

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, April 1, 2003

PRESENT: Alds. Grimm, Heins, Herzog, Jenkins, Kopischke, Krol, Matthews, McCarthy, Stepaniak, Subotich, Sullivan, Treis, Bruderle-Baran, Becker, Casey, Ecks -16

ALSO PRESENT: Mr. Wontorek, City Administrator; Mr. Braier, Finance Director; Mr. Kesner; City Attorney; Mr. Kappel, Dir. of Public Works; Ms. Szudy, Planner II; Police Capt. Sutter; Fire Chief Redman; Mr. Bembenek, Purchasing Mgr.; 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.

The Mayor and Common Council President Bruderle-Baran presented awards to Mike Ptaszek and Jeff Amich for their first place finish in the American Public Works Association 2002 snowplow rodeo. Public Works Director Kappel also presented the Mayor with the 2002 traveling trophy.

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. -16

OLD BUSINESS

The following resolution was held for two weeks at the March 18, 2003 Common Council meeting:

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. Herzog, seconded by Ald. Subotich to approve the foregoing resolution. –

It was moved by Ald. Herzog, seconded by Ald. Subotich to amend the motion by adding the words, “if found guilty” to the last sentence of the resolution (after “...relevant proceedings.”). Upon roll call vote, the vote was Ayes 5 (Grimm, Herzog, McCarthy, Subotich, Sullivan), Noes 11. Amendment failed.

Vote on original motion, upon roll call vote, was Ayes 5 (Grimm, Herzog, McCarthy, Subotich, Sullivan), Noes 11. Motion failed.

APPOINTMENTS BY THE MAYOR

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

It was moved by Ald. McCarthy, seconded by Ald. Heins to concur with the foregoing appointment. -16

APPLICATIONS, COMMUNICATIONS, ETC.

1. Special Use application to operate a restaurant at 10849 W. Blue Mound Road
Plan Commission, Board of Zoning Appeals
2. Special Use application to construct and operate a welcome center at Luther Manor, 4545 N. 92nd Street
Plan Commission, Board of Zoning Appeals
3. Special Use application to operate a restaurant with a drive-thru window at 6520 W. North Avenue
Plan Commission, Board of Zoning Appeals
4. Donations: Cable switcher and VCR from Time Warner Cable for the City’s cable broadcasts; 50 U.S. Flags from Wauwatosa Savings Bank
Place on file
5. City of Wauwatosa Bank Reconciliation of Depository Accounts as of February 28, 2003
Place on file
6. Notice of Injury: Attorney Charles S. Blumenfield for Jimmy Harris
City Attorney
7. Land Division application to consolidate property at 2303, 2323, 2351, and 2365 N. Mayfair Road
Plan Commission, Committee on Community Development
8. Letter from Peter E. Carlson, administrator of Aurora Psychiatric Hospital, filing a formal objection to the designation of the property as an historic site
Add to existing file

9. Special Use application to operate a business to construct and paint furniture at 7601 Harwood Avenue
Plan Commission, Board of Zoning Appeals
10. Letters submitted by Aurora Psychiatric Hospital opposing historic site designation
Add to existing file
11. Wauwatosa Police Department Annual Report 2002
Place on file
12. Notice of Claim: Valerie Thames, 3636 W. Sarnow, Milwaukee for Harry Robinson
City Attorney
13. WI Department of Natural Resources final audit report of the Menomonee River Priority Watershed Project Local Assistance Grant Program
Place on file

FROM THE COMMITTEE ON EMPLOYEE RELATIONS FOR INTRODUCTION

1. Ordinance amending Section 20.01.5 by increasing the number of names on the “Certified List” from 7 to 10
Re-refer to originating committee

FROM THE COMMITTEE ON TRAFFIC & SAFETY FOR INTRODUCTION

1. Ordinance amending Section 11.32.080 of the City Code by establishing a two-hour parking zone on the west side of N. 115th Street north of W. North Avenue
Re-refer to originating committee
2. Ordinance amending Section 11.32.080 of the City Code by establishing a 30-minute parking zone on the east side of N. 108th Place
Re-refer to originating committee

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION

1. Ordinance amending Chapter 14.20 of the City Code relating to private fire service mains and their appurtenances
Re-refer to originating committee

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-03-76

WHEREAS, Ken Freitag, WE Energies, has applied for a Conditional Use to install an automated meter reading antenna on an existing transmission tower at 11825 W. Center Street, located in the Estate Residence District, and;

WHEREAS, this request was reviewed and recommended by the City Plan Commission and the committee on Community Development and determined to be necessary for the public convenience at that location; located and proposed to be operated in such manner which will protect the public health, safety, and welfare; and was found to be compatible with surrounding uses;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Ken Freitag, WE Energies, install an automated meter reading antenna on an existing transmission tower at 11825 W. Center Street, located in the Estate Residence District.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

ORDINANCE O-03-9

AN ORDINANCE CREATING CHAPTER 7.46 OF THE CODE OF THE CITY OF WAUWATOSA PERTAINING TO NOISE

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

Part I. Sections 7.46.010 through 7.46.060 of the Code of the City of Wauwatosa are hereby created to read as follows:

7.46.010. Prohibition of Noises Disturbing the Public Peace.

No person shall make or assist in making any noise or other vibration tending to unreasonably disturb the peace and quiet, comfort or repose of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person, or if the activity is otherwise authorized by law.

7.46.020. Sound Producing Devices.

(a) No person, firm or corporation occupying or having charge of any building or premises, or any part thereof, or any vehicle, shall cause, suffer or allow any loud, excessive or unusual noise in the operation or use of any mechanical or electrical device, instrument, machine or vehicle, which loud, excessive or unusual noise tends to unreasonably disturb the comfort, quiet or repose of persons therein or in the vicinity.

(b) Violation of this section in connection with any license or permit issued by the City of Wauwatosa may be cause for the revocation thereof, unless the activity is specifically authorized by the permit.

7.46.030. Sound Amplification Devices.

(a) No person, firm or corporation shall use or operate, or cause to be used or operated in or upon any public street, or from any aircraft, any device, apparatus or instrument for the amplification of the human voice or any sound or noise, or other sound-making or sound reproducing device.

(b) No person, firm or corporation shall make or cause to be made for the purpose of advertising or announcing his vocation or presence, or in connection with the buying or selling of any goods, wares, merchandise, services, or anything whatsoever, or with the carrying on of any trade, occupation, vocation or profit making activity, an immediate or excessive use of the voice, or of any bell, gong, horn, instrument, article or device.

(c) The restrictions in sec. 7.46.030(a) and (b) shall not apply to:

- (1) Churches broadcasting or reproducing music by sound reproducing devices in conjunction with religious services or holidays, or
- (2) The production of sounds of any nature produced incidental to the operation of any governmental function or pursuant to a governmental contract, or
- (3) The production of sounds of any nature produced incidental to the operation of any authorized emergency vehicle or
- (4) The use of sound producing equipment authorized pursuant to Wisconsin Statutes, or
- (5) The use of sound producing equipment incidental to any authorized street use or parade permit.

(c) Violation of this section in connection with any license or permit issued by the City of Wauwatosa may be cause for the revocation thereof.

7.46.040. Animals.

No person, firm or corporation operating, having charge of, or occupying any building, premises or vehicle shall keep or allow to be kept any animal or bird which shall habitually by any noise disturb the peace and quiet of any person in the vicinity thereof.

7.46.050. Livestock Trucks.

No person, firm or corporation shall park or leave standing for more than fifteen (15) minutes within the limits of the City of Wauwatosa a vehicle containing livestock, live fowl or other living animals except as authorized by law or with a permit issued by the Chief of Police.

7.46.060. Refuse Collection Equipment.

Refuse collection trucks may not operate their refuse collection equipment within two hundred (200) feet of any residential zoned district between the hours of 9:00 p.m. and 6:00 a.m., except as follows:

- (a) The Board of Public Works may designate certain arterial streets as exempt from this provision, if it determines that such exemption is necessary because of rush-hour traffic.
- (b) The Chief of Police, the Fire Chief, or the Director of Public Works may determine that an emergency exists, because of fire, flood, civil disturbance, or the like. During such a period of emergency, this section shall not apply. No such period of emergency may continue for more than fifteen (15) consecutive days, unless the Board of Public Works approves the longer period.

Part II. Sections 7.48.060 and 7.48.130 of the Code of the City of Wauwatosa are hereby deleted.

Part III. Section 7.48.050 of the Code of the City of Wauwatosa is hereby renumbered to Section 7.46.070.

Part IV. Section 7.48.070 of the Code of the City of Wauwatosa is hereby renumbered to Section 7.46.080.

Part V. Section 7.48.080 of the Code of the City of Wauwatosa is hereby renumbered to Section 7.46.090.

Part VI. Section 7.48.090 of the Code of the City of Wauwatosa is hereby renumbered to Section 7.46.100.

Part VII. Section 7.48.100 of the Code of the City of Wauwatosa is hereby renumbered to Section 7.46.110.

Part VIII. Section 7.48.110 of the Code of the City of Wauwatosa is hereby renumbered to Section 7.46.120.

Part IX. Section 7.48.150 of the Code of the City of Wauwatosa is hereby renumbered to Section 7.46.130.

Part X. Section 7.46.150 of the Code of the City of Wauwatosa is hereby created to read as follows:

7.46.150 Penalty.

Unless a specific penalty is otherwise provided, violations of Chapter 7.46 shall be subject to the penalties provided in Section 1.12.010 of the Code.

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

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-03-77

WHEREAS, the Wauwatosa Historic Preservation Commission met and held a public hearing on March 12, 2003 to review the qualifications of a commercial property in the AA Business District at 7210-26 W. North Avenue for designation as a Wauwatosa Historic Property, and;

WHEREAS, the Arcade Building at 7210-26 W. North Avenue has previously been listed on the National Register of Historic Places, is listed in the Wauwatosa Historical Reconnaissance Study and complies with Sections 1 and 3 of Chapter 24.55.040 of the code.

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa, Wisconsin, upon the recommendation of the Wauwatosa Historic Preservation Commission and the findings of fact, hereby designates the Arcade Building at 7210-26 W. North Avenue as a Wauwatosa Historic Property.

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-03-78

WHEREAS, the Wauwatosa Historic Preservation Commission met and held a public hearing on March 12, 2003 to review the qualifications of a residential property in the AA Single Family Residence District at 2107 Wauwatosa Avenue for designation as a Wauwatosa Historic Property, and;

WHEREAS, the Lowell Damon House located at 2107 Wauwatosa Avenue has previously been listed on the National Register of Historic Places, has been designated a Milwaukee County Landmark, is listed in the Wauwatosa Historical Reconnaissance Study and complies with Sections 1 and 3 of Chapter 24.55.040 of the code.

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa, Wisconsin, upon the recommendation of the Wauwatosa Historic Preservation Commission and the findings of fact, hereby designates the Lowell Damon House located at 2107 Wauwatosa Avenue as a Wauwatosa Historic Property.

It was moved by Ald. Heins, seconded by Ald. Krol to approve the three foregoing resolutions and to adopt the foregoing ordinance. -16

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION

WHEREAS, the Wauwatosa Historic Preservation Commission met and held a public hearing on March 12, 2003 to review the qualifications of an institutional property in the AA Institutions District at 1220 Dewey Avenue for designation as a Wauwatosa Historic Property, and;

WHEREAS, the Milwaukee Psychiatric Hospital located 1220 Dewey Avenue has been identified as being potentially eligible for the National Register of Historic Places, is listed in the Wauwatosa Historical Reconnaissance Study and complies with Sections 1 and 3 of Chapter 24.55.040 of the code.

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa, Wisconsin, upon the recommendation of the Wauwatosa Historic Preservation Commission and the findings of fact, hereby the Milwaukee Psychiatric Hospital located 1220 Dewey Avenue as a Wauwatosa Historic Property.

It was moved by Ald. Sullivan, seconded by Ald. Heins to reject the designation of Aurora Milwaukee Psychiatric Hospital as historic because of the negative consequences that historic designation would have on the Hospital. Upon roll call vote, the vote was Ayes 11, Noes 3 (Herzog, Kopischke, Krol), Present 2 (Stepaniak, Bruderle-Baran)

Ald. Grimm advised that he would be asking for reconsideration in two weeks.

It was moved by Ald. Treis, seconded by Ald. Ecks for immediate reconsideration. Upon roll call vote, the vote was Ayes 1 (Sullivan), Noes 13, Present 2 (Stepaniak,

Bruderle-Baran). Motion failed.

The resolution denying the historic designation is below:

RESOLUTION R-03-86

BE IT RESOLVED by the Common Council of the City of Wauwatosa that designation of the Aurora Milwaukee Psychiatric Hospital located at 1220 Dewey Avenue as a Wauwatosa Historic Property is hereby denied.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-80

WHEREAS, the Wauwatosa Fire Department has completed preliminary documents to apply for a Federal Emergency Management Agency grant under the Assistance to Firefighters Grant Program; and

WHEREAS, grant funds would be utilized to upgrade the Fire Department's radio communications system to the 800 MHz system currently in use by the Wauwatosa Police Department; and

WHEREAS, the grant would fund 90% of the total project cost of \$301,000.00, thus requiring 10%, or \$30,100.00, to be funded as the City's matching portion of the project;

NOW, THEREFORE, BE IT RESOLVED THAT the request of the Wauwatosa Fire Department to apply for a FEMA grant application under the Assistance to Firefighters Grant Program, which requires matching funds of \$30,100.00 from the City, is hereby approved.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-81

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 Reference Supervisor Librarian position at the Wauwatosa Public Library; and

WHEREAS, it is apparent that an individual currently holding the position of Adult Reference Librarian may be promoted to the Reference Supervisor position, which would leave a vacancy in the Adult Reference Librarian position; and

WHEREAS, the Wauwatosa Public Library has already met its required 2% budget reductions under the budget reduction implementation plan;

NOW, THEREFORE, BE IT RESOLVED THAT the request for an exception to the hiring freeze to fill the positions of Reference Supervisor and Adult Reference Librarian in the Wauwatosa Public Library is hereby approved.

It was moved by Ald. Stepaniak, seconded by Ald. Matthews to approve the two foregoing resolutions. -16

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-79

WHEREAS, the Wauwatosa Purchasing Department and the Police Department solicited proposals for the emergency 911 Phase II Emergency Telephone System Public Safety Upgrade; and

WHEREAS, Phase I of the upgrade was completed in 2002 at a cost of approximately \$30,000.00; and

WHEREAS, the 2003 budget has allocated \$150,000.00 for the Phase II upgrade; and

WHEREAS, of the three responses to the Request for Proposals, the proposal of SBC Ameritech at a cost of \$149,019.00 is in the best interest of the City due to concerns regarding interoperability with the existing equipment; and

WHEREAS, the proposal of TDS Telecom which is less than \$2,500.00 under the proposal of SBC, would require complete replacement of the new system installed in Phase I at a cost of \$30,000.00, which is recommended for retention in an operable condition for purposes of redundancy;

NOW, THEREFORE, BE IT RESOLVED THAT the proposal of SBC Ameritech for the E-911 infrastructure replacement, Phase II, in the amount of \$149,019.00 is hereby approved and City officials are hereby authorized to enter into an agreement for implementation of said proposal.

It was moved by Ald. Stepaniak, seconded by Ald. Matthews to approve the foregoing resolution. -16

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-82

BE IT RESOLVED by the Common Council of the City of Wauwatosa THAT the claim of United/Dynacare, Inc., 9200 W. Wisconsin Avenue for refund of 2002 personal property taxes is hereby denied.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-83

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim of FH Healthcare Development, Inc., 9200 W. Wisconsin Avenue for a refund of 2002 personal property tax is hereby partially approved in the amount of \$210,094.00;

BE IT FURTHER RESOLVED THAT the balance of the total claim amount in the sum of \$228,767.21 is hereby denied.

It was moved by Ald. Stepaniak, seconded by Ald. Matthews to approve the two foregoing resolutions. Ayes 14, Present 2 (Sullivan and Bruderle-Baran)

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 3/19/03 – 4/01/03 --

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 3/19/03 – 4/01/03: \$1,154,601.27

It was moved by Ald. Ecks, seconded by Ald. Casey that each and every one of the accounts of bills and claims be allowed and ordered paid. -16

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-84

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 Arrow-Crete Construction, LLC, of West Allis, Wisconsin, for the work of concrete sidewalk repair and work incidental thereto under Contract 03-19 at and for their bid price of \$200,792.50, this being the lowest and best bid.

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

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-85

BE IT RESOLVED by the Common Council of the City of Wauwatosa that the cooperative purchase bid with the City of Milwaukee for Ewald Automotive Group to furnish one Jeep Wrangler Sport, a right hand drive vehicle, for their bid price of \$20,425.00 without trade-in, be and the same hereby accepted.

BE IT FURTHER RESOLVED THAT the Purchasing Manager is hereby authorized and directed to issue a purchase order for this vehicle as directed by the proper City officers.

BE IT FURTHER RESOLVED THAT Fleet number P-78, a 1998 Jeep Cherokee, be declared surplus and the Purchasing Manager be authorized and directed to dispose of this vehicle in a manner most advantageous to the City when the new vehicle is put into service.

It was moved by Ald. McCarthy, seconded by Ald. Casey
to approve the two foregoing resolutions. -16

There being no further business, the meeting adjourned at 8:55 p.m.

cal

Carla A. Ledesma, CMC, City Clerk