

CITY OF WAUWATOSA
MEMORIAL CIVIC CENTER
7725 WEST NORTH AVENUE
WAUWATOSA, WI 53213
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COMMON COUNCIL
Regular Meeting, Tuesday, March 18, 2003

PRESENT: Alds. Ecks, Grimm, Heins, Jenkins, Kopischke, Krol, Matthews, McCarthy, Stepaniak, Subotich, Treis, Becker, Casey, Bruderle-Baran -14

EXCUSED: Alds. Herzog and Sullivan

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; Fire Chief Redman; Mr. Wehrley, City Engineer; Mr. Wojcehowicz, Water Utility Supt.; Ms. Ledesma, City Clerk; Ms. Williams, Deputy City Clerk

Common Council President Bruderle-Baran in the Chair

The Acting 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. -14

APPOINTMENTS BY THE MAYOR

Design Review Board C

Edward Haydin III, 2568 N. 71st Street
(Term ends 12/31/05)

Foregoing appointment ordered held as this was the first reading.

Plan Commission

Thomas Kirchen, 11622 W. Clarke Street (reappointment)
Mary Wolverton, 9607 Harding Boulevard (reappointment)
(Terms end 4/30/06)

Board of Parks and Forestry Commissioners

Rosemary Wehnes, 7922 Jackson Park Boulevard (reappointment)
Richard Bachman, 2229 N. 115th Street (reappointment)
Thomas Havas, 12135 Underwood Parkway (reappointment)
(Terms end 4/30/06)

Board of Zoning Appeals

Michael McCabe, 4451 N. 110th Street (Chair) (reappointment)
Elizabeth Meyer, 6432 Upper Parkway North (reappointment)
(Terms end 4/30/06)

It was moved by Ald. Ecks, seconded by Ald. Heins
to concur with the foregoing appointments. -14

APPLICATIONS, COMMUNICATIONS, ETC.

1. Letter from Bridget Bannon, Community Relations Coordinator, Wil-O-Way Recreation Center, requesting release of withheld CDBG funds designated to Wil-O-Way Underwood
Community Development Committee
2. Letter from Kateri T. Dupuis, president of French Canadian/Acadian Genealogists of WI, expressing concern regarding security at Mayfair Mall
Add to existing file
3. City of Wauwatosa Investment Summary and Statement of Financial Condition as of February 28, 2003
Place on file
4. Wauwatosa Water Utility Statement of Receipts and Disbursements for month ended February 28, 2003
Place on file
5. Temporary Use application to utilize two trailers as temporary security field offices at 11500 W. Burleigh Street
Board of Zoning Appeals
6. Letter from Steve Marcus, Chairman of the National Association of Theatre Owners, expressing support for AMC Theaters at Mayfair Mall
Add to existing file
7. Application for a Land Combination to combine three parcels at 7111-7131 W. Center Street
Plan Commission, Committee on Community Development
8. Letter from Aids. Becker and Krol requesting an amendment to the zoning code to more accurately reflect current uses and allow more flexibility in improving properties
Community Development Director, City Attorney
9. E-mail from Brenda Blaschke expressing concerns regarding Mayfair Mall and AMC Theatre
Add to existing file
10. Letter from John Rosenow, president of The National Arbor Day Foundation congratulating the city on being named as a 2002 Tree City USA
Place on file
11. Conditional Use application for the sale and service of new and used motorcycles at 6600 W. North Avenue
Plan Commission, Committee on Community Development
12. Letter from John A. Sekula, 532 Crescent Ct., regarding noise problems in the City of Wauwatosa
City Attorney
13. Lawsuit filed: Thomas Gull and RX Express, Inc. vs. City of Wauwatosa
City Attorney

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION

1. Ordinance creating Chapter 7.46 of the City Code relating to Noise
Re-refer to originating committee

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-03-54

WHEREAS, Gracious Catering Corporation, d/b/a Bjonda, applied for a Class B beer and Class B liquor license to be used at its business location at 7754 Harwood Avenue, Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT Gracious Catering, Corporation, d/b/a Bjonda, is hereby awarded a Class B beer and Class B liquor license for its location at 7754 Harwood Avenue, Wauwatosa, as more particularly described in the application materials on file with the City Clerk's office, for the period ending June 30, 2003.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-03-55

WHEREAS, Patrick Magee, 2329 N. 89th Street, Wauwatosa, WI applied for an operator's license in conjunction with his employment at Leff's Lucky Town, 7208 West State Street, Wauwatosa, WI; and

WHEREAS, Mr. Magee's background information indicated items which raised concerns, causing the Committee to request his appearance; and

WHEREAS, Mr. Magee failed to appear before the Committee after three separate requests to do so;

NOW, THEREFORE, BE IT RESOLVED THAT the application of Patrick Magee, 2329 N. 89th Street, Wauwatosa, for an operator's license is hereby denied.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-03-56

WHEREAS, the Wauwatosa Civic Celebration Commission has requested permission to sell beer in Hart Park during the 4th of July celebration on July 4, 2003;

NOW, THEREFORE, BE IT RESOLVED THAT permission be and the same is hereby granted to the Wauwatosa Civic Celebration Commission to sell beer in Hart Park during the 4th of July celebration in the City of Wauwatosa between the hours of 10:30 AM – 9:30 PM on July 4, 2003;

BE IT FURTHER RESOLVED THAT a member of the Civic Celebration Commission be present during the hours of beer sales.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI –

The Committee on Legislation, Licensing, and Communications, to whom was referred the Time Warner customer service update, recommends to the Common Council that the matter be placed on file.

Dated this 11th day of March 2003.

Comm. on Legislation, Licensing and Communications

It was moved by Ald. Ecks, seconded by Ald. Kopischke

to approve the three foregoing resolutions and one foregoing report. -14

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION

WHEREAS, Alderman Herzog's letter of February 18, 2003 requests review of City issued licenses being held by the AMC Entertainment, Inc., Premium Theatre of Mayfair, Inc. or their subsidiaries, or the theater at Mayfair Mall; and

WHEREAS, the Committee on Legislation, Licensing and Communications has received reports from the enforcement departments of the City of Wauwatosa, regarding past incidents relevant to the licenses of the theater at Mayfair Mall; and

WHEREAS, at the Committee meeting on March 11, 2003, it became apparent that many members of the public wish to express their opinions on this issue, which opinions the Committee feels should be heard;

NOW, THEREFORE, BE IT RESOLVED THAT a fact finding public meeting before the entire Common Council to hear opinions regarding the theater and arcade licenses held by Premium Theatre of Mayfair, Inc. is to be scheduled at the appropriate time in a facility that is suitable to handle the expected number of persons interested in expressing their opinion on this matter.

It was moved by Ald. Treis, seconded by Ald. Matthews that a public listening session before the Legislation, Licensing and Communications Committee be held on April 10, 2003 at 7 p.m. in the Civic Center Lower Auditorium. -14

The resolution as adopted is as follows:

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-03-57

WHEREAS, Alderman Herzog's letter of February 18, 2003 requests review of City issued licenses being held by the AMC Entertainment, Inc., Premium Theatre of Mayfair, Inc. or their subsidiaries, or the theater at Mayfair Mall; and

WHEREAS, the Committee on Legislation, Licensing and Communications has received reports from the enforcement departments of the City of Wauwatosa, regarding past incidents relevant to the licenses of the theater at Mayfair Mall; and

WHEREAS, at the Committee meeting on March 11, 2003, it became apparent that many members of the public wish to express their opinions on this issue, which opinions the Committee feels should be heard;

NOW, THEREFORE, BE IT RESOLVED THAT a public listening session before the Committee on Legislation, Licensing and Communications, to hear information relevant to the theater and arcade licenses held by Premium Theatre of Mayfair, Inc., is to be scheduled for April 10, 2003, at 7:00 p.m., in the Wauwatosa Civic Center Auditorium.

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION

WHEREAS, Alderman Herzog, in his letter of February 18, 2003, requested that the City express its concern over two separate criminal incidents on February 14, 2003 to the Milwaukee County District Attorney and the Judges assigned to the particular cases of the defendants involved in these police matters;

NOW, THEREFORE, BE IT RESOLVED THAT the City Attorney is hereby directed to communicate with the Milwaukee County District Attorney regarding Wauwatosa's desire for the fullest prosecution and punishment of the persons charged in the incidents of February 14, 2003 as referenced in the letter of Alderman Herzog;

BE IT FURTHER RESOLVED THAT the City Attorney is directed to communicate a similar message to the Court and other appropriate officials at appropriate points in time in the relevant proceedings.

It was moved by Ald. Heins, seconded by Ald. Stepaniak to approve the foregoing resolution. –

It was moved by Ald. Stepaniak, seconded by Ald. Kopischke to place the resolution on file. –

It was moved by Ald. Grimm, seconded by Ald. McCarthy to hold this resolution for two weeks. Upon roll call vote, the vote was Ayes 14.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-58

RESOLUTION AWARDING THE SALE OF \$3,500,000 GENERAL OBLIGATION PROMISSORY NOTES, SERIES 2003; PROVIDING THE FORM OF THE NOTES; AND LEVYING AT TAX IN CONNECTION THEREWITH

WHEREAS, pursuant to a resolution adopted on March 4, 2003 (the "Authorizing Resolution"), the Common Council has heretofore found and determined that it is necessary, desirable and in the best interest of the City of Wauwatosa, Milwaukee County, Wisconsin (the "City") to raise funds for the purpose of paying the cost of various public improvements included in the City's 2003 Capital Project Plan including repairing and upgrading streets, storm and sanitary sewers and replacing a roof (the "Project");

WHEREAS, the Common Council has heretofore found and determined that the Project is within the City's power to undertake and serves a "public purpose" as that term is defined in Section 67.04(1)(b) of the Wisconsin Statutes;

WHEREAS, cities are authorized by the provisions of Section 67.12(12) of the Wisconsin Statutes to borrow money and to issue general obligation promissory notes for such public purposes; and

WHEREAS, the Common Council now deems it to be necessary, desirable and in the best interest of the City to award the sale of its general obligation promissory notes to Hutchinson, Shockey, Erley & Co., Milwaukee, Wisconsin.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City that:

Section 1. Authorization of the Notes. For the purpose of paying the cost of the Project, there shall be borrowed pursuant to Section 67.12(12) of the Wisconsin Statutes, the principal sum of THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000) from Hutchinson, Shockey, Erley & Co., Milwaukee, Wisconsin (the "Purchaser") in accordance with the terms and conditions of its purchase proposal (the "Proposal") attached hereto as Exhibit A and incorporated herein by this reference.

Section 2. Sale of the Notes. To evidence such indebtedness, the Mayor and City Clerk are hereby authorized, empowered and directed to make, execute, issue and sell to the Purchaser for, on behalf of and in the name of the City, General Obligation Promissory Notes, Series 2003 aggregating the principal amount of THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000) (the "Notes") for the sum set forth on the Proposal, plus accrued interest to the date of delivery.

Section 3. Terms of the Notes. The Notes shall be designated "General Obligation Promissory Notes, Series 2003"; shall be dated April 1, 2003; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered 1 and upward; shall bear interest at the rates and shall mature on December 1 of each year, in the years and principal amounts as set forth on the schedule prepared by the Purchaser and attached hereto as Exhibit B (the "Schedule"). Interest is payable semi-annually on June 1 and December 1 of each year commencing on December 1, 2003.

Section 4. Redemption Provisions. At the option of the City, the Notes maturing on December 1, 2011 and thereafter shall be subject to redemption prior to maturity on December 1, 2010 or on any date thereafter. Said Notes shall be redeemable as a whole or in part, and if in part, from maturities selected by the City and within each maturity by lot, at the principal amount thereof, plus accrued interest to the date of redemption. If the Proposal specifies that any of the Notes are subject to mandatory redemption, the terms of such mandatory redemption shall be set forth on an attachment hereto as Exhibit MRP (the "Mandatory Redemption Provisions") and incorporated herein by this reference.

Section 5. Form of the Notes. The Notes shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit C and incorporated herein by this reference.

Section 6. Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Notes as the same becomes due, the full faith, credit and resources of the City are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the City a direct annual irrepealable tax in the years 2003 through 2011 for the payments due in the years 2004 through 2012 in the amounts set forth on the Schedule.

The direct annual irrepealable tax hereby levied shall be carried onto the tax roll and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the City for said years are collected. So long as any part of the principal of or interest on the Notes remains unpaid, the tax hereinabove levied shall be and continues irrepealable except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus in the Debt Service Fund Account created below.

The City has heretofore levied a direct annual irrepealable ad valorem debt service tax in anticipation of the sale of the Notes. Upon receipt, a sufficient sum shall be irrevocably deposited in the

Debt Service Fund Account for the Notes and shall be used to pay the interest on the Notes coming due on December 1, 2003 as set forth on the Schedule .

Section 7. Segregated Debt Service Fund Account. There is hereby established in the City treasury a fund account separate and distinct from all other funds or accounts of the City designated "Debt Service Fund Account for \$3,500,000 City of Wauwatosa General Obligation Promissory Notes, Series 2003, dated April 1, 2003", which fund account shall be used solely for the purpose of paying the principal of and interest on the Notes. There shall be deposited in said fund account all accrued interest paid on the Notes at the time the Notes are delivered to the Purchaser, any premium, all money raised by taxation pursuant to Section 6 hereof and all other sums as may be necessary to pay principal of and interest on the Notes as the same becomes due. Said fund account shall be used for the sole purpose of paying the principal of and interest on the Notes and shall be maintained for such purpose until such indebtedness is fully paid or otherwise extinguished, and shall at all times be invested in a manner that conforms with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and any applicable income tax regulations (the "Regulations").

Section 8. Borrowed Money Fund; Reimbursement. The proceeds of the Notes (the "Note Proceeds") (other than any premium and accrued interest which must be paid at the time of the delivery of the Notes into the Debt Service Fund Account created above) shall be deposited into an account separate and distinct from all other funds and disbursed solely for the purposes for which borrowed or for the payment of the principal of and the interest on the Notes.

The City declares its reasonable expectation to reimburse itself from the Note Proceeds for expenditures relating to the Project which it pays from other funds of the City prior to receipt of the Note Proceeds no more than 60 days prior to the date the Authorizing Resolution is adopted. The City may also reimburse itself for preliminary expenditures relating to the Project (such as architectural, engineering, surveying, soil testing, costs of issuance and similar costs but not including land acquisition, site preparation and similar costs incident to the commencement of construction) which are in an amount which is less than 20% of the issue price of the Notes. This declaration and the Resolution of which it is a part, shall be publicly available in the official books, records or proceedings of the Common Council.

Section 9. Arbitrage Covenant. The City shall not take any action with respect to the Note Proceeds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken on the date of the delivery of and payment for the Notes (the "Closing"), would cause the Notes to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.

The Note Proceeds may be temporarily invested in legal investments until needed, provided however, that the City hereby covenants and agrees that so long as the Notes remain outstanding, moneys on deposit in any fund or account created or maintained in connection with the Notes, whether such moneys were derived from the Note Proceeds or from any other source, will not be used or invested in a manner which would cause the Notes to be "arbitrage bonds" within the meaning of the Code or Regulations. The City covenants that it will not invest in any obligation if such investment would violate the "prohibited payment" requirement of Section 148 of the Code.

The City Clerk, or other officer of the City charged with responsibility for issuing the Notes, shall provide an appropriate certificate of the City, for inclusion in the transcript of proceedings, setting forth the reasonable expectations of the City regarding the amount and use of the Note Proceeds and the facts and estimates on which such expectations are based, all as of the Closing.

Section 10. Additional Tax Covenants; Small Issuer Exemption from Rebate; Qualified Tax-Exempt Obligation Status. The City hereby further covenants and agrees that it will take all necessary steps and perform all obligations required by the Code and Regulations (whether prior to or subsequent to

the issuance of the Notes) to assure that the Notes are obligations described in Section 103(a) of the Code, the interest on which is excludable from gross income for federal income tax purposes, throughout their term. The City further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Notes) if taking, permitting or omitting to take such action would cause any of the Notes to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Notes to be included in the gross income of the recipients thereof for federal income tax purposes. The City Clerk or other officer of the City charged with the responsibility of issuing the Notes, shall provide an appropriate certificate of the City as of the Closing, for inclusion in the transcript of proceedings, certifying that it can and covenanting that it will comply with the provisions of the Code and Regulations.

Further, it is the intent of the City to take all reasonable and lawful actions to comply with any new tax laws enacted so that the Notes will continue to be obligations described in Section 103(a) of the Code, the interest on which is excludable from gross income for federal income tax purposes throughout their term.

The City covenants that it is a governmental unit with general taxing powers and that the Notes are not "private activity bonds" as defined in Section 141 of the Code.

In accordance with Section 148(f)(4)(D) of the Code, the City covenants that ninety-five percent (95%) or more of the net proceeds of the Notes are to be used for local governmental activities of the City and that the aggregate face amount of all tax-exempt obligations (other than "private activity bonds") issued by the City, including all subordinate entities of the City, during calendar year 2003 will not exceed \$5,000,000. If for any reason the City did not qualify for the small issuer exemption from the rebate requirements of the Code, the City covenants that it would take all necessary steps to comply with such requirements.

The Common Council hereby designates the Notes to be "qualified tax-exempt obligations" pursuant to the provisions of Section 265(b)(3) of the Code and in support of such designation, the City Clerk or other officer of the City charged with the responsibility for issuing the Notes, shall provide an appropriate certificate of the City, all as of the Closing.

Section 11. Execution of the Notes. The Notes shall be issued in typewritten or printed form, executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk, authenticated, if required, by its fiscal agent, if any, sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the City of the purchase price thereof, plus accrued interest to the date of delivery. In the event that either of the officers whose signatures appear on the Notes shall cease to be such officers before the delivery of the Notes, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until such delivery. The aforesaid officers are hereby authorized to do all acts and execute and deliver all documents as may be necessary and convenient to effectuate the Closing.

Section 12. Payment of the Notes. The principal of and interest on the Notes shall be paid in lawful money of the United States of America by the City Clerk or City Treasurer.

Section 12A. Persons Treated as Owners; Transfer of Notes. The City shall keep books for the registration and for the transfer of the Notes. The person in whose name any Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Note shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

Any Note may be transferred by the registered owner thereof by surrender of the Note at the office of the City Clerk, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the Mayor and City Clerk shall execute and deliver in the name of the transferee or transferees a new Note or Notes of a like aggregate principal amount, series and maturity and the City Clerk shall record the name of each transferee in the registration book. No registration shall be made to bearer. The City Clerk shall cancel any Note surrendered for transfer.

The City shall cooperate in any such transfer, and the Mayor and City Clerk are authorized to execute any new Note or Notes necessary to effect any such transfer.

The fifteenth day of each calendar month next preceding each interest payment date shall be the record date for the Notes. Payment of interest on the Notes on any interest payment date shall be made to the registered owners of the Notes as they appear on the registration book of the City at the close of business on the corresponding record date.

Section 13. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Notes eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations previously executed on behalf of the City and on file in the City Clerk's office.

Section 14. Undertaking to Provide Continuing Disclosure. The City hereby covenants and agrees, for the benefit of the holders of the Notes, to enter into a written undertaking (the "Undertaking") required by SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule") to provide continuing disclosure of certain financial information and operating data and timely notices of the occurrence of certain events in accordance with the Rule. This Undertaking shall be enforceable by the holders of the Notes or by the Purchaser on behalf of such holders (provided that the rights of the holders and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations hereunder and any failure by the City to comply with the provision of this Undertaking shall not be an event of default with respect to the Notes).

The City Clerk, or other officer of the City charged with the responsibility for issuing the Notes, shall provide a Continuing Disclosure Certificate for inclusion in the transcript of proceedings, setting forth the details and terms of the City's Undertaking.

Section 15. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Common Council or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-59

WHEREAS, the budget reduction implementation plan for the year 2003 requires a hiring freeze for all vacant positions without specific approval of the Common Council; and

WHEREAS, there currently exists a vacancy in the Motor Pump Operator position at the Wauwatosa Fire Department due to the recent death of a firefighter; and

WHEREAS, filling the position of Motor Pump Operator is necessary to maintain appropriate levels of staffing for public safety and will not affect the already approved budget reductions of the Wauwatosa Fire Department; and

WHEREAS, the overall budget impact will be a reduction in regular salary and fringe benefit costs due to the lower wage level of the newly hired individual, although increased overtime expenditures will offset a portion of those budget savings;

NOW, THEREFORE, BE IT RESOLVED THAT the request for an exception to the hiring freeze to fill the position of Motor Pump Operator in the City of Wauwatosa Fire Department is hereby approved.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-61

WHEREAS, the City of Wauwatosa has previously authorized reconstruction of 124th Street from Ruby Avenue to Hampton Avenue in conjunction with the State of Wisconsin Department of Transportation funding; and

WHEREAS, sufficient funds are available in the Capital Projects Fund balance to cover our share of the costs; and

WHEREAS, the costs of such construction are to be shared by the City of Wauwatosa, the Village of Butler, the City of Milwaukee, and the Wisconsin Department of Transportation; and

WHEREAS, the Department of Transportation requirements require that three engineering consultants be interviewed to perform design services on the project; and

WHEREAS, Owen Ayres & Associates was the firm selected as most advantageous to the City on behalf of this project;

NOW, THEREFORE, BE IT RESOLVED THAT the proposed design engineering services contract between the City of Wauwatosa, Wisconsin Department of Transportation, and Owen Ayres & Associates, Inc. is hereby approved.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-62

WHEREAS, the City of Wauwatosa does not currently have flow monitoring devices installed in its nine gravity bypass locations in the sanitary sewer system; and

WHEREAS, as part of the settlement of a previous Notice of Violation, as well as in conjunction with the newly proposed Wisconsin Pollution Discharge Elimination System (WPDES) permit, the City would be required to monitor all sanitary sewer bypass locations; and

WHEREAS, temporary monitoring with portable devices would show whether the existing 9 gravity bypass locations need to be continued in operation or whether they can be abandoned, thus saving costs for installation of permanent devices;

NOW, THEREFORE, BE IT RESOLVED THAT the Wauwatosa Public Works Department, through the Director of Engineering Services, is hereby authorized to solicit proposals from qualified engineering firms to perform flow monitoring at gravity sanitary sewer bypass locations within the City of Wauwatosa as described in the memorandum of the City Engineer dated March 6, 2003.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-63

WHEREAS, the Wauwatosa Department of Public Works has been working with Waste Management, Inc. and The Salvation Army to provide for a cost effective operation and oversight of the Public Works yard recycling center; and

WHEREAS, The Salvation Army has agreed to provide a full-time staff person to monitor the drop-off center from 7:30 AM to 4:30 PM Monday through Saturday each week; and

WHEREAS, the cost would be higher if such an employee were to be a full-time employee of the City of Wauwatosa;

NOW, THEREFORE, BE IT RESOLVED THAT the proposed three party agreement with the City of Wauwatosa, Waste Management, Inc., and The Salvation Army for operation and staffing of the City of Wauwatosa Public Yard Recycling Center, a copy of which is attached as a draft letter agreement to the memorandum from the Director of Public Works dated March 6, 2003, is hereby approved.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-64

WHEREAS, the Wisconsin Department of Natural Resources has instituted the Recycling Efficiency Initiative (REI) Grant Program to provide grant awards for municipalities which have demonstrated efficiencies in recycling programs; and

WHEREAS, Section 287.235, Stats., and Wisconsin Administrative Code Section NR 549 authorize municipalities to enter into Intergovernmental Agreements pursuant to Section 66.0301(2) of the Wisconsin Statutes (REI Grant Agreements) to apply for and receive financial assistance; and

WHEREAS, The Cities of Wauwatosa and West Allis and the Villages of Butler, Lannon, Menomonee Falls, and Sussex have proposed to enter into an REI Grant Agreement for purposes of cooperatively participating in a new partnership in the South Eastern Wisconsin Waste Reduction Coalition (SEWWRC); and

WHEREAS, the Department of Public Works has worked cooperatively with the other municipalities involved to reach the terms of the proposed REI Agreement, a copy of which is attached hereto and incorporated herein;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa, by its Director of Public Works, is hereby authorized to enter into the attached REI Grant Agreement with the Cities of Wauwatosa and West Allis and the Villages of Butler, Lannon, Menomonee Falls, and Sussex for purposes of receiving financial assistance from the Recycling Efficiency Initiative Grant funds of the

Wisconsin Department of Natural Resources, pursuant to Section 287.235, Stats., and Wisconsin Administrative Code Section NR 549.

It was moved by Ald. Stepaniak, seconded by Ald. Casey to approve the six foregoing resolutions. -14

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-60

WHEREAS, budget reduction implementation plan for the year 2003 requires a hiring freeze for all vacant positions without specific approval of the Common Council; and

WHEREAS, there currently exists a vacancy in the Water Maintenance Person II position at the Wauwatosa Water Utility; and

WHEREAS, the Water Maintenance Person II is funded entirely by funds within the Water Department which are self-supporting and have no effect on the City's tax levy;

NOW, THEREFORE, BE IT RESOLVED THAT the request for an exception to the hiring freeze to fill the position of Water Maintenance Person II in the City of Wauwatosa Water Utility is hereby approved.

It was moved by Ald. Stepaniak, seconded by Ald. Casey to approve the foregoing resolution. -14

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-65

WHEREAS, the Committee on Budget & Finance had previously approved approximately \$77,000.00 in budget savings, which are reflected in a part of the February 3, 2003 memorandum of the Police Captain to the Budget & Finance Committee, which includes the elimination of National Night Out overtime, costs related to Citizens Police Academy, savings in DARE materials and savings from the use of one DARE car, telephone savings and their use of remaining JAI block grant funds for funding of the elementary school DARE program, in addition to the savings realized from leaving one sergeant position vacant by attrition beginning May 1, 2003; and

WHEREAS, the Police Department has recommended additional revenues in its March 7, 2003 memorandum which include recalculation of Court penalties and costs, revenue received from increase of parking ticket fines by \$5.00, and revenue to be obtained from the Tax Revenue Intercept Program for collection of overdue parking fines; and

WHEREAS, the combination of previously identified budget cuts and added revenues would have a total budget effect of \$219,750.00, consistent with the March 7, 2003 memorandum of the Police Captain;

NOW, THEREFORE, BE IT RESOLVED THAT budget revisions for the Police Department consisting of revised revenue estimates, parking fine increases, and \$77,000.00 in previous identified budget cuts are hereby approved.

BE IT FURTHER RESOLVED THAT the Police Department is hereby to continue working toward the goal at realizing a total of \$241,000.00 in total budget reductions during the year through a combination of cost savings and increased revenues.

It was moved by Ald. Stepaniak, seconded by Ald. Casey to approve the foregoing resolution. Upon roll call vote, the vote was Ayes 12, Noes 2 (Grimm, Subotich)

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 3/5/03 – 3/18/03 --

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 3/5/03 – 3/18/03: \$1,749,897.03

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

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-66

WHEREAS, the Wauwatosa Purchasing Department has solicited proposals from vendors for trees to be planted during the Spring season in the City of Wauwatosa; and

WHEREAS, Minor’s Garden Center, McKay Nursery, Silvercreek Nursery, Inc., and Lied’s variously supplied the most advantageous proposals to the City depending upon particular trees, species, and size; and

WHEREAS, the most advantageous price for the City in each category as reflected in a highlighted tabulation of bid proposals attached to the March 6, 2003 memorandum of the Purchasing Manager, a copy of which is attached hereto and incorporated herein,

NOW, THEREFORE, BE IT RESOLVED THAT the Purchasing Manager is hereby authorized to facilitate the purchase of trees from Minor’s Garden Center, McKay Nursery, Silvercreek Nursery, Inc., and Lied’s, pursuant to the highlighted tabulation submitted to the Board of Public Works on March 6, 2003.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-67

WHEREAS, engineers involved in construction of the Gardens at Harwood Place, 8220 Harwood Avenue, indicated that there is a conflict between plumbing ordinances which require roof drains to be

connected to the City's sewer system, as opposed to the needs of the City for storm water management which require the City to remove roof drainage from the sewer system wherever possible; and

WHEREAS, the site of the Gardens at Harwood Place, as reconfigured, provides the capability to drain some roof drains onto a wooded area rather than directing them into the sewer system; and

WHEREAS, the specific needs of the storm water management plan supersede terms of the plumbing code;

NOW, THEREFORE, BE IT RESOLVED THAT the request of National Survey and Engineering to direct roof drainage away from the Wauwatosa City sewer system by allowing onsite detention and runoff, with the addition of additional absorption and water slowing techniques at the lower end of the hill at the northeast corner of the site, is hereby approved;

BE IT FURTHER RESOLVED THAT the Board of Public Works and Common Council reserve the right to review this solution in the future if complaints are received from adjacent property owners.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-68

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT a contract with Test America, Inc. for purposes of groundwater analysis and testing at the City landfill site is hereby approved in an amount not to exceed \$9,400.00.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-69

WHEREAS, the Purchasing Manager reported that prior arrangements for elevator maintenance through a scheduled monthly fee for a maintenance contract proved to be extremely costly; and

WHEREAS, the Purchasing Manager solicited proposals to perform elevator maintenance and repairs for units in City-owned buildings on a per-call basis over a three year period in an amount not to exceed \$5,000.00 per call; and

WHEREAS, Kone Elevator provided the most favorable rates for weekend and after hours service, although other vendors also submitted favorable rates for other services;

NOW, THEREFORE, BE IT RESOLVED THAT all seven responding vendors are hereby approved to conduct repairs to elevators in City Hall facilities on an as-needed basis, subject to availability, with work primarily to be directed to Kone Elevator as is in the best interests of the City.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-70

WHEREAS, the Wauwatosa Purchasing Manager obtained proposals for tree removal and restoration at the Blanchard Street water pumping station, 7300 Blanchard Street; and

WHEREAS, American Landscape and Tree Service submitted the lowest bid in the best interest of the City in the amount of \$10,942.00;

NOW, THEREFORE, BE IT RESOLVED THAT the Wauwatosa Purchasing Department is hereby authorized to issue a purchase order to American Landscape and Tree Service in the amount of \$10,942.00 for tree removal and restoration at the Blanchard Street station in conformance with options 2 and 4 of the bid as described in the memorandum of the Purchasing Manager dated March 11, 2003.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-71

BE IT RESOLVED by the Common Council of the City of Wauwatosa that the proper city officials be and they are hereby authorized and directed to enter into a contract with Payne & Dolan, Inc., of Waukesha, Wisconsin for the work of asphaltic concrete resurfacing and work incidental thereto under Contract 03-6 at and for their bid price of \$288,881.00, this being the lowest and best bid.

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

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-74

WHEREAS, the Wauwatosa Purchasing Department solicited proposals for the removal and pruning of trees from private property for a two year contract, with a one year option to extend; and

WHEREAS, the low bidder withdrew its bid and Dorshak Tree Specialist, Inc. provided the second lowest bid pursuant to this proposal.

NOW, THEREFORE, BE IT RESOLVED THAT Dorshak Tree Specialist, Inc. is hereby authorized to perform services for removal and pruning of trees from private property during a two year contract period with a one year option to extend pursuant to the bids tabulated and reflected in the March 14, 2003 memorandum of the Purchasing Manager.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-75

WHEREAS, the Wauwatosa Purchasing Department obtained sealed bid proposals for removal and/or pruning of trees, stump and swell removal in the City of Wauwatosa; and

WHEREAS, American Landscape and Tree Service submitted the lowest overall bid based upon projected usage of the various services;

NOW, THEREFORE, BE IT RESOLVED THAT the contract for removal and/or pruning of trees, stump and swell removal is hereby awarded by purchase order to American Landscape in an amount not to exceed \$75,000.00 during the calendar year 2003.

It was moved by Ald. McCarthy, seconded by Ald. Stepaniak to approve the eight foregoing resolutions. -14

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-72

BE IT RESOLVED by the Common Council of the City of Wauwatosa, that the proper city officials be and they are hereby authorized and directed to enter into a contract with Utility Service Co., of Perry, Georgia for the work of painting the interior and exterior of the W. Feerick Street water tank, and work incidental thereto under Contract 03-31 at and for their bid price of \$291,400.00, this being the lowest and best bid.

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

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-73

WHEREAS, the Feerick Street elevated storage tank requires the re-coating of the interior surfaces in order to preserve the integrity and longevity of the water tank; and,

WHEREAS, inspection services employing qualified and certified inspection insure the quality and safety of the coating process; and

WHEREAS, Dixon Engineering has such qualifications and has submitted a proposal for providing these services on a time and materials basis up to a total cost of \$22,901.00.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa THAT the proper city officers be directed and are hereby authorized to execute an agreement with Dixon Engineering for the inspection of the Feerick Street elevated water tank painting in the amount of \$22,901.00.

BE IT FURTHER RESOLVED THAT the cost of this work be charged to the Wauwatosa Water Utility.

It was moved by Ald. McCarthy, seconded by Ald. Stepaniak to approve the two foregoing resolutions. -14

There being no further business, the meeting adjourned at 8:12 p.m.

cal

Carla A. Ledesma, CMC, City Clerk