



City of Racine

Meeting Agenda - Final

Common Council

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

*Alderman Keith Fair, Alderman Robert Anderson, Alderman Tim Hermes,
Alderman Jim Kaplan, Alderman David L. Maack, Alderman Sandy Weidner,
Alderman Raymond DeHahn, Alderman Q.A. Shakoor, II, Alderman Pete Karas,
Alderman Thomas Friedel, Alderman Gregory Holding, Alderman Ronald D. Hart,
Alderman Thomas M. Sollman, Alderman James T. Spangenberg, Alderman Aron Wisneski*

Tuesday, October 17, 2006

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**

Health Department Proclamation

E. Communications

1. [06-2650](#) **Subject:** Building Report for the month of September 2006.

Refer to Finance and Personnel Committee, by Ald. Spangenberg

2. **06-2651** **Subject:** Communication from the City Attorney submitting the claim of Mary Ann Glassen for consideration.

Staff recommendation: That the claim be paid in the amount of \$50,000.00
3. **06-2652** **Subject:** Communication from the City Attorney submitting the claim of Laurence Miller and Cynthia Miller for consideration.

Staff recommendation: that the claim be denied.
4. **06-2606** **Subject:** Communication from the City Attorney submitting the claim of WE Energies for consideration.

Staff Recommendation: that the claim be paid.

5. **06-2607** **Subject:** Communication from the City Attorney requesting authorization to represent various police officers in the case of Antonio Matos v. City of Racine, et al., Case No. 06-C-1011.
- Staff Recommendation: that permission be granted for the City of Racine to represent the police officers.
6. **06-2633** **Subject:** Communication from the City Attorney submitting the claim of Anthony Segura for consideration.
- Staff Recommendation: that the claim be denied.
7. **06-2634** **Subject:** Communication from the City Attorney submitting the claim of Tiffany Booker for consideration.
- Staff Recommendation: that the claim be denied.
8. [06-2632](#) **Subject:** Approval to accept the award for 2006 Housing Cost Reduction Initiative (HCRI) funds of \$104,720 and to execute a grant agreement.
9. [06-2640](#) **Subject:** Communication from the Executive Director of Racine County Convention & Visitors Bureau requesting to submit a plan for the institution of the City of Racine Special Event Fund.
10. [06-2664](#) **Subject:** Communication from Stephen T. Nenonen, City Administrator and Scott Letteney, Assistant City Attorney, requesting the opportunity to present an amended contract for the operations of the Civic Centre and Memorial Hall.
- Item also referred to Civic Centre Commission.
11. [06-2677](#) **Subject:** Communication from Kate Remington, of 613 Sixth Street, wishing to discuss representation on the Downtown Business Improvement District #1 who are not Downtown Racine Corporation members.
12. [06-2678](#) **Subject:** Communication from the Public Health Administrator requesting permission to support the application of Kenosha County, Division of Health for funding from the Department of Housing Urban Development for a lead demonstration grant in the amount of up to two million dollars and requesting a subcontract agreement with the Division of Health.
- Fiscal Note: A hard match is required and will be fulfilled by the CDBG.

13. [06-2679](#) **Subject:** Communication from the Public Health Administrator requesting permission to enter into a Services Agreement with The Coalition to End Childhood Lead Poisoning, Inc., at a cost of up to \$15,000 in order to provide assistance with the preparation of a 2006 HUD Lead Hazard Demonstration Grant and to enhance the Lead Poisoning Prevention Program.
14. [06-2681](#) **Subject:** Amendment to the development agreement with Key Bridge Group for the Pointe Blue redevelopment project.

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

15. [06-2601](#) **Subject:** Communication from the Commissioner of Public Works/City Engineer wishing to discuss an oversight that occurred when a portion of Mead Street was renamed South Marquette Street.
16. [06-2627](#) **Subject:** Communication from the Alderman of the 6th District requesting that a street light be placed on an existing pole in the alley of the 2000 block of Carmel Avenue.
17. [06-2635](#) **Subject:** Communication from the Co-Race Director of the Jingle Bell Run for Arthritis Racine 2006 requesting permission to use City right-of-way on Saturday, December 9, 2006.
18. [06-2662](#) **Subject:** Communication from the Commissioner of Public Works/City Engineer submitting Change Order No 1. on Contract 36-06 (K-038) Window Replacement at Fire Station #8, Lueck's Inc., contractor.
19. [06-2663](#) **Subject:** Communication from the Principal of Washington Park High School and Aldermen of the 1st and 3rd Districts requesting street lighting on Valley Drive, 13th Street and Bluefields Drive.
20. [06-2680](#) **Subject:** Granting "right of early entry" for the Walker property to the Key Bridge Group for the Pointe Blue redevelopment project.

Refer to Traffic Commission, by Ald. Hart

21. [06-2647](#) **Subject:** Communication from the Alderman of the 3rd District and Earl Hanson requesting a "No Parking" sign be installed by the driveway of Gales Corporation, 1514 Owen Avenue.

Refer to Transit and Parking Commission, by Ald. Sollman

22. [06-2622](#) **Subject:** Communication from the Transit Planner wishing to discuss changes in the Belle Urban System transfer policy.
23. [06-2624](#) **Subject:** Communication from the Transit Planner regarding bus fare increases for 2007.
24. [06-2630](#) **Subject:** Communication from the Transit Planner submitting the August 2006 financial and operating report for the Belle Urban System.

Refer to Committee of the Whole, by Ald. Weidner

25. [06-2618](#) **Subject:** Communication from the City Administrator requesting to present the Health Department's audit.

Item also referred to the Board of Health.

F. Committee Reports**Finance and Personnel Committee Report, by Ald. Spangenberg**

26. [Ord.35-06](#) Ordinance No. 35-06
- To amend the salaries of the aldermen of the City of Racine, Wisconsin.
- The Common Council of the City of Racine do ordain as follows:
- Part 1:
- The salaries of the aldermen of the City of Racine are amended as follows:
- "The salary for each alderman of the City of Racine shall be \$6,900 per year."

Part 2:

This ordinance shall take effect April 15, 2008.

Passed by the Common Council:

Approved:

Mayor

Attest:

City Clerk

Recommendation of the Finance & Personnel Committee 10-09-06:

Ordinance 35-06 be adopted.

Fiscal Note: The annual full-year increase based on 15 aldermen is \$32,340.

Sponsors: Thomas Friedel

27. [06-2536](#) **Subject:** Submittal of the report of the Finance Committee of the Racine Wastewater Commission regarding year 2007 Wastewater Utility Operation & Maintenance Budget and the 2007-2011 Capital Improvements Budget recommending adoption.

Recommendation of the Racine Wastewater Commission of

09-26-06: To adopt. Refer to the Finance & Personnel Committee for approval.

Recommendation of the Finance & Personnel Committee 10-09-06:

The item be referred to the Committee of the Whole.

Fiscal Note: N/A

28. [06-2547](#) **Subject:** Submittal of the report of the Finance Committee of the Racine Water Works Commission regarding year 2007 Water Works Utility Operation & Maintenance Budget and the 2007-2011 Capital Improvements Budget recommending adoption.

Recommendation of the Water Works Commission of 09-26-06: To adopt. Refer to the Finance & Personnel Committee for approval.

Recommendation of the Finance & Personnel Committee 10-09-06:

The item be referred to the Committee of the Whole.

Fiscal Note: N/A

29. [06-2575](#) **Subject:** Communication from the Public Health Administrator requesting permission to apply for funding from the Racine County Human Services Department in the amount of \$70,000 for continuation of the Brighter Futures program.

Recommendation of the Finance & Personnel Committee 10-09-06:

The Public Health Administrator be authorized to apply for a \$70,000 grant

with the Racine County Human Services Department to be utilized for the Brighter Future program (Grant Control No. 2006-043).

Fiscal Note: No match required on the part of the City. The City will act as the fiscal agent for other entities and will retain \$40,441 for its own programming.

30. [06-2577](#) **Subject:** Communication from the Purchasing Agent requesting to discuss the results of Official Notice #11, Request for Proposal Audit Services.

Recommendation of the Finance & Personnel Committee 10-09-06:

The Mayor and City Clerk be authorized and directed to enter into a multi-year contract for audit services with Virchow Krause & Company, LLP for the years 2006, 2007 and 2008.

Fiscal Note: Funds are available in account 101.191.5600, Audit Fees.

31. [06-2591](#) **Subject:** Communication from the Director of Human Resources requesting, in closed session, to present a summary of the collective bargaining agreements between the City of Racine and Local 67 (Public Works/Parks), AFSCME, AFL-CIO for 2006-2008, and the City of Racine and District 1199 (Health Professionals), SEIU for 2006-2008.

Recommendation of the Finance & Personnel Committee 10-09-06:

The City of Racine enter into the negotiated settlement with Local 67 (Public Works/Parks), AFSCME, AFL-CIO for 2006-2008, Local 2239A (Crossing Guards), AFSCME, AFL-CIO for 2006-2008, and District 1199 (Health Professionals), SEIU for 2006-2008.

Fiscal Note: The costs to the City for Local 67 (Public Works/Parks) will be in 2006, \$165,656.40, 2007, \$213,282.62 and 2008 \$221,280.71. The cost with Local 2239A (Crossing Guards) will be 2006 \$1,673.44, 2007 \$1,715.28 and 2008 \$1,758.16. The cost with District 1199 (Health Professionals) will be 2006 \$20,317.50, 2007 \$26,158.78 and 2008 \$27,139.74. Increases do not include potential savings from premium contributions and plan design changes.

32. [06-2599](#) **Subject:** (Direct Referral) Communication from the Assistant City Attorney requesting permission to apply for a \$30,000 grant with the State of Wisconsin Office of Justice Assistance, Juvenile Justice & Delinquency Prevention Grant (Grant Control No. 2006-045).

Recommendation of the Finance & Personnel Committee 10-09-06:

The Mayor and City Clerk be authorized and directed to enter into an agreement with the State of Wisconsin Office of Justice Assistance,

Juvenile Justice & Delinquency Prevention Grant (Grant Control No. 2006-045) in the amount of \$30,000 to be utilized for truancy and gang related issues with the Racine Unified School District.

Fiscal Note: No match required on the part of the City.

Public Works and Services Committee Report, by Ald. Hart

33. [06-2527](#) **Subject:** Direct Referral. Communication from the Alderman of the 12th District regarding a sewage repair in the 900 block of Monroe Avenue.
- Recommendation:** The communication be referred to the City Attorney's office.
- Recommendation of the City Attorney:** the item be received and filed.
- Fiscal Note:** Not applicable.
34. [06-2608](#) **Subject:** Direct Referral. Communication from the Commissioner of Public Works/City Engineer submitting the report of HNTB regarding the evaluation of the Main Street Bridge.
- Recommendation:** The report be accepted and that the item be received and filed.
- Fiscal Note:** Not applicable.
35. [06-2609](#) **Subject:** Direct Referral. Communication from the Commissioner of Public Works/City Engineer submitting Amendment No. 1 to Contract 4-06 (K6-004), Design Services for City Hall Data Center, Harwood Engineering Consultants, consultant.
- Recommendation:** Amendment No. 1 on Contract 4-06 (K6-004), Design Services for City Hall Data Center, Harwood Engineering Consultants, consultant, as submitted, be approved in the not-to-exceed amount of \$11,800.00.
- Further recommends that funding to defray the cost of these professional services be appropriated from Account 984.120.5030, MIS-Communications Room Remodel.
- Fiscal Note:** Funds are available as herein delineated.
36. [06-2611](#) **Subject:** Direct Referral. Communication from the Assistant Commissioner of Public Works/Engineering submitting Change Order No.

1 on Contract 27-06 (K6-028), 2006 Traffic Signal Renovations, Outdoor Lighting Construction Company, contractor.

Recommendation: Change Order No. 1 on Contract 27-06 (K6-028), 2006 Traffic Signal Renovations, Outdoor Lighting Construction Company, contractor, as submitted, be approved in the amount of \$17,168.00.

Further recommends that funding to defray the cost of this change order be appropriated from the following accounts:

\$10,226.15 - Account 985.600.5030, Traffic Signal LED Lamp Replacement

\$ 2,073.96 - Account 985.600.5010, Traffic Signal LED Lamp Replacement

\$ 4,867.89 - Account 986.600.5010, Traffic Signal Replacement

\$17,168.00 - Total

Fiscal Note: Funds are available as herein delineated.

37. [06-2612](#)

Subject: Direct Referral. Communication from the Assistant Commissioner of Public Works/Engineering submitting Change Order No. 1 on Contract 29-06 (K6-030), Pavement Repair, Wayside Construction Company, contractor.

Recommendation: Change Order No. 1 on Contract 29-06 (K6-030), Pavement Repair, Wayside Construction Company, contractor, as submitted, be approved in the amount of \$20,797.92.

Further recommends that funding to defray the cost of this change order be appropriated from the following accounts:

\$ 5,388.06 - Account 985.908.5020, Concrete Pavement Replacement

\$ 7,135.94 - Account 985.908.5010, Concrete Pavement Replacement

\$ 8,273.92 - Account 986.908.5020, Concrete Pavement Replacement

\$20,797.92 - Total

Fiscal Note: Funds are available as herein delineated.

38. [06-2613](#)

Subject: Direct Referral. Communication from the Commissioner of Public Works/City Engineer submitting a request for final payment on Contract 27-06 (K6-028), 2006 Traffic Signal Renovations, Outdoor Lighting Construction Company, contractor.

Recommendation: The work done by Outdoor Lighting Construction Company, under Contract 27-06 (K6-028), 2006 Traffic Signal

Renovations, be accepted and final payment authorized for a total contract amount of \$78,998.35, from funds heretofore appropriated.

Fiscal Note: This contract was approved by Resolution 7026, dated May 16, 2006.

39. [06-2643](#)

Subject: Direct Referral. Communication from the Assistant Commissioner of Public Works/Engineering submitting a proposal from Earth Tech for Storm Water Drainage Analysis at DeKoven Avenue and Hickory Grove Avenue.

Recommendation: The Mayor and City Clerk be authorized and directed to enter into an agreement with Earth Tech, Inc. for Storm Water Drainage Analysis at DeKoven Avenue and Hickory Grove Avenue at a price not-to-exceed \$19,200.00.

Further recommends that funds to defray the cost of these professional services be appropriated from Account 104.986.5420, Storm Sewers, Miscellaneous Locations.

Fiscal Note: Funds are available as herein delineated.

40. [06-2646](#)

Subject: Communication from the Commissioner of Public Works/City Engineer submitting Amendment No. 1 on Contract 15-05 (K5-022), 2005 NR216 Stormwater Permit Compliance Services, Earth Tech, Inc., consultant.

Recommendation: Amendment No. 1 on Contract 15-05 (K5-022), 2005 NR216 Stormwater Permit Compliance Services, Earth Tech, Inc., consultant, as submitted, be approved in the not-to-exceed amount of \$34,750.00.

Further recommends that funding to defray the cost of these professional services be appropriated from Account 104.000.5320, NR216 Expenses.

Fiscal Note: Funds are available as herein delineated.

Public Safety and Licensing Committee Report, by Ald. Maack

41. [06-2551](#)

Subject: Communication from Interim Police Chief Hurley, requesting authorization to accept a donation from Crime Stoppers of Racine County, Inc. of a lifetime supply of food for the department's canines currently in service.

Recommendation of the Finance & Personnel Committee 10-09-06:

Permission granted for the Police Department to accept the Crime Stoppers of Racine County's donation of a lifetime supply of food for the department's two canines in service and an appropriate letter of thanks be sent.

Recommendation of the Public Safety & Licensing of 10/09/06: That the donation from Crime Stoppers of Racine County, Inc. of a lifetime supply of food for the department's canines currently in service, be approved.

Fiscal Note: N/A

42. [06-2580](#) **Subject:** Application of Mega Marts, LLC, Matthew E. Kaprelian, Agent for a Change of Agent for a "Class A" Retail Fermented Malt Beverage and Intoxicating Liquor License for 2406 S. Green Bay Road.

Recommendation of the Public Safety & Licensing of 10/09/06: That the Change of Agent be granted.

Fiscal Note: N/A

43. [06-2581](#) **Subject: (New)** Application of MJ Gas & Food Mart, Inc., Jagjit S. Viridi, Agent, for a Class "A" Retail Fermented Malt Beverage License and Gasoline Station Owner's and Manager's License for 1720 Douglas Avenue. (4th District)

Recommendation of the Public Safety & Licensing of 10/09/06: That the license be granted.

Fiscal Note: N/A

44. [06-2629](#) **Subject:** (Direct Referral) Draft Ordinance - Drug Paraphernalia.

Recommendation of the Public Safety & Licensing Committee of 10/09/06: That the City Attorneys Office create an updated ordinance regarding drug paraphernalia.

Fiscal Note: N/A

45. [06-2648](#) **Subject:** Request of the Committee for the appearance of the following license holder for an incident that occurred at his establishment:

262 Lounge Melvin T. Bumpus, Agent
1846 Mead Street

Recommendation of the Public Safety & Licensing Committee of

10/09/06: That the matter of the 262 Lounge be referred to a due process hearing to determine whether the license should be revoked or suspended.

Fiscal Note: The approximate cost of the due process hearing is \$8,000.00.

City Plan Commission Report, by Ald. Holding

46. [06-2573](#) **Subject:** Communication from Southeastern Wisconsin Regional Planning Commission requesting that the City endorse the *A Regional Land Use Plan for Southeastern Wisconsin: 2035* Planning Report No. 48.

Recommendation of the City Plan Commission 10-11-06: That Southeastern Wisconsin Regional Planning Commission Community Assistance Planning Report No. 48 entitled "A Regional Land Use Plan for Southeastern Wisconsin: 2035" be used as a reference document in the conduct of land use planning for the City of Racine.

Further resolved that the City of Racine Common Council on the 17th day of October, 2006, hereby endorses the regional land use plan for the year 2035, previously adopted by the Southeastern Wisconsin Regional Planning Commission, as set forth in SEWRPC Planning Report No. 48, as a guide for regional community development.

Be it further resolved that the City of Racine clerk transmit a certified copy of this resolution to the Southeastern Wisconsin Regional Planning Commission.

Fiscal Note: N/A

47. [06-2615](#) **Subject:** (Direct Referral). Request by Gary Goodsell for Careers Industries seeking a conditional use permit at 1614 South Street for the storage of raw materials.

Recommendation of the City Plan Commission 10-11-06:
That the request by Gary Goodsell for Careers Industries Inc. seeking a conditional use permit to use the building at 1614 South Street for the storage of raw materials, and the distribution of finished goods for Careers Industries Inc. be approved, subject to the following conditions:

- a. That the plans stamped "Received September 29, 2006" and

presented to the Plan Commission on October 11, 2006 be approved subject to the conditions contained herein.

- b. That an occupancy permit and all other applicable permits be requested from the Building Department.
- c. That there be no outside storage of materials and equipment and products.
- d. That there be no tractor-trailer trucks performing backing-up movements on Douglas Avenue or South Street.
- e. Prior to the issuance of an occupancy permit a landscape plan be submitted to the Director of City Development for review and approval along with a bond equal to the value of the landscaping to be installed.
- f. That by June 1, 2007 the following shall be accomplished:
 - 1. That the pavement and gravel area beyond the parking and drive areas be removed, and established and maintained as a landscape area.
 - 2. That the exterior of 1614 South Street and 3316 Douglas Avenue be painted in a color scheme to be approved by the Director of City Development.
 - 3. That the fence parallel to the west joint access drive be repaired and painted.
- g. That all yard areas, landscaping, buildings, and grounds be maintained in a professional manner and on a daily basis.
- h. That all signs be professionally made and comply with zoning ordinance requirements.
- i. That all trash and recyclables be stored in closed containers and screened from view.
- j. That all codes and ordinances be complied with and required permits acquired.
- k. 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

48. [06-2616](#)

Subject: (Direct Referral). Request by Joseph Mrazek for Durand Shopping Center Plaza seeking a conditional use permit to re-establish the free standing multi-tenant shopping center sign at 3916 Durand Avenue.

Recommendation of the City Plan Commission 10-11-06: That the request by Joseph Mrazek seeking a conditional use permit to re-establish the free standing multi-tenant shopping center sign at the Durand Shopping Center at 3916 Durand Avenue be approved, subject to the following conditions:

- a. That a sign plan be submitted for the review and approval of the Director of City Development that illustrates a three-sided sign no greater than 25 feet in height and totaling no more that 292 square feet in area.
- b. That architectural elements and colors reflective of the Durand Shopping Center buildings be represented in the sign design.
- c. That all signs be professionally made and comply with zoning ordinance requirements.
- d. That all codes and ordinances be complied with and required permits acquired.
- e. 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.
- f. That this permit is subject to Plan Commission review for compliance with the listed conditions.
- g. That this permit shall be valid for two years from the date of approval, or upon the securing of a major tenant, whichever comes first.

Fiscal Note: N/A

49. [06-2620](#)

Subject: (Direct Referral). Request from Rosie and Roberto Montano to transfer a Conditional Use Permit for tire repair and sales operation from 1225 Washington Avenue to 1414 Rapids Drive.

Recommendation of the City Plan Commission 10-11-06: That a request from Rosie and Roberto Montano seeking the transfer of a Conditional Use Permit to operate a tire repair, sales, and accessories operation from 1225 Washington Avenue to 1414 Rapids Drive be granted, subject to the following conditions:

- a. That the plans presented to the Plan Commission on October 11, 2006 be approved subject to the conditions contained herein.
- b. That an occupancy permit and all other applicable permits be requested from the Building Department.
- c. That all yard areas, landscaping, buildings and grounds be maintained in a professional manner and on a daily basis.
- d. That all fencing and gates be repaired and painted in a uniform color, or replaced. Privacy slats shall be installed in the fencing along Rapids Drive and along the east and east fencing for a distance of 100 feet from Rapids Drive. Remnant vine and wooded materials shall be removed from the fence prior to the issuance of an occupancy permit.
- e. That all parking and drive areas be paved in either concrete or asphalt, and be striped.
- f. That all aspects of the operation of this business be conducted indoors including vending machines, product displays, or sales.
- g. That there be no outside storage of vehicles, vehicle tires or parts, or equipment.
- h. That all vehicles a waiting repair be stored on site for no more than 20 days.
- i. That all trash and recyclables be stored in closed containers and screened from view.
- j. That all signs be professionally made and comply with the zoning ordinance requirements.
- k. 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 Conditional Use Permit is subject to review by the Plan Commission for Compliance with the listed conditions.

Fiscal Note: N/A

Community Development Committee Report, by Ald. Weidner

50. [06-2305](#) **Subject:** Allocation of 2007 Community Development Block Grant (CDBG) funds.

Recommendation of Community Development Committee of

10-05-06: To approve the recommended allocation of 2007 Community Development Block Grant funds, to place in the Local Option Fund any funds received in excess of those allocated; to reduce the Local Option Fund accordingly if the funds received are less than those allocated; to authorize and direct the appropriate City officials to execute and submit the appropriate documents on the City's behalf to the U.S. Department of Housing and Urban Development to secure the City's 2007 Community Development Block Grant funds; and to authorize the appropriate City officials to execute third-party contracts with agencies approved for use of 2007 Community Development Block Grant funds.

Fiscal Note: The City expects to receive a 2007 Community Development Block Grant of no less than \$2,007,000.

51. [06-2370](#) **Subject:** Request of OIC of Racine County, Inc. to amend its 2005 Community Development Block Grant agreement.

Recommendation of Community Development Committee of

10-05-06: To reduce the 2005 Community Development Block Grant funding of the Youthbuild project to \$92,993.12 and return the balance to the Local Option Funds; to reserve \$31,241.12 pending an agreement between OIC of Racine County and the City of Racine regarding the special assessments owed on 1146 South Memorial Drive; to allocate \$1,752.00 for professional services; and to reserve \$60,000.00 pending submission and approval of a 2006-2007 Youthbuild project plan including all funding sources and proposed uses of the funds.

Fiscal Note: Seventy-seven thousand six and 88/100 dollars (\$77,006.88) will be returned to the Local Option Fund.

52. [06-2578](#) **Subject:** Allocation of 2006 Emergency Shelter Grant (ESG) funds.

Recommendation of Community Development Committee of

10-05-06: To approve the allocation of 2006 Emergency Shelter Grant funds; to authorize and direct the appropriate City officials to execute and submit the appropriate documents on the City's behalf to secure the City's 2006 Emergency Shelter Grant funds; and to authorize the appropriate City officials to execute third-party contracts with agencies approved for use of the 2006 Emergency Shelter Grant funds.

Fiscal Note: The City has received a 2006 Emergency Shelter Grant of \$87,135.

53. [06-2584](#) **Subject:** Request of Neighborhood Housing Services (NHS) of Southeast Wisconsin for extensions of their 2005 HOME grant and their 2005 Community Development Block Grant.

Recommendation of Community Development Committee of

10-05-06: To approve the request of Neighborhood Housing Services of Southeast Wisconsin to extend their 2005 HOME and Community Development Block Grant agreements to October 1, 2007.

Fiscal Note: N/A

54. [06-2604](#) **Subject:** Request of OIC of Racine County, Inc. for an extension of its 2004 Community Development Block Grant agreement for improvement of the OIC facility at 1020 Washington Avenue.

Recommendation of Community Development Committee of

10-05-06: To approve the request of OIC of Racine County to extend to December 31, 2006 their 2004 Community Development Block Grant agreement for improvement of the OIC facility at 1020 Washington Avenue.

Fiscal Note: N/A

Cable Television Commission Report, by Ald. Holding

55. [06-1617](#) **Subject:** Request to review and revise the Policies and Procedures manual governing public access to Cable Access Racine - CAR25.

Recommendation: The fee structure and changes to the Policies and Procedures manual be implemented for public access to CAR25 for 2007:

MEMBERSHIP FEES:

Producer 2007	Member 2007
City Resident, \$40 per Year	City Resident: \$20 per Year
NonResident, \$60 per Year	NonResident: \$30 per Year
Organization, \$60 per Year	Organization: \$30 per Year

BUSINESS MEMBERSHIP:

Small Business Membership (under 10 employees): \$50
Corporate Membership: \$150

DONATIONS:

Event Level Sponsorship: \$50 per Year
Program Level Sponsorship: \$100 per Year
Channel Level Sponsorship: \$250 per Year

ADDITIONAL TRAINING COSTS:

Basic Camcorder Workshop: \$25 Resident, \$35 Non-Resident
Basic Editing Workshop: \$50 Resident, \$60 Non-Resident
Advanced Camcorder Workshop: \$50 Resident, \$60 Non-Resident
Advanced Editing Workshop: \$50 Resident, \$60 Non-Resident
Addition of File Conversion Workshop: \$25 Resident, \$35 Non-Resident

CERTIFICATION FEE (Upon Passing Exam Without Course):
\$10.00 City Resident / \$20.00 Non-City Resident

DUPLICATION FEES:

Copies of licensed programming including DVD or VHS Media: \$10
Conversion of VHS to DVD, Including DVD Media: \$15
DVD Blank Media: \$7.50
VHS Blank Media: \$5
Mini DV Blank Media: \$10

CAR25 will have a non-exclusive license to cablecast the program on its Access Channel(s) and to use segments for promotional purposes on its Access Channel(s) and web site, station ID's and video festival entries for a period of 20 years. Producers will leave the edited master in the CAR25 library, but will have access to duplicate one copy of each program for free using CAR25 equipment (if trained). CAR25 may create copies of the program at the request of local viewers, businesses and organizations for a duplication fee of \$10.

RESERVING EQUIPMENT AND FACILITIES:

Excessive Equipment Usage Fee: \$10 per Check-out after 4 Check-out's per Completed Program (15 Minutes Minimum)

56. [06-2495](#) **Subject:** (Direct Referral) A request by John Polodna, producer, to discuss the sale of programs submitted to CAR25.

Recommendation: The following substitution be made to the Policies and Procedures Manual. Replace section II, Item D. with: DUPLICATION: The submitted DVD or tape to CAR25 will not be returned.

Downtown Area Design Review Report, by Ald. Fair

57. [05-1224](#) **Subject:** Communication from the Executive Director of Sustainable Racine requesting that the existing downtown bicycle rack design standards to be waived to allow installation of 100 bicycle racks that were purchased by them and donated to the Park, Recreation, and Cultural Services Department.

Recommendation: That the request for a waiver of the downtown bicycle rack design standards be granted to allow the installation of "inverted U" style bicycle racks at the following locations in the following quantities:

NE corner of 7th and Main, 2 racks
NE entrance to Lake Avenue parking ramp, 2 racks
SE entrance to Lake Avenue parking ramp, 2 racks
SW corner of State and Main (near Shoop parking ramp), 2 racks
700 Sixth Street (near Fire Station Museum), 1 rack; and
614 Sixth Street (near 6th Street Gym), 1 rack.

Further recommends that the communication be received and filed.

Fiscal Note: N/A

58. [06-1780](#) **Subject:** Item 28 of 09-06-05. Being a communication from the Director of City Development and the Chief Building Inspector requesting the development of Aesthetic Standards for the side walk cafe permit.

Recommendation: That the pamphlet entitled "City of Racine Sidwalk Cafes: Questions, Answers, Rules and Basic Guidelines" be utilized by City staff and the general public as guide for the permitting of sidewalk cafes.

Further, that the communication be received and filed.

Fiscal Note: N/A

G. Resolutions

59. [Res.06-7256](#) Final Paving Resolution for S. Main Street

Whereas, the Public Works & Services Committee of the Common Council of the City of Racine, Wisconsin, held a public hearing at the Council Chambers in the City Hall at 5:30 P.M. on the 26^h day of September, 2006, for the purpose of hearing all interested persons concerning the preliminary resolution and report of the Commissioner of Public Works on the proposed improvement of:

BITUMINOUS CONCRETE PAVING

S. Main Street from DeKoven Avenue to the cul-de-sac.

Now, therefore, be it resolved, by the Common Council of the City of Racine as follows:

1. That the report of the Commissioner of Public Works pertaining to the construction of the above described public improvements, including plans and specifications therefore, as modified, is hereby adopted and approved.
2. That the Commissioner of Public Works is directed to advertise for bids and to carry out the work of such improvement in accordance with the report of the Commissioner of Public Works.
3. That payment for said improvements be made by assessing the cost to the property benefited as indicated in said report.
4. That benefits and damages shown on the report, as modified, are true and correct, have been determined on a reasonable basis; do not exceed the value accruing to the property therefrom; and are hereby confirmed.
5. That the assessments for all projects included in said report are hereby combined as a single assessment, but any interested property owner shall be entitled to object to each assessment separately or both assessments jointly for any purpose or purposes.
6. That the assessments may be paid in cash or if any assessments are over \$200.00, said assessment(s) may be paid in ten (10) annual installments to the City Treasurer, deferred payments to bear interest at the rate of 8% per annum on the unpaid balance. Installments or assessments not paid when due shall bear additional interest on the amount due at the rate of 9.6% per annum.
7. The City Clerk is directed to publish this resolution in the official newspaper of the City of Racine as a Class I notice in the assessment district.

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

Dated _____
 Signed _____
 Mayor
 Published _____
 Attest _____
 City Clerk

Sponsors: Ronald D. Hart

60. [Res.06-7257](#) Amendment to Contract for Design Services City Hall Data Center

Resolved, that Amendment No. 1 on Contract 4-06 (K6-004), Design Services for City Hall Data Center, Harwood Engineering Consultants, consultant, as submitted, be approved in the not-to-exceed amount of \$11,800.00.

Further Resolved, that funding to defray the cost of these professional services be appropriated from Account 984.120.5030, MIS-Communications Room Remodel.

Fiscal Note: Funds are available as herein delineated.

Sponsors: Ronald D. Hart

61. [Res.06-7258](#) Change Order 2006 Traffic Signal Renovations

Resolved, that Change Order No. 1 on Contract 27-06 (K6-028), 2006 Traffic Signal Renovations, Outdoor Lighting Construction Company, contractor, as submitted, be approved in the amount of \$17,168.00.

Further Resolved, that funding to defray the cost of this change order be appropriated from the following accounts:

\$10,226.15 - Account 985.600.5030, Traffic Signal LED Lamp Replacement
 \$ 2,073.96 - Account 985.600.5010, Traffic Signal LED Lamp Replacement
 \$ 4,867.89 - Account 986.600.5010, Traffic Signal Replacement
 \$17,168.00 - Total

Fiscal Note: Funds are available as herein delineated.

Sponsors: Ronald D. Hart

62. [Res.06-7259](#) Final payment of 2006 Traffic Signal Renovations Contract

Resolved, that the work done by Outdoor Lighting Construction Company, under Contract 27-06 (K6-028), 2006 Traffic Signal Renovations, be accepted

and final payment authorized for a total contract amount of \$78,998.35, from funds heretofore appropriated.

Fiscal Note: This contract was approved by Resolution 7026, dated May 16, 2006.

Sponsors: Ronald D. Hart

63. [Res.06-7260](#) Change Order for Pavement Repair Contract

Resolved, that Change Order No. 1 on Contract 29-06 (K6-030), Pavement Repair, Wayside Construction Company, contractor, as submitted, be approved in the amount of \$20,797.92.

Further Resolved, that funding to defray the cost of this change order be appropriated from the following accounts:

\$ 5,388.06 - Account 985.908.5020, Concrete Pavement Replacement
\$ 7,135.94 - Account 985.908.5010, Concrete Pavement Replacement
\$ 8,273.92 - Account 986.908.5020, Concrete Pavement Replacement
\$20,797.92 - Total

Fiscal Note: Funds are available as herein delineated.

Sponsors: Ronald D. Hart

64. [Res.06-7261](#) Amendment to 2005 Stormwater Services Contract

Resolved, that Amendment No. 1 on Contract 15-05 (K5-022), 2005 NR216 Stormwater Permit Compliance Services, Earth Tech, Inc., consultant, as submitted, be approved in the not-to-exceed amount of \$34,750.00.

Further Resolved, that funding to defray the cost of these professional services be appropriated from Account 104.000.5320, NR216 Expenses.

Fiscal Note: Funds are available as herein delineated.

Sponsors: Ronald D. Hart

65. [Res.06-7262](#) Agreement for Storm Water Drainage Analysis

Resolved, that the Mayor and City Clerk be authorized and directed to enter into an agreement with Earth Tech, Inc. for Storm Water Drainage Analysis at DeKoven Avenue and Hickory Grove Avenue at a price not-to-exceed \$19,200.00.

Further Resolved, that funds to defray the cost of these professional services

be appropriated from Account 104.986.5420, Storm Sewers, Miscellaneous Locations.

Fiscal Note: Funds are available as herein delineated.

Sponsors: Ronald D. Hart

66. [Res.06-7263](#) Contract for Audit Services 2006-2008

Resolved, that the Mayor and City Clerk be authorized and directed to enter into a multi-year contract for audit services with Virchow Krause & Company, LLP for the years 2006, 2007 and 2008.

Fiscal Note: Funds are available in account 101.191.5600, Audit Fees.

Sponsors: James T. Spangenberg

67. [Res.06-7264](#) Accept Grant for Truancy from State of Wisconsin Dept. of Justice Assistance

Resolved, that the Mayor and City Clerk be authorized and directed to enter into an agreement with the State of Wisconsin Office of Justice Assistance, Juvenile Justice & Delinquency Prevention Grant (Grant Control No. 2006-045) in the amount of \$30,000 to be utilized for truancy and gang related issues with the Racine Unified School District.

Fiscal Note: No match required on the part of the City.

Sponsors: James T. Spangenberg

68. [Res.06-7265](#) Enter into Negotiated Settlement with Local 67, Local 2239A and District 1199

Resolved, that the City of Racine enter into the negotiated settlement with Local 67 (Public Works/Parks), AFSCME, AFL-CIO for 2006-2008, Local 2239A (Crossing Guards), AFSCME, AFL-CIO for 2006-2008, and District 1199 (Health Professionals), SEIU for 2006-2008.

Fiscal Note: The costs to the City for Local 67 (Public Works/Parks) will be in 2006, \$165,656.40, 2007, \$213,282.62 and 2008, \$221,280.71. The cost with Local 2239A (Crossing Guards) will be 2006, \$1,673.44, 2007, \$1,715.28 and 2008, \$1,758.16. The cost with District 1199 (Health Professionals) will be 2006, \$20,317.50, 2007, \$26,158.78 and 2008, \$27,139.74. Increases do not include potential savings from premium contributions and plan design changes.

Sponsors: James T. Spangenberg

69. [Res.06-7266](#) City endorsement of *A Regional Land use Plan for Southeastern Wisconsin*

Resolved, that Southeastern Wisconsin Regional Planning Commission Community Assistance Planning Report No. 48 entitled "A Regional Land Use Plan for Southeastern Wisconsin: 2035" be used as a reference document in the conduct of land use planning for the City of Racine.

Further Resolved, that the Common Council of the City of Racine on the 17th day of October, 2006, hereby endorses the regional land use plan for the year 2035, previously adopted by the Southeastern Wisconsin Regional Planning Commission, as set forth in SEWRPC Planning Report No. 48, as a guide for regional community development.

Further Resolved, that the Racine City Clerk submit a certified copy of this resolution to the Southeastern Wisconsin Regional Planning Commission.

Fiscal Note: N/A

Sponsors: Gregory Holding

70. [Res.06-7267](#) Conditional Use Permit for 1414 Rapids Drive

Resolved, that the request of Rosie and Roberto Montano seeking the transfer of a Conditional Use Permit to operate a tire repair, sales, and accessories operation from 1225 Washington Avenue to 1414 Rapids Drive be granted, subject to the following conditions:

- a. That the plans presented to the Plan Commission on October 11, 2006 be approved subject to the conditions contained herein.
- b. That an occupancy permit and all other applicable permits be requested from the Building Department.
- c. That all yard areas, landscaping, buildings and grounds be maintained in a professional manner and on a daily basis.
- d. That all fencing and gates be repaired and painted in a uniform color, or replaced. Privacy slats shall be installed in the fencing along Rapids Drive and along the east and west fencing for a distance of 100 feet from Rapids Drive. Remnant vine and wooded materials shall be removed from the fence prior to the issuance of an occupancy permit.
- e. That all parking and drive areas be paved in either concrete or asphalt, and be striped.
- f. That all aspects of the operation of this business be conducted indoors including vending machines, product displays, or sales.
- g. That there be no outside storage of vehicles, vehicle tires or parts, or equipment.
- h. That all vehicles waiting repair be stored on site for no more than 20 days.

- i. That all trash and recyclables be stored in closed containers and screened from view.
- j. That all signs be professionally made and comply with the zoning ordinance requirements.
- k. 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.
- l. That this Conditional Use Permit is subject to review by the Plan Commission for Compliance with the listed conditions.

Fiscal Note: N/A

Sponsors: Gregory Holding

71. [Res.06-7268](#) Conditional Use Permit for 1614 South Street

Resolved, that the request of Gary Goodsell for Careers Industries Inc. seeking a conditional use permit to use the building at 1614 South Street for the storage of raw materials, and the distribution of finished goods for Careers Industries Inc. be approved, subject to the following conditions:

- a. That the plans stamped "Received September 29, 2006" and presented to the Plan Commission on October 11, 2006 be approved subject to the conditions contained herein.
- b. That an occupancy permit and all other applicable permits be requested from the Building Department.
- c. That there be no outside storage of materials, equipment and products.
- d. That there be no tractor-trailer trucks performing backing-up movements on Douglas Avenue or South Street.
- e. Prior to the issuance of an occupancy permit, a landscape plan be submitted to the Director of City Development for review and approval along with a bond equal to the value of the landscaping to be installed.
- f. That by June 1, 2007 the following shall be accomplished:
 - 1. That the pavement and gravel area beyond the parking and drive areas be removed and established and maintained as a landscape area.
 - 2. That the exterior of 1614 South Street and 3316 Douglas Avenue be painted in a color scheme to be approved by the Director of City Development.
 - 3. That the fence parallel to the west joint access drive be repaired and painted.
- g. That all yard areas, landscaping, buildings, and grounds be maintained in a

professional manner and on a daily basis.

h. That all signs be professionally made and comply with zoning ordinance requirements.

i. That all trash and recyclables be stored in closed containers and screened from view.

j. That all codes and ordinances be complied with and required permits acquired.

k. 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.

l. That this permit is subject to Plan Commission review for compliance with the listed conditions.

Fiscal Note: N/A

Sponsors: Gregory Holding

72. [Res.06-7269](#) Conditional Use Permit for 3916 Durand Avenue

Resolved, that the request of Joseph Mrazek seeking a conditional use permit to re-establish the free standing multi-tenant shopping center sign at the Durand Shopping Center at 3916 Durand Avenue be approved, subject to the following conditions:

a. That a sign plan be submitted for the review and approval of the Director of City Development that illustrates a three-sided sign no greater than 25 feet in height and totaling no more than 292 square feet in area.

b. That architectural elements and colors reflective of the Durand Shopping Center buildings be represented in the sign design.

c. That all signs be professionally made and comply with zoning ordinance requirements.

d. That all codes and ordinances be complied with and required permits acquired.

e. 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.

f. That this permit is subject to Plan Commission review for compliance with the listed conditions.

g. That this permit shall be valid for two years from the date of approval, or upon

the securing of a major tenant, whichever comes first.

Fiscal Note: N/A

Sponsors: Gregory Holding

73. [Res.06-7270](#) Allocation of 2007 Community Development Block Grant (CDBG) Funds

Resolved, that the recommended allocation of 2007 Community Development Block Grant funds be approved, to place in the Local Option Fund any funds received in excess of those allocated; to reduce the Local Option Fund accordingly if the funds received are less than those allocated; to authorize and direct the appropriate City officials to execute and submit the appropriate documents on the City's behalf to the U.S. Department of Housing and Urban Development to secure the City's 2007 Community Development Block Grant funds; and to authorize the appropriate City officials to execute third-party contracts with agencies approved for use of 2007 Community Development Block Grant funds.

Fiscal Note: The City expects to receive a 2007 Community Development Block Grant of no less than \$2,007,000.

Sponsors: Sandy Weidner

74. [Res.06-7271](#) Allocation of 2006 Emergency Shelter Grant (ESG) Funds

Resolved, that the the allocation of 2006 Emergency Shelter Grant funds be approved; to authorize and direct the appropriate City officials to execute and submit the appropriate documents on the City's behalf to secure the City's 2006 Emergency Shelter Grant funds; and to authorize the appropriate City officials to execute third-party contracts with agencies approved for use of the 2006 Emergency Shelter Grant funds.

Fiscal Note: The City has received a 2006 Emergency Shelter Grant of \$87,135.

Sponsors: Sandy Weidner

75. [Res.06-7272](#) Extend 2005 HOME and Community Development Block Grant Agreements

Resolved, that the request of Neighborhood Housing Services of Southeast Wisconsin to extend their 2005 HOME and Community Development Block Grant agreements to October 1, 2007 be approved.

Fiscal Note: N/A

Sponsors: Sandy Weidner

76. [Res.06-7273](#) Amend OIC of Racine County, Inc., 2005 Community Development Block Grant Agreement

Resolved, that the 2005 Community Development Block Grant funding of the Youthbuild project be reduced to \$92,993.12 and return the balance to the Local Option Funds; to reserve \$31,241.12 pending an agreement between OIC of Racine County and the City of Racine regarding the special assessments owed on 1146 South Memorial Drive; to allocate \$1,752.00 for professional services; and to reserve \$60,000.00 pending submission and approval of a 2006-2007 Youthbuild project plan including all funding sources and proposed uses of the funds.

Fiscal Note: Seventy-seven thousand six and 88/100 dollars (\$77,006.88) will be returned to the Local Option Fund.

Sponsors: Sandy Weidner

77. [Res.06-7274](#) OIC of Racine County, Inc., Extension of 2004 Community Development Block Grant Agreement

Resolved, that the request of OIC of Racine County to extend until December 31, 2006, their 2004 Community Development Block Grant agreement for improvement of the OIC facility at 1020 Washington Avenue be approved.

Fiscal Note: N/A

Sponsors: Sandy Weidner

H. Ordinances

78. [Ord.36-06](#) Ordinance No. 36-06

To amend Secs. 66-804 and 66-806 of the Municipal Code of the City of Racine, Wisconsin relating to Truancy.

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

Part 1:

Sec. 66-804 of the Municipal Code of the City of Racine is hereby amended by adding the following at the end of the section:

"(10) Order the person to perform community service."

Part 2:

Sec. 66-806 of the Municipal Code of the City of Racine is hereby amended by adding the following at the end of the section:

"(3) Order the person to perform community service."

Part 3:

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: David L. Maack

79. [Ord.37-06](#)

Ordinance No. 37-06

To repeal and recreate Secs. 66-271, 66-272, 66-273, 66-275 and repeal Sec. 66-274 of the Municipal Code of the City of Racine, Wisconsin relating to Drug Paraphernalia.

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

Part 1:

Section 66-271 of the Municipal Code of the City of Racine is hereby repealed and recreated to read:

"Sec. 66-271 Definitions.

(A) For the purposes of this division, "drug paraphernalia" means all equipment, products and materials of any kind that are used, designed for use or primarily intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog as defined in ch. 961, Wis. Stats., in violation of this division. "Drug paraphernalia" includes, but is not limited to, any of the following:

- (1) Kits used, designed for use or primarily intended for use in planting,

propagating, cultivating, growing, or harvesting of any species of plant that is a controlled substance or from which a controlled substance or controlled substance analog can be derived.

(2) Kits used, designed for use or primarily intended for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances or controlled substance analogs.

(3) Isomerization devices used, designed for use, or primarily intended for use in increasing the potency of any species of plant that is a controlled substance.

(4) Testing equipment used, designed for use, or primarily intended for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances or controlled substance analogs.

(5) Scales and balances used, designed for use, or primarily intended for use in weighing or measuring controlled substances or controlled substance analogs.

(6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, used, designed for use, or primarily intended for use in cutting controlled substances or controlled substance analogs.

(7) Separation gins and sifters used, designed for use, or primarily intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.

(8) Blenders, bowls, containers, spoons, and mixing devices used, designed for use, or primarily intended for use in compounding controlled substances or controlled substance analogs.

(9) Capsules, balloons, envelopes, and other containers used, designed for use, or primarily intended for use in packaging small quantities of controlled substances or controlled substance analogs.

(10) Containers and other objects used, designed for use, or primarily intended for use in storing or concealing controlled substances or controlled substance analogs.

(11) Objects used, designed for use, or primarily intended for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.

b. Water pipes.

c. Carburetion tubes and devices.

- d. Smoking and carburetion masks.
- e. Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand.
- f. Miniature cocaine spoons and cocaine vials.
- g. Chamber pipes.
- h. Carburetor pipes.
- i. Electric pipes.
- j. Air-driven pipes.
- k. Chilams.
- l. Bongs.
- m. Ice pipes or chillers.

(B) "Drug paraphernalia" excludes:

- (1) Hypodermic syringes, needles, and other objects used or intended for use in parenterally injecting substances into the human body.
- (2) Any items, including pipes, papers, and accessories, that are designed for use or primarily intended for use with tobacco products.

(C) "Primarily" means chiefly or mainly."

Part 2:

Section 66-272 of the Municipal Code of the City of Racine is hereby repealed and recreated to read:

"Sec. 66-272 Determination.

(A) In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other legally relevant factors, the following:

- (1) Statements by an owner or by anyone in control of the object concerning its use.
- (2) The proximity of the object, in time and space, to a direct violation of this Article.
- (3) The proximity of the object to controlled substances or controlled substance

analogs.

(4) The existence of any residue of controlled substances or controlled substance analogs on the object.

(5) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of this division; the innocence of an owner, or of anyone in control of the object, as to a direct violation of ch. 961. Wis. Stats., shall not prevent a finding that the object is designed for use or primarily intended for use as drug paraphernalia.

(6) Instructions, oral or written, provided with the object concerning its use.

(7) Descriptive materials accompanying the object that explain or depict its use.

(8) Local advertising concerning its use.

(9) The manner in which the object is displayed for sale.

(10) Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(11) The existence and scope of legitimate uses for the object in the community.

(12) Expert testimony concerning its use.

(B) In determining under this subchapter whether an item is designed for a particular use, a court or other authority shall consider the objective physical characteristics and design features of the item.

(C) In determining under this subchapter whether an item is primarily intended for a particular use, a court or other authority shall consider the subjective intent of the defendant.”

Part 3:

Section 66-273 of the Municipal Code of the City of Racine is hereby repealed and recreated to read:

“Sec. 66-273 Prohibited acts.

(A) Possession of drug paraphernalia. No person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance or controlled

substance analog in violation of ch. 961, Wis. Stats.. Any person who violates this subsection may be fined not more than \$500 or imprisoned for not more than 30 days or both.

(B) Manufacture or delivery of drug paraphernalia. No person may deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be primarily used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance or controlled substance analog in violation of ch. 961, Wis. Stats.. Any person who violates this subsection may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

(C) Delivery of drug paraphernalia to a minor. Any person 17 years of age or over who violates subsection (B) by delivering drug paraphernalia to a person 17 years of age or under who is at least 3 years younger than the violator is guilty of a special offense.

(D) Advertisement of drug paraphernalia. No person may place in any newspaper, magazine, handbill, or other publication, or upon any outdoor billboard or sign, any advertisement, knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or primarily intended for use as drug paraphernalia in violation of this division.”

Part 4:

Section 66-274 of the Municipal Code of the City of Racine is hereby repealed.

Part 5:

Section 66-275 of the Municipal Code of the City of Racine is hereby repealed and recreated to read:

“Sec. 66-275 Penalties.

(A) Upon conviction, any person aged 17 or older adjudged to have violated sec. 66-273(A) or (D) shall forfeit not more than \$500, together with the costs of prosecution, and upon default of payment may be imprisoned until paid but for not more than 30 days.

(B) Upon conviction, any person aged 17 or older adjudged to have violated sec. 66-273(B) shall forfeit not more than \$1,000, together with the costs of prosecution, and upon default of payment may be imprisoned until paid but for not more than 90 days.

(C) Upon conviction, any person aged 17 or older adjudged to have violated sec. 66-273(C) shall forfeit not more than \$10,000, together with the costs of prosecution, and upon default of payment may be imprisoned until paid but for not more than 90 days.

(D) If the court finds a person under 17 years of age committed a violation under this division:

(1) The court shall suspend the juvenile's operating privilege, as defined in s. 340.01 (40), Wis. Stats., for not less than 6 months nor more than 5 years and, in addition, shall order one of the following penalties:

(a) For a first violation, a forfeiture of not more than \$50 together with the costs of prosecution or participation in a community service work or both.

(b) For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$100 together with the costs of prosecution or participation in a community service work or both.

(c) For a violation committed within 12 months of 2 previous violation or more, a forfeiture of not more than \$500 together with the costs of prosecution or participation in a community service work or both.

(2) Whenever the court suspends a juvenile's operating privilege under this subsection, the court shall immediately take possession of any suspended license and forward it to the Wisconsin Department of Transportation, together with the notice of suspension stating that the suspension is for a violation of a local ordinance that strictly conforms to secs. 961.573 (2), 961.574 (2), or 961.575 (2), Wis. Stats.

(3) If the juvenile's license or operating privilege is currently suspended or revoked or the juvenile does not currently possess a valid operator's license under ch. 343, Wis. Stats., the suspension under this subsection is effective on the date on which the juvenile is first eligible and applies for issuance or reinstatement of an operator's license under ch. 343, Wis. Stats.

(4) Stay of Order

(a) After ordering a penalty under subsection (D), the court, with the agreement of the juvenile, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed. The order under this paragraph shall require the juvenile to do any of the following:

1. Submit to an alcohol and other drug abuse assessment that conforms to the criteria under sec. 938.547 (4), Wis. Stats. and that is conducted by an approved treatment facility. The order shall designate an approved treatment facility to conduct the alcohol and other drug abuse assessment and shall specify the date by which the assessment must be completed.

2. Participate in an outpatient alcohol or other drug abuse treatment program at an approved treatment facility, if an alcohol or other drug abuse assessment conducted under 1., above, or sec. 938.295 (1), Wis. Stats., recommends treatment.

3. Participate in a court-approved pupil assistance program provided by the juvenile's school board or in a court-approved alcohol or other drug abuse education program. The juvenile's participation in a court-approved pupil assistance program under this subdivision is subject to the approval of the juvenile's school board.

4. Participate in a teen court program if all of the following conditions apply:

a. The chief judge of the judicial administrative district has approved a teen court program established in the juvenile's county of residence and the court determines that participation in the teen court program will likely benefit the juvenile and the community.

b. The juvenile admits or pleads no contest in open court, in the presence of the juvenile's parent, guardian or legal custodian, to the allegations that the juvenile committed the violation specified in subsection (D).

c. The juvenile has not successfully completed participation in a teen court program during the 2 years before the date of the alleged violation.

5. Report to a youth report center after school, in the evening, on weekends, on other nonschool days, or at any other time that the juvenile is not under immediate adult supervision, for participation in the social, behavioral, academic, community service, and other programming of the center.

(b) If the approved treatment facility, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notifies the agency primarily responsible for providing services to the juvenile that the juvenile has submitted to an assessment under par. (a) and that the juvenile does not need treatment, intervention or education, the court shall notify the juvenile of whether or not the penalty will be reinstated.

(c) If the juvenile completes the alcohol or other drug abuse treatment program, court-approved pupil assistance program or court-approved alcohol or other drug abuse education program, the approved treatment facility, court-approved pupil assistance program or court-approved alcohol or other drug abuse education program shall, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notify the agency primarily responsible for providing services to the juvenile that the juvenile has complied with the order and the court shall notify the juvenile of whether or not the penalty will be reinstated.

(d) If an approved treatment facility, court-approved pupil assistance program, or court-approved alcohol or other drug abuse education program, with the written informed consent of the juvenile or, if the juvenile has not attained the age of 12, the written informed consent of the juvenile's parent, notifies the agency primarily responsible for providing services to the juvenile that a juvenile is not participating, or has not satisfactorily completed, a recommended alcohol or other drug abuse treatment program, a court-approved pupil assistance

program, or a court-approved alcohol or other drug abuse education program, the court shall hold a hearing to determine whether to impose the penalties under subsection (D).

(5) Counting violations. For purposes of subsection (D), all violations arising out of the same incident or occurrence shall be counted as a single violation.”

Part 6:

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: David L. Maack

I. Miscellaneous Business

Mayor's Presentation of 2007 Budget

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.