



CITY OF WAUWATOSA  
MEMORIAL CIVIC CENTER  
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**COMMON COUNCIL**  
**Regular Meeting, Tuesday, November 4, 2003**

PRESENT: Alds. Casey, Ecks, Grimm, Heins, Herzog, Jenkins, Kopischke, Krol (7:32 p.m.),  
Matthews, McCarthy, Stepaniak, Subotich, Sullivan, Treis, Bruderle-Baran, Becker -  
16

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; Dr. Kreuser, Health Officer; Fire Chief  
Redman; Police Capt. Reit; Asst. Fire Chief Anton; Deputy Fire Chief Nook; Ms.  
Nielsen, Nursing Supervisor; 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

(Ald. Krol present 7:32 p.m.) -16

**PUBLIC HEARING**

The first item of business was a public hearing concerning the proposed 2004 City of Wauwatosa  
budget.

Proof of publication is in the file.

Mr. Wontorek made some opening remarks, noting that in the 2004 budget process the need for  
services and the need to maintain the city's infrastructure were balanced against available revenue  
and taxing limitations. Early on, the decision was made to live within current revenues.  
Wauwatosa's portion of the tax bill is under one-third of a total tax bill; the remaining two-thirds is  
composed of six other taxing entities.

The 2004 proposed budget is just over \$43 million dollars, an increase of \$27,000 over the 2003  
adopted budget. The property tax rate is \$7.77 per one thousand dollars of assessed value, a decrease  
of \$0.05 per thousand. For a property owner with a \$175,000 home, there will be a reduction of  
\$8.75 on the tax bill.

Services will still be provided to residents (street and tree maintenance, police and fire protection, library services, refuse and recycling collection, public health services) despite a reduction in personnel. The initial budget proposals would have reduced the number of full time equivalent employees by 41; after executive review, 15 were restored, and the Budget Committee restored another 5. Most positions eliminated were part time or temporary, though some full time positions were eliminated or reduced.

The public hearing was declared open.

The Mayor asked if there was anyone of the public present who wished to be heard in favor of the proposed budget.

Dan McCann, 1355 N. 60th Street, thanked Council members and staff for their input on this very difficult budget.

The Mayor asked if there was anyone of the public present who wished to be heard in opposition to the proposed budget.

Linda Burg, 7015 Maple Terrace, voiced opposition to the reductions made to the police department budget. Given the amount of data entry needed, cutting two clerical positions is a mistake, especially if the city assumes protection of the country grounds. Ms. Burg also voiced opposition to transferring an officer out of Community Support, since it will leave that function with only two people.

Mary Van Derven, 2339 N. 62nd Street, noted that Wauwatosa is a fiscally responsible city that pays attention to how money is spent. The citizen survey was a good effort by the city to find out what citizens want and how they think. The survey responses indicated that the citizens don't want to see public safety services, specifically the police function, cut. She urged the Council to find ways to restore funding for the Community Support personnel. Community Support symbolizes what is important to this community. D.A.R.E. has already been cut. Losing more officers from Community Support is a loss to all. Neighborhood Watch is a great benefit to the citizens and needs the assistance it receives from Community Support to flourish.

Dale Weiss, Wauwatosa Police Department, noted that patrol and investigative activities within the police department have correctly been identified as priorities. But some critical services have been cut. The D.A.R.E. program, a link to the schools, is one example. Community Support is a last, vital link to the schools; it plays a critical role at Mayfair Mall. He invited Council members to the police department to show them what will be lost if the Community Support position is eliminated.

Richard Bachman, 2229 N. 115th Street, urged Council members to visit the police department to observe how busy the clerical staff is. If clerical positions are cut, will sworn officers have to be called in off the streets to cover in times of sickness or vacation? The 500 block watches and 50 neighborhood associations are the backbone of the city and need Community Support's assistance. Residents would support the restoration of the position if they knew what that division is involved in.

Mike Anton, 2420 N. 94th Street, a Wauwatosa firefighter, spoke favorably about the D.A.R.E. experience his five children had. He asked on behalf of those whose children have yet to reach 'D.A.R.E. age' to restore the program if possible. Speaking as a block watch captain, he stated how vital Community Support activities are, and how much they are appreciated.

The Chair asked if there was anyone of the public present who had any questions or wished to make any comments. No one of the public asked any questions or made any comments.

The public hearing was declared closed. Ordered held to the November 18th Common Council meeting.

**APPLICATIONS, COMMUNICATIONS, ETC.**

- 1. Special Use application to construct a dormer addition to a legal, non-conforming structure at 1573 N. 122nd Street  
**Plan Commission, Board of Zoning Appeals**
- 2. Special Use application to construct and operate a gas station and car wash at 3106 N. Mayfair Road  
**Plan Commission, Board of Zoning Appeals**
- 3. Letter from David Stamm and Jayne Aliota, George Webb Corporation, opposing the proposed smoke free restaurant ordinance  
**Add to existing file**
- 4. Conditional Use application to operate a massage therapy establishment at 11712 W. North Avenue  
**Plan Commission, Committee on Community Development**
- 5. Notice of Claim: Carlton John Rieckhoff, Jr., 5821 N. 61st Street, Milwaukee; Angela Caston, 3344 Marina Road, South Milwaukee; Lawsuit: Wauwatosa Reserve Limited Partnership v. City of Wauwatosa  
**City Attorney**
- 6. Donation: \$2,500 from the Harley-Davidson Motor Company and \$225 from Nancy Sileno Gillingham to Police Community Support  
**Place on file**
- 7. Letter from R. E. Jungen, President, Wauwatosa Economic Development Corp., reporting staffing and other changes of the WEDC  
**Director of Community Development; City Administrator**
- 8. Letter from Vesna and Marija Madunic, co-owners of Bjonda, 7754 Harwood Avenue, opposing the proposed smoke-free restaurant ordinance  
**Add to existing file**
- 9. Letter from John F. Fuchs, Fuchs, DeStefanis & Boyle, S.C., regarding the proposed smoke-free restaurant ordinance  
**Add to existing file**
- 10. City of Wauwatosa Bank Reconciliation of Depository Accounts as of September 30, 2003  
**Place on file**
- 11. Additional letter from David Stamm and Jayne Aliota, George Webb Corporation, regarding the proposed ordinance prohibiting smoking in restaurants  
**Add to existing file**

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION**

- 1. Ordinance amending the Zoning Code to allow indoor electric go-cart tracks as a Conditional Use in the AA Light Manufacturing District  
**Re-refer to originating committee**

**FROM THE COMMITTEE ON EMPLOYEE RELATIONS**

**RESOLUTION R-03-265**

WHEREAS, the City of Wauwatosa has no policy regarding the reinstatement of sick leave for non-represented employees who leave the employment of the City and are subsequently rehired in a different position within City employment; and

WHEREAS, recent events have caused the Committee on Employee Relations to request information regarding the advisability of creating a policy to address whether sick leave benefits lost upon termination of employment should be reinstated upon re-employment with the City for non-represented employees;

NOW, THEREFORE, BE IT RESOLVED THAT it shall be the policy of the City of Wauwatosa that non-represented employees who leave the employment of the City, thus forfeiting all accrued sick leave benefits through termination of that employment, shall not be provided reinstatement of those forfeited benefits upon re-employment with the City of Wauwatosa in a non-represented position unless the reinstatement of said benefits is negotiated between the City of Wauwatosa and the prospective employee, and is accepted by the City in conjunction with their re-employment.

It was moved by Ald. Jenkins, seconded by Ald. Heins to approve the foregoing resolution. -16

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**ORDINANCE O-03-28**

AN ORDINANCE AMENDING CHAPTER 15.22.010(A) and 15.22.020 BY ADDING FAMILIAL STATUS AS A PROTECTED BASIS

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

Part I. Chapter 15.22.010(A) is hereby repealed in its entirety and recreated to read as follows:

A. It is the intent of this law to render unlawful discrimination in housing where the sale, rental or lease of the housing constitutes a business. It is the declared policy of this city that all persons shall have an equal opportunity for housing regardless of sex, race, color, sexual orientation as defined in Section 111.32(13M) of the Wisconsin Statutes, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry, and it is the duty of this city to assist in the orderly prevention or removal of all discrimination in housing through the powers granted under the Wisconsin Statutes. This chapter shall be deemed an exercise of the police powers of the city for the protection of the welfare, health, peace, dignity and human rights of the people of this city

And the definition of “discriminate” and “discrimination” in Chapter 15.22.020 is hereby repealed in its entirety and recreated to read as follows:

"Discriminate" and "discrimination" mean to segregate, separate, exclude or treat any person unequally only because of sex, race, color, sexual orientation as defined in Section 111.32(13m) of

the Wisconsin Statutes, handicap, religion, national origin, familial status, sex or marital status of the person maintaining a household, lawful source of income, age or ancestry. It is intended that the factors set forth herein shall be the sole basis for prohibiting discrimination.

Part II. This ordinance shall take effect and be in force from and after its passage and publication.

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION** R-03-266

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT a public hearing be held before the Common Council in the Council Chambers at 7:30 p.m. Local Time, on Tuesday, December 2, 2003, in the City Hall of the City of Wauwatosa, Wisconsin at which time all persons interested, or their agents or attorneys, will be heard concerning a proposed ordinance amending Section 24.34.020 of the Code by adding indoor electric go-cart tracks as a conditional use and Section 24.34.030 specifying outdoor go-car tracks as a prohibited use in the AA Light Manufacturing District.

BE IF FURTHER RESOLVED THAT the City Clerk be and is hereby directed to publish the proper notices of said hearing as required by law.

It was moved by Ald. Heins, seconded by Ald. Ecks to adopt the foregoing ordinance and to approve the foregoing resolution. -16

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**ORDINANCE**

AN ORDINANCE CREATING CHAPTER 8.12 OF THE CODE OF THE CITY OF WAUWATOSA PERTAINING TO SMOKE FREE RESTAURANTS

Part I. Chapter 8.12 of the Code of the City of Wauwatosa is hereby created to be entitled, "Smoke Free Restaurants"

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

Part II. Section 8.12.010 if hereby created to read as follows:

**8.12.010 Findings and Purpose**

The Common Council does hereby find that:

Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution, and that breathing secondhand smoke is a cause of disease, including lung cancer, stroke, and respiratory disease in healthy nonsmokers. The U.S. Surgeon General has determined that secondhand smoke is responsible for the early deaths of 65,000 Americans annually.

The Public Health Service's National Toxicology Program has listed secondhand smoke as a known carcinogen.

Secondhand smoke is particularly hazardous to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease. Children exposed to secondhand smoke have an increased risk of asthma, respiratory infections, sudden infant death syndrome, developmental abnormalities, and cancer.

The U.S. Surgeon General has determined that the simple separation of smokers and nonsmokers within the same air space may reduce, but does not eliminate, the exposure of nonsmokers to secondhand smoke.

The Environmental Protection Agency has determined that secondhand smoke cannot be reduced to safe levels in businesses by high rates of ventilation. Air cleaners, which are only capable of filtering the particulate matter and odors in smoke, do not eliminate the known toxins in secondhand smoke.

Wauwatosa has numerous restaurants, some of which are not accessible to patrons sensitive to tobacco smoke.

The Common Council finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in restaurants; and (2) to guarantee the right of nonsmokers to breathe smoke free air, and to recognize that the need to breathe smoke free air shall have priority over the desire to smoke.

Part III. Section 8.12.020 of the Code of the City of Wauwatosa is hereby created to read as follows:

**8.12.020 Definitions**

The following words and phrases, whenever used in this ordinance, shall be construed as defined in this section:

1. "Enclosed Area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling.
2. "Restaurant" means any building or portion of a building where meals are prepared or served or sold to patrons or the general public.

The term "restaurant" shall not include the following:

- a. A "tavern" as defined below.
- b. Any establishment not being used as a public accommodation, including but not limited to churches, civic, fraternal, patriotic or religious organizations, and private or service clubs which prepare and serve or sell meals to members and guests only.
- c. Bowling centers.
- d. Areas of a building not connected with the restaurant, if the restaurant is located in a hotel, motel, bed and breakfast, or lodging establishment, hospital, office building, retail store, strip mall, or shopping mall. In such case, "restaurant" means the bar area, closet, coatroom,

dining area, entrance area, kitchen, restroom, seating area, and supply or storage area that are used in connection with the restaurant.

3. "Smoke Free" means absence from the air of the smoke and smoke by-product from the burning, inhaling, exhaling, or carrying of a lighted cigarette, cigar, pipe, weed, plant or other combustible substance.
4. "Smoking," means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form.
5. "Tavern" means a licensed establishment with a full service bar in which fermented malt beverages and intoxicating liquors are sold for consumption on the premises and whose sale of alcoholic beverages accounts for fifty percent (50%) or more of the establishment's gross receipts of the most recent licensing year, as determined pursuant to the procedure in sec. 8.12.040, below.

Part IV. Section 8.12.030 of the Code of the City of Wauwatosa is hereby created to read as follows:

**8.12.030 Prohibition of Smoking in Restaurants**

Smoking shall be prohibited in all enclosed areas of restaurants.

Part V. Section 8.12.040 of the Code of the City of Wauwatosa is hereby created to read as follows:

**8.12.040 Exception**

"Taverns" shall be exempt from the provisions from this ordinance. Every establishment that claims to be a tavern shall:

1. Provide a written certification from an independent, licensed, certified public accountant confirming that gross sales of alcohol beverages at the establishment during the twelve (12) month period prior to the effective date of this ordinance exceeded 50% of the total gross sales of the establishment during that same period. This verification shall be provided to the City Clerk not later than thirty (30) days after the enactment of this ordinance. Any establishment failing to file timely documentation shall be considered a "restaurant" for purposes of this ordinance until such time as appropriate documentation is provided.
2. Thereafter provide to the City Clerk, once every two years, an additional written certification from an independent, licensed, certified public accountant confirming that gross sales of alcohol beverages at the establishment during the previous two (2) year period exceeded 50% of the total gross sales of the establishment during that same period. Establishments whose street address number is an even number shall provide such certification in even-numbered years, and those whose street address number is an odd number shall provide such certification in odd-numbered years. This verification shall be provided not later than June 30 of the required year. Any establishment failing to file timely documentation shall be considered a "restaurant" for purposes of this ordinance until such time as appropriate documentation is provided.
3. Every new or remodeled establishment that requires a new occupancy permit for any reason must provide a certification projecting its food and alcohol sales, and shall comply with the verification and documentation provisions of subsection 1, above, for a period covering the first

three months immediately following the time the final certificate of occupancy is issued by the city, and then annually thereafter as set forth in subsection 2, above.

4. Upon receipt of the verification documentation required by this section, the City Clerk shall make a determination whether the documentation satisfies the requirements of this section. If the requirements are met, the City Clerk shall issue an exemption to said establishment for the following two year period. If the City Clerk determines that the documentation does not satisfy the requirements of this section, then no exemption shall be issued and smoking shall be prohibited in said establishment.
5. All records submitted to the City pursuant to this section shall be maintained as confidential records and are not subject to release under the Wisconsin Open Records Law.
5. Appeal. Any establishment wishing to appeal a determination made under this section may follow the procedure set forth in sec. 8.12.090 hereunder.
6. Any establishment denied an exemption under this provision may reapply for an exemption twelve (12) months after the date on which the application was made.

Part VI. Section 8.12.050 of the Code of the City of Wauwatosa is hereby created to read as follows:

**8.12.050 Declaration of Restaurant or Tavern as Smoke Free**

A manager, operator, owner, or other person in control of any tavern or restaurant may prohibit smoking in said establishment, or in any portion not so designated by this ordinance, including outdoor areas. Such declaration shall be noticed to patrons in the same manner as required by section 8.12.060, below, and shall be enforceable in the same manner as any other violation of this chapter.

Part VII. Section 8.12.060 of the Code of the City of Wauwatosa is hereby created to read as follows:

**8.12.060 Posting of Signs**

1. The proprietor or other person having control of a restaurant shall post, in a conspicuous place at every building entrance and in prominent locations throughout the establishment, a sign not smaller than eleven by eight and one-half inches (11"x 8 1/2") indicating that the restaurant is smoke free. Each sign shall contain the phone number for the City of Wauwatosa Police and Health Departments. The signs shall be posted in such a manner that the public has reasonable notice of the establishment's smoking policy and must be present at any time the establishment is open for business.
2. It shall be unlawful for any person to remove, deface or destroy any sign required by this section, or to smoke in any place where any such sign is posted.

Part VIII. Section 8.12.070 of the Code of the City of Wauwatosa is hereby created to read as follows:

### **8.12.070 Enforcement**

1. Any employee, manager, operator, or owner of any restaurant subject to this ordinance shall inform persons violating this ordinance of the appropriate provisions thereof. Such person shall request any person who smokes in areas where smoking is prohibited to refrain from smoking, and if the person does not refrain from smoking after being requested to do so, request the person to leave.
2. The manager, operator, owner or other person having control of a restaurant shall remove all ashtrays, cigarette vending machines, and other smoking paraphernalia except souvenir-related items from any area where smoking is prohibited by this ordinance.
3. The Health Officer or his or her designee and the Police Department shall have the power to enforce this ordinance.
4. Notice of the provisions set forth in this ordinance shall be given to all applicants for a restaurant license in the City of Wauwatosa.
5. Any citizen who desires to register a complaint under this ordinance may initiate enforcement with the Wauwatosa Health or Police Department.
6. The City of Wauwatosa Health Department, Police Department or Fire Department may inspect for compliance with this ordinance and shall have the power, whenever deemed necessary, to enter upon restaurant to ascertain whether it is in compliance with this ordinance. Enforcement may be by citation or through issuance of a summons and complaint.

Part IX. Section 8.12.080 of the Code of the City of Wauwatosa is hereby created to read as follows:

### **8.12.080 No Retaliation**

No person or entity shall retaliate in any manner against any person or patron because such person or patron exercises any right to a smoke free environment as established under this ordinance.

Part X. Section 8.12.090 of the Code of the City of Wauwatosa is hereby created to read as follows:

### **8.12.090 Violations and Penalties. Appeal.**

1. A person who smokes in an area where smoking is prohibited by the provisions of this ordinance shall be subject to the penalties in subsection 3, below.
2. A person who manages, operates, owns or otherwise controls the use of an establishment subject to this ordinance and who fails to comply, or fails to direct employees and contractors of the establishment to comply, with any of its provisions, shall be subject to the penalties in subsection 3, below.
3. A person who violates this chapter shall be assessed:
  - a. A penalty not exceeding one hundred dollars (\$100), plus court costs, for a first violation.

- b. A penalty not exceeding two hundred dollars (\$200), plus court costs, for a second violation of this ordinance occurring within one (1) year of the first offense.
  - c. A penalty not exceeding three hundred dollars (\$300), plus court costs, for each additional violation of this ordinance occurring within one (1) year of the latest offense.
4. Each act of smoking as prohibited under this ordinance shall constitute a separate violation.
  5. Appeal. A person adversely affected by an order or citation may, within 30 days of issuance of the order or citation, request a hearing in writing before the municipal court to review the order. The court shall conduct a hearing as soon as reasonably possible after receiving a request for a hearing. A request for a hearing shall not stay an order.

Part XI. Section 8.12.100 of the Code of the City of Wauwatosa is hereby created to read as follows:

**8.12.100 Other Applicable Laws**

This ordinance shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

Part XII. Section 8.12.110 of the Code of the City of Wauwatosa is hereby created to read as follows:

**8.12.110 Severability**

If any provision, subsection, sentence or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part XIII. Section 8.12.120 of the Code of the City of Wauwatosa is hereby created to read as follows:

**8.12.120 Effective Date**

This ordinance shall be effective on and after January 1, 2004.

It was moved by Ald. Kopischke, seconded by Ald. Sullivan to refer the ordinance back to committee for further study. –

Upon the consent of the Mover and Seconder, the following friendly amendment provisions were added to the original motion:

That the hardship issue, the separate room exception, the full-service bar exception, and the private function exception be addressed in the form of draft amendments, and made available to the committee prior to its next meeting. Further, that the starting date issue be revisited. --

After considerable discussion, Ald. Becker called for the question on the motion. Ald. McCarthy objected. Discussion ensued.

Ald. Bruderle-Baran called for the question on the motion. There was no objection.

Upon roll call vote, the vote was Ayes 12, Noes 4 (Grimm, Herzog, McCarthy, Treis).

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-267**

WHEREAS, the City of Wauwatosa Health Department is the fiscal agent for the Milwaukee/Waukesha County Consortium for Public Health Emergency Preparedness; and

WHEREAS, implementation of a 24-hour/7-day public health risk communication system for routine and emergency use is one of the major 2003 objectives for the State of Wisconsin bioterrorism consortium grant; and

WHEREAS, the bioterrorism consortium grant provides adequate funds for hardware/software and subscription services to provide up to 70 "Blackberry" communication devices to members of health departments participating in the consortium; and

WHEREAS, the purchasing department solicited bids for the type of communications services needed, and the bid of T-Mobile in the amount of \$201,483.63 was the most advantageous to the City and the consortium;

NOW, THEREFORE, BE IT RESOLVED THAT the purchase of communications equipment and services for the Milwaukee/Waukesha County Consortium for public health emergency preparedness from T-Mobile in the amount of \$201,483.63 is hereby approved with funding to be provided by the State of Wisconsin Bioterrorism Consortium grant.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-268**

WHEREAS, the City of Wauwatosa Health Officer outlined in her October 17, 2003 memorandum to the Budget & Finance Committee nine different health department grants which are continuations of previously received and accepted grants from the State of Wisconsin Department of Health and Family Services; and

WHEREAS, grants for the year 2004 as outlined in the Health Officer's memorandum total \$757,763.00 to the City and the Wauwatosa Health Department to continue its programming objectives;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa Health Department is hereby authorized to accept and execute the continuation grants from the State of Wisconsin

Department of Health and Family Services as outlined in the memorandum of the Wauwatosa Health Officer dated October 17, 2003, in an amount of \$757,763.00.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-269**

WHEREAS, the City of Wauwatosa Health Department is the fiscal agent for the Milwaukee/Waukesha County Bioterrorism Consortium grant; and

WHEREAS, grant funds are to be appropriately expended upon the purchase of new computer and networking equipment in order to improve infrastructure capacity in public health information systems in the participating local health departments in the consortium; and

WHEREAS, the purchase and replacement of computers and software as outlined in the memorandum of the Wauwatosa Health Officer dated October 21, 2003, were to allow the participating departments and the consortium as a whole to comply with the minimum Health Alert Network standards set by the State of Wisconsin Department of Health and Family Services; and

WHEREAS, the Bioterrorism Consortium hired Paragon Development Systems, Inc. to survey the status of existing computers and software for the 14 participating health departments, suggesting that the purchase of the replacement of computers and software for this purpose would cost \$190,000.00, and another \$19,025.00 would be necessary to bring existing hardware up to the necessary standards;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa Health Department, as fiscal agent for the Milwaukee/Waukesha County Bioterrorism Consortium is hereby authorized to utilize bioterrorism grant funds for the purchase of computer equipment and software and necessary related costs consistent with the report of Paragon Development Systems, Inc. dated September 19, 2003;

BE IT FURTHER RESOLVED THAT purchase contracts with specific vendors shall be implemented following the standard purchasing procedures of the City of Wauwatosa Purchasing Department except that individual purchase contracts or purchase orders shall not require further Common Council approval.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-270**

WHEREAS, on October 30, 2003, a public hearing was held before a designee of the Housing Authority of the City of Wauwatosa, Wisconsin (the "Authority") with respect to a 134-unit residential rental facility for elderly persons which will include approximately 90 independent living units (the "Project") to be located at 6600 River Parkway in the City of Wauwatosa, Wisconsin (the "City"); and

WHEREAS, notice of such public hearing, in the form attached as Exhibit A hereto and incorporated herein (the "Notice"), was published by at least one insertion in the Wauwatosa News Times, the

official newspaper in the City for the publication of notices pursuant to Chapter 985 of the Wisconsin Statutes, no less than fourteen (14) days prior to the date of such public hearing; and

WHEREAS, such public hearing was conducted in a manner that provided a reasonable opportunity to be heard for persons with differing views on both issuance of the bonds referred to in the Notice (the “Bonds”) and the location and the nature of the project, which is to be financed by the Bonds; and

WHEREAS, the Authority has made a report of such public hearing to this body, which report this body has considered; and

WHEREAS, this body is an elected legislative body of the City; and

WHEREAS, Sections 66.1213 and 66.1201 to 66.1211 of the Wisconsin Statutes, as amended (the “Act”), provide that this body must approve any housing project to be undertaken by the Authority; and

WHEREAS, the Bonds shall not constitute an indebtedness of the City within the meaning of any State constitutional provision or statutory limitation and shall not constitute or give rise to a pecuniary liability, direct or contingent, of any kind or degree whatsoever, of the City or a charge against its general credit or taxing powers;

NOW, THEREFORE, for the purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, and the Act, this body hereby approves the Project and the issuance of the Bonds therefore.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-271**

WHEREAS, the Community Development Block Grant Committee reviewed project proposals submitted to the Committee for the year 2004; and

WHEREAS, the recommendations of the CDBG Committee for 2004 funding approvals are specifically described in a memorandum from City Planning staff dated October 23, 2002, a copy of which is on file in the office of the City Clerk and available for public review; and

WHEREAS, the Committee on Budget & Finance made one change to the recommendations of the CDBG Committee by removing \$5,000.00 from the contingencies portion of the grant recommendations of the CDBG Committee and providing a \$5,000.00 grant for the Badger Association For The Blind, pursuant to that organization’s request;

NOW, THEREFORE, BE IT RESOLVED THAT the 2004 Community Development Block Grant Project request funding in the amounts recommended by the CDBG Committee as reflected in the memorandum from Planning staff dated October 23, 2003, as amended by the Committee on Budget & Finance, is hereby approved.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-272**

WHEREAS, the Wauwatosa Purchasing Department has solicited bids for the purchase of approximately 100 fire hydrants over a five year contract period for the Wauwatosa Water Utility as outlined in the October 23, 2003 memorandum from the Purchasing Manager; and

WHEREAS, the bid of Davies Water Equipment Company of Milwaukee in the amount of \$950.00 per hydrant is the most advantageous to the City;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa Purchasing Manager is hereby authorized to issue a purchase order as needed to Davies Water Equipment Company of Milwaukee for five years to provide for the purchase of new fire hydrants for the Wauwatosa Water Utility on an as-needed basis consistent with the bid of Davies Water Equipment Company of Milwaukee received October 15, 2003.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-273**

WHEREAS, at its regular meeting on October 21, 2003, the Board of Parks and Forestry Commissioners approved a new 2004 softball diamond rental rate schedule; and

WHEREAS, the new softball diamond rate schedule as outlined in the memorandum of the Director of Public Works dated October 21, 2003 provides for revenue to be received on a basis which more equitably allocates costs of providing softball diamond rentals to the appropriate parties;

NOW, THEREFORE, BE IT RESOLVED THAT the 2004 softball diamond rental rates as outlined in the schedule attached to the October 21, 2003 memorandum of the Director of Public Works are hereby approved.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-275**

BE IT RESOLVED by the Common Council of the City of Wauwatosa that the claim filed by Barbara Marks for damages be and the same is hereby denied and placed on file for the reason that no liability exists on the part of the City.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized and directed to notify said claimant of this action of the Common Council as provided by law.

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

(see minutes below for a change in vote on Resolution R-03-275)

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-03-274**

WHEREAS, recent work by WE Energies to rewire the parks administration and Muellner Buildings due to the removal of the 72<sup>nd</sup> Street substation resulted in a power surge which affected the phone system in both buildings and the elevator in the Muellner Building; and

WHEREAS, there is an immediate need to pay for the elevator and phone system repairs in order to recover functionality within the parks administration and Muellner Buildings; and

WHEREAS, the City of Wauwatosa has filed a claim with WE Energies to recover the cost of these repairs; and

WHEREAS, there is money available in the forestry salary account to cover the cost of these repairs which is estimated at \$5,000.00, until such time as the funds can be reimbursed from WE Energies pursuant to the filed claim;

NOW, THEREFORE, BE IT RESOLVED THAT a fund transfer in the amount of \$5,000.00 from the forestry salary account to the parks building repairs account for purposes of the above-described repairs is hereby approved.

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

It was moved by Ald. Grimm, seconded by Ald. Kopischke to reconsider Resolution R-03-275. Upon roll call vote, the vote was Ayes 14, Noes 2 (Casey, Heins)

Vote on the original motion to approve Resolution R-03-275, upon roll call vote, was Ayes 15, Noes 1 (Grimm)

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**BILLS AND CLAIMS FOR THE PERIOD 10/22/03 – 11/04/03 –**

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 10/22/03 – 11/04/03: \$1,195,808.53

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 16.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-03-276**

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 Tyler Company, Inc., for the work of demolition of a building at 6535 River Parkway under Contract 03-38 for their bid price of \$92,000, this being the lowest and best bid.

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

It was moved by Ald. Bruderle-Baran, seconded by Ald. Krol to approve the foregoing resolution. - 16

There being no further business, the meeting adjourned at 8:45 p.m.

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Carla A. Ledesma, CMC, City Clerk