds"), which are payable from the income and revenues of the System on a basis junior and subordinate to the Senior Bonds and on a parity with the 1994 Bonds, the 1997 Bonds, the 1998 Bonds, the 1999 Bonds and the 2000 Bonds; and

Whereas, pursuant to Resolution No. 4718 adopted on July 2, 2002 (the "2002B Resolution"), the Municipality has also previously issued its Wastewater Utility Revenue Bonds, Series 2002B, dated July 24, 2002 (the "2002B Bonds"), which are payable from the income and revenues of the System on a basis junior and subordinate to the Senior Bonds and on a parity with the 1994 Bonds, the 1997 Bonds, the 1998 Bonds, 1999 Bonds, the 2000 Bonds and the 2002 Bonds; and

Whereas, pursuant to Resolution No. 4964 adopted on November 19, 2002 (the "2002C Resolution"), the Municipality has also previously issued its Wastewater Utility Revenue Bonds, Series 2002C, dated November 27, 2002 (the "2002C Bonds"), which are payable from the income and revenues of the System on a basis junior and subordinate to the Senior Bonds and on a parity with the 1994 Bonds, the 1997 Bonds, the 1998 Bonds, the 1999 Bonds, the 2000 Bonds, the 2002 Bonds and the 2002B Bonds; and

Whereas, the 1994 Resolution, 1997 Resolution, 1998 Resolution, 1999 Resolution, 2000 Resolution, 2002 Resolution, 2002B Resolution and 2002C Resolution (collectively, the "CWF Resolutions") permit bonds to be issued on a parity with the 1994 Bonds, 1997 Bonds, 1998 Bonds, 1999 Bonds, 2000 Bonds, 2002 Bonds, 2002B Bonds and 2002C Bonds (collectively, the "CWF Bonds") upon certain conditions, and those conditions have been met or waived by the sole registered owner of all of the CWF Bonds in connection with the issuance of the bonds to be issued pursuant to this Resolution; and

Whereas, other than the Senior Bonds and the CWF Bonds, no bonds or obligations payable from the revenues of the System are now outstanding.

Now, Therefore, be it resolved by the Governing Body of the Municipality that:

Section 1. Definitions. The following terms shall have the following meanings in this Resolution unless the text expressly or by implication requires otherwise:

- (a) "Act" means Section 66.0621 of the Wisconsin Statutes;
- (b) "Bond Registrar" means the Municipal Treasurer which shall act as Paying Agent for the Bonds;
- (c) "Bonds" means the \$3,481,931 Wastewater Utility Revenue Bonds, Series 2008, of the Municipality dated their date of issuance, authorized to be issued by this Resolution;
- (d) "Bond Year" means the twelve-month period ending on each May 1;
- (e) "Current Expenses" means the reasonable and necessary costs of operating, maintaining, administering and repairing the System, including salaries, wages, costs of materials and supplies, insurance and audits, but shall exclude depreciation, debt service, tax equivalents and capital expenditures;
- (f) "CWF Bonds" means the 1994 Bonds, 1997 Bonds, 1998 Bonds, 1999 Bonds, 2000 Bonds, 2002 Bonds, 2002B Bonds, and 2002C Bonds, collectively;
- (g) "CWF Resolutions" means the 1994 Resolution, 1997 Resolution, 1998 Resolution, 1999 Resolution, 2000 Resolution, 2002 Resolution, 2002B Resolution and 2002C Resolution, collectively;
- (h) "Debt Service Fund" means the Wastewater Utility Special Redemption Fund of the Municipality, which shall be the "special redemption fund" as such term is defined in the Act;
- (i) "Financial Assistance Agreement" means the Financial Assistance Agreement by and between the State of Wisconsin by the Department of Natural Resources and the Department of Administration and the Municipality pursuant to which the Bonds are to be issued and sold to the State, substantially in the form attached hereto and incorporated herein by this reference;
- (j) "Fiscal Year" means the twelve-month period ending on each December 31;
- (k) "Governing Body" means the Common Council, or such other body as may hereafter be the chief legislative body of the Municipality;
- (l) "Gross Earnings" means the gross earnings of the System, including earnings of the System derived from wastewater utility charges imposed by the Municipality, all payments to the Municipality under any wastewater treatment service agreements between the Municipality and any contract users of the System, and any other monies received from any source including all rentals and fees and any special assessments levied and collected in connection with the Project;
- (m) "Municipal Treasurer" means the Treasurer of the Municipality who shall act as Bond Registrar and Paying Agent;
- (n) "Municipality" means the City of Racine, Racine County, Wisconsin;
- (o) "Net Revenues" means the Gross Earnings of the System after deduction of Current

Expenses;

(p) "1994 Bonds" means the Municipality's Wastewater Utility Revenue Bonds, Series 1994, dated April 27, 1994;

(q) "1994 Resolution" means Resolution No. 7363 adopted on April 19, 1994 authorizing the issuance of the 1994 Bonds;

(r) "1997 Bonds" means the Municipality's Wastewater Utility Revenue Bonds, Series 1997, dated March 26, 1997;

(s) "1997 Resolution" means Resolution No. 9712 adopted on March 18, 1997 authorizing the issuance of the 1997 Bonds;

(t) "1998 Bonds" means the Municipality's Wastewater Utility Revenue Bonds, Series 1998, dated May 27, 1998;

(u) "1998 Resolution" means Resolution No. 1655 adopted on May 5, 1998 authorizing the issuance of the 1998 Bonds;

(v) "1999 Bonds" means the Municipality's Wastewater Utility Revenue Bonds, Series 1999, dated August 25, 1999;

(w) "1999 Resolution" means Resolution No. 2640 adopted on August 2, 1999 authorizing the issuance of the 1999 Bonds;

(x) "Parity Bonds" means bonds payable from the revenues of the System other than the Bonds but issued on a parity and equality with the Bonds pursuant to the restrictive provisions of Section 11 of this Resolution;

(y) "Project" means the Project described in the preamble to this Resolution. All elements of the Project are to be owned and operated by the Municipality as part of the System as described in the preamble hereto;

(z) "Record Date" means the close of business on the fifteenth day of the calendar month next preceding any principal or interest payment date;

(aa) "Senior Bonds" means the Municipality's Wastewater Utility Refunding Revenue Bonds, Series 2004, dated November 1, 2004, and any future bonds issued by the Municipality that qualify as Additional Senior Bonds under Section 11(a) of this Resolution (the Senior Bonds are intended to be senior to the Bonds and any Parity Bonds);

(bb) "Senior Resolution" means Resolution No. 6169 adopted on October 5, 2004 authorizing the issuance of the Senior Bonds;

(cc) "System" means the entire wastewater utility system of the Municipality specifically including that portion of the Project owned by the Municipality and including all property of every nature now or hereafter owned by the Municipality for the collection, transmission, treatment and disposal of domestic and industrial wastewater utility and waste, including all improvements and extensions thereto made by the Municipality while any of the Bonds and Parity Bonds remain outstanding, including all real and personal property of every nature comprising part of or used or useful in connection with such

wastewater utility system and including all appurtenances, contracts, leases, franchises, and other intangibles;

(dd) "2000 Bonds" means the Municipality's Wastewater Utility Revenue Bonds, Series 2000, dated September 27, 2000;

(ee) "2000 Resolution" means Resolution No. 3481 adopted on September 5, 2000 authorizing the issuance of the 2000 Bonds;

(ff) "2002 Bonds" means the Municipality's Wastewater Utility Revenue Bonds, Series 2002, dated April 10, 2002;

(gg) "2002 Resolution" means Resolution No. 4544 adopted on March 19, 2002 authorizing the issuance of the 2002 Bonds;

(hh) "2002B Bonds" means the Municipality's Wastewater Utility Revenue Bonds, Series 2002B, dated July 24, 2002;

(ii) "2002B Resolution" means Resolution No. 4718 adopted July 2, 2002 authorizing the issuance of the 2002B Bonds;

(jj) "2002C Bonds" means the Municipality's Wastewater Utility Revenue Bonds, Series 2002C, dated November 27, 2002; and

(kk) "2002C Resolution" means Resolution No. 4964 adopted November 19, 2002 authorizing the issuance of the 2002C Bonds.

Section 2. Authorization of the Bonds and the Financial Assistance Agreement. For the purpose of paying the cost of the Project (including legal, fiscal, engineering and other expenses), there shall be borrowed on the credit of the income and revenue of the System up to the sum of \$3,481,931; and fully registered revenue bonds of the Municipality are authorized to be issued in evidence thereof to the State of Wisconsin Clean Water Fund Program in accordance with the terms and conditions of the Financial Assistance Agreement, which is incorporated herein by this reference and the Mayor and City Clerk of the Municipality are hereby authorized, by and on behalf of the Municipality, to execute the Financial Assistance Agreement.

Section 3. Terms of the Bonds. The Bonds shall be designated "Wastewater Utility Revenue Bonds, Series 2008" (the "Bonds"); shall be dated their date of issuance; shall be numbered one and upward; shall bear interest at the rate of 2.475% per annum; shall be issued in denominations of \$0.01 or any integral multiple thereof; and shall mature on the dates and in the amounts as set forth in Exhibit B of the Financial Assistance Agreement and in the Bond form attached hereto as Exhibit A as it is from time to time adjusted by the State of Wisconsin based upon the actual draws made by the Municipality. Interest on the Bonds shall be payable commencing on May 1, 2008 and semiannually thereafter on May 1 and November 1 of each year. The Bonds shall not be subject to redemption prior to maturity except as provided in the Financial Assistance Agreement.

The schedule of maturities of the Bonds is found to be such that the amount of annual debt service payments is reasonable in accordance with prudent municipal utility practices.

Section 4. Form, Execution, Registration and Payment of the Bonds. The Bonds shall be issued as registered obligations in substantially the form attached hereto as Exhibit A and incorporated herein by this reference.

The Bonds shall be executed in the name of the Municipality by the manual signatures of the Mayor and City Clerk, and shall be sealed with its official or corporate seal, if any.

The principal of, premium, if any, and interest on the Bonds shall be paid by the Municipal Treasurer, who is hereby appointed as the Municipality's Bond Registrar.

Both the principal of and interest on the Bonds shall be payable in lawful money of the United States of America by the Bond Registrar. Payment of principal of the final maturity on the Bond will be payable upon presentation and surrender of the Bond to the Bond Registrar. Payment of principal on the Bond (except the final maturity) and each installment of interest shall be made to the registered owner of each Bond who shall appear on the registration books of the Municipality, maintained by the Bond Registrar, on the Record Date and shall be paid by check or draft of the Municipality and mailed to such registered owner at his or its address as it appears on such registration books or at such other address may be furnished in writing by such registered owner to the Bond Registrar.

Section 5. Security for the Bonds. The Bonds, together with interest thereon, shall not constitute an indebtedness of the Municipality nor a charge against its general credit or taxing power. The Bonds, together with interest thereon, shall be payable only out of the Debt Service Fund hereinafter created and established, and shall be a valid claim of the registered owner or owners thereof only against such Debt Service Fund and the revenues of the System pledged to such fund, junior and subordinate to the pledge granted to the holders of the Senior Bonds and on a parity with the pledge granted to the holders of the CWF Bonds. Sufficient revenues are hereby pledged to said Debt Service Fund, and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Senior Bonds, the CWF Bonds and the Bonds as the same becomes due.

Section 6. Funds and Accounts. In accordance with the Act, for the purpose of the application and proper allocation of the revenues of the System, and to secure the payment of the principal of and interest on the Senior Bonds, the CWF Bonds, the Bonds and Parity Bonds, certain funds of the System which were created and established by a resolution adopted April 20, 1993 and continued by the Senior Resolution and the CWF Resolutions are hereby further continued and shall be used solely for the following respective purposes:

(a) Wastewater Utility Revenue Fund, into which shall be deposited as received the Gross Earnings of the System, which money shall then be divided among the Operation and Maintenance Fund, the Debt Service Fund, the Depreciation Fund and the Surplus Fund in the amounts and in the manner set forth in Section 7 hereof and used for the purposes described below.

(b) Wastewater Utility Operation and Maintenance Fund, which shall be used for the payment of Current Expenses.

(c) Wastewater Utility Special Redemption Fund (the "Debt Service Fund"), which shall be used for the payment of the principal of, premium, if any, and interest on, first, the Senior Bonds and, second, the CWF Bonds, the Bonds and Parity Bonds as the same

becomes due. The Reserve Account provided for the Senior Bonds by the Senior Resolution is not pledged to the payment of principal of or interest on the CWF Bonds or the Bonds, and moneys in the Reserve Account shall under no circumstances be used to pay principal of or interest on the CWF Bonds or the Bonds.

(d) Wastewater Utility Depreciation Fund, which shall be used to provide a proper and adequate depreciation account for the System.

(e) Wastewater Utility Surplus Fund, which shall first be used whenever necessary to pay principal of, premium, if any, or interest on the Senior Bonds, the CWF Bonds, the Bonds and Parity Bonds when the Debt Service Fund shall be insufficient for such purpose, and thereafter shall be disbursed as follows: (i) at any time, to remedy any deficiency in any of the Funds provided in this Section 6 hereof; and (ii) money thereafter remaining in the Surplus Fund at the end of any Fiscal Year may be transferred to any of the funds or accounts created herein or to reimburse the general fund of the Municipality for advances made by the Municipality to the System.

Section 7. Application of Revenues. After the delivery of the Bonds, the Gross Earnings of the System shall be deposited as collected in the Revenue Fund and shall be transferred monthly to the funds listed below in the following order of priority and in the manner set forth below:

(a) to the Operation and Maintenance Fund, in an amount equal to the estimated Current Expenses for such month and for the following month (after giving effect to available amounts in said Fund from prior deposits);

(b) to the Debt Service Fund, an amount equal to one-sixth (1/6) of the next installment of interest coming due on the Senior Bonds, the CWF Bonds, the Bonds and any Parity Bonds then outstanding and an amount equal to one-twelfth (1/12) of the installment of principal of the Senior Bonds, the CWF Bonds, the Bonds and any Parity Bonds coming due during such Bond Year (after giving effect to available amounts in said Fund from accrued interest, any premium or any other source) and the amount required to be deposited in the Reserve Account by the Senior Resolution;

(c) to the Depreciation Fund, an amount determined by the Governing Body to be sufficient to provide a proper and adequate depreciation account for the System; and

(d) to the Surplus Fund, any amount remaining in the Revenue Fund after the monthly transfers required above have been completed.

Transfers from the Revenue Fund to the Operation and Maintenance Fund, the Debt Service Fund, the Depreciation Fund and the Surplus Fund shall be made monthly not later than the tenth day of each month, and such transfer shall be applicable to monies on deposit in the Revenue Fund as of the last day of the month preceding. Any other transfers and deposits to any fund required or permitted by subsection (a) through (d) of this Section, except transfers or deposits which are required to be made immediately or annually, shall be made on or before the tenth day of the month. Any transfer or deposit required to be made at the end of any Fiscal Year shall be made within sixty (60) days after the close of such Fiscal Year. If the tenth day of any month shall fall on a day other than a business day, such transfer or deposit shall be made on the next succeeding business day.

It is the express intent and determination of the Governing Body that the amounts

transferred from the Revenue Fund and deposited in the Debt Service Fund shall be sufficient in any event to pay the interest on the Senior Bonds, the CWF Bonds, the Bonds and any Parity Bonds as the same accrues and the principal thereof as the same matures.

Section 8. Deposits and Investments. The Debt Service Fund shall be kept apart from monies in the other Funds and accounts and the same shall be used for no purpose other than the prompt payment of principal of and interest on, first, the Senior Bonds and, next, the CWF Bonds, the Bonds and any Parity Bonds as the same becomes due and payable. All monies therein shall be deposited in special and segregated accounts in a public depository selected under Chapter 34 of the Wisconsin Statutes and may be temporarily invested until needed in legal investments subject to the provisions of Wisconsin Statutes Section 66.0603(lm). The other funds herein created (except the Wastewater Utility CWF Project Fund) may be combined in a single account in a public depository selected in the manner set forth above and may be temporarily invested until needed in legal investments subject to the provisions of Section 66.0603 (lm) of the Wisconsin Statutes.

Section 9. Service to the Municipality. The reasonable cost and value of services rendered to the Municipality by the System by furnishing wastewater services for public purposes shall be charged against the Municipality and shall be paid in monthly installments as the service accrues, out of the current revenues of the Municipality collected or in the process of collection, exclusive of the revenues derived from the System; that is to say, out of the tax levy of the Municipality made by it to raise money to meet its necessary current expenses. The reasonable cost and value of such service to the Municipality in each year shall be equal to an amount which, together with other revenues of the System, will produce in each Bond Year Net Revenues equivalent to not less than the annual principal and interest requirements on the Senior Bonds, the CWF Bonds, the Bonds, any Parity Bonds and any other obligations payable from the revenues of the System then outstanding, times the greater of (i) 110% or (ii) the highest debt service coverage ratio required with respect to any obligations payable from revenues of the System then outstanding. However, such payment out of the tax levy shall be subject to (a) approval of the Public Service Commission, or successors to its function, if applicable, (b) yearly appropriations therefor, and (c) applicable levy limitations, if any; and neither this Resolution nor such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation over and above the reasonable cost and value of the services rendered to the Municipality and its inhabitants or to make any subsequent payment over and above such reasonable cost and value.

Section 10. Operation of System; Municipality Covenants. It is covenanted and agreed by the Municipality with the owner or owners of the Bonds, and each of them, that the Municipality will perform all of the obligations of the Municipality as set forth in the Financial Assistance Agreement.

Section 11. Additional Bonds.

(a) Additional Senior Bonds. The Bonds are issued on a basis junior and subordinate to the Senior Bonds. The Municipality may issue obligations payable from the revenues of the System in such a manner as to enjoy priority over the Bonds or any Parity Bonds ("Additional Senior Bonds"), provided that all of the following conditions are met:

(1) The Net Revenues of the System for the Fiscal Year immediately preceding the

issuance of such Additional Senior Bonds must have been in an amount at least equal to the maximum annual interest and principal requirements on all obligations outstanding payable from the revenues of the System, and on the bonds then to be issued, times the greater of (i) 110% or (ii) the highest debt service coverage ratio required with respect to any of the Municipality's obligations payable from the revenues of the System. Should an increase in permanent rates and charges, including those made to the Municipality, be properly ordered and made effective during the Fiscal Year immediately prior to the issuance of such additional bonds or during that part of the Fiscal Year of issuance prior to such issuance, then Net Revenues for purposes of such computation shall include such additional revenues as an independent certified public accountant, consulting professional engineer or the Wisconsin Public Service Commission may certify would have accrued during the prior Fiscal Year had the new rates been in effect during that entire immediately prior Fiscal Year.

(2) Upon such issuance, the rating classification of the Additional Senior Bonds would be confirmed by a publicly released municipal rating of the "A" quality investment group, or better, as assigned by Moody's Investors Service, or Standard & Poor's Corporation, or by a similar nationally recognized rating agency.

(3) The payments required to be made into the funds enumerated in Section 6 of this Resolution must have been made in full.

(4) The proceeds of the Additional Senior Bonds must be used only for the purpose of providing extensions or improvements to the System, or to refund obligations issued for such purpose.

If at any time any of the foregoing conditions is not satisfied, then no obligations payable from revenues of the System may be issued in such a manner as to enjoy priority over the Bonds or any Parity Bonds, until such conditions are again satisfied.

(b) Additional Junior and Parity Bonds. Additional obligations may be issued if the lien and pledge is junior and subordinate to that of the Bonds. The Bonds are issued on a parity with the CWF Bonds. Additional Parity Bonds may be issued only under the following circumstances:

(a) Additional Parity Bonds may be issued for the purpose of completing the Project and for the purpose of financing costs of the Project which are ineligible for payment under the State of Wisconsin Clean Water Fund Program. However, such additional Parity Bonds shall be in an aggregate amount not to exceed 20% of the face amount of the Bonds; or

(b) Additional Parity Bonds may also be issued if all of the following conditions are met:

(1) The Net Revenues of the System for the Fiscal Year immediately preceding the issuance of such additional bonds must have been in an amount at least equal to the maximum annual interest and principal requirements on all bonds outstanding payable from the revenues of the System, and on the bonds then to be issued, times the greater of (i) 1.10 or (ii) the highest debt service coverage ratio to be required with respect to the Additional Parity Bonds to be issued or any other obligations payable from the revenues of the System then outstanding. Should an increase in permanent rates and charges, including those made to the Municipality, be properly ordered and made effective during the Fiscal Year immediately prior to the issuance of such additional bonds or during that part of the Fiscal Year of issuance prior to such issuance, then Net Revenues for purposes of such computation shall include such additional revenues as an independent

certified public accountant, consulting professional engineer or the Wisconsin Public Service Commission may certify would have accrued during the prior Fiscal Year had the new rates been in effect during that entire immediately prior Fiscal Year.

(2) The payments required to be made into the funds enumerated in Section 6 of this Resolution must have been made in full.

(3) The additional bonds must have principal maturing on May 1 of each year and interest falling due on May 1 and November 1 of each year.

(4) The proceeds of the additional bonds must be used only for the purpose of providing extensions or improvements to the System, or to refund obligations issued for such purpose.

Section 12. Sale of Bonds. The sale of the Bonds to the State of Wisconsin Clean Water Fund Program for the purchase price of up to \$3,481,931 and at par, is ratified and confirmed; and the officers of the Municipality are authorized and directed to do any and all acts, including executing the Financial Assistance Agreement and the Bonds as hereinabove provided, necessary to conclude delivery of the Bonds to said purchaser, as soon after adoption of this Resolution as is convenient. The purchase price for the Bonds shall be paid upon requisition therefor as provided in the Financial Assistance Agreement, and the officers of the Municipality are authorized to prepare and submit to the State requisitions and disbursement requests in anticipation of the execution of the Financial Assistance Agreement and the issuance of the Bonds.

Section 13. Application of Bond Proceeds. The proceeds of the sale of the Bonds shall be deposited by the Municipality into a special fund designated as "Wastewater Utility CWFPP Project Fund." The Wastewater Utility CWFPP Project Fund shall be used solely for the purpose of paying the costs of the Project as more fully described in the preamble hereof and in the Financial Assistance Agreement. Moneys in the Wastewater Utility CWFPP Project Fund shall be disbursed within three (3) business days of their receipt from the State of Wisconsin and shall not be invested in any interest-bearing account.

Section 14. Amendment to Resolution. After the issuance of any of the Bonds, no change or alteration of any kind in the provisions of this Resolution may be made until all of the Bonds have been paid in full as to both principal and interest, or discharged as herein provided, except: (a) the Municipality may, from time to time, amend this Resolution without the consent of any of the owners of the Bonds, but only to cure any ambiguity, administrative conflict, formal defect, or omission or procedural inconsistency of this Resolution; and (b) this Resolution may be amended, in any respect, with a written consent of the owners of not less than two-thirds (2/3) of the principal amount of the Bonds then outstanding, exclusive of Bonds held by the Municipality; provided, however, that no amendment shall permit any change in the pledge of revenues derived from the System or the maturity of any Bond issued hereunder, or a reduction in the rate of interest on any Bond, or in the amount of the principal obligation thereof, or in the amount of the redemption premium payable in the case of redemption thereof, or change the terms upon which the Bonds may be redeemed or make any other modification in the terms of the payment of such principal or interest without the written consent of the owner of each such Bond to which the change is applicable.

Section 15. Defeasance. When all Bonds have been discharged, all pledges, covenants and other rights granted to the owners thereof by this Resolution shall cease. The Municipality may discharge all Bonds due on any date by irrevocably depositing in

escrow with a suitable bank or trust company a sum of cash and/or bonds or securities issued or guaranteed as to principal and interest of the U.S. Government, or of a commission, board or other instrumentality of the U.S. Government, maturing on the dates and bearing interest at the rates required to provide funds sufficient to pay when due the interest to accrue on each of said Bonds to its maturity or, at the Municipality's option, if said Bond is prepayable to any prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such Bond at maturity, or at the Municipality's option, if said Bond is prepayable, at its earliest redemption date, with the premium required for such redemption, if any, provided that notice of the redemption of all prepayable Bonds on such date has been duly given or provided for.

Section 16. Rebate Fund. Unless the Bonds are exempt from the rebate requirements of the Internal Revenue Code of 1986, as amended (the "Code"), the Municipality shall establish and maintain, so long as the Bonds and any Parity Bonds are outstanding, a separate account to be known as the "Rebate Fund." The sole purpose of the Rebate Fund is to provide for the payment of any rebate liability with respect to the Bonds under the relevant provisions of the Code and the Treasury Regulations promulgated thereunder (the "Regulations"). The Rebate Fund shall be maintained by the Municipality until all required rebate payments with respect to the Bonds have been made in accordance with the relevant provisions of the Code and the Regulations.

The Municipality hereby covenants and agrees that it shall pay to the United States from the Rebate Fund, at the times and in the amounts and manner required by the Code and the Regulations, the portion of the "rebate amount" (as defined in Section 1.148-3(b) of the Regulations) that is due as of each "computation date" (within the meaning of Section 1.148-3(e) of the Regulations). As of the date of this Resolution, the provisions of the Regulations specifying the required amounts of rebate installment payments and the time and manner of such payments are contained in Sections 1.148-3(f) and (g) of the Regulations, respectively. Amounts held in the Rebate Fund and the investment income therefrom are not pledged as security for the Bonds or any Parity Bonds and may only be used for the payment of any rebate liability with respect to the Bonds.

The Municipality may engage the services of accountants, attorneys or other consultants necessary to assist it in determining the rebate payments, if any, owed to the United States with respect to the Bonds. The Municipality shall maintain or cause to be maintained records of determinations of rebate liability with respect to the Bonds for each computation date until six (6) years after the retirement of the last of the Bonds. The Municipality shall make such records available to the State of Wisconsin upon reasonable request therefor.

Section 17. Resolution a Contract. The provisions of this Resolution shall constitute a contract between the Municipality and the owner or owners of the Bonds, and after issuance of any of the Bonds no change or alteration of any kind in the provisions of this Resolution may be made, except as provided in Section 14, until all of the Bonds have been paid in full as to both principal and interest. The owner or owners of any of the Bonds shall have the right in addition to all other rights, by mandamus or other suit or action in any court of competent jurisdiction, to enforce such owner's or owners' rights against the Municipality, the Governing Body thereof, and any and all officers and agents thereof including, but without limitation, the right to require the Municipality, its Governing Body and any other authorized body, to fix and collect rates and charges fully adequate to carry out all of the provisions and agreements contained in this Resolution.

Section 18. Continuing Disclosure. The officers of the Municipality are hereby

authorized and directed, if requested by the State of Wisconsin, to provide to the State of Wisconsin Clean Water Fund Program and to such other persons or entities as directed by the State of Wisconsin such ongoing disclosure regarding the Municipality's financial condition and other matters, at such times and in such manner as the Clean Water Fund Program may require, in order that securities issued by the Municipality and the Clean Water Fund Program satisfy rules and regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended and as it may be amended from time to time, imposed on brokers and dealers of municipal securities before the brokers and dealers may buy, sell, or recommend the purchase of such securities.

Section 19. Conflicting Resolutions. All ordinances, resolutions (other than the Senior Resolution and the CWF Resolutions), or orders, or parts thereof heretofore enacted, adopted or entered, in conflict with the provisions of this Resolution, are hereby repealed and this Resolution shall be in effect from and after its passage. In case of any conflict between this Resolution and the Senior Resolution or the CWF Resolutions, the Senior Resolution and CWF Resolutions shall control as long as any Senior Bonds or CWF Bonds, respectively, are outstanding.

Sponsors: Thomas Friedel

Res.07-0581 Conditional Use Permit for 1810 Phillips Avenue

Resolved, that the request by Rosemarie Barrette representing Cricket Communications, Inc. seeking a conditional use permit for a wireless communication facility at 1810 Phillips Avenue be approved subject to the following conditions:

- a. That the plans presented to the Plan Commission on December 12, 2007 be approved subject to the conditions contained herein.
- b. That the Cricket Communications, Inc. receive appropriate approvals from the Redevelopment Authority of the City of Racine for the use of this property.
- c. That all applicable permits be applied for through the Building Inspection Department.
- d. That the color of the antennas matches the color of the surface to which they are mounted.
- e. That all codes and ordinances be complied with and required permits acquired.
- f. That all appropriate FAA approvals be obtained and submitted to the Department of City Development, prior to the issuance of a building permit.
- g. That the operator provide to the City/County Communications Office within the Racine Police Department a current listing of all frequencies utilized by this facility and the name of a contact in charge of radio frequencies for the operator, and notify the City/County Communications Office of any changes in frequencies for this facility.
- h. That no minor changes be made from the conditions of this permit without the approval of the Plan Commission and no major changes be made from the conditions of this permit without the approval of the Common Council.
- i. That this permit is subject to Plan Commission review for compliance with the listed conditions.

Fiscal Note: N/A

I. Miscellaneous Business

J. Adjourn

Office of The City Clerk

If you are disabled and have accessibility needs or need information interpreted for you, please call the City Clerk's Office at 636-9171 at least 48 hours prior to this meeting.