



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, February 17, 2004

PRESENT: Alds. McCarthy, Stepaniak, Subotich, Sullivan (7:33 p.m.), Treis, Bruderle-Baran, Becker, Casey, Ecks, Grimm, Heins, Herzog, Jenkins, Kopischke, Krol (7:33 p.m.), Matthews -16

ALSO PRESENT: Mr. Braier, Finance Director; Mr. Kesner; City Attorney; Mr. Kappel, Dir. of Public Works; Ms. Welch, Community Development Director; Police Chief Weber; Fire Chief Redman; 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. -14

### APPOINTMENTS BY THE MAYOR

#### Plan Commission

Thomas Schultz, 2372 N. 72nd Street (reappointment)  
(Term ends 4/30/07)

Foregoing appointment ordered held as this was the first reading.

### APPLICATIONS, COMMUNICATIONS, ETC.

1. Special Use application to operate a public accounting firm in the AA Light Manufacturing District at 560 N. 108th Place  
**Plan Commission, Board of Zoning Appeals**
2. Wauwatosa Water Utility Statement of Receipts and Disbursements for month ended January 31, 2004  
**Place on file**
3. Letter from Carl Templer, Village of Wauwatosa Business Improvement District requesting approval of way finding signs for the Village area  
**Board of Public Works, Building Department**

4. City of Wauwatosa Investment Summary as of January 31, 2004  
**Place on file**
5. Conditional Use application to perform massage therapy at 7332 W. State Street  
**Plan Commission, Committee on Community Development**
6. Board of Public Works Annual Report for 2003  
**Place on file**

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

**RESOLUTION R-04-19**

WHEREAS, Rebecca L. Wieloch, 827 N. 17<sup>th</sup> Street, has applied for an operator's license in conjunction with her employment at Noodles & Company, 7700 W. State Street, Wauwatosa; and

WHEREAS, Ms. Wieloch's history of law violations raises some concern;

NOW, THEREFORE, BE IT RESOLVED THAT Rebecca L. Wieloch, 827 N. 17<sup>th</sup> Street, Milwaukee, WI, is hereby issued an operator's license for the period ending June 30, 2004;

BE IT FURTHER RESOLVED THAT the police department will review the record of Ms. Wieloch in six months time and report back to the Committee for further action if there are additional concerns raised by new violations.

It was moved by Ald. Ecks, seconded by Ald. Bruderle - Baran to approve the foregoing resolution. -14

(Alds. Krol and Sullivan present 7:33 p.m.) -16

**FROM THE COMMITTEE ON COMMUNITY DEVELOPMENT**

**RESOLUTION R-04-20**

A RESOLUTION BY THE CITY OF WAUWATOSA TO IMPOSE A TEMPORARY MORATORIUM UPON THE REVIEW AND CONSIDERATION OF "BIG BOX RETAIL ESTABLISHMENT" APPLICATIONS AND TO REQUIRE THE WAUWATOSA PLAN COMMISSION AND THE JOINT COMMITTEE ON THE COMPREHENSIVE PLAN TO COMPLETE ITS WORK ON THE CITY COMPREHENSIVE PLAN AND REVISION OF ITS ZONING REGULATIONS REGARDING SUCH USES AND TO REPORT TO THE COMMON COUNCIL ITS RECOMMENDATIONS.

WHEREAS, the City of Wauwatosa is a landlocked community with limited large-scale development sites; and

WHEREAS, there is a strong possibility that a number of these large-scale development sites may be available for redevelopment in the near future, and will attract proposals for development of "big box retail establishments"; and

WHEREAS, it is in the community’s best interest to promote orderly growth and balance the development of these limited sites in terms of both economics and aesthetics; and

WHEREAS, neither the city comprehensive plan nor any other land use plan makes mention of the significance or impact of “big box retail establishments” on the community, thereby leading to a disconnected, ad hoc approval process not in the long term interests of the city, and which may have an irreversible negative impact upon the city; and

WHEREAS, in order to better protect the general health and welfare of the City of Wauwatosa, a temporary moratorium on issuance of building permits for “big box retail establishments” will create a more stable environment so that revisions to the city zoning code and comprehensive plan, if necessary, can be considered and adopted in an orderly and thorough process, and

WHEREAS, the United States Supreme Court has recently stated that, “The consensus in the planning community appears to be that moratoria, or interim development controls as they are often called, are an essential tool of successful development.”

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa hereby establishes a temporary moratorium on the development of “big box retail establishments” pursuant to the terms described below. For purposes of this ordinance “big box retail establishment” is defined as: a retail or wholesale store of over 35,000 gross square feet in area.

BE IT FURTHER RESOLVED THAT during this moratorium, except as otherwise stated below, the City of Wauwatosa shall not accept, review, nor approve any applications for developments that incorporate in whole or in part proposals to construct, expand, or operate one or more “big box retail establishments,” as that term is defined in below.

BE IT FURTHER RESOLVED THAT the City of Wauwatosa shall not hold any public hearings related to, in whole or in part, the rezoning for or the construction, expansion, or operation of one or more big box retail establishment(s).

BE IT FURTHER RESOLVED THAT this moratorium shall apply to all applications currently pending or under review by the City of Wauwatosa as of the date of this resolution.

BE IT FURTHER RESOLVED THAT this moratorium shall be in effect until such time that the Joint Committee on the Comprehensive Plan and City Plan Commission address the issues of big box retail establishments and receive concurrence and approval from the Wauwatosa Common Council. This moratorium shall be in effect for no more than 12 months from the date of this resolution.

BE IT FINALLY RESOLVED THAT the Wauwatosa Common Council reserves the right to extend or prematurely end this moratorium or approve exceptions if a particular proposal is found to be in compliance with relevant updated portions of the City’s Comprehensive Plan, prior to approval of the Plan in its entirety.

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

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-04-21**

WHEREAS, the City has opted not to renew its contract with Benefit Services, Inc. as third party administrator for the City's self-insured health and dental plans; and

WHEREAS, the City sought proposals for a new third party administrator; and

WHEREAS, after receiving nine timely bids, City staff interviewed the three highest ranked proposals; and

WHEREAS, Medical Benefit Administrators' proposal is in the best interest of the City,

NOW, THEREFORE, BE IT RESOLVED THAT the appropriate City staff is hereby authorized to enter into a contract with Medical Benefit Administrators as third party administrator for the self-insured health and dental plans offered to City employees pursuant to the terms of their proposal submitted on January 30, 2004.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-04-22**

WHEREAS, the Wauwatosa Fire Department has requested approval of a purchase order for handheld 800 MHZ two-way radios similar to models of other governmental agencies located in Milwaukee and Waukesha Counties; and

WHEREAS, since Motorola is the sole provider for Milwaukee County, it is recommended that the competitive bidding process be waived and a purchase order be issued to Motorola Communications and Electronics, Inc., in the amount of \$270,000.00 and another order to Milwaukee Two-Way, Inc., which is Motorola's distributor, in the amount of \$14,505.00, which will include programming, set-up and installation charges, the funds of which were previously approved by the Common Council in its 2004 budget, which includes 90% federal grant money; and

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa is hereby authorized to issue a purchase order to Motorola Communications and Electronics, Inc. for an amount not to exceed \$270,000.00 for the purchase of 800 MHZ two-way radios, and another order be issued to Milwaukee Two-Way, Inc., Motorola's distributor, for the sum of \$14,505.00, which will include programming, set-up and installation charges as recommended by the Wauwatosa Purchasing Manager in his memo dated February 6, 2004.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-04-23**

WHEREAS, two low volume copiers located at the Police Station have reached the end of their life cycle rental/lease agreements and can be replaced with new digital copiers from Konica/United Leasing under the current State of Wisconsin contract; and

WHEREAS, Purchasing Manager recommends approval of a 48 month rental/lease contract with Konica Corporation and United Leasing at a cost of \$181.34 per month for two low volume digital copiers.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-04-24**

WHEREAS, the City of Wauwatosa Public Works Department utilizes chimney seals in the process of sewer repairs and replacements; and

WHEREAS, 20 such seals were ordered from Davies Water Equipment Company on January 16, 2004, without following normal purchase order procedures due to a staff member error; and

WHEREAS, funding exists in the 2004 sanitary sewer budget for purchase of these internal chimney seals;

NOW, THEREFORE, BE IT RESOLVED THAT the direct payment for 20 internal chimney seals ordered from Davies Water Equipment Company of Milwaukee on January 16, 2004 is hereby approved.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-04-25**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Mr. and Mrs. Winfield Scott 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.

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

**RESOLUTION R-04-26**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa THAT the claim filed by Mr. and Mrs. Gene Leland for damages be and the same is hereby denied and placed on file for the reason that no liability exists on the part of the City.

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

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

**FROM THE COMMITTEE ON BUDGET AND FINANCE**

BILLS AND CLAIMS FOR THE PERIOD 2/04/04 – 2/17/04 --

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 2/04/04 – 2/17/04: \$798,466.15

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 16.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-04-27**

WHEREAS, the Common Council of the City of Wauwatosa did, by a resolution passed and dated February 4, 2003, approve and adopt a report of the Board of Public Works in connection with repaving, and work appurtenant thereto, in the following streets:

Street & Location

- N. 86TH ST.** Watertown Plank Rd. to north cul de sac
- N. 88TH ST.** Hawthorne Ave. to Ravenswood Circle
- N. 108TH PL.** Blue Mound Rd. to Wisconsin Ave.
- N. 113TH ST.** Watertown Plank Rd. to Public Works yard
- N. 116TH ST.** Walnut Rd. to W. North Avenue
- N. 121ST ST.** Locust St. to W. Burleigh St.
- \*N. 124TH ST.** Burleigh Street to Capitol Drive
- FIEBRANTZ AVE.** N. 92nd St. to N. 100th St.
- ROBERTSON AVE.** Blue Mound Rd. to Wisconsin Ave.
- WALNUT RD.** 116th St. to Public Works yard
- ALLEY** from Hadley St. to W. Center St./N. 74th St. to N. 75th St.
- ALLEY** from Hadley St. to W. Center St./N. 75th St. to N. 76th St.
- ALLEY** from Garfield Ave. to Fisher Pkwy./N. 107th St. to Mayfair Rd.
- ALLEY** from North Ave. to Jackson Pk. Blvd./Swan Blvd. to N. 94th St.
- ALLEY** from Stickney Ave. to Menomonee River Pkwy./Swan Blvd. to N. 93rd St.

\* Resolution passed and dated January 15, 2002

WHEREAS, the construction of the improvement above-described having now been completed in the aforementioned street, it is the desire of the Board of Public Works to place the special assessments on the tax roll.

WHEREAS, it is the desire of the Board of Public Works to adjust the assessments for approaches and service walks, contained in said report, in relation to the costs of construction involved.

WHEREAS, the Director of Public Works has prepared amended special assessments taking into account the aforementioned differences.

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

Section 1. That the special assessments for paving set forth in the aforesaid reports of the Board of Public Works, approved by resolution passed and dated as listed are hereby directed to be entered upon the tax roll as hereinafter set forth and as reiterated in the special assessments attached hereto.

Section 2. That the attached amended special assessments for approaches and service walks, against the respective lots, tracts, and parcels of land abutting on the aforementioned streets be and the same are hereby approved and adopted and are directed to be entered upon the tax roll as hereinafter set forth.

Section 3. That the owners of the respective parcels of land fronting or abutting the street improvements on which public hearings have 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) 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.

(c) 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.

(d) 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.

(e) 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.

(f) 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 4. That the City Clerk publish the installment assessment notice, as by Section 66.54 of the Wisconsin Statutes provided, including therein that the owners of the property benefited by said improvement may elect within thirty (30) days from the date of said notice to pay the said assessment on their property on or before the next succeeding November 1.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-04-28**

BE IT RESOLVED, By the Common Council of the City of Wauwatosa, Wisconsin, that the attached account of the expense of sidewalk repairs under Contract 03-19 Concrete Sidewalk Repairs be submitted to the City Comptroller in accordance with Section 66.615(3)(f) of the Wisconsin Statutes.

BE IT FURTHER RESOLVED, that the City Clerk be and she is hereby directed to send out the proper bills to the owners of the property, as listed in the accompanying assessment for sidewalk repairs under Contract 03-19 Concrete Sidewalk Repair.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-04-29**

WHEREAS, Wisconsin Electric Power Company d/b/a WE Energies is in the process of reconfiguring electrical service facilities in the area of the new Hart Park; and

WHEREAS, the detailed locations and size of the necessary easement are described on the attached Distribution Easement For Joint Underground Cable, which is incorporated herein;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa hereby grants the Distribution Easement For Joint Underground Cable to Wisconsin Electric Power Company, d/b/a WE Energies in the area of the new Hart Park between approximately 72<sup>nd</sup> Street and the former 62<sup>nd</sup> Street in the City of Wauwatosa as more particularly described in the attached easement document.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-04-30**

WHEREAS, the Wauwatosa Purchasing Department has requested bids for emulsion and street patching materials for the Spring/Summer 2004 repair season; and

WHEREAS, each of the four bidders reflected in the memorandum of the Purchasing Manager dated February 3, 2004, provide different advantages based upon the price, convenience and availability;

NOW, THEREFORE, BE IT RESOLVED THAT each of the four vendors described in the memorandum of the Purchasing Manager are hereby qualified to provide emulsion and street patching materials for the Spring/Summer 2004 repair season on an as-needed basis, with individual purchases being made on the basis of price, convenience and availability.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-04-31**

WHEREAS, the Purchasing Manager has reported that the City of Milwaukee provides the best prices and very high quality for annual flowers to be planted throughout the City in public spaces;

NOW, THEREFORE, BE IT RESOLVED THAT the purchase of annual flowers from the City of Milwaukee for the year 2004 in the amount of \$9,710.92 is hereby approved.

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-04-32**

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

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-04-36**

WHEREAS, the purchasing department solicited bids for the purchase of 20 concrete street lighting poles for use by the electrical maintenance department; and

WHEREAS, the low bidder was Traditional Concrete Products, Inc.;

NOW, THEREFORE, BE IT RESOLVED THAT the purchase of 20 concrete street lighting poles from Traditional Concrete Products, Inc. in an amount not to exceed \$11,650.00 is hereby approved.

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

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-04-33**

BE IT RESOLVED, by the Common Council of the City of Wauwatosa, THAT permission be and the same is hereby granted to Wauwatosa Cemetery, Wauwatosa, WI, to encroach onto City right-of-way along Wright Street with existing graves only, subject to the applicant executing unto the City of Wauwatosa an indenture setting forth the terms, provisions and conditions relating to the granting of the aforesaid permission by said City to said applicant.

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

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-04-34**

WHEREAS, JCH Water Meter Testing and Repair has performed testing of large water meters for the City of Wauwatosa since 1995; and

WHEREAS, by letter dated January 26, 2004, JCH has agreed to maintain the same pricing for conducting this testing during the year 2004 as when the service began in the year 1995;

NOW, THEREFORE, BE IT RESOLVED THAT the City of Wauwatosa is hereby authorized to issue a purchase order for the conduct of testing and repair of large water meters during the year 2004 to JCH Water Meter Testing and Repair of Wauwatosa, WI, and the competitive bidding process is hereby waived.

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

**FROM THE BOARD OF PUBLIC WORKS**

**RESOLUTION R-04-35**

WHEREAS, the Director of Public Works recommends that the City extend for one year, the service agreement with Downey, Inc. of Milwaukee for boiler and HVAC service work for a total cost in 2004 of %5,046 for boiler work and \$8,144 for HVAC work; and

WHEREAS, the cost of the work would be paid for from proper departmental accounts; and

WHEREAS, the Director recommends accepting the prequalification statements submitted by other firms to be used on an as-needed basis for miscellaneous projects under \$8,000.000 which may occur during the year;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Wauwatosa THAT the competitive bidding process be waived and that the proposal of Downey, Inc. for HVAC work be and the same is hereby accepted.

BE IT FURTHER RESOLVED THAT the prequalification statements of other firms be accepted and that the City utilize those services on an as-needed basis for miscellaneous projects based on price and availability.

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

There being no further business, the meeting adjourned at 7:43 p.m.

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Carla A. Ledesma, CMC, City Clerk