

CITY OF WAUWATOSA  
MEMORIAL CIVIC CENTER  
7725 WEST NORTH AVENUE  
WAUWATOSA, WI 53213  
Telephone: (414) 479-8917  
Fax: (414) 479-8989

**COMMON COUNCIL**  
**Regular Meeting, Tuesday, November 5, 2002**

PRESENT: Alds. Matthews, McCarthy, Stepaniak, Subotich, Sullivan, Treis, Bruderle -Baran, Becker, Casey, Ecks, Grimm, Heins, Herzog, Jenkins, Kopischke, Krol -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; Mr. Brown, Personnel Dir.; Dr. Kreuser, Health Officer; Ms. Miller-Carter, Asst. City Attorney; 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. -16

**APPLICATIONS, COMMUNICATIONS, ETC.**

1. Letter from Ronald Hayward, Milwaukee Area Domestic Animal Control Commission, forwarding a rebate of \$5,146.90  
**Comptroller/Treasurer**
2. Special Use application to construct an addition on a legal, non-conforming property at 10212 W. Ruby Avenue  
**Plan Commission, Board of Zoning Appeals**
3. Change of Zoning application for property located on the west side of N. 99th Street, south of Wisconsin Avenue from AA Single Family Residence District to AA Institutions District  
**Plan Commission, Committee on Community Development**
4. Special Use application to construct an addition on a legal, non-conforming property at 2162 N. 74th Street  
**Plan Commission, Board of Zoning Appeals**
5. Application for rezoning and final plan approval for a Business Planned Development at 6600 River Parkway  
**Plan Commission, Committee on Community Development**
6. City of Wauwatosa Statement of Financial Condition and Bank Reconciliation of Depository Accounts as of 9/30/02  
**Place on file**
7. Conditional Use application to operate a ready mix concrete plant at 12005 W. Hampton Avenue  
**Plan Commission, Committee on Community Development**

8. Special Use application to construct an addition to the existing restaurant at 12345 W. Capitol Drive  
**Plan Commission, Board of Zoning Appeals**
9. Special Use application to operate an inpatient hospice care facility at 7620 Honey Creek Parkway  
**Plan Commission, Board of Zoning Appeals**
10. Special Use application to operate a pizzeria at 7606 W. State Street  
**Plan Commission, Board of Zoning Appeals**
11. Special Use application to construct an addition to a legal, non-conforming structure at 3612 Menomonee River Parkway  
**Plan Commission, Board of Zoning Appeals**
12. Notices of Claim: Edward Van Aacken, 2124 N. 63rd Street  
Koch & McCann, S.C. for John L. Hudson, Donte Hudson, and John Hudson, 6296 N. Denmark St., Milwaukee  
**City Attorney**
13. Land Division application to divide property at 826 N. 115th Street  
**Plan Commission, Committee on Community Development**
14. Land Division application to divide property at 814 N. 115th Street  
**Plan Commission, Committee on Community Development**
15. Letter from Laurence Fehring, trustee of St. Jude the Apostle Parish, requesting that the crossing guard be maintained at Glenview Avenue and the vacated St. Jude Court  
**Administration**

**FROM THE COMMITTEE ON TRAFFIC & SAFETY FOR INTRODUCTION**

1. Ordinance amending Chapter 11.32 of the City Code by eliminating a 15-minute parking zone on W. Glendale Avenue near Madison School  
**Re-refer to originating committee**

**FROM THE COMMITTEE ON TRAFFIC AND SAFETY**

**ORDINANCE O-02-32**

AN ORDINANCE AMENDING WAUWATOSA CODE SECTION 2.02.180 PROVIDING FOR REIMBURSEMENT OF COSTS ASSOCIATED WITH PARKING REGULATION CHANGES REQUESTED BY COMMERCIAL AND INDUSTRIAL ENTERPRISES

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

Part I. Section 2.02.180 of the Wauwatosa Municipal Code is hereby amended by adding the following sentence at the end of the section:

All costs associated with implementing traffic regulations on a trial basis under this section, when such trial regulations are discretionary changes being made at the request of a commercial or industrial property owner, may be charged to the requester, to be paid in advance of the implementation of the trial regulation. If, at the end of the trial period, such regulations are not implemented on a permanent basis, the requester may be charged all costs associated with the removal of the temporary regulations.

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

It was moved by Ald. Matthews, seconded by Ald. Herzog  
to adopt the foregoing ordinance. -16

**FROM THE COMM. ON LEGISLATIONS, LICENSING AND COMMUNICATIONS**

**RESOLUTION R-02-261**

WHEREAS, L-S Acquisition Corporation, d/b/a Ray's Liquor, has applied for a Class A beer and Class A liquor license to be used at its business location at 8930 W. North Avenue, Wauwatosa, WI, the current location of Ray's Liquor;

NOW, THEREFORE, BE IT RESOLVED THAT L-S Acquisition Corporation, d/b/a Ray's Liquor, is hereby awarded a Class A beer and Class A liquor license for its location at 8930 W. North Avenue, as more particularly described in the application materials on file in the City Clerk's office, for the period ending June 30, 2003.

It was moved by Ald. Sullivan, seconded by Ald. Subotich  
to approve the foregoing resolution. -16

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

**RESOLUTION R-02-262**

WHEREAS, the Personnel Director and Public Works Director met with officials from AFSCME Local 305 regarding the job description and rate of pay for the new position of Yard Attendant in the Department of Public Works; and

WHEREAS, the negotiations resulted in a tentative agreement upon the rate of \$16.0555 for the year 2003 and \$16.617 for the year 2004; and

WHEREAS, the Public Works Director and Personnel Director have recommended to the Common Council that this rate be accepted and an agreement be completed; and

WHEREAS, the Employee Relations Committee has reviewed materials related to comparable rates of pay for similar positions in Wauwatosa and other cities, finding that the agreed upon rates of pay are not acceptable compared to those comparable positions;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa does hereby reject the tentative agreement reached with AFSCME Local 305 regarding the yard attendant position; and

BE IT FURTHER RESOLVED THAT negotiators are hereby directed to return to the negotiations to reach an agreement which includes a lower rate of pay than that tentatively agreed upon.

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

to approve the foregoing resolution. -16

**FROM THE COMMITTEE ON EMPLOYEE RELATIONS**

**ORDINANCE O-02-33**

**AN ORDINANCE TO CHANGE THE TITLES OF CERTAIN POSITIONS IN THE DEPARTMENT OF INFORMATION SYSTEMS**

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

Part I. The following position titles in the “classification” column of group III in Section 2.59.045 of the Wauwatosa Municipal Code are changed as follows:

1. “PC Hardware/Software Support Specialist” is changed to “Technical Support Specialist”, and
2. “Public Safety Systems Analyst” is changed to “Public Safety Systems Administrator.”

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

It was moved by Ald. Jenkins, seconded by Ald. Stepaniak to adopt the foregoing ordinance. -16

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**ORDINANCE O-02-34**

**AN ORDINANCE REPEALING AND RECREATING CHAPTER 9.04 OF THE WAUWATOSA MUNICIPAL CODE PERTAINING TO THE REGULATION OF ANIMALS**

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

Part I. Chapter 9.04 of the City of Wauwatosa Code of Ordinances is hereby repealed in its entirety, and is recreated and renamed as follows:

**CHAPTER 9.04 REGULATION OF ANIMALS**

**9.04.005 Findings**

**9.04.010 General**

9.04.010 (1) Definitions.

9.04.010 (2) Enforcement.

9.04.010 (3) Penalty.

**9.04.020 Regulation of Animals**

9.04.020 (1) Restrictions on Owners of Animals.

9.04.020 (2) Reporting Required.

- 9.04.020 (3) License Required.
- 9.04.020 (4) Limitation on Number of Cats and Dogs.
- 9.04.020 (5) Care and Maintenance of Animals.

**9.04.030 Vicious Dogs**

- 9.04.030 (1) Restrictions on Owners of Dangerous or Vicious Dogs.
- 9.04.030 (2) Declaration of Vicious Dog. Notification and Hearing.
- 9.04.030 (3) Restraint and Confinement of Dogs.

**9.04.040 Rabies Control**

- 9.04.040 (1) Approved Comparable Compliance.
- 9.04.040 (2) Rabies Vaccination.
- 9.04.040 (3) Quarantine of the Animal.
- 9.04.040 (4) Order for Quarantine. Appeal.
- 9.04.040 (5) Effective Date.

**Section 9.04.005 Findings.**

The Common Council of the City of Wauwatosa finds that it is necessary to adapt this Ordinance to promote the public health, safety and general welfare of the citizens of the City of Wauwatosa and to ensure the humane treatment of animals by regulating the care and control of animals within the City.

**Section 9.04.010 Definitions, Enforcement and Penalty.**

**9.04.010 (1) Definitions.** The following definitions will be used in the interpretation and application of this chapter:

- a.) Dangerous Dog. Any individual dog which fits into any one of the following categories:
  - 1) Any individual dog which, when either unmuzzled, unleashed, or unattended by its owner, or a member of its owner's family, in a dangerous or terrorizing manner, approaches any person in an apparent attitude of attack.
  - 2) Any individual dog which has a trait or characteristic and a generally known reputation for dangerousness or unprovoked attacks upon human beings or domestic animals.
  - 3) Any individual dog with a known propensity or tendency to bite, attack, cause injury or otherwise endanger the safety of a human being or domestic animal.
  - 4) Any dog that has been declared dangerous by any agency or department of another municipality, county or state.
  - 5) Dangerous dogs shall not be classified in a manner specific as to breed.
  - 6) Exceptions. No dog shall be deemed "dangerous" based solely upon attacking or menacing any person or domestic animal in order to:
    - a.) Defend its owner, caretaker, or another person or animal, its young or its food, from a trespasser or an attack by a person or animal, or
    - b.) defend itself against any person, animal or trespasser that has provoked, tormented or abused it, or
    - c.) if it is a professionally trained dog for law enforcement or guard duties, acting in the

- capacity for which it was trained.
- b.) Domestic Animal includes cats, dogs, ferrets, gerbils, hamsters and domesticated rabbits.
  - c.) Isolation Facility. A humane society shelter, veterinary hospital, municipal pound or other place specified by an officer which is equipped with a pen or cage which isolates the animal from contact with other animals.
  - d.) Officer. A police officer, the City’s health officer, a humane officer, a warden, a Milwaukee Area Domestic Animal Control Commission (MADACC) officer or an animal control officer or employee designated by the governing body of the City of Wauwatosa.
  - e.) Owner. The person, firm or entity owning, harboring, sheltering, or keeping a domestic animal. The owner or occupant of any premises on which a domestic animal remains or to which it customarily returns for a period of three (3) days, is presumed to be harboring, sheltering or keeping such domestic animal.
  - f.) Person. Any individual, firm, corporation, society, institution, public body or any other entity.
  - g.) Trained Individual. A person certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection as meeting the qualifications to observe quarantined animals in an isolation facility to determine if the animal exhibits any signs of rabies.
  - h.) Trespasser. A person who is not the animal’s owner and who does not cohabit with or reside with the owner and who enters the owner’s property without consent.
  - i.) Veterinarian. The meaning designated under Wisconsin Statutes sec. 453.02(7).
  - j.) Veterinarian Involvement. Consultation to the city for the rabies control program by a Wisconsin licensed veterinarian and supervision by the veterinarian of trained individuals who conduct examinations of quarantined animals held in an isolation facility.
  - k.) Vicious dog. Any individual dog which fits into any one of the following categories:
    - 1) Any individual dog that when unprovoked bites, inflicts harm on, causes injury to, attacks or otherwise endangers the safety of a human being or other domestic animal, or
    - 2) Any individual dog with a known history or disposition to bite, attack, cause injury to or otherwise endanger the safety of a human being or domestic animal, or
    - 3) Any individual dog that has a trait or characteristic and a generally known reputation for viciousness or unprovoked attacks upon human beings or other domestic animals, or
    - 4) Any individual dog which has been found to be a “dangerous dog” upon two separate occasions, or
    - 5) Any individual dog that has been declared vicious by any agency or department of another municipality, county or state.
    - 6) Exceptions. No dog shall be deemed “vicious” based solely upon biting, attacking, or menacing any person or domestic animal in order to:
      - a.) Defend its owner, caretaker, or another person or animal, its young or its food, from a trespasser or an attack by a person or animal, or
      - b.) defend itself against any person, animal or trespasser that has provoked, tormented or abused it, or
      - c.) if it is a professionally trained dog for law enforcement or guard duties, acting in the capacity for which it was trained.
    - 7) Vicious dogs shall not be classified in a manner that is specific to a breed.

**Section 9.04.010 (2) Enforcement.** The health and police departments shall enforce the provisions of this chapter and may make whatever investigation is necessary to insure compliance with this chapter.

**Section 9.04.010 (3) Penalty.**

- a.) General Penalty. Any person, firm, corporation or entity violating any provision of this chapter shall be subject to the general penalty provisions of this code in addition to the penalties provided under this section. A citation may be issued pursuant to Wauwatosa Municipal Code chapter 1.24.010 and Wisconsin Statute chapter 800.
- b.) Failure to Vaccinate. Any owner who fails to have a cat, dog or ferret vaccinated against rabies as required under this chapter may be required to forfeit not less than \$50.00 nor more than \$100.00.
- c.) Refusal to Comply with Order or Quarantine. An owner who refuses to comply with an order issued under this chapter to deliver an animal to an officer, isolation facility or veterinarian or who does not comply with the conditions of an order that an animal be quarantined shall be fined not less than \$100.00 nor more than \$1,000.00 or imprisoned not more than 60 days, or both and subject to other penalties under section 9.040.040.
- d.) Removal of Dog. Any vicious dog may be ordered impounded or removed from the City for violations of this chapter. The animal's owner shall be responsible for costs of impoundment or removal.
- e.) Court Order to Kill Dog. Any dog that has caused serious injury to a person or domestic animal on 2 separate occasions, without reasonable cause, may be destroyed as a result of judgment rendered by a court of competent jurisdiction, as specified under Wisconsin statute sec. 174.02 (3). The animal's owner shall be responsible for costs of destruction.

**Section 9.04.020 Regulation of Animals.**

**Section 9.04.020 (1) Restrictions on Owners of Animals.**

- a.) Restrictions. It shall be a violation of this chapter for the owner of an animal to do or permit any of the following within the City.
  - 1.) To allow an animal to habitually pursue a vehicle or bicycle upon public property.
  - 2.) To have an animal that kills, injures, threatens or assaults any person or domestic animal.
  - 3.) Use any animal for the purpose of causing or encouraging the animal to attack human beings or domestic animals or engaging in animal fighting.
  - 4.) Permit or allow an animal to be at large within meaning of Wisconsin state statute sec. 174.042 (1).
  - 5.) To abandon an animal on private or public property.
  - 6.) To not remove the animal's excrement from public property or the property of another person when walking or loose. The owner or person walking an animal on property other than his or her own shall remove any excrement immediately after it is deposited by such animal and dispose of it in a public waste container or a waste container on the animal owner's property. The owner is required to carry a scoop, bag or other item to assist in carrying the excrement to his or her property for disposal.
- b.) Impounding. No cat or dog shall run at large or be abandoned on any public or private property within the City and any person may seize and impound such cat or dog found at large. The fact that a cat or dog is without a proper license tag attached to its collar shall be presumptive evidence that it is unlicensed. Whenever any unlicensed cat or dog is so

impounded and delivered to the proper officer of the city, said officer shall give notice thereof to the owner, if known, of such unlicensed cat or dog within 12 hours. Such notice may be given verbally to the owner or owner's family if the family member is over 16 years of age or older.

- c.) Disposal. If any cat or dog that has been impounded for seven days has not been claimed by its owners, said cat or dog may be disposed of by the proper agency in the most humane manner. If possible the city will notify owners of the disposal of their animal.
- d.) Leash Required for Dog. A dog may not be on the loose on or off its owner's property and must be confined by a leash, pen or electronic fence to the owner's property, or if being walked, must be secured by a leash no more than ten feet in length and handled or governed by a person competent to handle the dog.
- e.) Secure Home. All screens, windows and doors of the owner's home must be secure to prevent escape of the animal.

**Section 9.04.020 (2) Reporting Required.** Any person who has personal knowledge of a bite, attack, injury or intimidation by an animal to a person or domestic animal shall report such to the Health or Police Department. The owner of any animal which is suspected of having bitten, attacked or caused bodily injury to a person or domestic animal shall report that fact as soon as possible to the Health or Police Department. The owner shall comply with section 9.04.030 (1) of the Code.

**Section 9.04.020 (3) License Required for Cat or Dog.**

- a.) Except as provide in sec. 9.04.020 (3) (e) of this Code, the owner of a cat or dog more than five (5) months of age on January 1 of any year, or five (5) months of age within the license year, shall annually, or on or before the date of the cat or dog becomes five (5) months of age, pay the license fee and obtain a license. This license is not transferable from one animal to another. An owner of a cat or dog who has moved into the City of Wauwatosa must pay the license fee and obtain a license no later than 30 days from time the owner has moved to the City.
- b.) The license issued by the City shall be conspicuously displayed in view of the public by attaching it to the animal's collar.
- c.) The license fee for each cat or dog shall be a fee as shown on the City license fee schedule except the fee for neutered cats or dogs shall be one-half the fee for unneutered cats and dogs.
- d.) There shall be a penalty added to the license fee for late payment of the license fees at a rate established by the City clerk.
- e.) License Exemption for Service Dogs or Animals Used for Scientific Purposes.
  - 1.) Every dog specially trained or in training to lead blind or deaf persons or to provide support for mobility-impaired persons is exempt from the dog license fee and every person owning such a dog shall receive annually a free dog license from the City. The person requesting this exemption shall produce, if requested, credentials issued by a school for training dogs for the blind, deaf or mobility-impaired.
  - 2.) This section does not apply to a person who owns cats or dogs that are kept only for educational or scientific purposes.

**Section 9.04.020 (4) Limitation on Number of Cats and Dogs.**

To keep, maintain, shelter, lodge or be possessed of more than a total of three cats or dogs or a combination thereof not to exceed a total of three animals over the age of three months, in

any residence, apartment, yard or property within the City of Wauwatosa is a public nuisance and the same is prohibited.

**Section 9.04.020 (5) Care and Maintenance of Animals.**

- a.) Standard of Care. Any animal kept by any person shall be cared for, maintained and handled in a manner which shall be sanitary and ensures the sanitary and healthy condition of the animal.
- b.) Food and Water. No person owning or having custody of any animal shall neglect or fail to provide it with necessary nourishing food at least once daily and provide a constant supply of clean water to sustain the animal in good health.
- c.) Shelter. No person shall fail to provide any animal in his or her charge with shelter from inclement weather to insure the protection and comfort of the animal. When sunlight is likely to cause heat exhaustion or discomfort to any animal tied or caged or kept outside, shade shall be provided by natural or artificial means to allow protection from the direct rays of the sun. When weather conditions could adversely affect the animal's health, a shelter of suitable size and protection shall be provided. Animals kept outdoors for more than one hour at a time must be provided with moistureproof and windproof shelter of a size which allows the animal to keep clean, dry and comfortable, when warranted by adverse weather conditions. Whenever the outdoor temperature is below forty (40) degrees Fahrenheit, clean bedding material shall be provided in such shelters for insulation and to retain the normal body heat of the animal.
- d.) Sanitary Conditions. Sanitation for indoor and outdoor enclosures shall include periodic cleaning to remove excrement or other waste materials, dirt and trash so as to minimize health hazards.

**Section 9.04.030 Dangerous and Vicious Dogs**

**Section 9.04. 030 (1) Restrictions on Owners of Dangerous and Vicious Dogs.**

- a.) Prohibition on Vicious Dogs. It shall be unlawful for any person to keep or maintain a vicious dog within the City of Wauwatosa.
- b.) Restrictions on Dangerous Dogs. No person shall keep or maintain a dangerous dog within the City of Wauwatosa unless such dog is at all times kept in an enclosure in accordance with section 9.04.030 (3) of the code. The only times that a dangerous dog may be allowed out of the enclosure are (1) if it is necessary for the owner or keeper to obtain veterinary care for the dog or (2) it complies with the order for leashed and muzzled dogs with a chain having a tensile strength of 300 pounds and not exceeding 4 feet in length, and shall be under the direct control and supervision of the owner or custodian of the dog who is competent to control and manage the dog or (3) its owner has secured approval pursuant to section 9.04.030 (3).
- c.) Previously Declared Vicious Dog. It shall be unlawful for an owner of a dog declared vicious in another municipality, county or state to bring such dog into the City.
- d.) Prohibition Against Selling or Transferring. It shall be unlawful to sell or give away or transfer ownership or custodianship of a dangerous or vicious dog without advising the Health and Police Departments of such, including the name and address of the person to whom the dangerous or vicious dog is given.
- e.) Posting a Sign. The owner of a dangerous dog shall display in a prominent place on his or her premises a warning sign in letters no less than two inches high, stating that there is a dangerous dog on premises and a symbol to warn children of the presence of a dangerous

animal. The sign shall be clearly visible and capable of being read from any public property, street or highway adjacent to the premises. A similar sign shall be posted on any outdoor pen or kennel or enclosure where the dangerous dog is kept.

- f.) Liability Insurance. The owner of a dangerous dog shall purchase and maintain liability insurance in the amount of \$100,000 insuring the owner for any personal injuries or physical damage inflicted by the dangerous dog. In addition the policy of insurance shall require a minimum of 10 days notice to the City of any cancellation or termination of such policy. In lieu of the liability insurance requirement, the owner of a dangerous dog may present evidence of a surety bond in the sum of at least \$100,000, payable to any person injured or whose property has been damaged by a dangerous dog. The proof of insurance or surety bond must be presented to the City Attorney each year at the time the dog's license is renewed. Requirements under this section may be waived in writing by the City Attorney upon application by the animal's owner.
- g.) Required Notification by Owner. The owner of a dangerous or vicious dog shall immediately notify the health or police department if the dog escapes, is unconfined, has attacked another animal or human being or has died.

#### **Section 9.04.030 (2) Declaration of Dangerous or Vicious Dog, Notification and Hearing.**

- a.) Declaration of Dangerous or Vicious Dog. If an officer determines that a dog is dangerous or vicious as defined in this section, he or she may declare the dog to be a dangerous or vicious dog. The officer shall immediately inform the owner in writing, by personal service or certified mail, of such determination.
- b.) Hearing. If an owner contests the designation of the dog as dangerous or vicious, the owner may request a hearing in writing within 30 days of issuance of the notice. Any interested party may present evidence as to whether the dog is dangerous or vicious. The hearing shall be held within 30 days of the request for hearing before the municipal court.
- c.) Compliance with Restrictions. Pending the decision of the hearing, the owner must comply with provisions of section 9.04.030 (1) and (3) if the dog is determined to be dangerous, and sections 9.04.030 (1) if the dog is determined to be vicious. After the hearing, the owner shall be notified in writing of the determination. The officer may impose restrictions on a dog declared vicious pending arrangements for its removal.
- d.) Appeal. If the owner contests the determination following the hearing, he or she may appeal the determination to the circuit court and proceed in accordance with Wis. Stat. sec. 66.0114. An appeal will not stay the officer's order.

#### **Section 9.04.030 (3) Restraint and Confinement of Dangerous Dogs.**

The health officer may determine conditions to be placed on an owner of a dangerous dog, including, but not limited to, the following:

- a.) Enclosure, Pen or Confinement. A dangerous dog shall be securely confined indoors or in a securely enclosed and locked pen, kennel or similar enclosure on the premises of the owner except when leashed and muzzled. An outdoor pen, kennel or similar enclosure must be childproof from the outside and dogproof from the inside. A strong metal double fence with adequate space between the fences (at least 2 feet) must be provided so that a child cannot reach into the dog enclosure. The pen, kennel or structure shall have secure sides and top attached to the sides. A structure used to confine a dangerous dog shall be locked with a key or combination lock. The structure shall have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no

less than 2 feet. All structures shall comply with zoning and building regulations of the City. No dangerous dog shall be kept on an unenclosed porch or patio or area of the house accessible to guests if it is unattended by its owner or person competent to govern the animal or if it is not securely leashed or confined. No dangerous dog may be kept in a house or structure when the windows are open or the screens are not sufficiently secure to prevent escape. A dangerous dog may not be required to be so confined if written approval from the health officer or police chief is obtained.

- b.) Leash and Muzzle. An owner of a dangerous dog may not permit the dog to go outside of its kennel or pen unless the dog is securely leashed on a leash no more than four feet in length, the leash is held by a person competent to govern the animal who is in physical control of the leash and the leash is not attached to an inanimate object. A dangerous dog may not be required to be muzzled when outside of its home, pen or kennel if written approval from the health officer or police chief is obtained.

### **Section 9.04.040 Rabies Control**

#### **Section 9.04.040 (1) Approved Comparable Compliance.**

Approved Comparable Compliance. The Health Department may approve a modification of a rule for a facility if the Health Department is provided with satisfactory proof that the grant of a variance will not jeopardize the public's health, safety, or welfare.

#### **Section 9.04.040 (2) Rabies Vaccination Required for Cats, Dogs and Ferrets.**

- a.) Requirement. The owner of a cat, dog or ferret shall have the cat, dog, or ferret vaccinated against rabies by a veterinarian within thirty (30) days after the animal reaches five (5) months of age and revaccinated within one (1) year after the initial vaccination. If the owner brings the animal into the City after the animal has reached five (5) months of age, the owner shall have the cat, dog, or ferret vaccinated against rabies within thirty (30) days after the cat, dog or ferret is obtained or brought into the City unless the cat, dog or ferret has been vaccinated as evidenced by a current certificate of rabies vaccination from this state or another state. The owner shall have the cat, dog, or ferret revaccinated against rabies by a veterinarian before the date that the immunization expires as stated on the certificate of vaccination or, if no date is specified, within three (3) years after the previous vaccination.
- b.) Tag. The owner shall attach the rabies vaccination tag or a substitute tag to the animal's collar. A collar with the tag attached shall be kept on the dog, cat, or ferret at all times but this requirement does not apply to a cat, dog or ferret during competition or training or while securely confined or in a fenced area. The requirements of this paragraph do not apply to a cat, dog or ferret which is not required to be vaccinated under sub (a). The substitute tag shall be of a durable material and contain the same information as the rabies vaccination tag.
- c.) Report of rabid animal. Any person who suspects that any cat, dog or ferret is infected with rabies shall report his or her suspicion to the City's health or police department, describing the animal and giving the name of the owner, if known.
- d.) Violation. Any person who shall knowingly keep or maintain any animal infected with rabies shall be guilty of violating this chapter.

### **Section 9.04.040 (3) Quarantine of the Animal.**

- a.) Quarantine of the Animal. An officer shall order an animal quarantined if the officer has reason to believe that the animal bit or injured or otherwise exposed a person or animal to rabies, is infected with rabies, or has been in contact with a rabid animal.
- b.) Delivery to an Isolation Facility or Quarantine on Owner's Property. An officer who orders an animal to be quarantined shall deliver the animal or shall order the animal delivered to an isolation facility as soon as possible but no later than 24 hours after the original order is issued or the officer may order the animal to be quarantined on the premises of the owner if the animal is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence.
- c.) Health Risk to Humans. If an animal is ordered to be quarantined because there is reason to believe that the animal bit a person, the custodian of an isolation facility or the owner shall keep the animal under strict isolation under the supervision of a veterinarian for at least 10 days after the incident. In this paragraph "supervision of a veterinarian or trained individual" includes at a minimum, examination of the animal on the first day of isolation and on the last day of isolation. If the observation period is not extended and if the veterinarian or trained individual certifies to the health department that the animal has not exhibited any signs of rabies, the animal may be released from quarantine at the end of the observation period.
- d.) Health Risk to Animals.
  - 1.) If an animal is ordered to be quarantined because there is reason to believe that the animal is not currently immunized against rabies and has been exposed to a rabid animal the custodian of the isolation facility or the owner shall keep the animal leashed or confined for 180 days. The owner shall have the animal vaccinated against rabies between 155 and 165 days after the exposure to a rabid animal.
  - 2.) If an animal is ordered to be quarantined because there is cause to believe that the animal has been exposed to a rabid animal but if the animal is immunized against rabies, the custodian of the isolation facility or the owner shall keep the animal leashed or confined for 60 days. The owner shall have the animal revaccinated against rabies as soon as possible after exposure to a rabid animal.
- e.) District Quarantine.
  - 1.) Animals confined. If a district is quarantined for rabies, all animals within the district shall be kept securely confined, tied, leashed or muzzled. Any animal not confined, tied, leashed or muzzled is declared a public nuisance and may be impounded. All officers shall cooperate in the enforcement of the quarantine. The clerk shall promptly post in at least 3 public places in the city notices of quarantine furnished by the department for posting.
  - 2.) Exemption of vaccinated animals from district quarantine. An animal which is immunized currently against rabies as evidenced by a valid certificate of rabies vaccination or other evidence is exempt from the district quarantine provisions of section (e) if a rabies vaccination tag or substitute tag is attached to the animal's collar.
- f.) Sacrifice of the Animal.
  - 1.) Sacrifice of an animal exhibiting symptoms of rabies. If a veterinarian or trained individual determines that an animal exhibits symptoms of rabies during the original or extended observation period, the veterinarian or trained individual shall notify the owner and the officer who ordered the animal quarantined and the officer or veterinarian shall kill the animal in a humane manner and in a manner which avoids

damage to the animal's head. If the animal is suspected to have bitten a person, the veterinarian shall notify the person or the person's physician.

- 2.) Delivery of the carcass; preparation; examination by laboratory of hygiene. An officer who kills an animal shall deliver the carcass to a veterinarian. The veterinarian shall prepare the carcass, properly prepare and package the head of the animal in a manner to minimize deterioration, arrange for delivery by the most expeditious means feasible of the head of the animal to the State Laboratory of Hygiene and dispose of or arrange for the disposal of the remainder of the carcass in a manner which minimizes the risk of exposure to any rabies virus. The State Laboratory of Hygiene shall examine the specimen and determine if the animal was infected with rabies. The State Laboratory of Hygiene shall notify the Health Department, and the veterinarian who prepared the carcass and, if the animal is suspected to have bitten a person, that person's physician.
- 3.) Sacrifice of other animals. An officer may order killed or may kill an animal other than a cat or dog or ferret if the officer has reason to believe that the animal bit a person or is infected with rabies. An officer may order or may kill a cat or dog or ferret if the owner of the animal violates this section.
- g) Responsibility for Quarantine and Laboratory Expenses. The owner of an animal is responsible for any expenses incurred in connection with keeping the animal in an isolation facility, supervision and examination of the animal by a veterinarian, preparation of the carcass for laboratory examination of the animal by a veterinarian, preparation of the carcass for laboratory examination and the fee for the laboratory examination and transmission or duplication of medical records.
- h.) Cooperation of Owner. An owner of a domestic animal shall comply with the orders given by an officer pursuant to this chapter, and in the event of noncompliance, the owner may be cited and be assessed penalties in accordance with this chapter.

#### **9.04.040 (4) Order for Quarantine. Appeal.**

- a.) Contents of Order. A quarantine order shall contain the following information.
  - (1.) The name and address of a person having custody or control of the quarantined animals, if known.
  - (2.) A description of the animals affected by the quarantine.
  - (3.) A description of the premises affected by the quarantine.
  - (4.) The reason or justification for the quarantine.
  - (5.) All terms and conditions applicable to the quarantine.
  - (6.) Notice that persons adversely affected by the quarantine may request a hearing to review the quarantine order.
- b.) Duration of Quarantine. A quarantine remains in effect until a written notice of release is issued by the department, unless the quarantine is set aside after review under (3).
- c.) Appeal of Quarantine Order. A person adversely affected by a quarantine order may, within thirty days of issuance of the order, request a hearing in writing before the municipal court to review the quarantine. The court shall conduct a hearing as soon as reasonably possible and no later than 30 days after receiving a request for a hearing. A request for a hearing will not stay a quarantine order.

Part II. A copy of this ordinance shall be made available in the office of the City Clerk following its passage, and shall be effective fourteen (14) days following its publication.

It was moved by Ald. Heins, seconded by Ald. Kopischke to adopt the foregoing ordinance. -16

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION**

WHEREAS, the Milwaukee County Board of Supervisors is prepared to consider a resolution authorizing its staff members to begin negotiations with the City of Wauwatosa for purposes of exploring whether the City of Wauwatosa will ultimately assume responsibility for municipal and support services on the Milwaukee County Grounds; and

WHEREAS, said resolution is intended to address a phased-in implementation plan compatible with the 2004 City of Wauwatosa and Milwaukee County budget processes; and

WHEREAS, in the 2003 executive budget for the Milwaukee County Sheriff's Department the Milwaukee County Executive proposed elimination of sector and parking patrol on the Milwaukee County Grounds effective January 1, 2003, placing responsibility for police services on the City of Wauwatosa; and

WHEREAS, the County Board Finance Committee has modified this recommendation by providing funding for sector and parking patrols for one-half of the year 2003; and

WHEREAS, the City Administrator has recommended authorizing a working team consisting of the Mayor, City Administrator, Director of Public Works, Chief of Police, Water Superintendent, and City Attorney to enter into negotiations regarding the possible transfer of various County services and facilities on the County Grounds to the City of Wauwatosa; and

WHEREAS, the Committee on Community Development has modified the recommendation of the City Administrator by approving only limited negotiations related to police protection services on the County Grounds;

NOW, THEREFORE, BE IT RESOLVED THAT the above-described team of City officials is hereby authorized to enter into negotiations with Milwaukee County limited to negotiations regarding transfer of police protection services on the County Grounds; and

BE IT FURTHER RESOLVED THAT the negotiating team is directed to only agree to such changes as would be in the best interests of the City of Wauwatosa and its taxpayers; and

BE IT FURTHER RESOLVED THAT any final agreement reached by the negotiating team will be subject to final approval by the Common Council of the City of Wauwatosa.

It was moved by Ald. Heins, seconded by Ald. Ecks to refer the foregoing resolution back to committee to determine the city's position. -16

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-02-263**

RESOLUTION AUTHORIZING THE BORROWING OF \$1,875,000;  
PROVIDING FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION REFUNDING  
BONDS THEREFOR; AND LEVYING A TAX IN CONNECTION THEREWITH

WHEREAS, the Common Council of the City of Wauwatosa, Milwaukee County, Wisconsin (the "City") hereby finds and determines that it is necessary, desirable and in the best interest of the City to raise funds for the purpose of paying the cost of refunding certain outstanding obligations of the City, to wit: \$4,150,000 General Obligation Library Bonds, dated April 1, 1991 (the "1991 Bonds") (hereinafter the refinancing of the City's 1991 Bonds shall be referred to as the "Refunding"), and there are insufficient funds on hand to pay said costs;

WHEREAS, the Common Council deems it to be necessary, desirable and in the best interest of the City to refund the 1991 Bonds for the purpose of achieving debt service cost savings;

WHEREAS, cities are authorized by the provisions of Chapter 67 of the Wisconsin Statutes to borrow money and to issue general obligation refunding bonds to refinance their outstanding obligations; and

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

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

Section 1. Authorization of the Bonds. For the purpose of paying the cost of the Refunding, there shall be borrowed pursuant to Chapter 67 of the Wisconsin Statutes, the principal sum of ONE MILLION EIGHT HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$1,875,000) from Hutchinson, Shockey, Erley & Co., Milwaukee, Wisconsin (the "Purchaser") in accordance with the terms and conditions of its purchase proposal (the "Proposal") attached hereto as Exhibit A and incorporated herein by this reference.

Section 1A. Sale of the Bonds. To evidence such indebtedness, the Mayor and City Clerk are hereby authorized, empowered and directed to make, execute, issue and sell to the Purchaser for, on behalf of and in the name of the City, General Obligation Refunding Bonds aggregating the principal amount of ONE MILLION EIGHT HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$1,875,000) (the "Bonds") for the sum set forth on the Proposal, plus accrued interest to the date of delivery.

Section 2. Terms of the Bonds. The Bonds shall be designated "General Obligation Refunding Bonds"; shall be dated November 15, 2002; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered 1 and upward; shall bear interest at the rates and shall mature on December 1 of each year, in the years and principal amounts as set forth on the schedule prepared by the Purchaser and attached hereto as Exhibit B (the "Schedule"). Interest is payable semi-annually on June 1 and December 1 of each year commencing on June 1, 2003.

Section 3. Redemption Provisions. The Bonds shall not be subject to optional redemption. If the Proposal specifies that any of the Bonds are subject to mandatory redemption, the terms of such mandatory redemption shall be set forth on an attachment hereto as Exhibit MRP (the "Mandatory Redemption Provisions") and incorporated herein by this reference.

Section 4. Form of the Bonds. The Bonds shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit C and incorporated herein by this reference.

Section 5. Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Bonds as the same becomes due, the full faith, credit and resources of the City are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the City a direct annual irrepealable tax in the years 2002 through 2005 for the payments due in the years 2003 through 2006 in the amounts set forth on the Schedule.

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

Section 6. Segregated Debt Service Fund Account. There is hereby established in the City treasury a fund account separate and distinct from all other funds or accounts of the City designated "Debt Service Fund Account for \$1,875,000 City of Wauwatosa General Obligation Refunding Bonds dated November 15, 2002", which fund account shall be used solely for the purpose of paying the principal of and interest on the Bonds. There shall be deposited in said fund account all accrued interest paid on the Bonds at the time the Bonds are delivered to the Purchaser, any premium, all money raised by taxation pursuant to Section 5 hereof, and all other sums as may be necessary to pay principal of and interest on the Bonds as the same become due. Said fund account shall be used for the sole purpose of paying the principal of and interest on the Bonds, shall be maintained for such purpose until such indebtedness is fully paid or otherwise extinguished, and shall at all times be invested in a manner that conforms with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and any applicable income tax regulations (the "Regulations").

Section 7. Borrowed Money Fund. The proceeds of the Bonds (the "Bond Proceeds") (other than any premium and accrued interest which must be paid at the time of the delivery of the Bonds into the Debt Service Fund Account created above) shall be deposited into an account separate and distinct from all other funds and disbursed solely for the purposes for which borrowed or for the payment for the principal of and the interest on the Bonds.

Section 8. Arbitrage Covenant. The City 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 and 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 City 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 covenants that it will not invest in any obligation if such investment would violate the "prohibited payment" requirement of Section 148 of the Code.

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

Section 9. Additional Tax Covenants; Six Month Expenditure Exemption from Rebate; Qualified Tax-Exempt Obligation Status. The City hereby further covenants and agrees that it will take all necessary steps and perform all obligations required by the Code and Regulations (whether prior to or subsequent to the issuance of the Bonds) to assure that the Bonds are obligations described in Section 103(a) of the Code, the interest on which is excluded from gross income for federal income tax purposes, throughout their term. The City further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Bonds) if taking, permitting or omitting to take such action would cause any of the Bonds to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Bonds to be included in the gross income of the recipients thereof for federal income tax purposes. The City Clerk or other officer of the City charged with the responsibility of issuing the Bonds, shall provide an appropriate certificate of the City as of the Closing, for inclusion in the transcript of proceedings, certifying that it can and covenanting that it will comply with the provisions of the Code and Regulations.

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

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

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 Bonds are to be used for local governmental activities of the City and that 100% of the proceeds of the Bonds will be expended for the governmental purposes of the issue within six months of the Closing. If for any reason the City did not qualify for the six month exemption from the rebate requirements of the Code, the City covenants that it would take all necessary steps to comply with such requirements.

The Bonds are deemed designated as “qualified tax-exempt obligations” pursuant to the provisions of Section 265(b)(3)(D)(ii) of the Code and in support of such designation, the City Clerk or other officer of the City charged with the responsibility for issuing the Bonds, shall provide an appropriate certificate of the City, all as of the Closing.

Section 10. Execution of the Bonds. The Bonds shall be prepared in typewritten or printed form, executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk, authenticated, if required, by its fiscal agent, if any, sealed with its official or corporate seal, if any, or a facsimile thereof and delivered to the Purchaser upon payment to the City of the purchase price thereof, plus accrued interest to the date of delivery. In the event that either of the officers whose signatures appear on the 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 11. 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 11A. Persons Treated as Owners; Transfer of Bonds. The City 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 City 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 City at the close of business on the corresponding record date.

Section 12. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York (“DTC”), the City agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations previously executed on behalf of the City and on file in the City Clerk’s office.

Section 13. Undertaking to Provide Continuing Disclosure. The City 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 Purchaser on behalf of such holders (provided that the rights of the holders and the Purchaser to enforce the Undertaking shall be limited to a right to obtain specific performance of the obligations hereunder and any failure by the City to comply with the provision of this Undertaking shall not be an event of default with respect to the Bonds).

The City Clerk, or other officer of the City 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 City’s Undertaking.

Section 14. Redemption of the 1991 Bonds. The Common Council hereby calls the 1991 Bonds due on and after December 1, 2003 for redemption on December 1, 2002. The City has heretofore directed the Purchaser to cause a notice of redemption, in substantially the form attached hereto as Exhibit D, to be provided at the times and in the manner provided thereon. The Common Council hereby ratifies the call notice and all actions taken by the Purchaser in connection with the call of the 1991 Bonds.

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

**RESOLUTION R-02-264**

WHEREAS, workload demands in the office of the Municipal Court Clerk require more than can be achieved by the present staffing in that department; and

WHEREAS, temporary assistance by an additional municipal clerk would help to alleviate workload backlogs in the office of Municipal Court Clerk; and

WHEREAS, a Municipal Clerk I in the office of the Comptroller is currently in a position to assist the Municipal Court Clerks with up to ten hours per week through the end of the calendar year 2002;

NOW, THEREFORE, BE IT RESOLVED THAT the Municipal Clerk I in the Comptroller's office is hereby authorized to work up to ten hours per week for the remainder of the calendar year 2002 at tasks assigned by the Municipal Court Clerk's office;

BE IT FURTHER RESOLVED THAT \$2,000.00 is hereby transferred from the Comptroller's Municipal Clerk I salary to the Court Clerk salary account to finance the additional work by the Municipal Clerk I through the end of the calendar year 2002.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-02-265**

WHEREAS, the Board of Directors of the Village of Wauwatosa Business Improvement District has submitted its 2003 Work Plan for review and approval; and

WHEREAS, the proposed 2003 work plan includes an increase in assessments of 5.2%, which was adopted by the Village B.I.D. Board;

NOW, THEREFORE, BE IT RESOLVED THAT the 2003 Village of Wauwatosa Business Improvement District work plan, a copy of which is attached to this resolution and incorporated herein, is hereby accepted, approved, and placed on file.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-02-269**

BE IT RESOLVED by the Common Council of the City of Wauwatosa that the claim filed by Allan Wirth 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. Casey  
to approve the four foregoing resolutions. -16

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-02-266**

WHEREAS, the Wauwatosa Purchasing Manager has recommended a telecommunications study be conducted to review the telecommunications option among City of Wauwatosa facilities; and

WHEREAS, the cost of the telecommunications study were included in the 2002 budget; and

WHEREAS, a State of Wisconsin contract approved contractor, Technical Design Services, would be available to perform this study for the City, allowing such study to be conducted for an amount not to exceed \$5,000.00; and

WHEREAS, funding for up to \$5,000.00 would be available from four different accounts in the fire department, police department, library, and public celebration activity accounts, as more specifically outlined in the memorandum of the Purchasing Manager dated October 25, 2002, a copy of which is attached hereto and incorporated herein;

NOW, THEREFORE, BE IT RESOLVED THAT the Purchasing Manager is authorized to commission a telecommunications study by a State of Wisconsin approved telecommunications consultant, Technical Design Services, in an amount not to exceed \$5,000.00;

BE IT FURTHER RESOLVED THAT funding for this study is to be provided by a transfer of \$5,000.00 from the accounts described in the October 25<sup>th</sup> memorandum of the Purchasing Manager and to the Municipal Complex Account #01-181-5980-070, which transfers are hereby approved.

It was moved by Ald. Kopischke, seconded by Ald. Herzog to permit Tim Taft to speak. Upon roll call vote, the vote was Ayes 14, Noes 2 (Sullivan, Bruderle-Baran)

Tim Taft, 2745 N. 117th Place, was present on behalf of Technical Design Services. He acknowledged that a portion of the proposed study could be obsolete by the time the city actually needs to take action in 2006. Initially, the equipment lease will be under consideration, as will network connections. The city is using the network that was designed and implemented 17 years ago. Telecommunications has changed in 17 years and this is an opportunity to save money and do things better. Possible commitments by Time Warner Cable as part of its agreement with the city will also be evaluated. A broad scope approach will be taken such that better advantage will be taken of current equipment, or replacement will be considered. Mr. Taft opined that enough money could be saved over the next two years to cover the cost of this study.

It was moved by Ald. Stepaniak, seconded by Ald. Casey to approve the foregoing resolution. Ayes 15, Noes 1 (Bruderle-Baran)

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION**

WHEREAS, the Community Development Block Grant (CDBG) Committee has reviewed approximately 16-18 project proposals submitted to the CDBG Committee for the year 2003; and

WHEREAS, the recommendations of the CDBG Committee for 2003 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,

NOW, THEREFORE, BE IT RESOLVED THAT the 2003 Community Development Block Grant Project request funding is hereby approved in the amounts recommended by the CDBG Committee as reflected by the memorandum from planning staff dated October 23, 2002.

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

It was moved by Ald. Sullivan to refer this matter back to the Committee on Budget and Finance for further evaluation of proposed allocations for Milwaukee County. –

Discussion ensued, during which Ms. Welch advised that the allocations must be forwarded to HUD by November 15, 2002, or the City risks losing funding.

Ald. Sullivan withdrew his motion.

It was moved by Ald. Sullivan, seconded by Ald. Bruderle-Baran to amend the motion by setting aside those dollars allocated for the Eschweiler building improvements (\$50,000), Wil-O-Way improvements (\$75,000), and Jacobus Park improvements (\$37,536) in a contingency fund pending discussions at future Budget and Finance Committee meetings concerning negotiations with Milwaukee County on providing services to the county grounds. -16

Vote on motion, as amended, -16

The amended resolution is as follows:

**AMENDED RESOLUTION R-02-267**

WHEREAS, the Wauwatosa Block Grant Committee conducted a public hearing on August 28, 2002 and a public hearing on October 9, 2002, properly noticed, for the purpose of receiving input regarding the use of \$1,300,000 in 2003 Community Development Block Grant funds; and

WHEREAS, the Common Council, after receiving a recommendation from a citizens' Community Development Block Grant Committee, and the Committee on Budget & Finance, which met on October 29<sup>th</sup>, 2002;

NOW, THEREFORE, BE IT RESOLVED THAT the Common Council of the City of Wauwatosa approves the use of \$1,300,000 in year 2003 CDBG funds for the following purposes:

<b><u>Administration, Planning and Studies - \$260,000</u></b>	
\$102,500	Administrative Costs
\$30,000	Historic Preservation

\$27,500 Milwaukee Metro Fair Housing  
\$100,000 Water Study

**Public Service and Community Programs - \$195,000**

\$150,000 Wauwatosa Senior Center  
\$10,400 ARC Housing  
\$10,000 Mayfair Interfaith  
\$9,000 P.E.P. Program  
\$5,600 Bluemound Interfaith  
\$5,000 Tosa Food Pantry  
\$5,000 Tosa for Kids

**Public Facilities, Economic Development and Rehab - \$682,464**

\$200,000 Engineering – Hart Park improvements  
\$194,024 Engineering – Sanitary Sewer improvements  
\$88,440 Engineering – Storm Sewers improvements  
\$200,000 WEDC – Economic Development programs

Contingencies - \$162,536

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-02-268**

WHEREAS, the Wauwatosa Curling Club is desirous of acquiring a 10-year lease agreement with the City of Wauwatosa on space it occupies at the Muellner Building; and

WHEREAS, the Board of Parks & Forestry Commissioners has reviewed and forwarded the lease for Common Council action; and

WHEREAS, the City of Wauwatosa Common Council is in agreement with the terms and conditions of the leased attached;

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate officials of the City of Wauwatosa are hereby authorized to enter into a 10-year lease agreement with the Wauwatosa Curling Club for the use of space at the Muellner Building as specified in the terms and conditions of the lease document attached.

It was moved by Ald. Stepaniak, seconded by Ald. Casey  
to approve the foregoing resolution. Ayes 14, Noes 2  
(Treis, Sullivan)

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

BILLS AND CLAIMS FOR THE PERIOD 10/16/02 – 11/05/02

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 10/16/02 – 11/05/02: \$2,688,105.61

It was moved by Ald. McCarthy, 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 16.

**FROM THE BUDGET COMMITTEE**

**RESOLUTION R-02-270**

WHEREAS, the Engineering Services Manager and the Director of Public Works in a memo dated October 22, 2002, have recommended a proposed 5 year Capital Improvement Plan; and

WHEREAS, the Engineering Services Manager has recommended additional revisions to the signal replacement and streetlight replacement accounts in his memo of October 10, 2002; and

WHEREAS, the 5 year Capital Improvement Plan proposed during executive review of the budget, with revisions to the signal and streetlight replacement accounts as recommended by the Engineering Services Manager, are in the best interests of the City of Wauwatosa,

NOW, THEREFORE, BE IT RESOLVED THAT the 5 year Capital Improvement Plan proposed by the Director of Public Works in his October 22, 2002 memo to the Budget Committee, with specific changes to signal replacement and streetlight replacement accounts as recommended by the Engineering Services Manager in his October 10, 2002 memo, are hereby approved.

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

**FROM THE BUDGET COMMITTEE**

**RESOLUTION R-02-271**

WHEREAS, during the year 2002 additional elections have been necessitated due to recalls and primary elections; and

WHEREAS, unanticipated expenses associated with these elections may create a deficit in the elections salary account by the end of the year 2002; and

WHEREAS, Milwaukee County has made a payment of \$22,300.00 to the City of Wauwatosa to offset these expenses;

NOW, THEREFORE, BE IT RESOLVED THAT the 2002 estimated budget for the elections payroll account, 01-142, be increased by \$22,750.00 to account for additional expenses during this calendar year.

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

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-02-272**

WHEREAS, proposals were solicited for the demolition of a building at 9832 Ridge Blvd. and the bid of Henry R. Marohl, Inc. in the amount of \$14,370.00 is the lowest and best bid; and

WHEREAS, this project is completely funded by the Milwaukee Metropolitan Sewerage District,

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the work of demolition of a house at 9832 Ridge Blvd. be awarded to Henry R. Marohl, Inc., at and for their bid price of \$14,370.00, this being the lowest and best bid;

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

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

It was moved by Ald. Herzog, seconded by Ald. Kopischke to approve the foregoing resolution. -16

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-02-273**

WHEREAS, on October 23, 2002, the fire sprinkler system in the Muellner Building in Hart Park in the City of Wauwatosa was activated and could not be reset; and

WHEREAS, immediate repair to the fire sprinkler system was necessary to continue operation of the building; and

WHEREAS, repairs to the system were performed by Hooper Corporation of Madison, WI, which was the original installer of the system;

NOW, THEREFORE, BE IT RESOLVED THAT payment in the amount of \$459.75 for repairs to the fire sprinkler system at the Muellner Building on October 23, 2002 is hereby approved.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-02-274**

WHEREAS, the Common Council of the City of Wauwatosa proceeded according to Section 66.0703 of the Wisconsin Statutes to levy assessments against certain property owners for previously approved 2002 street improvements on W. Blue Mound Road west of Mayfair Road; and

WHEREAS, notices to 15 owners of condominium units at 12000 W. Blue Mound Road with tax key numbers 378-0128-22 through 378-0128-36 were inadvertently omitted from official notifications relating to said special assessments;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wauwatosa that a public hearing for the purpose of levying special assessments on the aforementioned properties will be held before the Common Council in the Council Chambers, Wauwatosa City Hall, 7725 W. North Avenue, Wauwatosa, Wisconsin, at 7:30 p.m. Local Time on Tuesday, December 3, 2002, at which time all persons interested or their agents or attorneys will be heard concerning matters relating to said assessments in the City of Wauwatosa.

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

There being no further business, the meeting adjourned at 8:43 p.m.

cal

---

Carla A. Ledesma, CMC, City Clerk