

CITY OF WAUWATOSA  
MEMORIAL CIVIC CENTER  
7725 WEST NORTH AVENUE  
WAUWATOSA, WI 53213  
Telephone: (414) 479-8917  
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**COMMON COUNCIL**  
**Regular Meeting, Tuesday, February 18, 2003**

PRESENT: Alds. Becker, Casey, Ecks, Grimm, Heins, Herzog, Jenkins, Kopischke, Krol, Matthews, McCarthy, Subotich, Sullivan, Treis, Bruderle-Baran -15

ABSENT: Ald. Stepaniak

ALSO PRESENT: Mr. Wontorek, City Administrator; Mr. Braier, Finance Director; Mr. Kesner, City Attorney; Mr. Kappel, Dir. of Public Works; Ms. Welch, Community Development Director; Police Chief Weber; Mr. Brown, Personnel Director; Ms. Ledesma, City Clerk; Ms. Williams, Deputy City Clerk

Mayor Estness in the Chair

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

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

**APPLICATIONS, COMMUNICATIONS, ETC.**

1. Conditional Use application to install an additional antenna to the existing electric transmission tower at 11825 W. Center Street  
**Plan Commission, Committee on Community Development**
2. Special Use application to operate a restaurant at 418 N. Mayfair Road  
**Plan Commission, Board of Zoning Appeals**
3. Letter from Gerald Mullins, principal of Wilson School, 1060 N. Glenview Avenue, requesting a 15-minute parking zone on Portland Avenue  
**Director of Public Works**
4. City of Wauwatosa Investment Summary for month ended January 31, 2003  
**Place on file**
5. Wauwatosa Water Utility Statement of Receipts and Disbursement for month ended January 31, 2003  
**Place on file**
6. Letter from Sherry Carlin, Tosafest Chair, requesting a street festival permit for Tosafest, September 5-7, 2003  
**Committee on Community Development**
7. Notice of Claim: Charles Scalish, 2343 N. 113th Street  
**City Attorney**
8. Analysis of Proposed Milwaukee County Grounds Detention Basins on Flooding Conditions Along the Menomonee River and Underwood Creek prepared by SEWRPC

**Engineering, Director of Community Development**

9. Letter from Ald. Herzog requesting a review of the licenses held by AMC Entertainment, Inc., Premium Theatre of Mayfair, Inc., 2500 N. Mayfair Road, or their subsidiaries

**City Attorney, Committee on Legislation, Licensing & Communications**

10. Special Use application for Gamestop, Inc., Mayfair Mall, 2500 N. Mayfair Road, to buy and sell used merchandise

**Plan Commission, Board of Zoning Appeals**

11. E-mail from the president of the Wellauer Heights Neighborhood Association, expressing approval of the stop sign 90-day trial at the intersection of N. 74th Street and W. Wells Street

**Add to existing file**

12. Letter from Ald. Herzog requesting the Council consider a resolution regarding a recent attempted car jacking and battery of a police officer

**City Administrator, City Attorney**

13. Special Use application to rebuild the service station/convenience store at 717 N. Mayfair Road

**Plan Commission, Board of Zoning Appeals**

**FROM THE COMMITTEE ON EMPLOYEE RELATIONS FOR INTRODUCTION**

1. Ordinance amending Section 2.58.030 of the City code regarding holidays for non-represented employees in the library

**Re-refer to originating committee**

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-03-35**

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT permission be and the same is hereby granted to Pat Barwig to divide the parcel located at approximately 1730 N. 69<sup>th</sup> Street, Wauwatosa. The parcel is more particularly described as follows:

Lot 17, Block 1 SW, in Browns Subdivision, in the Southwest ¼ of Section 22, in Township 7 North, Range 21 East, in the City of Wauwatosa, County of Milwaukee, State of Wisconsin.

BE IT FURTHER RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT permission be and the same is hereby granted that the above described property division proceed to allow Pat Barwig to combine the northern thirty feet of this parcel with the parcel located at 1734 N 69<sup>th</sup> Street and permission is hereby granted to Joe Luedtke to combine the southern thirty feet of the parcel with the parcel located at 1722 N. 69<sup>th</sup> Street.

All in accordance with the application attached hereto and made a part of this resolution, and in compliance with Section 24.56.010 of the Code of the City of Wauwatosa and subject to the payment of all outstanding special assessments on the aforescribed property which is being subdivided.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**ORDINANCE** O-03-6

AN ORDINANCE ALLOWING ADMINISTRATIVE REVIEW OF CERTAIN DESIGN REVIEW PROJECTS BASED UPON STANDARDIZED CRITERIA

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

Part I. Section 24.54.020. D. is hereby created to read as follows:

Exception: A Design Review Board, may by majority vote establish criteria allowing administrative approval of any building permit which would otherwise be subject to Design Review Board approval. If an applicant's design complies with the criteria established by the Board, the Chief Inspector may authorize the issuance of a building permit without specific approval by the Board, though the Inspector is not required to do so. In the event that the Chief Inspector declines to issue a permit pursuant to the guidelines established by a Design Review Board, the applicant may seek approval through the Design Review Board which would otherwise hear the matter.

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

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**ORDINANCE** O-03-7

AN ORDINANCE REPEALING WAUWATOSA CODE CHAPTER 12.28 AND CREATING CHAPTER 14.24 REGARDING OUTDOOR BURNING

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

Part I. Chapter 12.28 of the Wauwatosa Municipal Code is hereby repealed in its entirety.

Part II. Chapter 14.24 of the Wauwatosa Municipal Code is hereby created to read as follows:

Chapter 14.24 "OUTDOOR BURNING"

14.24.010 Burning on Improved Street Prohibited.

Except as provided below, it is unlawful for any person, firm or corporation to burn any substance or material in any improved street, alley, parkway or other improved public place in the city of Wauwatosa.

14.24.020 Burning Flammable and Combustible Materials Outdoors.

Flammable and combustible material, exclusive of those items listed in section 14.24.030, below, or otherwise prohibited by applicable state, federal or local laws, may be burned outdoors on private property, under constant supervision by a competent person, but not within twenty-five feet of any building or structure, trees or shrubbery nor near an area containing dry grass, weeds or other combustible material within the City of Wauwatosa. Such burning should be confined to manufactured portable fireplaces or fireplaces meeting

the requirements of Sec. 14.24.050, below, designed to prevent the escape of sparks or burning embers.

14.24.030 Unlawful Use of Outdoor fireplaces

A. It is unlawful to utilize a manufactured portable fireplace or an outdoor fireplace described in Sec. 14.24.050, below, in a manner or for purposes other than the manner in which it was designed.

B. It is unlawful to create or permit any fire to continue in such manner as to permit the escape of any sparks or burning embers.

14.24.040 Exceptions to Outdoor Burning.

The following items may not be burned outdoors within the City of Wauwatosa pursuant to the provisions of Section 14.24.020, above:

- A. Garbage,
- B. Leaves or Garden Refuse as described in Chapter 14.26 of this code,
- C. Waste materials from commercial construction projects, or
- D. Any other items specifically designated by order of the Wauwatosa Fire Department.

14.24.050 Permanent Outdoor Fireplaces---Construction and use.

No outdoor fireplace shall hereafter be constructed within the city of Wauwatosa unless fixed in a location conforming to building setback regulations applicable to all other structures. Nothing herein contained shall prohibit the use of any presently existing and permanently located outdoor fireplace provided the same is not otherwise unsafe. No outdoor fireplace or portable grill shall be used for the process of cooking or preparing foods unless under constant supervision of a competent person while such fireplace or grill contains burning materials.

14.24.060 Combustible Decorative Material to be Flameproof.

In places of public assembly, all combustible decorative material including curtains, acoustical materials, streamers, cloth, cotton batting, straw, vines, leaves, trees, crepe paper, tinsel, moss and imitation leather, but not including floor coverings or materials applied directly to and adhering to a noncombustible base, shall be flameproof.

14.24.070 Bonfires.

Kindling and maintaining of any open fire out of doors within the City of Wauwatosa, other than those allowed above, shall require a permit to be obtained at least 48 hours in advance from the Wauwatosa Fire Department. Fee for said permit shall be as listed in the Consolidated Fee Schedule.

14.24.080 Suspension of Outdoor Burning.

The Wauwatosa Fire Department or the Wauwatosa Health Officer may suspend outdoor burning within the City of Wauwatosa in the event of weather or climactic conditions which make such burning hazardous, or for any other reason deemed hazardous, for the protection of persons and property.

Part III. The Consolidated Fee Schedule shall be amended to reflect a new item for the Wauwatosa Fire Department, entitled "Open Burning Permit", having a cost of \$25.00.

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

It was moved by Ald. Heins, seconded by Ald. Herzog to approve the two foregoing resolutions and to adopt the foregoing ordinance. -15

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-03-36**

WHEREAS, the Mayor, in conjunction with the team authorized to discuss service transitions with Milwaukee County on the County Grounds has recommended a proposed Memorandum of Understanding (MOU) with Milwaukee County regarding law enforcement services on the County Grounds; and

WHEREAS, the MOU outlines a methodology for consideration of assuming policing of private entities on the County Grounds and defines a process for identifying non-tax revenue sources to cover costs so that there shall be no effect on the City of Wauwatosa tax levy;

NOW, THEREFORE, BE IT RESOLVED THAT the Mayor of Wauwatosa is hereby authorized to execute the proposed Memorandum of Understanding with Milwaukee County regarding law enforcement services on the County Grounds, a copy of which is attached hereto and incorporated herein.

It was moved by Ald. Heins, seconded by Ald. Herzog to approve the foregoing resolution. Upon roll call vote the vote was Ayes 12, Noes 3 (Krol, McCarthy, Sullivan)

**FROM THE COMMITTEES ON EMPLOYEE RELATIONS & BUDGET AND FINANCE**

**RESOLUTION R-03-37**

WHEREAS, the Public Works Facility/Safety Specialist who has been laid off from his employment for purposes of budget savings has requested consideration of severance pay by the Common Council; and

WHEREAS, the City of Wauwatosa has no policy in effect regarding severance pay packages for employees who are laid off due to budget reductions; and

WHEREAS, in consideration of the fact that the employee had completed over ten years of service with the City, that the employment lay off was done solely for budgetary reduction reasons, and the fact that the employee was in good standing, the Committee on Employee Relations and Budget & Finance have recommended that severance pay equivalent to two weeks' salary should be paid to the employee from the Reserve for Contingencies;

NOW, THEREFORE, BE IT RESOLVED THAT due to the reasons cited above, the request of the Public Works Facility/Safety Specialist for severance pay is hereby granted by providing an amount equal to two weeks salary, to be paid from the Reserve for Contingencies.

It was moved by Ald. Jenkins, seconded by Ald. Casey

to approved the foregoing resolution. –

It was moved by Ald. Krol, seconded by Ald. Sullivan to amend the resolution by granting two weeks of severance pay for any non-represented employee faced with a lay-off. –

After discussion, the motion and second were withdrawn. By consensus the issue of severance pay will be referred to the appropriate council committee to consider development of a policy.

Vote on the original motion, upon roll call vote, was  
Ayes 12, Noes 3 (Herzog, Kopischke, Matthews)

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-38**

WHEREAS, the Wauwatosa Water Utility has requested the purchase of a portable digital correlator to be utilized for water leak detection; and

WHEREAS, such portable leak detectors are not manufactured in a manner which would be suitable for closed bids; and

WHEREAS, the Purchasing Department has researched the offerings of three manufacturers for this specialized type of equipment; and

WHEREAS, Fluid Conservation Systems was the original developer of portable leak detectors, and in the opinion of the Wauwatosa Water Utility, continues to provide the most accurate and comprehensive product; and

WHEREAS, the purchase of the AccuCorr 3000 Digital Leak Correlation System in the amount of \$38,000.00, in addition to a four day comprehensive training class at an additional cost of \$4,500.00, is within the available budget of the Water Department;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa Purchasing Department is hereby authorized to purchase the AccuCorr 3000 Digital Leak Correlation System from Fluid Conservation Systems, Inc. of Milford, OH, in an amount not to exceed \$38,000.00, and in addition, is authorized to purchase a four day comprehensive training class at an additional cost of \$4,500.00.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-39**

WHEREAS, the Wauwatosa Purchasing Department solicited bids for vendors interested in entering into a three year contract with the City of Wauwatosa to provide police uniforms; and

WHEREAS, of the two responding vendors, Lark Uniform was the low bidder and provides an acceptable option for the supply of police uniforms; and

WHEREAS, the bid results are reflected in the February 5, 2003 memorandum of the Purchasing Manager;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa Purchasing Department is hereby authorized to enter into a three year contract with Lark Uniform, the low bidder, for purposes of providing police uniforms;

BE IT FURTHER RESOLVED THAT Badger Uniform, the current supplier, shall be approved as an alternate source for purchases on an as-needed basis in the event Lark Uniform isn't able to supply a particular item.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-40**

WHEREAS, in 1997 the Common Council authorized an agreement with the City of Brookfield to contribute up to \$60,000.00 for purposes of creating a detention pond which would improve water quality and reduce the flooding in Wauwatosa; and

WHEREAS, the detention pond has been built in the City of Brookfield and is substantially complete; and

WHEREAS, Wauwatosa's contribution of \$60,000.00 was not brought forward through budget processes from the passage of the 1997 resolution; and

WHEREAS, the capital projects fund currently has a balance sufficient to pay the cost of the 1997 agreement;

THEREFORE, BE IT RESOLVED THAT payment to the City of Brookfield in the amount of \$60,000.00 for purposes of the storm water detention basin at approximately 128<sup>th</sup> & Congress is hereby approved to be paid from the Capital Projects Fund.

It was moved by Ald. Casey, seconded by Ald. Matthews  
to approve the three foregoing resolutions. -15

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI,

The Committee on Budget and Finance, to whom was referred the attorney's fees for Schlueter v. Reuter and City of Wauwatosa, recommends to the Common Council that the matter of the attorney's fees be placed on file.

Dated this 11th day of February 2003.

Committee on Budget and Finance

It was moved by Ald. Casey, seconded by Ald. Matthews to approve the foregoing report. Upon roll call vote, the vote was Ayes 14, Present 1 (McCarthy)

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

BILLS AND CLAIMS FOR THE PERIOD 2/5/03 – 2/18/03 --

The Committee on Budget and Finance hereby reports to the Common Council that it has examined the accounts of bills and claims and hereby certifies the same as correct and recommends that each of said accounts be allowed and paid.

Total bills and claims for 2/5/03 – 2/18/03: \$1,067,208.83

It was moved by Ald. Casey, seconded by Ald. Matthews that each and every one of the accounts of bills and claims be allowed and ordered paid. Upon roll call vote, the vote was Ayes 14, Noes 1 (Grimm)

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-03-41**

WHEREAS, the Wauwatosa Purchasing Department solicited bids for the supply of ready-mixed concrete products over a two year period from April 1, 2003 through March 31, 2005; and

WHEREAS, four bidders submitted bids for the products described, such that depending on the particular circumstances any one of the vendors could provide appropriate supplies in the best interest of the City based upon variations in price, convenience and availability;

NOW, THEREFORE, BE IT RESOLVED THAT the four separate vendors described in the memorandum of the Purchasing Manager dated February 7, 2003 are hereby authorized to supply ready-mixed concrete products to the City of Wauwatosa on an as-needed basis for a period of two years from April 1, 2003 through March 31, 2005, with individual purchases to be made based upon the particular advantages of price, convenience and availability.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-03-42**

WHEREAS, the Wauwatosa Purchasing Department has requested bids for emulsion and street patching materials for the Spring/Summer 2003 repair season; and

WHEREAS, each of the three bidders reflected in the memorandum of the Purchasing Manager dated February 7, 2003, provide different advantages based upon the price, convenience and availability;

NOW, THEREFORE, BE IT RESOLVED THAT each of the three vendors described in the memorandum of the Purchasing Manager are hereby qualified to provide emulsion and street patching materials for the Spring/Summer 2003 repair season on an as-needed basis, with individual purchases being made on the basis of price, convenience and availability.

**FROM THE BOARD OF PUBLIC WORKS**

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI –

The Board of Public Works submits to the Common Council the attached Annual Report of the Board of Public Works and recommends that it be placed on file.

Dated this 18th day of February 2003.

Board of Public Works

It was moved by Ald. Herzog, seconded by Ald. Bruderle-Baran to approve the two foregoing resolution and one foregoing report. -15

There being no further business, the meeting adjourned at 8:30 p.m.

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Carla A. Ledesma, CMC, City Clerk