



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, December 2, 2003

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

EXCUSED: Ald. Herzog

ALSO PRESENT: Mr. Wontorek, City Administrator; Mr. Braier, Finance Director; Mr. Kesner; City Attorney; Mr. Wehrley, City Engineer; Ms. Welch, Community Development Director; Police Capt. Reit; Fire Chief Redman; Mr. Wojcehowicz, Water Supt.; 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

PUBLIC HEARING

The first order of business was a public hearing to consider streets and alleys proposed for improvement in 2004.

RESOLUTION

WHEREAS, the Common Council of the City of Wauwatosa, Wisconsin, held a public hearing at the Council Chambers in the City Hall at 7:30 p.m. Local Time, on the 2nd day of December, 2003 for the purpose of hearing all interested persons concerning the preliminary resolution and report of the Board of Public Works on the proposed improvement by repaving of the following streets. Sidewalk replacement cost, on those streets so indicated, is included in the assessment rate for the paving work.

<u>Assessed Street & Location</u>	<u>Ald. Dist.</u>	<u>Exist&(Prop) Width</u>	<u>Pavement Constr.Type</u>	<u>Sdwk. Work</u>
N. 70TH ST. St. James St. to Blanchard St.	4	24'	B	Yes
N. 70TH ST. Blanchard St. to 340' north	4	30'	B	Yes
N. 113TH ST. North Ave. to 350' north	7	30'	C	No
N. 116TH ST. North Ave. to Center St.	7	36'	C	No
N. 123RD ST. Diane Dr. to cul-de-sac	7	30'	C	No
BLANCHARD ST. N. 70th to N. 71st Sts.	4	26'	B	Yes
*BLUE MOUND RD. N 60th St. to N. 66th St.	4	60'	A-Conc	Yes

CLARKE ST. N. 61st St. to N. 68th St.	5	30'	B	Yes
GLENDALE AVE. N. 100th St. to east end	8	40'	C	No
HILL ST. Glenview Ave. to N. 85th St.	3	30'	B	Yes
HOPE AVE. N. 92nd St. to W. Palmetto Ave.	8	30'	C	No
MARION ST. N. 92nd St. to N. 95th St.	8	30'	C	No
MEINECKE AVE. N. 68th St. to N 74th St.	5	24'	B	Yes
PORTLAND AVE. N. 76th St. to Kavanaugh Pl	3,4	36'	C	No
RIVER PARK CT. Hoyt Park Dr. to cul-de-sac	2	36'	C	No
WALNUT RD. N. 116th St. to N. 124th St.	7	36'	C	No
ALLEY from Burleigh St. to Locust St./ N. 122nd St to N. 124th St/n-s leg	7,8	20'	A-Conc	No
ALLEY from Burleigh St. to Locust St./ N. 122nd St. to N. 124th St./e-w leg	8	20'	C	No
ALLEY from Fiebrantz to Sarasota/ N. 99th St. to N. 100th St./north portion	8	20'	A-Conc	No
ALLEY from Fiebrantz to Sarasota/ N. 99th St to N. 100th St./south portion	8	20'	C	No
ALLEY from Jackson Park Blvd. to Stickney/ N. 90th St. to Swan Blvd.	2	20'	C	No
ALLEY from Jackson Park Blvd. to Stickney/ Swan Blvd. to Stickney	2	20'	C	No
ALLEY from Meinecke Ave. to North Ave./ N. 101st to N. 102nd Sts.	6	20'	C	No
ALLEY from Stickney to Menomonee Riv. Pkwy./ 91st St. to Swan Blvd.	2	18'	C	No

* Joint project with City of Milwaukee (Milwaukee lead agency).

Original Construction: New (Conc.) or (Asph.) Grading, placing new concrete curb and gutter, and concrete or asphalt pavement surface (as indicated) on a new stone or asphalt base.

Reconstruction: Type "A" (Asph.) or (Conc.) Completely removing existing curb and gutter and existing pavement, placing new concrete curb and gutter (excluding alleys), and asphalt or concrete pavement surface on a new base.

The above repaving type also includes placing necessary water and sewer service pipes and storm sewer and appurtenances; relaying sanitary sewer and storm sewer as required; relocating existing street lighting system where necessary; constructing new concrete driveway approaches and replacing concrete sidewalks which are disturbed by other construction, which are defective, or which have a hazard potential.

Repaving: Type "B" (Asph.) Completely removing existing curb and gutter, milling the existing asphalt pavement as required, and placing new concrete curb and gutter and asphalt pavement surface on the existing road base.

The above repaving type also includes placing necessary water and sewer service pipes and storm sewer and appurtenances; relaying sanitary sewer and storm sewer as required; relocating existing street lighting system where necessary; constructing new concrete driveway approaches and replacing concrete sidewalks which are disturbed by other construction, which are defective, or which have a hazard potential.

Repaving: Type "C" (Asph.) Milling the existing pavement as required, repairing curbs (and abutting approaches and sidewalks where necessary), and surfacing with asphalt pavement. Also included is the

placing of necessary water and sewer service pipes and storm sewer and appurtenances, and relaying sanitary sewer and storm sewer as required.

And has heard all persons desiring audience at such hearing;

NOW, THEREFORE, BE IT RESOLVED, By the Common Council of the City of Wauwatosa, Wisconsin as follows:

Section 1. That the report of the Board of Public Works in connection with the construction of the above-described permanent public improvement, including preliminary plans and specifications therefor, is hereby adopted and approved.

Section 2. That the Board of Public Works is directed to carry out the work of such permanent improvement in accordance with the report of the Board of Public Works.

Section 3. That payment for said permanent improvement be made by assessing the cost to the property improved as indicated in said report.

Section 4. That the assessments shown on the report, are true and correct and are hereby confirmed.

Section 5. That the owners of the respective parcels of land fronting or abutting the street improvements, on which a public hearing has been held and preliminary assessments have been confirmed, shall have payment of the special assessments scheduled as follows:

(a) Each special assessment and special charge, pursuant to Section 66.0627 of the Wisconsin Statutes, levied in an amount of \$200 or less against any parcel of land in the City of Wauwatosa shall be entered in the tax rolls in one installment.

(b) All assessments will be collected in installments as provided below, except such assessments on property where the owner of the same shall file with the City Clerk within 30 days from date of billing, a written notice that he elects to pay the special assessment on his property to the City Treasurer on or before the next succeeding November 1, unless the election is revoked in writing 30 days prior to November 1. If, after making such election, said property owner fails to make the payment to the City Treasurer, the City Clerk shall place the entire assessment, and applicable interest, on the next succeeding tax roll.

(c) Each special assessment for improvements levied in an amount exceeding \$200 against any parcel of land in the City of Wauwatosa shall be entered in the tax rolls in five equal annual installments of principal together with interest at the rate of twelve percent (12%) per year or the percentage rounded out to the next highest whole percentage number above the interest rate paid by the City for the sale of corporate purpose bonds, which include the project which is the subject of the special assessment, whichever figure is less, on the unpaid balance of said assessment. Individual assessments shall run concurrently except as provided under Section 3.08.040 of the City Code.

(d) Each special assessment levied against any parcel of land in the City of Wauwatosa for the installation of sanitary sewer main or water main or construction of permanent street pavement shall not be entered in the tax roll until all installments of special assessments for sanitary sewer or water main or construction of permanent street pavement levied previously against the same parcel of land have been entered into the tax rolls and have been paid. Such subsequent special assessment shall be deferred and only interest at the rate of twelve percent (12%) per year, or the percentage rounded out to the next highest whole percentage number above the interest rate paid by the City for the issuance of General Obligation Debt, which include the project which is the subject of the special assessment, whichever figure is less, on such subsequent special assessment shall be carried into the tax rolls in addition to the

scheduled installments of such prior assessments. After the last installment of such prior special assessment has been entered in the tax rolls, installments of the subsequent special assessment shall, beginning with the next subsequent tax roll, be entered in the tax rolls pursuant to Section 3.08.030 of the City Code.

(e) Whenever special assessments are levied against the frontage and side of a corner parcel of land in the City of Wauwatosa for the installation of sanitary sewers or water mains or construction of permanent pavements arising out of the same public works project, such special assessments levied against a corner parcel of land shall be deemed to be two separate special assessments, and the special assessment levied against the frontage of the corner parcel of land shall first be scheduled on the tax rolls for payment as provided in Section 3.08.030 of the City Code and the special assessment levied against the side of the corner parcel of land shall be scheduled on the tax rolls pursuant to (c) above, following such scheduling of the special assessment levied against the frontage of the corner parcel of land.

(f) Notwithstanding the provisions of (c) and (d) above, any owners of parcels of land assessed may at their option elect to pay both the scheduled installments of prior assessments as well as scheduled installments of subsequent special assessments on the same tax rolls as entered on those tax rolls pursuant to Section 3.08.030 of the City Code.

(g) If, after special assessments have been placed on the tax rolls in installments or otherwise, the taxpayer fails to pay the same within the time allowed for payment of general taxes, the same shall become delinquent and shall be treated in the same manner and subject to the same laws as delinquent general property taxes.

Section 6. The properties against which the assessments are proposed are benefited. Such benefits may include, but are not necessarily limited to, enhancement of value or marketability, improved drainage, improved pedestrian safety (walks), improved vehicular access, improved skid resistance and cross sectional elements.

Section 7. The City Clerk is directed to publish this resolution in the Wauwatosa News Times, official paper of the City of Wauwatosa.

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

Proof of publication is in the file.

The public hearing was declared open.

N. 70th Street, St. James to Blanchard Streets. Mr. Wehrley reported the street was constructed in concrete in 1929. It was resurfaced in 1978. No one appeared for this item.

N. 70th Street, Blanchard Street to 340 feet north. Mr. Wehrley reported that the street was constructed in concrete in 1929. It was resurfaced in 1978. No one appeared for this item.

N. 113th Street, North Avenue to 350 feet north. Mr. Wehrley reported that the street was constructed in concrete in 1968. No one appeared in favor of this item.

Demetra Chanteles, 2323 N. 113th Street, opposed the proposed resurfacing, stating that few people use the street. Those who do are coming off of the freeway ramp. Citizens should not have to pay the full expense of this work.

Deb Gurka, 2315 N. 113th Street, opposed the proposed resurfacing, noting that only five homes are being assessed. Citizens should not have to pay for all of the work.

Shirley Relich, 2327 N. 113th Street, opposed the proposed resurfacing, noting that most of the traffic on the street comes off of the freeway ramp.

N. 116th Street, North Avenue to Center Street. Mr. Wehrley reported that the street was constructed in asphalt in 1968. No one appeared for this item.

N. 123rd Street, Diane Drive to cul-de-sac. Mr. Wehrley reported that the street was constructed in asphalt in 1965. No one appeared for this item.

Blanchard Street, N. 70th to N. 71st Streets. Mr. Wehrley reported that the street was constructed in concrete in 1929. No one appeared for this item.

Blue Mound Road, N. 60th to N. 66th Streets. Mr. Wehrley reported that the street was constructed in concrete in 1929. This is a joint project with the City of Milwaukee; the entire project spans N. 47- N. 66th Streets. No one appeared for this item.

Clarke Street, N. 61st to N. 68th Streets. Mr. Wehrley reported that the street was constructed in concrete in 1929. No one appeared for this item.

Glendale Avenue, N. 100th street to east end. Mr. Wehrley reported that the street was constructed in concrete in 1968. No one appeared for this item.

Hill Street, Glenview Avenue to N. 85th Street. Mr. Wehrley reported that the street was constructed in 1931. No one appeared for this item.

Hope Avenue, N. 92nd Street to W. Palmetto Avenue. Mr. Wehrley reported that the street was constructed in asphalt in 1971. No one appeared for this item.

Marion Street, N. 92nd to N. 95th Streets. Mr. Wehrley reported that the street was constructed in asphalt in 1971. No one appeared for this item.

Meinecke Avenue, N. 68th to N. 74th Streets. Mr. Wehrley reported that the street was constructed in concrete in 1928. No one appeared for this item.

Portland Avenue, N. 76th Street to Kavanaugh Place. Mr. Wehrley reported that the street was constructed in asphalt in 1972. No one appeared for this item.

River Park Court, Hoyt Park Drive to cul-de-sac. Mr. Wehrley reported that the street was constructed in concrete in 1975. No one appeared for this item.

Walnut Road, N. 116th to N. 124th Streets. Mr. Wehrley reported that the street was constructed in concrete in 1970. No one appeared in favor of the item.

Walter Tesch, 1674 N. 117th Street, submitted a petition with 21 signatures opposing the proposed resurfacing. The street is not in bad shape and needs only a few repairs. The project should be removed from the proposed improvement list.

Alley, from Burleigh to Locust Streets/N. 122nd to N. 124th Streets/north-south leg. Mr. Wehrley reported that the alley was constructed in concrete in 1968. No one appeared in favor of the item.

Lee Neustedter, 3006 N. 124th Street, submitted a petition signed by 15 of 20 possible property owners objecting to the proposed reconstruction of the alley. Residents are requesting spot-patching instead.

James Wick, 2915 N. 122nd Street, stated that residents objected to this work five years ago; it was deferred then. When residents built their homes, they were not permitted to access this alley. All garages face the street. Yard waste and garbage is picked up from the street. Back yards are landscaped to reflect non-usage of the alley by the homeowners. When the four-family apartments were constructed across the alley, the alley was paved in concrete and paid for by the apartments' owners. Mr. Wick also asked for clarification of the new alley policy when it addresses "...primary access to the alley." It is unfair to assess residents who can't use the alley.

Patricia Steininger, 2925 N. 122nd Street, opposed the proposed assessment since the home owners' garages don't face the alley, nor is garbage picked up from the alley. Home owners have installed fences along this alley because it is unused. They should not be asked to pay for something they have no need for.

Hue Truong, 3045 N. 122nd Street, stated that she lives on a limited income and cannot afford the assessment. They don't use the alley.

Chester Obukowicz, 2935 N. 122nd Street, stated that the home owners have no reason to use the alley. It is there for the benefit of the apartment dwellers so they can access their parking. He has never even driven through the alley.

Mr. Wehrley clarified the new alley assessment policy: A 50% credit is granted to one and two-family dwellings that abut an alley and have access off of a public street, and not the alley. Mr. Wehrley also pointed out that the city does not prevent home owners from accessing the alley. It is his understanding that this is part of the home owners' subdivision covenants.

Alley from Burleigh to Locust Streets/N. 122nd to N. 124th Streets/east-west leg. Mr. Wehrley reported that the alley was constructed in concrete in 1968. When asked to clarify the difference in the type of work proposed for the legs of these alleys, Mr. Wehrley explained that the east-west leg is in a sufficiently satisfactory condition to warrant only a resurfacing. The north-south leg, however, is in poorer condition and requires reconstruction. No one appeared in favor of the item.

Mr. Neustedter stated that the petitions previously submitted also pertain to this segment of the alley.

Alley from Fiebrantz to Sarasota, N. 99th to N. 100th Streets/north portion. Mr. Wehrley reported that the alley was constructed in concrete in 1962. No one appeared for this item.

Alley from Fiebrantz to Sarasota, N. 99th to N. 100th Streets/south portion. Mr. Wehrley reported that the alley was constructed in concrete in 1962. No one appeared for this item.

Alley from Jackson Park Blvd. to Stickney Avenue, N. 90th Street to Swan Blvd. Mr. Wehrley reported that the alley was constructed in 1937. No one appeared for this item.

Alley from Jackson Park Blvd. to Stickney Avenue/Swan Blvd. to Stickney. Mr. Wehrley reported that the alley was constructed in 1962. No one appeared for this item.

Alley from Meinecke Avenue to North Avenue/N. 101st – N. 102nd Streets. Mr. Wehrley reported that the alley was constructed in 1962. No one appeared for this item.

Alley from Stickney to Menomonee River Parkway/N. 91st Street to Swan Blvd. Mr. Wehrley reported that the alley was constructed in 1949. No one appeared for this item.

The public hearing was declared closed. Ordered held to the next Common Council meeting.

PUBLIC HEARING

The second item of business was a public hearing to consider the following proposed ordinance:

ORDINANCE

AN ORDINANCE AMENDING SECTION 24.34.020 BY INCLUDING A PROVISION TO ALLOW INDOOR ELECTRIC GO-CART TRACKS AS A CONDITIONAL USE AND SECTION 24.34.030 SPECIFYING OUTDOOR GO-CART TRACKS AS A PROHIBITED USE IN THE AA LIGHT MANUFACTURING DISTRICT

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

Part 1. That Section 24.34.020 is amended to include the following as a conditional use:

Indoor Electric Go-Cart Tracks.....7394

And Section 24.34.030 is amended to specify the following as a prohibited use:

Outdoor Go-Cart Tracks.....7394

Part 2. This ordinance shall take effect and be in force from and after its passage and publication.

Proof of publication is in the file.

TO THE COMMON COUNCIL, CITY OF WAUWATOSA, WI,

The City Plan Commission, to whom was referred the request BY Robert Lacourciere for a Zoning Code amendment in the AA Light Manufacturing District to allow indoor electric go-cart tracks as a Conditional Use, recommends to the Committee on Community Development that the amendment be approved.

Dated this 13th day of October 2003.

Nancy L. Welch, Secretary, City Plan Commission

No one of the public present wished to be heard in favor of the proposed ordinance.

No one of the public present wished to be heard in opposition to the proposed ordinance.

No one of the public present wished to be heard either for or against the proposed ordinance or had any comments or questions.

The public hearing was declared closed. Ordered held to the next Common Council meeting,

OLD BUSINESS

The following item had been held for two weeks following a November 18, 2003 public hearing.

ORDINANCE

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

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF WAUWATOSA BY REZONING THE LAND AT THE SOUTHWEST CORNER OF 113th STREET AND WALNUT ROAD FROM AA LIGHT MANUFACTURING DISTRICT TO BUSINESS PLANNED DEVELOPMENT DISTRICT

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

Part 1. The Official Zoning Map of the City of Wauwatosa is hereby amended to reflect the following change:

A part of the northeast quarter and the southeast quarter, a Subdivision of Part of Section 19, in Township 7 North, Range 21 East, City of Wauwatosa, County of Milwaukee, State of Wisconsin, more accurately described on the attached map, is Rezoned from AA Business District to Business Planned Development District.

Part II. The City Administrator is hereby directed to change the Official Zoning Map of the City of Wauwatosa to conform to the provisions of the Ordinance, and said Map is declared amended accordingly.

Part III. This ordinance change is contingent upon an approval of a development plan for the site by April 1, 2004.

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

It was moved by Ald. Heins, seconded by Ald. Kopischke to adopt the foregoing ordinance. –

It was moved by Ald. Sullivan, seconded by Ald. Subotich to hold the matter for six months to allow a citizen group(s) time to explore possibilities for recreational use. Upon roll call vote, the vote was Ayes 2 (Subotich, Sullivan), Noes 13 --Motion failed.

It was moved by Ald. Kopischke, seconded by Ald. McCarthy to amend the original motion by deleting Paragraph III. -15

Roll call vote on motion as amended, Ayes 14, Noes 1 (Sullivan) **

**Note: Ald. Subotich subsequently changed his vote to “no.” Final vote on the amended motion was 13-2.

The amended ordinance is as follows:

AMENDED ORDINANCE O-03-30

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF WAUWATOSA BY REZONING THE LAND AT THE SOUTHWEST CORNER OF 113th STREET AND WALNUT ROAD FROM AA LIGHT MANUFACTURING DISTRICT TO BUSINESS PLANNED DEVELOPMENT DISTRICT

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

Part 1. The Official Zoning Map of the City of Wauwatosa is hereby amended to reflect the following change:

A part of the northeast quarter and the southeast quarter, a Subdivision of Part of Section 19, in Township 7 North, Range 21 East, City of Wauwatosa, County of Milwaukee, State of Wisconsin, more accurately described on the attached map, is Rezoned from AA Business District to Business Planned Development District.

Part II. The City Administrator is hereby directed to change the Official Zoning Map of the City of Wauwatosa to conform to the provisions of the Ordinance, and said Map is declared amended accordingly.

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

It was moved by Ald. Becker, seconded by Ald. Bruderle-Baran not to accept any bids or proposals on this property any sooner than July 1, 2004. –

(Ald. Subotich changed his vote on the previous motion to “no” at this point.)

Ald. Treis invoked the maximum speaking limit rule permitting each Council member to speak twice on an issue.

Ald. Bruderle-Baran called for the question. Ald. Ecks objected. Discussed continued.

Roll call vote on the motion was Ayes 6, Noes 9 (Grimm, Heins, Kopischke, Krol, Matthews, Stepaniak, Ecks, Treis, Casey)
--Motion failed.

RECESS 8:58 P.M. – 9:08 P.M.

APPOINTMENTS BY THE MAYOR

Historic Preservation Commission

Mary Jo Cole, 1609 Church Street (reappointment)
(Term ends 11/30/06)

Ordered held as this was the first reading.

Historic Preservation Commission

Carolyn Edwards, 1850 N. 74th Street
Kathleen Ehley, 7437 Kenwood Avenue

(Terms end 11/30/06)

Design Review Board A

Ann Larson, 6128 Washington Boulevard (reappointment)

John Niemer, 7424 Kenwood Avenue (reappointment)

Wayne Rappold, 6618 Romona (reappointment)

(Terms end 12/31/05)

Historic Preservation Commission

Art Chadek, 1821 Alta Vista (reappointment)

(Term ends 11/30/06)

Board of Health

Margaret Butterfield, 1420 N. 120th Street (reappointment)

Leslie F. Martin, MD, 6814 W. Wells Street (reappointment)

(Terms end 12/31/08)

It was moved by Ald. Ecks, seconded by Ald. Heins
to concur with the foregoing appointments. -15

APPLICATIONS, COMMUNICATIONS, ETC.

1. Application for a Land Division at approximately 10340 W. Watertown Plank Road
Plan Commission, Committee on Community Development
2. Special Use application to construct a dormer addition to a legal, non-conforming property at 7415 Watson Avenue
Plan Commission, Board of Zoning Appeals
3. Special Use application to operate a Sendik's grocery store at 8616 W. North Avenue
Plan Commission, Board of Zoning Appeals
4. City of Wauwatosa Statement of Financial Condition as of 10/31/03
Place on file
5. Letter from Ronald Hayward, President MADACC Board of Directors, forwarding a check in the amount of \$2,939.94 as the city's share of money returned to MADACC by Milwaukee County
Finance Director
6. Notice of Claim: Winfield & Betty Scott, 11037 W. Derby Avenue
City Attorney
7. Letters from Bev Greenberg, Vice President, Public Affairs, Time Warner Cable, advising of new cable services and fees
Place on file
8. Notice of Claim: Doris Gustafson, 8319 W. Bluemound Rd.
City Attorney

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT FOR INTRODUCTION

1. Ordinance amending the Zoning Code by rezoning property at 10747 W. York Place from AAA Single Family Residence District to AA Business District
Re-refer to originating committee

FROM THE COMMITTEE ON EMPLOYEE RELATIONS

RESOLUTION R-03-392

WHEREAS, the City of Wauwatosa has created a Health and Dependent Care Reimbursement Account consistent with the Internal Revenue Code; and

WHEREAS, the accounts have previously been limited only to full-time employees of the City of Wauwatosa; and

WHEREAS, it is permissible to allow part-time employees to participate in the Health and Dependent Care Reimbursement Accounts;

NOW, THEREFORE, BE IT RESOLVED THAT the Health and Dependent Care Reimbursement Account provided as a benefit to City of Wauwatosa employees shall be open to participation by part-time employees of the City of Wauwatosa beginning in the calendar year 2004.

FROM THE COMMITTEE ON EMPLOYEE RELATIONS

RESOLUTION R-03-393

WHEREAS, on October 22, 2003, OPEIU Local 35 filed a grievance on behalf of a Municipal Clerk III employed in the office of the City Assessor in the City of Wauwatosa; and

WHEREAS, the grievance requested reclassification of the position to that of Appraiser I, and “out-of-class” pay retroactive to June 22, 2003, which was the resignation date of the individual previously holding an Appraiser I position in the office of the City Assessor; and

WHEREAS, reclassification of the Municipal Clerk III to position of Appraiser I, and “out-of-class” pay retroactive to June 22, 2003, would resolve the grievance and is in the best interest of the City;

NOW, THEREFORE, BE IT RESOLVED THAT the Municipal Clerk III position in the office of the City Assessor is hereby reclassified as that of Appraiser I and the individual currently holding that position shall be provided “out-of-class” pay retroactive to June 22, 2003.

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

FROM THE COMMITTEE ON TRAFFIC AND SAFETY

RESOLUTION R-03-394

WHEREAS, the Committee on Traffic and Safety approved a trial on a new stop sign for both north and southbound traffic on North 90th Street and West Marion Street in the City of Wauwatosa; and

WHEREAS, residents have commented on the positive effects of the stop signs at that location and Council members have not received any complaints in opposition to the signs;

NOW, THEREFORE, BE IT RESOLVED THAT the official stop sign map of the City of Wauwatosa shall hereby be amended by adding the installed stop signs on North 90th Street at West Marion Street in the City of Wauwatosa.

It was moved by Ald. Krol, seconded by Ald. Matthews to approve the foregoing resolution. -15

FROM THE COMM. ON LEGISLATION, LICENSING AND COMMUNICATIONS

RESOLUTION R-03-395

WHEREAS, Margaret Tobakos has applied for a massage establishment license to operate Healing Arts Studio, 830 N. 68th Street, Wauwatosa, WI;

NOW, THEREFORE, BE IT RESOLVED THAT the massage establishment license be awarded to Margaret Tobakos to operate Healing Arts Studio, 830 N. 68th Street, Wauwatosa, WI for the period ending June 30, 2004.

It was moved by Ald. Grimm, seconded by Ald. Kopischke to approve the foregoing resolution. -15

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-03-398

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, January 6, 2004, 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 rezoning property at 10747 W. York Place from AAA Single Family Residence District to AA Business District.

BE IT 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. Kopischke to approve the foregoing resolution. -15

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-03-397

WHEREAS, Stuart Hoffman and Pam Brown, has applied for a Conditional Use in the AA Business District at 11712 W. North Avenue to operate a massage therapy establishment 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 by the Common Council of the City of Wauwatosa, Wisconsin hereby grants a Conditional Use to Stuart Hoffman and Pam Brown for the operation of a massage therapy establishment in the AA Business District at 11712 W. North Avenue.

It was moved by Ald. Heins, seconded by Ald. Kopischke to approve the foregoing resolution. Ayes 13, Noes 2 (McCarthy, Ecks)

FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT

RESOLUTION R-03-396

BE IT RESOLVED by the Common Council of the City of Wauwatosa, Wisconsin THAT the Transitional Law Enforcement Services Funding Agreement between the City of Wauwatosa and Organizations that are part of the Milwaukee Regional Medical Center is hereby approved.

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

It was moved by Ald. Krol, seconded by Ald. Matthews to go into closed session per Wisconsin Statutes 19.85 (1)(e), and to reconvene in open session. Upon roll call vote, the vote was Ayes 14, Present 1 (Sullivan).

Ald. Sullivan excused himself from the closed session. -14
Closed session began at 9:20 p.m.

It was moved by Ald. McCarthy, seconded by Ald. Kopischke to return to open session. Upon roll call vote, the vote was Ayes 14.

Ald. Sullivan returned to the Common Council meeting. -15
Open session resumed at 10:05 p.m. Ald. Heins called for the question.

Upon roll call vote, the vote was Ayes 11, Noes 2 (Krol, Ecks), Present 2 (Sullivan, Bruderle-Baran)

(Ald. McCarthy excused 10:10 p.m.) -14

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-399

WHEREAS, the 2004 premium rates for medical and dental HMO's set forth below are effective January 1, 2004, and

WHEREAS, the 2003 rates for the self insured dental plan were \$24.83 single and \$70.25 family and the suggested 2004 rates will change to \$24.02 single and \$67.50 family, and

WHEREAS, the 2003 rates for the self insured medical plan were \$567.00 single and \$1,372.14 family and the suggested 2004 rates will increase to \$600.14 single and \$1,452.33 family, and

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the following insurance rates are approved:

- (1) HMO 2004 medical and dental premium rates set forth below
- (2) Self insured dental rates are \$24.02 single and \$67.50 family
- (3) Self insured medical rates are \$600.14 single and \$1,452.33 family

HMO Health Insurance Premiums per Month

UnitedHealthcare – No Vision	2003	2004	Percent Increase
Single Coverage	\$369.03	\$489.24	32.58%
Family Coverage	\$1,026.84	\$1,361.34	32.58%

UnitedHealthcare – Vision	2003	2004	Percent Increase
Single Coverage	\$369.03	\$495.39	34.2%
Family Coverage	\$1,026.84	\$1,376.24	34%

Dental Insurance Premiums per Month

Care Plus	2003	2004	Percent Increase
Single Coverage	\$21.39	\$22.89	7.00%
Family Coverage	\$67.50	\$72.23	7.00%

Dentacare	2003	2004	Percent Increase
Single Coverage	\$35.01	\$35.99	2.80%
Family Coverage	\$106.61	\$109.60	2.80%

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-400

WHEREAS, on September 17, 2003, the Wauwatosa Common Council approved the upgrade of financial software provided by Government E Management Solutions; and

WHEREAS, funding to provide payments in this year's budget in the amount of \$53,000.00 will require fund transfers of previously budgeted monies, as more particularly outlined in the fund transfer request from the Information Systems Department dated November 18, 2003, in the total amount of \$53,000.00;

NOW, THEREFORE, BE IT RESOLVED THAT the fund transfers requested by the Information Systems Department in its fund transfer request of November 18, 2003 are hereby approved.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-401

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

WHEREAS, there currently exists a vacancy within the police department for a patrol officer; and

WHEREAS, the 2003 and 2004 budgets provide funding for this position;

NOW, THEREFORE, BE IT RESOLVED THAT the request for an exception to the hiring freeze to fill the position of patrol officer within the Wauwatosa Police Department is hereby approved.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-402

WHEREAS, the City and school district jointly contract with U.S. Cellular for cell phone service for the City and school district telephones; and

WHEREAS, that contract is set to expire on December 20, 2003; and

WHEREAS, the reduced rate in this contract is advantageous to the City and school district; and

WHEREAS, the State of Wisconsin intends to solicit bids in May, 2005, for new cellular service contracts, which will likely be in the interest of the City of Wauwatosa and the Wauwatosa School District;

NOW, THEREFORE, BE IT RESOLVED THAT the current contract for cellular phone services to the City of Wauwatosa and the Wauwatosa School District is hereby extended for an additional sixteen months to terminate in May, 2005, for re-bidding by the State of Wisconsin at that time.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-403

WHEREAS, Mr. Richard Bachman has received donations for establishment of an American Flag Maintenance Account for American flags on North Avenue in the City of Wauwatosa and has offered to turn over donated funds to the City of Wauwatosa; and

WHEREAS, the total amount of donations available at the present time is \$5,682.38;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa Finance Director is hereby authorized to accept on behalf of the City the donation from Mr. Richard Bachman for the creation of a non-lapsing American Flag Maintenance Account, with funds in the account to be targeted for such purpose;

BE IT FURTHER RESOLVED THAT the City of Wauwatosa hereby extends its thanks to Mr. Bachman for presentation of this donation.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-404

WHEREAS, the Wauwatosa Water Utility has presented its 2004 budget proposal; and

WHEREAS, the proposed budget incorporates the water rate increase recently approved by the Public Service Commission of Wisconsin;

NOW, THEREFORE, BE IT RESOLVED THAT the proposed budget of the Wauwatosa Water Utility for the year 2004, as revised on November 17, 2003, and presented to the Committee on Budget & Finance, is hereby approved.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-405

WHEREAS, the Department of Public Works has submitted a request for a change of purpose within its "other equipment" budget from Purchase of Construction Zone Signage to the purchase of a trailer-mounted asphalt hotbox for the Public Works operations section; and

WHEREAS, sufficient funds are available from the Construction Sign Project to allow this transfer;

NOW, THEREFORE, BE IT RESOLVED THAT the change of purpose within the "Other Equipment" budget of the Operations section of the Department of Public Works for purchase of a four yard trailer-mounted asphalt hotbox is hereby approved.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-406

WHEREAS, the Department of Public Works has solicited and received responses to bids for exhaust fan modifications at the public works building and has recommended that the award of the contract be made to Butters Fetting Co., Inc., which is the lowest responsible bidder, for a total cost, including the three alternate bid specifications, not to exceed \$50,415.00; and

WHEREAS, the Public Works Department has also requested that funds be transferred into the existing rooftop exhaust account from the Account for Digital Controls, which contains \$45,000.00 and the HVAC Office Study, which contains \$12,000.00; and

WHEREAS, the Department has also requested that the total amount in the Rooftop Exhaust Account be carried forward into 2004 until the exhaust fan project can be completed;

NOW, THEREFORE, BE IT RESOLVED THAT the funds in the Digital Controls and the HVAC Office Study Accounts be transferred to the account for the Roof Exhaust System at the Public Works Building;

BE IT FURTHER RESOLVED THAT the award for installation of the roof exhaust fans at the Public Works Building be made to Butters Fetting Co., Inc., the lowest responsible bidder, in an amount not to exceed \$50,415.00, including the three alternate bid items;

BE IT FINALLY RESOLVED THAT the balance in the Roof Exhaust Account be carried forward into the year 2004 until the project can be completed.

FROM THE COMMITTEE ON BUDGET AND FINANCE

RESOLUTION R-03-407

RESOLUTION SUPPLEMENTING RESOLUTIONS NO. R-86-252,
R-89-355, R-92-330, R-95-259, R-98-151, R-98-354 AND R-02-184;
PROVIDING FOR THE ISSUANCE AND SALE OF \$900,000
WATERWORKS SYSTEM REVENUE REFUNDING BONDS, SERIES 2003
AND PROVIDING FOR THE PAYMENT OF THE BONDS
AND OTHER DETAILS AND COVENANTS WITH RESPECT THERETO

WHEREAS, the City of Wauwatosa, Milwaukee County, Wisconsin (the "Municipality") owns and operates a waterworks system (the "System") which is operated for a public purpose as a public utility by the Municipality;

WHEREAS, under the provisions of Chapter 66 of the Wisconsin Statutes, any municipality may, by action of its governing body, provide for purchasing, acquiring, constructing, extending, adding to, improving, conducting, controlling, operating and managing a public utility from the proceeds of revenue bonds, and refunding outstanding obligations issued for the above purposes, which bonds are to be payable only from the revenues received from any source by such utility, including all rentals and fees;

WHEREAS, on November 18, 2003, the Common Council of the Municipality (the "Governing Body") adopted Resolution No. R-03-291 (the "Authorizing Resolution") authorizing the issuance and sale of waterworks system revenue refunding bonds and ratifying redemption of a portion of the Municipality's \$2,200,000 Waterworks System Revenue Bonds, Series 1992, dated November 15, 1992 (the "1992 Bonds");

WHEREAS, the Governing Body of the Municipality hereby determines it to be necessary, desirable, and in the best interest of the Municipality to pay the cost of refunding the 1992 Bonds (hereinafter the refinancing of the 1992 Bonds shall be referred to as the "Refunding") for the purpose of achieving debt service cost savings;

WHEREAS, pursuant to the Authorizing Resolution, the Municipality has heretofore authorized and directed the City Clerk to work with its finance advisor, Hutchinson, Shockey, Erley & Co., to take the steps necessary to call the 1992 Bonds on their earliest redemption date as more fully set forth on the call notice attached to the Authorizing Resolution as Exhibit A;

WHEREAS, the Municipality has heretofore issued and sold and has outstanding the following issues of revenue bonds: (a) \$1,300,000 Waterworks System Revenue Bonds, Series 1995, dated November 1, 1995 (the "1995 Bonds") authorized by the Governing Body pursuant to Resolution No. R-95-259 (the "1995 Resolution"), which supplemented Resolution No. R-89-355 adopted on September 19, 1989 (the "1989 Resolution") and Resolution No. R-86-252 adopted on June 3, 1986 (the "1986 Resolution") and the 1992 Resolution; (b) \$2,000,000 Waterworks System Revenue Bonds, Series 1998, dated June 1, 1998 (the "1998 Bonds") authorized pursuant to Resolution No. R-98-151 adopted on May 19, 1998 (the "1998 Resolution"); (c) \$1,840,000 Waterworks System Revenue Bonds, Series 1999, dated January 1, 1999 (the "1999 Bonds") authorized pursuant to Resolution No. R-98-354 adopted on December 1, 1998 (the "1999 Resolution"); and (d) \$4,000,000 Waterworks System Revenue Bonds, Series 2002, dated July 15, 2002 (the "2002 Bonds") authorized pursuant to Resolution No. R-02-184, adopted on July 2, 2002 (the "2002 Resolution");

WHEREAS, the 1995 Bonds, the 1998 Bonds, the 1999 Bonds, and the 2002 Bonds have been heretofore issued on a parity and equality of rank with each other as to the revenues of the System;

WHEREAS, the provisions of the 1986 Resolution permit additional revenue bonds to be issued on a parity and equality of rank with the 1995 Bonds, the 1998 Bonds, the 1999 Bonds and the 2002 Bonds, if

certain provisions are complied with (the 1995 Bonds, the 1998 Bonds, the 1999 Bonds and the 2002 Bonds shall be referred to collectively herein as the "Outstanding Bonds");

WHEREAS, the Outstanding Bonds pledge the income and revenues of and constitute a lien upon the System;

WHEREAS, for the purpose of paying the cost of the Refunding (including paying legal, financing and other professional fees in connection therewith), the Governing Body deems it to be necessary, desirable and in the best interest of the Municipality to authorize and sell waterworks system revenue bonds of the Municipality on a parity with the Outstanding Bonds, which revenue bonds are to be authorized and issued pursuant to the provisions of Section 66.0621, Wisconsin Statutes and Section 9 of the 1986 Resolution, as amended;

WHEREAS, the revenue bonds will mature, in accordance herewith, commencing not later than three years after the date of the issuance thereof in such amounts that the requirement each year to pay both principal and interest thereon (the latter being payable not less than annually from the date of issuance of the revenue bonds) will, it is hereby found by this Governing Body, be reasonable in accordance with prudent municipal utility management practices;

WHEREAS, to the best of its knowledge, information and belief, and in reliance upon the Additional Bonds Certificate to be executed and delivered in substantially the form attached hereto as Exhibit A and incorporated herein by this reference, the Municipality complies with the conditions precedent to the issuance of additional bonds on parity with the Outstanding Bonds;

WHEREAS, other than the Outstanding Bonds, no other bonds or obligations payable from the revenues of the System are now outstanding; and

WHEREAS, the Governing Body now deems it to be necessary, desirable and in the best interest of the Municipality to supplement the 1986 Resolution, as amended by the 1989 Resolution, the 1992 Resolution, the 1995 Resolution, the 1998 Resolution, the 1999 Resolution and the 2002 Resolution (collectively, the "Outstanding Resolutions"), to provide for the issuance and sale of waterworks system revenue refunding bonds on a parity with the Outstanding Bonds and to award the sale of such bonds to Hutchinson, Shockey, Erley & Co., Milwaukee, Wisconsin.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Municipality that:

Section 1(a). Definitions. The definitions in the 1986 Resolution, as amended by the Outstanding Resolutions, apply to and are incorporated into this Resolution except as expressly amended below or unless the context expressly or by necessary implication requires otherwise. References in the 1986 Resolution, as amended by the Outstanding Resolutions, to "Bonds", "Parity Bonds" or "Additional Bonds" shall apply to the bonds being issued pursuant to this Resolution.

Section 1(b). Restated, Additional and/or Amended Definitions. In addition to and/or in amendment of the terms defined in the 1986 Resolution, as amended by the Outstanding Resolutions, the following terms shall have the following meanings in this Resolution unless the context expressly or by implication requires otherwise:

"Bonds" means \$900,000 Waterworks System Revenue Refunding Bonds, Series 2003 of the Municipality dated December 15, 2003, authorized to be issued by this Resolution on a parity with the Outstanding Bonds;

"Bond Year" means the one-year period ending on a principal payment date for the Bonds;

"Code" means the Internal Revenue Code of 1986, as amended;

"DTC" means The Depository Trust Company, New York, New York and any successors or assigns;

"1992 Bonds" means the \$2,200,000 Waterworks System Revenue Bonds, Series 1992, dated November 15, 1992;

"1995 Bonds" means the outstanding balance of the \$1,300,000 Waterworks System Revenue Bonds, Series 1995, dated November 1, 1995;

"1998 Bonds" means the outstanding balance of the \$2,000,000 Waterworks System Revenue Bonds, Series 1998, dated June 1, 1998;

"1999 Bonds" means the outstanding balance of the \$1,840,000 Waterworks System Revenue Bonds, Series 1999, dated January 1, 1999;

"2002 Bonds" means the outstanding balance of the \$4,000,000 Waterworks System Revenue Bonds, Series 2002, dated July 15, 2002;

"1986 Resolution" means Resolution No. R-86-252 adopted by the Governing Body of the Municipality on June 3, 1986;

"1989 Resolution" means Resolution No. R-89-355 adopted by the Governing Body of the Municipality on September 19, 1989;

"1992 Resolution" means Resolution No. R-92-330 adopted by the Governing Body of the Municipality on November 3, 1992;

"1995 Resolution" means Resolution No. R-95-259 adopted by the Governing Body of the Municipality on October 17, 1995;

"1998 Resolution" means Resolution No. R-98-151 adopted by the Governing Body of the Municipality on May 19, 1998;

"1999 Resolution" means Resolution No. R-98-354 adopted by the Governing Body of the Municipality on December 1, 1998;

"2002 Resolution" means Resolution No. R-02-184, adopted by the Governing Body of the Municipality on July 2, 2002;

"Original Purchaser" or "Purchaser" means Hutchinson, Shockey, Erley & Co., Milwaukee, Wisconsin;

"Outstanding Bonds" means the outstanding balances of the 1995 Bonds, the 1998 Bonds, the 1999 Bonds and the 2002 Bonds;

"Outstanding Resolutions" means the 1989 Resolution, 1992 Resolution, 1995 Resolution, 1998 Resolution, 1999 Resolution, and the 2002 Resolution, collectively;

"Parity Bonds" means bonds payable from the revenues of the System other than the Outstanding Bonds and the Bonds but issued on a parity and equality of rank with the Bonds and Outstanding Bonds pursuant to the restrictive provisions of Section 9 of the 1986 Resolution;

"Paying Agent" means the City Clerk or City Treasurer of the Municipality;

"Refunding" means paying the cost of refunding the 1992 Bonds;

"Regulations" means the income tax regulations promulgated under the Code;

"Reserve Requirement" means an amount which at no time exceeds an amount equal to the lesser of the combined maximum amount of principal and interest due on the Outstanding Bonds and the Bonds or any Parity Bonds in any Bond Year or an amount not greater than 125% of combined average annual debt service on the Outstanding Bonds, the Bonds or any Parity Bonds;

"Resolution" means this Resolution entitled: "Resolution Supplementing Resolutions No. R-86-252, R-89-355, R-92-330, R-95-259, R-98-151, R-98-354 and R-02-184; Providing for the Issuance and Sale of \$900,000 Waterworks System Revenue Refunding Bonds, Series 2003, and Providing for the Payment of the Bonds and Other Details and Covenants With Respect Thereto" adopted by the Governing Body on December 2, 2003.

Section 2. Authorization of the Bonds. For the purpose of paying the cost of the Refunding (including legal, fiscal, engineering and other expenses), there shall be borrowed on the credit of the income and revenue of the System the sum of \$900,000, and registered revenue bonds of the Municipality are hereby authorized to be issued in evidence thereof to Hutchinson, Shockey, Erley & Co., Milwaukee, Wisconsin (the "Original Purchaser") in accordance with the terms and conditions of its purchase proposal (the "Proposal") attached hereto as Exhibit B and incorporated herein by this reference.

Section 2A. Ratification of the 1992 Call Notice. The Governing Body of the Municipality hereby ratifies and approves the details of the Notice of Call of the 1992 Bonds as set forth on Exhibit A to the Authorizing Resolution. All actions taken by officers of the Municipality and the Original Purchaser in connection with the preparation and distribution of the Notice of Call of the 1992 Bonds are hereby ratified and approved in all respects.

Section 3. Terms of the Bonds. The revenue bonds shall be designated "Waterworks System Revenue Refunding Bonds, Series 2003" (the "Bonds"); shall be dated December 15, 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 January 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 C (the "Schedule"). Interest on the Bonds shall be payable semi-annually on January 1 and July 1 of each year commencing on July 1, 2004.

It is hereby determined and declared that:

(a) the above schedule of maturities of the Bonds is such that the requirement each year to pay both the principal of and interest on the Bonds is reasonable in accordance with prudent municipal utility management practices;

(b) the refunding of the 1992 Bonds is advantageous to the Municipality;

(c) the aggregate amount of Bonds, which shall encompass sums sufficient to provide for the costs hereinabove set forth, is necessary; and,

(d) the portion of the proceeds of the Bonds and other monies to be deposited in the Refunding Fund shall provide an amount sufficient to pay when due the principal and redemption price of and interest on that portion of the 1992 Bonds remaining unpaid after delivery of the Bonds as the same becomes due at maturity or upon prior redemption.

Section 3A. Call Provision. The Bonds shall not be subject to optional redemption.

Section 4. Parity with the Outstanding Bonds. The Bonds shall be "additional bonds" or "parity bonds" within the meaning of Section 9 of the 1986 Resolution; are issued on a parity with the Outstanding Bonds; and are secured by an equal lien and claim to the revenues of the System and the moneys on deposit in the Special Redemption Fund all as set forth in the 1986 Resolution, as amended by the Outstanding Resolutions.

Section 5. Form, Execution Registration and Payment of the Bonds. The Bonds shall be issued in book-entry form only, shall be registered in the name of the Depository and shall be numbered from 1 consecutively upward. If, for any reason, the relationship with the Depository is terminated, the Municipality may at its sole discretion establish a relationship with another depository in order to maintain the Bonds in book-entry form. If the Municipality does not appoint another depository, it shall prepare, authenticate and deliver at its expense fully registered certificated Bonds in the denomination of \$5,000 or any multiple thereof in the aggregate principal amount then outstanding to the beneficial owners of the Bonds, as shown upon the records of the Depository. The book-entry Bonds shall be in the form attached hereto as Exhibit D and incorporated herein by this reference.

The Bonds shall be executed in the name of the Municipality by the manual or facsimile signatures of the Mayor and City Clerk provided that at least one of those signatures shall be a manual signature and shall be sealed with its official or corporate seal or a facsimile thereof, if any.

The principal of and interest on the Bonds shall be paid in lawful money of the United States of America by the Paying Agent.

Section 5A. Payment of the Bonds. The principal of and interest on the Bonds shall be paid in lawful money of the United States of America by the City Clerk or City Treasurer.

Section 5B. Persons Treated as Owners; Transfer of Bonds. The Municipality shall keep books for the registration and for the transfer of the Bonds. The person in whose name any Bond 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 Bond 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 Bond to the extent of the sum or sums so paid.

Any Bond may be transferred by the registered owner thereof by surrender of the Bond 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 Bond or Bonds 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 Bond surrendered for transfer.

The Municipality shall cooperate in any such transfer, and the Mayor and City Clerk are authorized to execute any new Bond or Bonds 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 Bonds. Payment of interest on the Bonds on any interest payment date shall be made to the registered owners of the Bonds as they appear on the registration book of the Municipality at the close of business on the corresponding record date.

Section 6. Security for the Bonds. The Bonds, together with interest thereon, shall not constitute an indebtedness of the Municipality nor a charge against its general credit or taxing power. The Bonds,

together with interest thereon, shall be payable only out of the Special Redemption Fund created and established pursuant to the 1986 Resolution, as amended by the Outstanding Resolutions, and shall be a valid claim of any holder thereof only against said Special Redemption Fund and the revenues of the System pledged to such fund on a parity with the Outstanding Bonds. Sufficient revenues are hereby pledged to said Special Redemption Fund, and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Outstanding Bonds, the Bonds and any Parity Bonds as the same becomes due. It is the express intent and determination of the Governing Body that the amounts transferred from the Revenue Fund and deposited in the Special Redemption Fund shall be sufficient in any event to pay the interest on the Outstanding Bonds, the Bonds and any Parity Bonds as the same accrues and the principal amount thereof as the same matures, and to provide any amounts required to be paid monthly into the Reserve Account to maintain the Reserve Requirement.

Section 7. Funds and Accounts. In accordance with the Act, for the purpose of the application and proper allocation of the revenues of the System, and to secure the payment of the principal of and interest on the Outstanding Bonds, the Bonds and any Parity Bonds, certain funds of the System have been created and established pursuant to Section 6 of the 1986 Resolution, as amended by the Outstanding Resolutions, which shall be used solely for the purposes set forth in the 1986 Resolution, as amended by the Outstanding Resolutions and as further amended by this Resolution as follows:

(c) Waterworks System Special Redemption Fund, which shall be divided into two separate accounts to be known as the "Interest and Principal Account" and the "Reserve Account".

(i) There shall be deposited in the Interest and Principal Account from Bond and any Parity Bond proceeds all accrued interest and any premium. In addition, there shall be deposited in said account in the manner specified in Section 7 of the 1986 Resolution, an amount sufficient (after giving effect to available amounts in said account from accrued interest, any premium, investment earnings and any other source) to pay the principal of and interest on the Outstanding Bonds, the Bonds and any Parity Bonds as the same becomes due. The Interest and Principal Account shall be used solely for the purposes of paying principal of and interest on the Outstanding Bonds, the Bonds and any Parity Bonds in accordance with the provisions of the 1986 Resolution, the Outstanding Resolutions and this Resolution. The minimum amounts to be so deposited in the Interest and Principal Account for the debt service on the Bonds are set forth on Exhibit C and incorporated herein by this reference.

(ii) There heretofore has been deposited into the Reserve Account from 1986 Bond proceeds and Outstanding Bonds Proceeds certain amounts and there is currently on deposit the sum of \$819,718. Upon issuance of the Bonds, the Reserve Account shall be reduced to the sum of \$785,434 and the balance deposited in the Interest and Principal Account and used to offset deposits to such account. The Reserve Account shall be used solely for the purpose of paying principal of or interest on the Outstanding Bonds, the Bonds or any Parity Bonds at any time when there shall be insufficient money in the Interest and Principal Account.

The Reserve Account shall be funded and replenished in the manner specified in Section 7(c) of the 1986 Resolution, except that it shall be funded until the amount accumulated in the Reserve Account equals the Reserve Requirement by an amount equal to the total Reserve Requirement divided by twelve. The Municipality intends that at all times the Reserve Account constitutes a "reasonably required reserve fund" under Section 148 of the Code and any applicable Regulations and therefore, at no time shall the amounts in the Reserve Account exceed the Reserve Requirement. The amounts in the Reserve Fund up to such amount may be invested without regard to yield limitation and any amount over such amount shall be invested in conformity with the Code and any applicable Regulations.

Section 8. Application of Revenues. After the delivery of any of the Bonds or any Parity Bonds, the entire gross earnings of the System shall continue to be deposited as collected in the Revenue Fund

and shall be transferred monthly to the funds listed in the 1986 Resolution, as amended by the Outstanding Resolutions, in the order of priority set forth in the 1986 Resolution, as amended by the Outstanding Resolutions.

Section 9. Service to the Municipality. The provisions of the 1986 Resolution, as amended and supplemented by the Outstanding Resolutions are hereby further amended and supplemented to clarify that the reasonable cost and value of services rendered to the Municipality by the System by furnishing water services for public purposes, shall be charged against the Municipality and shall be paid by it in quarterly installments as the service accrues, out of the current revenues of the Municipality collected or in the process of collection, exclusive of the revenues derived from the System, and out of the tax levy of the Municipality made by it to raise money to meet its necessary current expenses. It is hereby found and determined that the reasonable cost and value of such service to the Municipality in each year shall be an amount which, together with the other revenues of the System, will produce in each Bond Year Net Revenues equivalent to not less than one and one-quarter (1.25) times annual principal and interest requirements on the Outstanding Bonds, the Bonds and any Parity Bonds then outstanding after deduction of all operation and maintenance expenses of the System but before deduction of depreciation charges and local tax equivalents. However such payment out of the tax levy shall be subject to (a) approval of the Public Service Commission, or successors to its function, if necessary, (b) yearly appropriations therefor and (c) applicable levy limitations, if any; but neither this Resolution nor such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation over and above the reasonable cost and value of services rendered to the Municipality and its inhabitants or make any subsequent payment over and above such reasonable cost and value. Such compensation for such service rendered to the Municipality shall, in the manner hereinabove provided, be paid into the Revenue Fund created by the 1986 Resolution.

Section 10. Sale of the Bonds. The Bonds shall be sold to the Original Purchaser for the sum set forth on the Proposal, plus accrued interest to the date of delivery.

Section 11. Application of Bond Proceeds and Certain Other Funds of the Municipality. The proceeds of the sale of the Bonds (including any premium and accrued interest from their date to the date of delivery) shall be deposited and applied as follows:

(a) to the Interest and Principal Account of the Special Redemption Fund, the amount of any accrued interest received from the sale of the Bonds and any Parity Bonds; and

(b) to the Refunding Fund, a special borrowed money fund hereby created and established, the balance of the proceeds of the Bonds. Said Refunding Fund shall be adequately secured and shall be used solely for the purpose of paying the cost of refunding the 1992 Bonds. Any balance remaining in said Refunding Fund after paying the costs of the Refunding shall be transferred to the Special Redemption Fund for use in paying principal of or interest on the Bonds.

Section 12. Arbitrage Covenant. The Municipality shall not take any action with respect to the Bond Proceeds which, if said action had been reasonably expected to have been taken, or had been deliberately and intentionally taken on the date of delivery of said payment for the Bonds (the "Closing") would have caused the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.

The Bond Proceeds may be temporarily invested in legal investments until needed, provided however, that the Municipality hereby covenants and agrees that so long as the Bonds remain outstanding, moneys on deposit in any fund or account created or maintained in connection with the Bonds, whether such moneys were derived from Bond Proceeds or from any other source, will not be used or invested in a manner which would cause the Bonds to be "arbitrage bonds" within the meaning of the Code or Regulations.

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

Section 12A. Additional Tax Covenants Including Rebate; Six Month Expenditure Exemption From Rebate; Qualified Tax-Exempt Obligation Status. The Municipality 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 Bonds) to assure that the Bonds 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 Clerk or other officer of the Municipality charged with the responsibility of issuing the Bonds, shall provide an appropriate certificate of the Municipality 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 Municipality to take all reasonable and lawful actions to comply with any new tax laws enacted so that the Bonds 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.

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

For purposes of complying with the Regulations, particularly the rebate requirements of the Regulations, the amounts on deposit in the Reserve Account and the portion of the proceeds of the Bonds that will be used for the Refunding shall be considered proceeds of separate issues, respectively referred to as the "Reserve Portion" and the "Refunding Portion".

In accordance with Section 148(f)(4)(B) of the Code, the City covenants that ninety-five percent (95%) or more of the net proceeds of the Refunding Portion of the Bonds are to be used for local governmental activities of the Municipality and that 100% of the proceeds of the Refunding Portion of the Bonds will be expended for the governmental purposes of the issue within six months of the Closing. If for any reason the Municipality did not qualify for the six month exemption from the rebate requirements of the Code for the Refunding Portion of the Bonds, the Municipality covenants that it would take all necessary steps to comply with such requirements.

The Municipality does not anticipate that it will qualify for any exemption from the rebate requirements of the Code for the Reserve Portion of the Bonds. Accordingly, the Municipality hereby covenants and agrees that there shall be paid from time to time all amounts to be rebated to the United States pursuant to Section 148(f) of the Code and any applicable Regulations. This covenant and agreement shall survive payment in full or defeasance of the Bonds. In order to fulfill such covenant and agreement, the Municipality is hereby authorized to employ independent accountants, consultants or attorneys to assist in determining the rebate amounts.

The Common Council hereby designates the Bonds 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 Municipality charged with the responsibility for issuing the Bonds, shall provide an appropriate certificate of the Municipality, all as of the Closing.

Section 12A. Rebate Fund. If necessary, the Municipality shall establish and maintain, so long as the Bonds are outstanding, a separate account to be known as the "Rebate Fund". The Municipality

hereby covenants and agrees that it shall pay from the Rebate Fund the rebate amounts calculated pursuant to the provisions of the Code and Regulations to the United States of America.

Amounts held in the Rebate Fund and the investment income therefrom are not pledged as security for the Bonds and may only be used to pay amounts to the United States.

The Municipality shall maintain or cause to be maintained records of such calculations and shall make such records available upon reasonable request therefor.

The Municipality hereby agrees it will disburse all moneys in the Rebate Fund to the United States of America at the times and in the manner set forth in any applicable Regulations proposed or promulgated thereunder.

Section 13. Execution of the Bonds. The Bonds shall be prepared in typewritten or printed form, executed on behalf of the Municipality by the manual or facsimile signatures of the Mayor and City Clerk, authenticated by its fiscal agent, if any, sealed with its official or corporate seal, if any, or a facsimile thereof and delivered to the Original Purchaser upon payment to the Municipality 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 Bonds shall cease to be such officers before the delivery of the Bonds, 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 all documents as may be necessary and convenient for effectuating the Closing.

Section 14. Undertaking to Provide Continuing Disclosure. The Municipality hereby covenants and agrees, for the benefit of the holders of the Bonds, 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 Bonds or by the Original Purchaser on behalf of such holders (provided that the rights of the holders and the Original Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations hereunder and any failure by the Municipality to comply with the provision of this Undertaking shall not be an event of default with respect to the Bonds).

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

Section 15. Resolution a Contract. The provisions of this Resolution shall constitute a contract between the Municipality and the holder or holders of the Bonds and any Parity Bonds, and after issuance of any Bond or any Parity Bond no change or alteration of any kind in the provisions of this Resolution may be made except as provided in Section 17 hereof, until all of the Bonds and any Parity Bonds have been paid in full as to both principal and interest. The holder or holders of any Bond or any Parity Bonds shall have the right in addition to all other rights, by mandamus or other suit or action in any court of competent jurisdiction, to enforce his or their rights against the Municipality, the Governing Body thereof, and any and all officers and agents thereof, including, but without limitation, the right to require the Municipality, its Governing Body and other authorized body, to fix and collect rates and charges fully adequate to carry out all of the provisions and agreements contained in this Resolution.

Section 16. Ratification; Conflicting Resolutions, Ordinances, Severability, Closing and Effective Date. Except as amended and supplemented herein and in the 1989 Resolution, the 1992 Resolution and the 1995 Resolution, the terms of the 1986 Resolution are hereby reaffirmed and ratified in all respects. Any other prior ordinances, resolutions, rules or other actions of the Governing Body or any parts thereof in conflict with the provisions hereof shall be and the same are hereby rescinded insofar as they 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 appropriate officers and agents of the Municipality are hereby directed and authorized to do all acts and execute and deliver all documents as may be necessary and convenient to effectuate the closing of this transaction. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

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

FROM THE COMMITTEE ON BUDGET AND FINANCE

BILLS AND CLAIMS FOR THE PERIOD 11/19/03 -12/02/03

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 11/19/03 – 12/02/03: \$1,102,365.65

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. Upon roll call vote, the vote was Ayes 14.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-408

WHEREAS, the Wauwatosa Purchasing Department has received bids for the purchase of stone, sand, and gravel to meet 2004 requirements; and

WHEREAS, the results of the bids are reflected in the memorandum of the Purchasing Manager to the Board of Public Works dated November 21, 2003; and

WHEREAS, all of the bids received, except the bid by Richard Hribar Sand & Gravel were reasonably close in price and quality; and

WHEREAS, the bid of Wolf Paving did not meet the requirements for sealed bids and was, therefore, not accepted; and

WHEREAS, it has been the past practice to award this type of bid to multiple bidders for purchases during the calendar year on an as-needed basis due to price, convenience, and availability;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa Purchasing Department is hereby authorized to purchase stone, sand and gravel for the year 2004 from any of the bidders having

submitted bids, except Richard Hribar Sand & Gravel and Wolf Paving, with individual purchases being evaluated on an as-needed basis pursuant to price, convenience and availability.

FROM THE BOARD OF PUBLIC WORKS

RESOLUTION R-03-409

WHEREAS, the City of Wauwatosa solicited bids for contract 03-40, for standby generator installation at Fire Station #2, and

WHEREAS, the memorandum of the Special Projects Engineer dated November 26, 2003, reflects the purchasing department's summary of bids received; and

WHEREAS, the bid of Roman Electric Company, Inc., Milwaukee, WI, with a base bid of \$33,860.00 and alternate bid item at \$660.00 for a total of \$34,520.00 is the lowest of the bids received; and

WHEREAS, Roman Electric Company is the lowest responsible bidder;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa is hereby authorized to purchase a standby power generator installation at Wauwatosa Fire Station #2, with the alternative bid item, a remote annunciator panel, included, for a price not to exceed \$34,520.00, pursuant to the bid of Roman Electric Company, Inc., Milwaukee, WI, received November 26, 2003.

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

There being no further business, the meeting adjourned at 10:12 p.m.

cal

Carla A. Ledesma, CMC, City Clerk