

**CITY OF WHITEWATER
COMMON COUNCIL AGENDA**

Common Council Meeting
Thursday, April 8, 2010 – 6:30 p.m.
City of Whitewater Municipal Building Community Room
312 W. Whitewater Street Whitewater, Wisconsin

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE.

CONSENT AGENDA:

CA-A	Approval of Council Minutes of 3/2/2010.
CA-B	Approval of Payment of Invoices processed through March 31, 2010.
CA-C	Expedited approval of the following items, per city staff recommendation: None.

REPORTS:

City Manager	1) Update on Technology Park
DPW Director	1) Report on Five Points Public Meeting

HEARING OF CITIZEN COMMENTS. No formal Common Council Action will be taken during this meeting although issues raised may become a part of a future agenda. Participants are allotted a 3-5 minute speaking period. Specific items listed on the agenda may not be discussed at this time; however citizens are invited to speak to those specific issues at the time the Council discusses that particular item.

COMMON COUNCIL ANNOUNCEMENTS.

RESOLUTIONS:

R-1	Authorizing Resolutions requiring that the City “Buy American” made vehicles (Councilmember Taylor Request)
R-2	Authorizing City to join WisWarn (Mutual Aid Response Network for Water/Wastewater Utilities (DPW Director Request)

ORDINANCES: First Reading

O-1	Amending Ordinance to change Park hours for Indian mound Park to be open from sunrise to sunset (Park & Recreation Director Request)
O-2	Amending Alcohol Licensing Ordinance (clarifying applicability of ordinance to unissued licenses only)
O-3	Amending Chapter 2 Ordinance 2.04 Administrative Organization.
O-4	Amending Chapter 2 Ordinance 2.08 City Council.
O-5	Amending Chapter 2 Ordinance 2.12 City Manager.
O-6	Amending Chapter 2 Ordinance 2.16 Department of Administration.
O-7	Amending Chapter 2 Ordinance 2.20 Department of Public Works.
O-8	Create Chapter 2 Ordinance 2.22 Neighborhood Services Department.
O-9	Amending Chapter 2 Ordinance 2.24 Fire Department.
O-10	Create Chapter 2 Ordinance 2.24.096 Authorizing Vehicle Accident Site Response Charges.
O-11	Create Chapter 2 Ordinance 2.25 Police Department.
O-12	Create Chapter 2 Ordinance 2.26 Humane Officer.
O-13	Amending Chapter 2 Ordinance 2.28 Fire and Police Commission.
O-14	Repeal Chapter 2 Ordinance 2.32 Department of Public Health.
O-15	No Proposed Changes to Chapter 2 Ordinance 2.36 Municipal Court.
O-16	No Proposed Changes to Chapter 2 Ordinance 2.40 Emergency Management.
O-17	Amending Chapter 2 Ordinance 2.42 Emergency Joint Action for County and City.
O-18	No Proposed Changes to Chapter 2 Ordinance 2.44 Equal Opportunities Commission.

O-19	Amending Chapter 2 Ordinance 2.46 Handicapped Discrimination Commission renaming it the Disability Rights Commission.
O-20	Amending Chapter 2 Ordinance 2.52 Park and Recreation Board.
O-21	No Proposed Changes to Chapter 2 Ordinance 2.53 Birge Fountain Committee.
O-22	Amending Chapter 2 Ordinance 2.56 Library Board.
O-23	No Proposed Changes to Chapter 2 Ordinance 2.60 Board of Review.
O-24	No Proposed Changes to Chapter 2 Ordinance 2.66 Public Records.
O-25	Amending Chapter 2 Ordinance 2.70 Personnel and Compensation Renaming it Human Resources and Compensation.
O-26	No Proposed Changes to Chapter 2 Ordinance 2.72 Special Provisions – Salaried Employees.

ORDINANCES: Second Reading - None.

CONSIDERATIONS:

C-1	Award of bid for replacement fire engine (Fire Chief Request)
C-2	Discussion regarding Sidewalk Café Ordinance and possible direction regarding same (Councilmember Olsen Request)
C-3	Discussion regarding Zoning Overlay Ordinance and possible direction regarding the same (Councilmember Winship Request).
C-4	Discussion and possible direction regarding Ward 10 Polling Place. (Councilmember Taylor Request)
C-5	Award of contract for Cravath Lakefront Park electrical improvements (Park & Recreation Director Request)
C-6	Action on request to change name of Indian Mound Park to Whitewater Archeological Mounds Preserve (Park & Recreation Director Request)
C-7	Discussion and possible direction regarding televising of more Board and Commission meetings. (Councilmember Taylor Request)
C-8	Adoption of updated Snow and Ice Control Policy (DPW Director Request).
C-9	Approval of 2009 Annual Stormwater Report (DPW Director Request)
C-10	Councilmember Requests for Future Agenda Items.
C-11	EXECUTIVE SESSION. Adjourn to closed session, TO RECONVENE 30 minutes from time of entering into closed session, pursuant to Wisconsin Statutes Chapter 19.85(1) (e) “Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.” Items to be discussed: Acquisition of real estate for Starin Road right of way.
	RECONVENE INTO OPEN SESSION.
R-A	Resolutions authorizing purchase of real estate for the purpose of extending Starin Road.

Anyone requiring special arrangements is asked to call the Office of the City Manager / City Clerk at least 72 hours prior to the meeting.

- **Items denoted with asterisks will be approved on the Consent Agenda unless any council member requests that it be removed for individual discussion.**

MEMORANDUM

TO: Common Council
FROM: Kevin Brunner, City Manager
DATE: April 5, 2010
RE: Comments on April 8, 2010 Agenda Items

The following are my comments and/or background information on various items contained in next week's Common Council agenda.

1. **Authorizing Resolutions Requiring the City to Buy American Made Vehicles.** Although I understand the intent of this resolution to buy American made vehicles is well intended (the City has always purchased American made vehicles in the past), currently all of the vehicles the City has are "American made" although some of the vehicles certainly might have components that were made overseas. This presents the practical problem of making sure that components are American made. Sometimes it is very difficult to track where components might have been made and I don't want to increase the amount of administrative time that might be needed to track component parts of vehicles that we might be purchasing.
2. **Authorizing the City to Join WISWARN (Mutual Aid Response Network for Water and Wastewater Utilities).** This is a good idea and I certainly recommend, along with the Public Works Director, approval of the City joining this system.
3. **Amending Ordinance to Change Park Hours for Indian Mound Park.** The Landmarks Commission has worked with the Parks and Recreation Director and Commission to make some improvements to Indian Mound Park. This amendment would change the hours to be from sunrise to sunset for this park, given the fact that it is a Native American burial ground and not like other city parks.
4. **Amending Chapter 2 Ordinances.** A small committee composed of Councilmembers Singer and Taylor, City Attorney McDonell, City Clerk Smith and I have been working on a series of amendments to Chapter 2 of the Municipal Code. Chapter 2 is the administration and personnel section of our code and many of the chapters are outdated.

This small committee worked very hard at making these changes and actually began its work in 2008. Councilmember Taylor wanted to review these changes prior to his leaving the Council.

While many of the proposed amendments or changes to Title 2 are based upon current city policy and practice there are some substantive changes that have been recommended by the committee. All of us who have worked on these amendments will be available to discuss them with Councilmembers at the meeting.

5. **Award of Bid for Replacement of Fire Engine.** The Fire Department recently developed specifications and accepted bids for a fire engine pumper replacement. While the Fire Chief and his administrative team are currently reviewing the bids received, the apparent low bid coupled with additional work that will be necessary to complete the outfitting of this engine will bring the total cost to approximately \$550,000. Since the Fire Department has secured a Federal grant of \$225,000 for the purchase of this fire engine the City will have to fund approximately \$325,000 of the purchase price.

Because the City's Fire Equipment Replacement Fund will not have sufficient dollars for this full purchase when the fire engine is expected to be delivered in approximately 10 months (one of the requirements of the Federal grant is that the fire engine pumper must be purchased within 12 months of award, which means that it would be early in 2011) the City will need to borrow some funds to offset this purchase. Later this spring the Finance Director and I will be proposing a borrowing package to include funding for the pumper as well as a small match for the overhead exhaust system that will also be installed at the fire house. On the later item, the Fire Department was also successful in obtaining a Federal grant that contains a 10% match for the overhead exhaust system, or approximately \$9,800.

6. **Discussion Regarding Sidewalk Café Ordinance.** I certainly support any efforts to make the current Sidewalk Café Ordinance more encouraging to downtown businesses to operate sidewalk cafes. I know that Downtown Whitewater Executive Director Tami Brodnicki and a number of downtown restaurant and bar owners are meeting early this week to discuss possible changes to improve the current ordinance. I anticipate that they will bring forward a number of ideas at Thursday night's meeting for possible improvements to this ordinance.
7. **Request to Change Name of Indian Mound Park to Whitewater Archaeological Mounds Preserve.** I support this recommendation to rename this park to better reflect its status as an archaeological site.
8. **Discussion Regarding Televising More Board and Commission Meetings.** Alan Lockett has done some research on this issue and his memo to the Council is included in your packet. While I support making our city government more open and transparent, and televising more board and commission meetings could certainly be done with that goal in mind, it is a concern that we have enough staffing to do more televising than we currently perform. Alan informs me that we are on a pace to record and televise over 200 public events during the course of 2010. I believe that the currently policy where we televise all Common Council and Plan Commission meetings along with televising other board and commission meetings on a periodic basis (at least once or twice per year) is adequate. The main issue here I feel is that we haven't met this policy goal with all boards and commissions and we need to remind all municipal boards and commissions that they need to make arrangements to televise at least one or two meetings per year.
9. **Discussion Regarding Zoning Overlay Ordinance and Possible Direction.** While I would like to hear Council's discussion on this proposed Zoning Overlay Ordinance that would only allow 2 or more unrelated persons in the R-1 Zoning District in certain zoning overlay districts, I do believe that the City should be proactive in preserving its R-1 neighborhoods to

the greatest extent possible.

10. **Adoption of Updated Snow and Ice Control Policy.** I reviewed this policy with our Public Works Director and Streets and Forestry Superintendant and I recommend its adoption to the Council.
11. **Executive Session.** I want to again update the Common Council on the progress we are making on acquisition of real estate for the Starin Road right-of-way extension. We are very close to finalizing one right-of-way acquisition with the property owner and might have the other ready for approval by Thursday evening as well.

**ABSTRACT/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL
ACTIONS OF THE COMMON COUNCIL OF THE CITY OF WHITEWATER,
WALWORTH AND JEFFERSON COUNTIES, WISCONSIN.**

March 2, 2010.

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Olsen, Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: McDonell.

APPROVAL OF MINUTES. It was moved by Olsen and seconded by Winship to acknowledge receipt and filing of the following: Plan Commission Minutes of 5/14/07, 9/10/07, 11/12/07 and CDA Minutes of 1/25/10. AYES: Olsen, Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

APPROVAL OF PAYMENT OF INVOICES. It was moved by Olsen and seconded by Winship to approve payment of city invoices through February 25, 2010 in the total sum of \$282,675.24. AYES: Olsen, Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

REPORTS. City Manager Brunner commented on the year-end 2009 City Management Plan, stating that city staff had made significant progress or completed 83% of goals set at the beginning of the year. He reported that the Whitewater Energy Independence Council had met for the first time to begin work on the 25 X 25 Energy Independence Plan. He also spoke of learning at the Alliance of Cities meeting that some cities are lending money for school district interim borrowing. Whitewater and WUSD will investigate if this would be to their mutual advantage.

Councilmember Binnie presented a proclamation which celebrates the 90th anniversary of the League of Women Voters to the president of the Whitewater League, Ellen Penwell. Penwell accepted the proclamation, noting that Whitewater has maintained its chapter for over 40 years and will have a website available in a couple months for use of candidates in posting their positions.

Whitewater Unified School District Director Dr. Suzanne Zentner reported on the School District's Diversity Task Force. The focus of the task force has been on preparedness and awareness of diversity in the Whitewater community.

CITIZEN COMMENTS. None.

COMMON COUNCIL ANNOUNCEMENTS. None.

RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT FOR THE PAYMENT OF FUNDS TO WHITEWATER FIRE DEPARTMENT AND RESCUE SQUAD FOR STARIN ROAD EXTENSION RIGHT-OF-WAY. The resolution authorizes the city to pay \$14,760 to Fire and Rescue for approximately 13 acres of land. Brunner stated

that this will be the first of three land purchases to allow for the extension of Starin Road from the Public Works garage at Fremont Street to Highway 59.

RESOLUTION AUTHORIZING THE CITY OF WHITEWATER TO ENTER INTO AN AGREEMENT FOR THE PAYMENT OF FUNDS TO THE WHITEWATER FIRE DEPARTMENT AND RESCUE SQUAD FOR THE STARIN ROAD EXTENSION RIGHT-OF-WAY

WHEREAS, the City of Whitewater was deeded approximately 13 acres of land, which is commonly referred to as Hospital Hill, which by Court order was to be used for the benefit of the City of Whitewater Fire Department and Rescue Squad; and

WHEREAS, the City is extending Starin Road from its current terminus easterly to State Highway 59 and the route for said extension traverses the above-referenced 13 acres; and

WHEREAS, it is appropriate for the City of Whitewater to compensate the City of Whitewater Fire Department and Rescue Squad for the fair market value of the land to be used for said extension.

NOW THEREFORE, BE IT RESOLVED, that the City Manager and the City Clerk are hereby authorized to sign the attached agreement between the City of Whitewater and the City of Whitewater Fire Department and Rescue Squad compensating the Fire Department and Rescue Squad for the use of said land.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Binnie. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart, Taylor. NOES: None. ABSENT: None.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

APPROVAL OF CONSTRUCTION CONTRACT WITH JP CULLEN OF JANESVILLE, WISCONSIN, FOR WHITEWATER INNOVATION CENTER.

Brunner stated that Cullen was given the contract as the result of a RFP process including 10 bidders with 3 being interviewed by the city. The company has been working gratis since August to prepare for the construction of the Innovation Center. As construction managers they will receive \$96,664.

It was moved by Councilmember Olsen and seconded by Councilmember Stewart to approve the construction contract with J.P. Cullen for the Whitewater Innovation Center. AYES: Winship, Binnie, Singer, Stewart, Taylor, Olsen, Kienbaum. NOES: None. ABSENT: None.

ADOPTION OF AMENDMENTS TO PERSONNEL MANUAL RELATING TO NEPOTISM POLICY.

Human Resources Coordinator Karie Buckman stated that these amendments would address features of the nepotism policy that were overly restrictive or vague. Councilmember Binnie introduced discussion of the meaning of the final sentence in the policy. He suggested that the last sentence be changed to read: "With regard to more distant relatives or any other similar situation that" may be problematic (replaces: "proves damaging") "to the City

or Public best interest ...”. Taylor introduced the example of one ex-spouse supervising the other. Binnie suggested correction of a typographic error in number 3: changing “exists” to “exist”.

It was moved by Councilmember Taylor and seconded by Councilmember Binnie to approve the amendments to the personnel manual relating to nepotism policy, allowing the Human Resources Coordinator the flexibility to change the wording from “proves damaging” in the final sentence of the policy to “may be problematic”. AYES: Winship, Binnie, Singer, Stewart, Taylor, Olsen, Kienbaum. NOES: None. ABSENT: None.

DISCUSSION REGARDING UNIVERSITY POLLING PLACE AND POSSIBLE DIRECTION REGARDING SAME. Councilmember Stewart requested that council members consider discussion of a general guideline for when voters from District 5 should vote on campus and when it would be more efficient for them to vote at the main polling place in the Downtown Armory. He suggested that the partisan elections; Presidential, Presidential Primary, Gubernatorial and legislative, be held at the University. All others could be held at the Armory as there is generally low participation in nonpartisan elections. This would not affect voting at the University for District 2. Winship suggested continuation of the discussion when City Clerk Smith would be present to comment.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS. Winship suggested proposal of an ordinance that would authorize Council to do an overlay zoning which would change only R1 in a selected area to two unrelated individuals and a second ordinance which would apply this to the area that would be roughly the same as the Historic Starin Park Neighborhood Association minus Prairie Street. McDonell confirmed that this would be a conceptual review by Council which would be referred to Plan Commission for a public hearing, and then return to Council. Winship suggested that in the City Manager’s mid-year review of the City Management Plan he give percentage of goals completed as many of the yearly goals have a July 1 target date. Taylor requested clarification of spending policy that contributed to the purchase of second flat screen TV to be installed in the lobby of the City Municipal Building. Brunner replied that the TV had been donated to the City by Walmart. Kienbaum asked for a review of the City’s money situation. Brunner stated that there is an audit going on now with a presentation of the results in May. He also stated that he would be giving the Council a 5 year budget projection soon.

ADJOURN. It was moved by Olsen and seconded by Binnie to adjourn the meeting at 7:15 pm. AYES: Olsen, Taylor, Stewart, Winship, Binnie, Singer, Kienbaum. NOES: None. ABSENT: None.

Respectfully Submitted,

Nancy Stanford
Administrative Assistant

Report Criteria:

- Detail report.
- Invoices with totals above \$0.00 included.
- Paid and unpaid invoices included.

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	GL Account Number
A+ POWER SPORTS & TRAILER SALES						
5790	A+ POWER SPORTS & TRAILER	14830	CRASH CREW/VEHICLE MAINT	04/07/2010	27.99	100-52210-241
5790	A+ POWER SPORTS & TRAILER	14830	CRASH CREW/EQUIPMENT RE	04/07/2010	89.99	100-52210-242
Total A+ POWER SPORTS & TRAILER SALES:					117.98	
ABENDROTH WATER COND						
502	ABENDROTH WATER COND	213980	WASTEWATER/OPERATING SU	04/07/2010	25.00	620-62840-340
Total ABENDROTH WATER COND:					25.00	
ACE AUTO UPHOLSTERY						
4087	ACE AUTO UPHOLSTERY	0310AUTO	STREET/REPAIR #15 SEATS	04/07/2010	200.00	100-53230-352
Total ACE AUTO UPHOLSTERY:					200.00	
ADVANTAGE SAFETY PLUS						
4998	ADVANTAGE SAFETY PLUS	1961	LIBRARY/BLDG MAINTENANCE	04/07/2010	31.76	100-55111-355
4998	ADVANTAGE SAFETY PLUS	1961	GEN BLDG/OPERATING SUPPLI	04/07/2010	158.80	100-51600-340
Total ADVANTAGE SAFETY PLUS:					190.56	
AIRGAS NORTH CENTRAL						
4760	AIRGAS NORTH CENTRAL	105444266	STREET/SHOP SUPPLIES	04/07/2010	41.00	100-53230-340
Total AIRGAS NORTH CENTRAL:					41.00	
ALL PEST CONTROL						
4613	ALL PEST CONTROL	2010-0332	COMMUNITY BLDG/ PEST CON	04/07/2010	52.00	100-51600-245
Total ALL PEST CONTROL:					52.00	
AMERICAN PLANNING ASSOC						
114	AMERICAN PLANNING ASSOC	046194-10020	PLANNING/DUES & SUBSCRIPT	04/07/2010	390.00	100-56300-320
Total AMERICAN PLANNING ASSOC:					390.00	
AMERICAN POWER CONVERSION						
5787	AMERICAN POWER CONVERSI	1905293	WASTEWATER/REPAIRS	04/07/2010	450.20	620-62830-353
Total AMERICAN POWER CONVERSION:					450.20	
ANICH LUMBER & HARDWAR CO, AJ						
1601	ANICH LUMBER & HARDWAR C	13219A	STREET/REPAIR PARTS	04/07/2010	265.46	100-53230-352
1601	ANICH LUMBER & HARDWAR C	13220A	STREET/REPAIR PARTS	04/07/2010	235.60	100-53230-352
1601	ANICH LUMBER & HARDWAR C	28262S	STREET/REPAIR PARTS	04/07/2010	251.33	100-53230-352
1601	ANICH LUMBER & HARDWAR C	28294S	STREET/REPAIR PARTS	04/07/2010	327.87	100-53230-352
1601	ANICH LUMBER & HARDWAR C	28372S	STREET/REPAIR PARTS	04/07/2010	11.80	100-53230-352
Total ANICH LUMBER & HARDWAR CO, AJ:					1,092.06	
ASSETWORKS INC						
5421	ASSETWORKS INC	002682	FINANCE/2009 FIXED ASSETS	04/07/2010	900.00	100-51500-214

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	GL Account Number
Total ASSETWORKS INC:					900.00	
AT&T						
3917	AT&T	3917-040710	GEN BLDG/PHONE	04/07/2010	576.79	100-51600-225
3917	AT&T	3917-040710	SHOP/PHONE	04/07/2010	33.93	100-53230-241
3917	AT&T	3917-040710	LIBRARY/PHONE	04/07/2010	84.82	100-55110-225
3917	AT&T	3917-040710	WATER/PHONE	04/07/2010	84.82	610-61921-310
3917	AT&T	3917-040710	WASTEWATER DIALER/PHONE	04/07/2010	42.41	620-62830-356
3917	AT&T	3917-040710	WASTEWATER/PHONE	04/07/2010	8.48	620-62820-225
3917	AT&T	3917-040710	CABLE/PHONE	04/07/2010	16.96	200-55110-225
3917	AT&T	3917-040710	DAIN LINES	04/07/2010	66.02	100-51600-225
3917	AT&T	3917-040710	POLICE INV/PHONE	04/07/2010	.49	100-52120-219
Total AT&T:					914.72	
AT&T LONG DISTANCE						
4746	AT&T LONG DISTANCE	4746-040710	SAFETY BLDG/LONG DISTANC	04/07/2010	94.89	100-51600-225
4746	AT&T LONG DISTANCE	4746-040710	CABLE/LONG DISTANCE	04/07/2010	5.09	200-55110-225
4746	AT&T LONG DISTANCE	4746-040710	SAFETY BLDG/LONG DISTANC	04/07/2010	20.83	100-51600-225
4746	AT&T LONG DISTANCE	4746-040710	LIBRARY/LONG DISTANCE	04/07/2010	14.87	100-55110-225
4746	AT&T LONG DISTANCE	4746-040710	STREET/LONG DISTANCE	04/07/2010	21.71	100-53230-241
4746	AT&T LONG DISTANCE	4746-040710	WATER/LONG DISTANCE	04/07/2010	9.41	610-61921-310
4746	AT&T LONG DISTANCE	4746-040710	WASTEWATER/LONG DISTANC	04/07/2010	11.51	620-62820-225
Total AT&T LONG DISTANCE:					178.31	
AT&T MIDWEST - SUBPOENA CTR						
4658	AT&T MIDWEST - SUBPOENA C	GSB0324153	POLICE INV/PROFESSIONAL S	04/07/2010	50.00	100-52120-219
Total AT&T MIDWEST - SUBPOENA CTR:					50.00	
BADGER WELDING SUPPLIES INC						
4990	BADGER WELDING SUPPLIES I	38873-FEB	STREET/WELDING SUPPLIES	04/07/2010	275.19	100-53230-340
Total BADGER WELDING SUPPLIES INC:					275.19	
BATTERIES PLUS						
3089	BATTERIES PLUS	227505	FIRE/OPERATING SUPPLIES	04/07/2010	170.01	100-52200-340
Total BATTERIES PLUS :					170.01	
BLACKHAWK TECH COLLEGE						
459	BLACKHAWK TECH COLLEGE	S0169831	POLICE PATROL/TRAINING	04/07/2010	180.00	100-52110-154
459	BLACKHAWK TECH COLLEGE	S0169831	POLICE INV/TRAINING	04/07/2010	90.00	100-52120-154
459	BLACKHAWK TECH COLLEGE	S0169831	POLICE ADMN/TRAINING	04/07/2010	270.00	100-52100-154
Total BLACKHAWK TECH COLLEGE:					540.00	
BOBCAT OF JANESVILLE						
5314	BOBCAT OF JANESVILLE	19677	PARKS/EQUIPMENT	04/07/2010	956.66	100-53270-242
Total BOBCAT OF JANESVILLE:					956.66	
BROWN'S OF TWO RIVERS						
1031	BROWN'S OF TWO RIVERS	0334185-IN	STREET/REPAIR PARTS	04/07/2010	87.50	100-53230-362

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	GL Account Number
Total BROWN'S OF TWO RIVERS:					87.50	
BURNS INDUSTRIAL						
28	BURNS INDUSTRIAL	353834	STREET/REPAIR PARTS	04/07/2010	13.68	100-53230-352
Total BURNS INDUSTRIAL:					13.68	
CARDINAL TRACKING INC						
875	CARDINAL TRACKING INC	92270	CSO/PARKING SVC	04/07/2010	7.87	100-52140-360
Total CARDINAL TRACKING INC:					7.87	
CDW GOVERNMENT INC						
1234	CDW GOVERNMENT INC	RNJ9152	IT/REPLACEMENT DRIVE	04/07/2010	232.15	100-51450-246
1234	CDW GOVERNMENT INC	RPJ9221	IT/MONITOR REPLACEMENT	04/07/2010	951.92	100-51450-245
1234	CDW GOVERNMENT INC	RPL7524	IT/REPLACEMENT PC	04/07/2010	425.00	100-51450-245
1234	CDW GOVERNMENT INC	RPN6691	IT/REPLACEMENT PC	04/07/2010	850.00	100-51450-245
1234	CDW GOVERNMENT INC	RQF9246	IT/POWER SUPPLY	04/07/2010	48.22	100-51450-246
1234	CDW GOVERNMENT INC	RRH3933	CABLE/ACCESSORIES	04/07/2010	377.11	200-55110-810
1234	CDW GOVERNMENT INC	RRV8885	IT/SWITCH	04/07/2010	14.28	100-51450-246
1234	CDW GOVERNMENT INC	RSD8179	IT/WIRELESS CARDS	04/07/2010	93.35	100-51450-246
1234	CDW GOVERNMENT INC	RSF9059	IT/WIRELESS AP	04/07/2010	83.98	100-51450-246
1234	CDW GOVERNMENT INC	RXZ6558	CABLE/DRIVES	04/07/2010	274.26	200-55110-340
Total CDW GOVERNMENT INC:					3,350.27	
CENTRAL PARTS WAREHOUSE						
3003	CENTRAL PARTS WAREHOUSE	142314A	STREET/REPAIR PARTS	04/07/2010	62.48	100-53230-352
Total CENTRAL PARTS WAREHOUSE:					62.48	
CHARTER COMMUNICATIONS						
1571	CHARTER COMMUNICATIONS	1571-040710	CITY/COURT CONNECTION	04/07/2010	136.98	100-51600-225
Total CHARTER COMMUNICATIONS:					136.98	
COMPETITION AUTO BODY						
2320	COMPETITION AUTO BODY	0410REPAIR	STREET/TRK #15 REPAIR PART	04/07/2010	250.00	100-53230-352
Total COMPETITION AUTO BODY:					250.00	
DALEE WATER CONDITIONING						
208	DALEE WATER CONDITIONING	MARCH-GARA	STREET/OPERATING SUPPLIE	04/07/2010	97.50	100-53230-340
Total DALEE WATER CONDITIONING:					97.50	
DAN'S MEAT MARKET						
4580	DAN'S MEAT MARKET	594208	RESCUE/OPERATING SUPPLIE	04/07/2010	99.00	100-52300-340
Total DAN'S MEAT MARKET:					99.00	
DECKER SUPPLY CO INC						
33	DECKER SUPPLY CO INC	863672	STREET/TRAFFIC CONTROL SI	04/07/2010	1,716.74	100-53300-354
Total DECKER SUPPLY CO INC:					1,716.74	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	GL Account Number
DIVERSIFIED BENEFIT SVC INC						
4192	DIVERSIFIED BENEFIT SVC INC	109072	FINANCE/MARCH SVC	04/07/2010	492.64	100-51500-217
Total DIVERSIFIED BENEFIT SVC INC:					492.64	
DIVERSIFIED BUILDING MTN						
1809	DIVERSIFIED BUILDING MTN	124438	LIBRARY/MARCH SVC	04/07/2010	1,638.00	100-55111-246
1809	DIVERSIFIED BUILDING MTN	124438	CITY HALL/MARCH SVC	04/07/2010	3,965.00	100-51600-246
1809	DIVERSIFIED BUILDING MTN	124438	ARMORY/MARCH SVC	04/07/2010	950.40	100-51600-246
1809	DIVERSIFIED BUILDING MTN	124438	CRAVATH LAKEFRONT/MARCH	04/07/2010	1,108.80	100-51600-246
1809	DIVERSIFIED BUILDING MTN	124438	COMM BLDG/MARCH SVC	04/07/2010	1,455.72	100-51600-246
Total DIVERSIFIED BUILDING MTN:					9,117.92	
EAGLE ENGRAVING						
3467	EAGLE ENGRAVING	2010-665	FIRE/OPERATING SUPPLIES	04/07/2010	11.40	100-52200-340
Total EAGLE ENGRAVING:					11.40	
EMERGENCY APPARATUS MTN INC						
4512	EMERGENCY APPARATUS MTN	47288	FIRE/VEHICLE MAINTENANCE	04/07/2010	780.63	100-52200-241
Total EMERGENCY APPARATUS MTN INC:					780.63	
EMERGENCY MEDICAL PRODUCTS						
115	EMERGENCY MEDICAL PRODU	1255192	RESCUE/OPERATING SUPPLIE	04/07/2010	247.00	100-52300-340
115	EMERGENCY MEDICAL PRODU	1256121	RESCUE/OPERATING SUPPLIE	04/07/2010	266.05	100-52300-340
115	EMERGENCY MEDICAL PRODU	1258411	RESCUE/OPERATING SUPPLIE	04/07/2010	178.26	100-52300-340
Total EMERGENCY MEDICAL PRODUCTS:					691.31	
FARM PLAN CORPORATION						
17	FARM PLAN CORPORATION	040207	PARKS/REPAIR MATERIALS	04/07/2010	20.04	100-53270-242
17	FARM PLAN CORPORATION	040266	PARKS/REPAIR MATERIALS	04/07/2010	378.66	100-53270-242
17	FARM PLAN CORPORATION	040304	PARKS/REPAIR MATERIALS	04/07/2010	142.67	100-53270-242
17	FARM PLAN CORPORATION	323814	PARKS/REPAIR MATERIALS	04/07/2010	54.81	100-53270-242
17	FARM PLAN CORPORATION	324052	PARKS/REPAIR MATERIALS	04/07/2010	32.41	100-53270-242
17	FARM PLAN CORPORATION	324093	PARKS/REPAIR MATERIALS	04/07/2010	3.02	100-53270-242
17	FARM PLAN CORPORATION	324217	PARKS/REPAIR MATERIALS	04/07/2010	6.23	100-53270-242
17	FARM PLAN CORPORATION	324278	PARKS/REPAIR MATERIALS	04/07/2010	2.48	100-53270-242
17	FARM PLAN CORPORATION	324322	PARKS/REPAIR MATERIALS	04/07/2010	15.62	100-53270-242
17	FARM PLAN CORPORATION	324334	PARKS/REPAIR MATERIALS	04/07/2010	3.10	100-53270-242
17	FARM PLAN CORPORATION	324395	PARKS/REPAIR MATERIALS	04/07/2010	38.74	100-53270-242
17	FARM PLAN CORPORATION	42432	STREET/TIRE REPAIR	04/07/2010	40.00	100-53230-352
Total FARM PLAN CORPORATION:					737.78	
FIRE-RESCUE SUPPLY LLC						
3886	FIRE-RESCUE SUPPLY LLC	2600	STREETS/SHOP SUPPLIES	04/07/2010	57.00	100-53230-340
3886	FIRE-RESCUE SUPPLY LLC	2651	FIRE/EQUIPMENT REPAIRS	04/07/2010	61.50	100-52200-242
Total FIRE-RESCUE SUPPLY LLC:					118.50	
FORT ATKINSON PARK & REC DEPT						
3065	FORT ATKINSON PARK & REC	LEAGUE FEE	REC/LEAGUE FEES	04/07/2010	225.00	100-55300-341
Total FORT ATKINSON PARK & REC DEPT:					225.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	GL Account Number
FORT HEALTHCARE						
151	FORT HEALTHCARE	02/24/10	POLICE PATROL/PROFESSION	04/07/2010	134.70	100-52110-219
151	FORT HEALTHCARE	03/05/10	POLICE PATROL/PROFESSION	04/07/2010	134.70	100-52110-219
Total FORT HEALTHCARE:					269.40	
FORT MEDICAL GROUP						
3509	FORT MEDICAL GROUP	MEYER	POLICE ADMN/PROFESSIONAL	04/07/2010	488.00	100-52100-219
Total FORT MEDICAL GROUP:					488.00	
FOX-WOLF WATERSHED ALLIANCE						
4928	FOX-WOLF WATERSHED ALLIA	2010 STORM	STORMWATER/FISCHER	04/07/2010	310.00	630-63300-154
Total FOX-WOLF WATERSHED ALLIANCE:					310.00	
GEAR WASH LLC						
5791	GEAR WASH LLC	5577	FIRE/OPERATING SUPPLIES	04/07/2010	39.41	100-52200-340
Total GEAR WASH LLC:					39.41	
GEN COMMUNICATIONS INC						
119	GEN COMMUNICATIONS INC	613483	RESCUE/RADIO/REPAIRS	04/07/2010	35.00	100-52300-242
119	GEN COMMUNICATIONS INC	613522	RESCUE/RADIO/REPAIRS	04/07/2010	35.00	100-52300-242
119	GEN COMMUNICATIONS INC	613523	RESCUE/RADIO/REPAIRS	04/07/2010	45.00	100-52300-242
119	GEN COMMUNICATIONS INC	613524	RESCUE/RADIO/REPAIRS	04/07/2010	35.00	100-52300-242
Total GEN COMMUNICATIONS INC:					150.00	
GRAINGER						
367	GRAINGER	9206575368	WASTEWATER/OPERATING SU	04/07/2010	13.22	620-62840-340
367	GRAINGER	9208359316	WASTEWATER/OPERATING SU	04/07/2010	16.52	620-62840-340
367	GRAINGER	9208638800	SAFETY BLDG/BLDG MAINTEN	04/07/2010	315.75	100-51600-355
367	GRAINGER	9208638800	LIBRARY/BLDG MAINTENANCE	04/07/2010	180.80	100-55111-355
Total GRAINGER:					526.09	
GRAY SUPPLY						
1784	GRAY SUPPLY	732968	STREETS/OIL FILTER CRUSHE	04/07/2010	2,097.00	100-53230-340
Total GRAY SUPPLY:					2,097.00	
INTOXIMETERS						
706	INTOXIMETERS	298648	POLICE PATROL/OPERATING S	04/07/2010	205.00	100-52110-340
Total INTOXIMETERS:					205.00	
JAMES IMAGING SYSTEMS INC						
4617	JAMES IMAGING SYSTEMS INC	9466115	GEN ADMN/COPIER	04/07/2010	383.14	100-51450-244
4617	JAMES IMAGING SYSTEMS INC	9466115	GEN ADMN/COPIES	04/07/2010	67.72	100-51400-310
4617	JAMES IMAGING SYSTEMS INC	9466115	COUNCIL/COPIES	04/07/2010	101.59	100-51100-310
4617	JAMES IMAGING SYSTEMS INC	9500394	FINANCE/COPIER LEASE	04/07/2010	272.12	100-51450-244
4617	JAMES IMAGING SYSTEMS INC	9500394	FINANCE/COPIES	04/07/2010	61.78	100-51500-310
4617	JAMES IMAGING SYSTEMS INC	9500395	POLICE/COPIER	04/07/2010	284.13	100-51450-244
4617	JAMES IMAGING SYSTEMS INC	9500395	POLICE/COPIES	04/07/2010	103.02	100-52100-310
4617	JAMES IMAGING SYSTEMS INC	9500396	DPW/PLANNING	04/07/2010	272.13	100-51450-244
4617	JAMES IMAGING SYSTEMS INC	9500396	DPW/COPIES	04/07/2010	134.52	100-53100-310
4617	JAMES IMAGING SYSTEMS INC	9500396	PLANNING/COPIES	04/07/2010	134.52	100-56300-310

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	GL Account Number
Total JAMES IMAGING SYSTEMS INC:					1,814.67	
JIMMY JOHN'S						
2067	JIMMY JOHN'S	2010-70	RESCUE/OPERATING SUPPLIE	04/07/2010	94.25	100-52300-340
Total JIMMY JOHN'S:					94.25	
KAESTNER AUTO ELECTRIC CO						
2836	KAESTNER AUTO ELECTRIC C	112858	STREET/REPAIR PARTS	04/07/2010	25.99	100-53230-352
Total KAESTNER AUTO ELECTRIC CO:					25.99	
LAB SAFETY SUPPLY INC						
368	LAB SAFETY SUPPLY INC	1015019816	STREET/TYVEK COVERALLS F	04/07/2010	206.88	100-53230-340
Total LAB SAFETY SUPPLY INC:					206.88	
LAKESIDE INTERNATIONAL TRUCKS						
3670	LAKESIDE INTERNATIONAL TR	73556	STREET/REPAIR PARTS	04/07/2010	146.37	100-53320-353
3670	LAKESIDE INTERNATIONAL TR	73689	STREET/REPAIR PARTS	04/07/2010	138.71	100-53320-353
3670	LAKESIDE INTERNATIONAL TR	73869	STREET/REPAIR PARTS	04/07/2010	129.33	100-53320-353
3670	LAKESIDE INTERNATIONAL TR	74016	STREET/REPAIR PARTS	04/07/2010	125.93	100-53320-353
3670	LAKESIDE INTERNATIONAL TR	CM72537	STREET/CREDIT	04/07/2010	150.00	100-53320-353
Total LAKESIDE INTERNATIONAL TRUCKS:					390.34	
LAWSON PRODUCTS INC						
289	LAWSON PRODUCTS INC	8977713	STREET/SHOP SUPPLIES	04/07/2010	262.90	100-53230-340
Total LAWSON PRODUCTS INC:					262.90	
LEE RECREATION LLC						
1821	LEE RECREATION LLC	8303	LEE RECREATION/PLAYGROU	04/07/2010	19,527.00	245-56120-822
Total LEE RECREATION LLC:					19,527.00	
MADISON SPRING CO INC						
1005	MADISON SPRING CO INC	68611	STREET/#4 SPRING REPAIRS	04/07/2010	807.06	100-53320-353
Total MADISON SPRING CO INC:					807.06	
MARION BODY WORKS INC						
1656	MARION BODY WORKS INC	M83296	FIRE/CHASSIS	04/07/2010	170,547.00	210-52200-820
Total MARION BODY WORKS INC:					170,547.00	
MEYER'S AUTO SUPPLY						
176	MEYER'S AUTO SUPPLY	176-040710	FIRE/EQUIPMENT REPAIRS	04/07/2010	41.28	100-52200-242
Total MEYER'S AUTO SUPPLY:					41.28	
MIDSTATE EQUIPMENT-JANESVILLE						
1470	MIDSTATE EQUIPMENT-JANES	190124	PARKS/EQUIPMENT REPAIR PA	04/07/2010	120.98	100-53270-242
Total MIDSTATE EQUIPMENT-JANESVILLE:					120.98	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	GL Account Number
MORRISON'S AUTO INC						
5006	MORRISON'S AUTO INC	53642	STREET/REPAIR PARTS #17	04/07/2010	50.00	100-53230-352
Total MORRISON'S AUTO INC:					50.00	
MUNICIPAL ENVIRONMENTAL GROUP						
2309	MUNICIPAL ENVIRONMENTAL	2010DUES	WASTEWATER/PROFESSIONAL	04/07/2010	1,351.20	620-62820-219
Total MUNICIPAL ENVIRONMENTAL GROUP:					1,351.20	
NAT'L CRIME PREVENTION						
716	NAT'L CRIME PREVENTION	82298	POLICE ADMN/COUNTERACT	04/07/2010	341.47	100-52100-220
716	NAT'L CRIME PREVENTION	83148	POLICE ADMN/COUNTERACT	04/07/2010	291.08	100-52100-220
Total NAT'L CRIME PREVENTION:					632.55	
NORTH WOODS SUPERIOR CHEMICAL						
1947	NORTH WOODS SUPERIOR CH	21544	WASTEWATER/REPAIRS & SUP	04/07/2010	120.47	620-62860-357
1947	NORTH WOODS SUPERIOR CH	21569	WASTEWATER/REPAIRS & SUP	04/07/2010	126.52	620-62860-357
Total NORTH WOODS SUPERIOR CHEMICAL:					246.99	
OFFICE DEPOT						
4146	OFFICE DEPOT	510219126001	POLICE ADMN/CREDIT	04/07/2010	224.99	100-52110-310
4146	OFFICE DEPOT	510856226001	POLICE ADMN/OFFICE SUPPLI	04/07/2010	29.40	100-52100-310
4146	OFFICE DEPOT	511612412001	POLICE INV/PHOTO	04/07/2010	38.94	100-52120-359
4146	OFFICE DEPOT	511612412001	POLICE ADMN/OFFICE SUPPLI	04/07/2010	197.20	100-52100-310
4146	OFFICE DEPOT	511949648001	POLICE ADMN/OFFICE SUPPLI	04/07/2010	238.52	100-52100-310
4146	OFFICE DEPOT	512387284001	WASTEWATER/OFFICE SUPPLI	04/07/2010	78.04	620-62820-310
4146	OFFICE DEPOT	512780770001	FINANCE/OFFICE SUPPLIES	04/07/2010	370.00	100-52500-310
Total OFFICE DEPOT:					727.11	
OVERHEAD GARAGE DOOR						
4478	OVERHEAD GARAGE DOOR	D 38326	WASTEWATER/REPAIRS & SUP	04/07/2010	3,070.00	620-62860-357
Total OVERHEAD GARAGE DOOR:					3,070.00	
PDR DISTRIBUTION LLC						
4202	PDR DISTRIBUTION LLC	B01496906-2	POLICE PATROL/OPERATING S	04/07/2010	12.95	100-52110-340
Total PDR DISTRIBUTION LLC:					12.95	
PER MAR SECURITY SERVICES						
260	PER MAR SECURITY SERVICES	487345	WHITE BLDG/BLDG REPAIRS	04/07/2010	175.50	100-51600-245
Total PER MAR SECURITY SERVICES:					175.50	
PIONEER PRODUCTS INC						
4674	PIONEER PRODUCTS INC	SI-56638	FIRE/OPERATING SUPPLIES	04/07/2010	1,359.12	100-52200-340
Total PIONEER PRODUCTS INC:					1,359.12	
PORTER LEE CORPORATION						
2705	PORTER LEE CORPORATION	8976	POLICE INV/PROFESSIONAL S	04/07/2010	507.50	100-52120-219
Total PORTER LEE CORPORATION:					507.50	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	GL Account Number
POWERPHONE INC						
1330	POWERPHONE INC	27256	POLICE DISPATCH/TRAINING	04/07/2010	418.00	100-52600-154
1330	POWERPHONE INC	27354	POLICE DISPATCH/TRAINING	04/07/2010	209.00	100-52600-154
Total POWERPHONE INC:					627.00	
RADIATOR EXCHANGE						
1456	RADIATOR EXCHANGE	23631	STREET/#19 FUEL TANK	04/07/2010	99.37	100-53230-352
Total RADIATOR EXCHANGE:					99.37	
RICOH AMERICAS CORP						
90	RICOH AMERICAS CORP	11244915	RESCUE/COPIER	04/07/2010	60.61	100-52300-310
90	RICOH AMERICAS CORP	11244916	FIRE/COPIER	04/07/2010	27.39	100-52200-310
90	RICOH AMERICAS CORP	11271191	WATER/COPIER	04/07/2010	25.91	610-61903-310
Total RICOH AMERICAS CORP:					113.91	
RYDIN DECAL						
4649	RYDIN DECAL	250326	DOWNTOWN PARKING PERMIT	04/07/2010	653.41	208-51920-650
Total RYDIN DECAL:					653.41	
SCHENK-HUEGEL CO						
72	SCHENK-HUEGEL CO	199589	FIRE/OPERATING SUPPLIES	04/07/2010	122.50	100-52200-340
Total SCHENK-HUEGEL CO:					122.50	
SCHOPEN, THOMAS						
587	SCHOPEN, THOMAS	0410MEALS	RESCUE/MEALS	04/07/2010	28.18	100-52300-154
587	SCHOPEN, THOMAS	0410-POSTAG	RESCUE/POSTAGE	04/07/2010	4.34	100-52300-310
Total SCHOPEN, THOMAS:					32.52	
ST MARY'S DEAN VENTURES INC						
2068	ST MARY'S DEAN VENTURES I	543912589	FIRE/CHRISTONSON	04/07/2010	224.00	100-52200-340
Total ST MARY'S DEAN VENTURES INC:					224.00	
STA-LITE CORP						
102	STA-LITE CORP	4387	WHITE BLDG/BLDG MAINTENA	04/07/2010	165.00	100-51600-355
Total STA-LITE CORP:					165.00	
STATE BAR OF WISCONSIN						
129	STATE BAR OF WISCONSIN	391055	COURT/CHILDREN & JUVENILE	04/07/2010	51.75	100-51200-330
Total STATE BAR OF WISCONSIN:					51.75	
STREICHER'S						
345	STREICHER'S	I719343	DAAT/FIREARMS	04/07/2010	25.00	100-52110-360
345	STREICHER'S	I719462	DAAT/FIREARMS	04/07/2010	1,972.00	100-52110-360
345	STREICHER'S	I719563	DAAT/FIREARMS	04/07/2010	14.00	100-52110-360
Total STREICHER'S :					2,011.00	
SWEETSPOT, THE						
4353	SWEETSPOT, THE	1002	CDA/1ST TIME HOMEBUYER W	04/07/2010	48.95	900-56500-341

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	GL Account Number
Total SWEETSPOT, THE:					48.95	
TELVENT DTN						
5788	TELVENT DTN	3012524	EM GOV/CONTRACTUAL SVC	04/07/2010	3,816.00	100-52500-295
Total TELVENT DTN:					3,816.00	
TOURISM COMMITTEE						
1416	TOURISM COMMITTEE	4TH QUARTE	LEGISLATIVE/ROOM TAX	04/07/2010	7,239.86	100-51100-715
Total TOURISM COMMITTEE:					7,239.86	
TRAFFIC & PARK CONTROL INC						
96	TRAFFIC & PARK CONTROL IN	336478	STREET/TRAFFIC CONTROL	04/07/2010	128.00	100-53300-354
Total TRAFFIC & PARK CONTROL INC:					128.00	
UW WHITEWATER						
8	UW WHITEWATER	12590	PARKS/MAINTENANCE SUPPLI	04/07/2010	113.08	100-53270-359
8	UW WHITEWATER	12590	LIBRARY/OFFICE SUPPLIES	04/07/2010	103.02	220-55110-310
8	UW WHITEWATER	12590	WASTEWATER/OPERTING SUP	04/07/2010	91.29	620-62840-340
8	UW WHITEWATER	12590	GEN BLDG/BLDG MAINTENANC	04/07/2010	11.31	100-51600-355
8	UW WHITEWATER	12658	DPW/SUMMERSEASONAL AD	04/07/2010	19.75	100-53300-310
8	UW WHITEWATER	12658	PARKS/SUMMER SEASONAL A	04/07/2010	19.75	100-53270-310
Total UW WHITEWATER:					358.20	
VORPAGEL SERVICE INC						
41	VORPAGEL SERVICE INC	26872	SAFETY BLDG/HEAT & AIR	04/07/2010	1,664.00	100-51600-244
41	VORPAGEL SERVICE INC	VARIETY	LIBRARY/BLDG HTG & AIR CON	04/07/2010	1,592.85	100-55111-244
Total VORPAGEL SERVICE INC:					3,256.85	
WALMART COMMUNITY						
1507	WALMART COMMUNITY	1507-040710	SENIORS/VAN COOLER	04/07/2010	13.88	100-46733-55
1507	WALMART COMMUNITY	1507-040710	GEN ADMN/ELECTION SUPPLIE	04/07/2010	76.17	100-51400-310
1507	WALMART COMMUNITY	1507-040710	FINANCE/OFFICE SUPPLIES	04/07/2010	33.00	100-51500-310
1507	WALMART COMMUNITY	1507-040710	POLICE ADMN/OPERATING SU	04/07/2010	150.98	100-52100-340
1507	WALMART COMMUNITY	1507-040710	POLICE PATROL/VEHICLE REP	04/07/2010	29.12	100-52110-241
1507	WALMART COMMUNITY	1507-040710	POLICE PATROL/OPERATING S	04/07/2010	4.44	100-52110-340
1507	WALMART COMMUNITY	1507-040710	RESCUE/OPERTING SUPPLIES	04/07/2010	85.37	100-52300-340
1507	WALMART COMMUNITY	1507-040710	NEIGHBORHOOD SVC/PAPER T	04/07/2010	12.24	100-52400-310
1507	WALMART COMMUNITY	1507-040710	REC/NAME TAGS	04/07/2010	3.88	100-55210-310
1507	WALMART COMMUNITY	1507-040710	REC/CREATIVE KIDS SUPPLIES	04/07/2010	85.39	100-55300-341
1507	WALMART COMMUNITY	1507-040710	CABLE/PRINTING	04/07/2010	67.97	200-55110-342
1507	WALMART COMMUNITY	1507-040710	LIBRARY/OFFICE SUPPLIES	04/07/2010	241.22	220-55110-310
1507	WALMART COMMUNITY	1507-040710	LIBRARY/JUVENILE PROGRAM	04/07/2010	38.54	220-55110-342
1507	WALMART COMMUNITY	1507-040710	WATER/USB DRIVE	04/07/2010	29.76	610-61921-310
1507	WALMART COMMUNITY	1507-040710	WASTEWATER/OFFICE SUPPLI	04/07/2010	15.03	620-62820-310
1507	WALMART COMMUNITY	1507-040710	CDA/FIRST TIME HOMEBUYER	04/07/2010	14.19	900-56500-341
Total WALMART COMMUNITY :					901.18	
WATER ENVIRONMENT FEDERATION						
535	WATER ENVIRONMENT FEDER	2000523762	WASTEWATER/EMPLOYEE TR	04/07/2010	65.00	620-62820-154

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	GL Account Number
Total WATER ENVIRONMENT FEDERATION :					65.00	
WE ENERGIES						
25	WE ENERGIES	25-040710	CITY/ELECTRIC	04/07/2010	4,825.06	100-51600-222
25	WE ENERGIES	25-040710	WASTEWATER/LIFT STATIONS	04/07/2010	798.63	620-62830-222
25	WE ENERGIES	25-040710	WASTEWATER/GAS	04/07/2010	5,300.91	620-62840-224
Total WE ENERGIES:					10,924.60	
WEDIGE AUTOMOTIVE						
5789	WEDIGE AUTOMOTIVE	123815	WASTEWATER/REPAIRS & SUP	04/07/2010	462.86	620-62890-357
Total WEDIGE AUTOMOTIVE:					462.86	
WHITEWATER CHAMBER OF COMMERCE						
628	WHITEWATER CHAMBER OF C	EMAIL	MARCH 25 AWARDS DINNER	04/07/2010	35.00	900-56500-341
Total WHITEWATER CHAMBER OF COMMERCE:					35.00	
WHITEWATER FIRE DEPT						
284	WHITEWATER FIRE DEPT	284-040710	FIRE/OPERATING SUPPLIES	04/07/2010	75.00	100-52200-340
284	WHITEWATER FIRE DEPT	284-040710	FIRE/OFFICE SUPPLIES	04/07/2010	87.55	100-52200-310
Total WHITEWATER FIRE DEPT:					162.55	
WHITEWATER GLASS CO INC						
408	WHITEWATER GLASS CO INC	0410-STATEM	STREET/MIRROR REPAIR	04/07/2010	60.00	100-53230-352
Total WHITEWATER GLASS CO INC:					60.00	
WI PARK & RECREATION ASSOC						
66	WI PARK & RECREATION ASSO	2010TRAVEL	PARKS/NASS CONFERENCE	04/07/2010	90.00	100-53270-154
66	WI PARK & RECREATION ASSO	2010TRAVEL	REC/AMUNDSON CONFERENC	04/07/2010	90.00	100-55210-154
Total WI PARK & RECREATION ASSOC:					180.00	
ZARNOTH BRUSH WORKS INC						
419	ZARNOTH BRUSH WORKS INC	0126614	ST CLEANING/SWEEPER REPAI	04/07/2010	304.30	630-63310-353
Total ZARNOTH BRUSH WORKS INC:					304.30	
Grand Totals:					262,640.87	

Dated: 3/31/10

Finance Director: Carrie M DeKemper

Report Criteria:

- Detail report.
- Invoices with totals above \$0.00 included.
- Paid and unpaid invoices included.

**RESOLUTION ADOPTING A
BUY AMERICAN POLICY**

WHEREAS, the economic downturn is having a critical impact on everyday Americans who are struggling to maintain or find jobs in a difficult economic environment; and

WHEREAS, those same Americans are the taxpayers that provide the revenue needed to operate essential government services; and

WHEREAS, our taxpayer dollars should be spent to maximize the creation of American jobs to help restore the economic vitality of our communities; and

WHEREAS, domestically produced products that are purchased with City of Whitewater funds will immediately help struggling American families, and will help stabilize our greater economy; and

WHEREAS, municipal spending, to every extent possible, should include a commitment to buy materials, goods and supplies that are produced within the United States, thus employing the workers who pay taxes for municipal purposes.

Now, therefore, **BE IT RESOLVED**, that the City of Whitewater shall, to the extent feasible, buy products and supplies, including automobiles, made in the United States of America, or those products with the greatest percent of American-made content. The City recognizes, and will continue to follow, all state bidding laws to be good stewards of the public's finances in its attempt to purchase American made products. The City staff is hereby directed to use reasonable effort to research the percent of American-made content of any item that is purchased by the City of Whitewater with a cost of greater than \$1,000.00, and shall consider that information, consistent with the policy set forth herein, when making purchase decisions or recommendations to the City Council for purchase of property.

Resolution introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

ADOPTED:

RESOLUTION AUTHORIZING PARTICIPATION
IN THE WisWARN MUTUAL AID AND ASSISTANCE PROGRAM

WHEREAS, Wis. Stats. §66.0301, authorizes a municipality to enter into an agreement with other municipalities for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law; and

WHEREAS, pursuant to Wis. Stats. §66.0301, Wisconsin municipalities together seek to create and participate in an intrastate program for mutual aid and assistance for water and wastewater systems called WisWARN; and

WHEREAS, the purpose of WisWARN is to provide for cooperation and coordination of activities relating to emergency and disaster mitigation, preparedness, response, and recovery for municipal water and wastewater systems; and

WHEREAS, WisWARN is established by municipalities adopting the WisWARN Mutual Aid and Assistance Agreement pursuant to Wis. Stats. §66.0301 and becoming a member of WisWARN; and

WHEREAS, the governing body of City of Whitewater considers it to be in the best interests of the City to be a party to the WisWARN Mutual Aid and Assistance Agreement.

NOW, THEREFORE, BE IT RESOLVED, that City of Whitewater:

1. Authorizes City Manager to sign the WisWARN Mutual Aid and Assistance Agreement, and deliver it to (a) the Chair of the WisWARN Steering Committee, or (b) if the WisWARN Steering Committee has not yet been established, the Wisconsin Department of Natural Resources, c/o Gabrielle Petersen, Water Security Specialist, 101 S. Webster Street, P.O. Box 7921 – DG/5, Madison, WI 53707-7921; and
2. Agrees the City of Whitewater will comply with all terms of the Agreement.

Resolution introduced by _____, who moved its adoption. Seconded by

AYES:

NOES:

ABSENT:

ADOPTED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

MEMORANDUM

To: Kevin Brunner, City Manager
Fr: Dean Fischer, Director of Public Works
Date: March 31, 2010



Subject: WisWarn Membership

Attached please find resolution for the City Water and Wastewater Utilities to join WisWARN a mutual aid response network.

Also attached is a brochure that explains the purpose and benefits of joining WisWARN.

DPW staff discussed the merits of joining and determined it would be in the best interest of the City to join. Being part of a state wide mutual aid organization provides the City with more resources should an emergency happen.

DPW recommends the Council approve joining WisWARN for the Water and Wastewater Utilities.

Please place this on the Council's April 8 agenda for consideration.

C: Rick Lien, Water Supt.
Tim Reel, Wastewater Supt.

Mission Statement:

The mission of WisWARN is to support and promote statewide emergency preparedness, disaster response, and mutual aid assistance for Water and Wastewater organizations for natural and manmade events.

Sponsors:

- CSWEA - Wisconsin Section
- MEG - Water Division
- MEG - Wastewater Division
- Wisconsin Water Association
- Wisconsin Wastewater Operator's Association
- Wisconsin Alliance of Cities
- League of Wisconsin Municipalities

Supporting Agencies

- Dept of Natural Resources
- Dept of Emergency Management
- Public Service Commission



[Http://www.wiswarn.org](http://www.wiswarn.org)



Mutual Aid Response Network Member Benefits:

- Mutual aid agreements.
- Searchable web-based equipment inventories.
- Enhanced access to specialized resources.
- Expedited arrival of aid.
- Reduced administrative conflict.

WisWARN.org

Dan Lynch, WisWARN Chair
City of Janesville
123 E. Delavan Drive
Janesville, WI 53546

Phone: 608-755-3115
Fax: 608-755-3125
Email: lynchd@ci.janesville.wi.us

Utilities
Helping
Utilities

Mutual Aid Response Network



Wisconsin
Water/Wastewater
Agency
Response
Network

WisWARN is a Voluntary Mutual Aid Response Network for Wisconsin Water and Wastewater Organizations

WisWARN.org

What is the purpose of WisWARN?

The purpose of WisWARN is to provide a network where water and wastewater organizations can locate emergency assistance in the form of personnel, equipment, supplies and materials and other needed resources. The objective is to provide rapid, short-term deployment of emergency services to recover from:

Natural Disasters —

Tornados, high winds, floods, ice storms, lighting & thunder storms, regional electrical outages, pandemic, etc.

Manmade Disasters —

Significant accidents, vandalism, hazardous materials release, riots, or terrorist attacks.

The establishment of a statewide mutual aid and assistance network is a core principle of National Preparedness.

How Does a Community Join WisWARN?

Is my community required to join WisWARN?

WisWARN is a voluntary program. You join to help your community.

What if my community can't respond during a disaster?

Signing the mutual aid agreement does not obligate your organization to provide emergency assistance to any organization during any emergency. Each request for assistance is separate and independent from all others.

How do I join WisWARN?

Step 1: Go to the WisWARN website:

<http://www.WisWARN.org>.

Step 2: Click on the Join WisWARN button and complete the requested information.

Step 3: Print the WisWARN mutual aid agreement and membership resolution and take them to your governing board or council so they can authorize your organization's participation.

Step 4: Return the signed agreement and resolution to WisWARN.

Step 4: Log-in to the WisWARN website. Fill out the member's login information page, emergency contact and equipment database information.

Benefits of a Statewide Mutual Aid Program

- Creates one uniform statewide mutual aid program for all municipal Water and Wastewater utilities.
- Facilitates coordinated regional emergency responses.
- Effectively utilizes resources (manpower and equipment)
- Provides access to statewide and regional experts from a variety of local organizations.
- Expedites responses because mutual aid agreements are signed in advance of a disaster.
- Facilitates federal reimbursements if disaster funds become available (mutual aid agreements are required to receive federal funds).
- Reassures your public by helping to maintain continuity of vital service during emergencies.

WisWARN.org

Dan Lynch, WisWARN Chair
City of Janesville
123 E. Delavan Drive
Janesville, WI 53546

Phone: 608-755-3115
Fax: 608-755-3125
Email: lynchd@ci.janesville.wi.us

**ORDINANCE NO. _____
AN ORDINANCE CHANGING THE NAME
OF INDIAN MOUNDS PARK TO THE
WHITEWATER ARCHEOLOGICAL MOUNDS PRESERVE**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 12.50, is hereby created to read as follows:

12.50 Indian Mounds Park Name Change. The park commonly known as Indian Mounds Park in the City of Whitewater shall from the time of the passage of this ordinance be called Whitewater Archeological Mounds Preserve. All references to the Indian Mounds Park in this code shall be construed to refer to the Whitewater Archeological Mounds Preserve.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

ADOPTED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

18a

ORDINANCE NO. _____
AN ORDINANCE AMENDING SUBSECTION 5.20.027(A)
STANDARDS FOR REVIEWING ALCOHOL LICENSE APPLICATIONS
(04-05-10)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

Section 1: Whitewater Municipal Code, Chapter 5, Subsection 5.20.027(A), is hereby amended to read as follows:

5.20.027 Licensing Standards for Considering New Alcohol License Applications.

A. Alcohol License Review Committee review. All new (as opposed to renewal) applications for open "Class A" sale of intoxicating liquor to consumers in original packages for off premises consumption licenses, and open "Class B" sale of intoxicating liquor to consumers by the glass for on premises consumption licenses, shall be reviewed by the Alcohol License Review Committee (at times hereafter referred to as the ALRC) before the application is acted upon by the Common Council. The ALRC shall recommend that the Council grant, deny, or grant with conditions each license. The Common Council shall consider the recommendation of the ALRC when considering license applications. The term "open" in this subsection shall mean an application for a license that has not been issued for at least 24 hours, and therefore is an open and available license. This section is not intended to apply when a license holder surrenders a license pursuant to a contract to transfer the business associated with the license, and the same license is issued immediately to the purchasing party.

Ordinance introduced by Councilmember _____, who moved its adoption.

Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

ADOPTED:

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ORDINANCE NO. _____
AN ORDINANCE AMENDING CHAPTER 2.04
ADMINISTRATIVE ORGANIZATION
(04/06/10)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 2.04 is hereby amended to read as follows:

2.04.010 Organization of City--Administrative Departments.

(a) The city is organized under the city manager plan of government with a council composed of seven members, one councilperson from each aldermanic district in the city and two councilpersons at large.

(b) The administrative services and functions of the city under the City Manager are organized into ~~four~~ separate departments as follows:

(1) Department of Administration. The department of administration shall be under the supervision of the City Manager and shall be composed of the following: ~~divisions:~~ Assessor Assessing division, Finance treasury division, office of City Clerk-comptroller, Office of City Attorney, ~~Human Resources Division, Cable Television Division~~ Office of City Chief Information Officer, Office of City Community TV/Media Services, Office of City Assessor and other offices that may be established from time to time.

(2) Department of Public Works. The Department of Public Works shall be under the supervision of the Director of Public Works who shall be the City Manager, or his designee, and it shall be composed of the following divisions: Division of Streets and Sewers, and division of parks and recreation ~~Division of Waterworks, division of public buildings, division of parking meters.~~

(3) ~~Department of Public Safety. The department of public safety shall be under the supervision of the city manager and shall be composed of the following divisions: Division of fire, Division of Police, Division of Building Inspection.~~

(3) Department of Parks & Recreation. The Department of Parks and Recreation shall be under the supervision of the Parks and Recreation Director, who shall be appointed by the City Manager.

(4) ~~Department of Police~~ Department. The Police Department shall be under the supervision of the Chief of Police.

(5) Department of Neighborhood Services. The Department of Neighborhood Services shall be under the supervision of the City Manager and shall be composed of the

following divisions: Code Enforcement, Public Buildings, Zoning and Planning.

~~(7) Department of Public Health. The Department of Public Health shall be under the supervision of the City Manager and shall be composed of the following divisions: Division of public health officer, division of public health nursing.~~

(c) The City Manager shall, by appointment, transfer, or designation, provide for the administration of the city departments, as hereinbefore set forth, by department heads who shall be responsible for the operation of their respective departments, as herein set forth.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

DATED:

ORDINANCE NO. _____
AN ORDINANCE AMENDING CHAPTER 2.08
CITY COUNCIL
(4/2/2010 2:56 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 2.08 is hereby amended to read as follows:

2.08.005 Councilmembers.

(a) There shall be one councilmember from each aldermanic district in the city together with two councilmembers to be elected at large from the city. The councilmembers shall be divided into two classes: One class from the even-numbered aldermanic districts, together with one councilmember at large, to be elected in the even-numbered years; the other class consisting of the councilmembers from the odd-numbered aldermanic districts, together with the other councilmember at large, to be elected in the odd-number years.

(b) The terms of office of councilmembers shall be two years, except as otherwise set forth herein.

2.08.010 Meetings.

(a) The regular sessions of the city council shall be held on the first and third Tuesdays in each month, commencing at six-thirty in the evening. If any Council meeting falls on an election day or on a Holiday, the Council Meeting for that day shall be held on the Thursday following the first or third Tuesday in the month, at six-thirty p.m. Special meetings may be called, as provided by the Wisconsin Statutes. A city council meeting may be cancelled or set at a date other than is set forth in this section if said cancellation or date change is approved by a majority of the city council members voting. There shall, however, be at least one meeting of the council each month.

(b) The city council meetings shall be conducted in accordance with the following guidelines:

(1) The agenda shall be established under the authority of the city manager. Councilmembers who wish to have agenda items addressed need to make their request no later than twelve noon on the Tuesday prior to the common council meetings. The city manager shall honor all legal requests of councilmembers.

(2) Consent Agenda. A consent agenda item that recommends expedited approval of appropriate resolutions, ordinances and considerations, per the recommendation of the city manager may be included. At the request of a councilmember, any consent agenda item shall be removed, discussed and acted upon individually.

~~(3) Reports of Boards, Commissions and Staff. The city staff and members of commissions and boards will be given an opportunity to make a report concerning their activities.~~

(3) Period of Public Comment. The period of public comment is a time set aside for the purpose of allowing the council to receive information from the public concerning matters that are not on the meeting agenda. Pursuant to Wisconsin Statutes 19.82(2), no decisions shall be made on matters addressed during this period. The council president should inform the public that the purpose of the public comment period is limited and, if any action is requested, the matter must be put on the council agenda of a future meeting for consideration. Comments by any one member of the public shall be limited to three minutes. Repetitious statements should be discouraged, except when they are declarations of support of a prior speaker's comments. Personal attacks are inappropriate.

(4) Order of Business. The following shall be the order of business:

(A) Common council president reads the agenda title;

(B) The city manager, staff and/or city consultant may give a brief introduction to the issue (if necessary);

(C) Immediately after introduction of the agenda item, at the option of any councilmember, a motion may be made and seconded prior to any additional statements regarding the agenda item. If this procedure is used, public input and discussion of the agenda item shall take place after the second. If there is not an immediate motion made and seconded, public comment and further discussion of the matter will proceed. During this period a councilmember may, at any time, make a motion concerning the matter. The council president shall attempt to make certain that any member of the public wishing to speak on the issue has an opportunity to be heard before a final vote is taken;

(D) There shall be a three-minute limit placed on each speaker from the general public. If necessary, requests shall be made to speakers not to make comments that are similar to prior public input about the same issue, unless the comments are a declaration of support of a prior speaker's statements.

(5) Official Public Hearings. Guidelines should be printed and distributed prior to each hearing to any citizen who wishes to participate. Conduct of the public hearing:

(A) The common council president shall call the hearing to order, summarize the need for the hearing, review the public hearing meeting guidelines and, if necessary, allow the city manager, staff or city consultant to make a presentation.

(B) The public hearing guidelines for the public input portion of the hearing shall include a five-minute time limit. There shall be a request of speakers not to make redundant comments unless the speaker is declaring his or her support of a prior speaker's comments. As much as possible, speakers shall be called upon to make comments first in support

of and then in opposition to the public hearing proposal in alternating order. The president shall have the authority to give time extensions to a speaker, if in the judgment of the president the speaker needs more time to clarify his/her position.

(C) Questions from the common councilmembers are appropriate; however, comments from the councilmembers should be held in reserve until after the public input portion of the hearing is closed.

(D) Citizen participants in the public hearing should not debate the issues directly with councilmembers, staff, or other members of the audience.

(E) The council president will then declare the public input portion of the hearing closed and council discussion shall begin. Discussions of agenda items related to the public hearing will not include input from the public unless reasonably solicited by a councilmember.

2.08.020 Presiding officer.

(a) President to Preside. The president of the council, who shall be elected at the first ~~regular~~ meeting after the election of new councilmembers (2nd regularly scheduled meeting in April), shall at the hour stated call the meeting to order. At the first meeting of each year, the council shall also elect a president pro tem who shall act as president in the absence of the regular president. If a president is unable or unwilling to serve permanently a new president shall be elected, rather than the president pro tem automatically becoming president. In case of absence of the president of the council, the clerk shall call the meeting to order and the councilmen present shall elect one of their number president pro tem.

(b) Duties. The presiding officer shall preserve order and decorum, decide all questions of order, and conduct the proceedings of the meeting in accordance with the parliamentary rules contained in Robert's Rules of Order, unless otherwise provided by statute or by these rules. Any member shall have the right to appeal from a decision of the presiding officer. An appeal shall be sustained by a two-third vote of the members present exclusive of the presiding officer.

2.08.030 Roll call—Quorum.

(a) Roll Call—Procedure When Quorum Not in Attendance. As soon as the council is called to order, the clerk shall proceed to call the names of the members in order of aldermanic district alphabetical order, noting who are present and who are absent and record the same in the proceedings of the council. If it shall appear that there is not a quorum present, the fact shall be entered ~~on the journal in the minutes~~ and the council may adjourn, or the presiding officer or, in case of his absence, the president pro tem, and in his or her absence, the clerk may issue a request to appear in writing, to be delivered by a police officer or other city employee, requesting the immediate presence of any absent councilmember. process to any constable or police officer commanding he/she him forthwith to summon the absentees.

(b) Quorum. ~~Four A majority of the members of the council shall constitute a quorum, and four votes a majority vote of all the members of the council shall be necessary to adopt any ordinance or resolution.~~

2.08.050 Conduct of deliberations.

The deliberations of the council shall be conducted in the following manner:

(1) When a motion is made and seconded, it should be stated by the president or read by the clerk previous to debate. All resolutions should be made and submitted in writing.

(2) When a question is under discussion, no action shall be in order, except: (A) to adjourn, (B) to lay on the table, (C) to move the previous question, (D) to postpone to a certain day, (E) to refer to a committee, (F) to amend, or (G) to postpone indefinitely. These motions shall have precedence in the order listed.

(3) Any member desirous of terminating the debate may move the previous question, in which event the presiding officer shall announce the question as "Shall the main question now be put?" If a majority of the members present vote in the affirmative, the main question shall be taken without further debate, its effect being to put an end to all debate, and to bring the council to a direct vote, first upon any pending amendments, and then upon the main question.

(4) A motion to adjourn shall always be in order, and a motion to adjourn, to lay on the table, and a call for the previous question shall be decided without debate.

(5) A roll call shall ~~not~~ be necessary on ~~any questions or motions except as follows:~~

(A) All votes on resolutions and ordinances;

(B) When the ayes and noes are requested by any member;

(C) On confirmation and on the adoption of any measure assessing or levying taxes, appropriating or disbursing money, or creating any liability or charge against the city or any fund thereof;

(D) When required by the statutes of Wisconsin;

(E) When voting on substantive and important government decisions.

(6) All aye and nay votes shall be recorded in the minutes journal.

(7) The council shall in all other respects determine the rules in its procedure, which shall be governed by Robert's Rules of Order as a general guideline, unless otherwise provided by ordinance or statute.

2.08.060 Reconsideration of questions.

When a question has been once decided, any member of the majority, or in case of a tie, any member voting in the affirmative, may move a reconsideration thereof, at the same or at the next succeeding meeting; but if a motion to ~~reconsider~~ consider ~~is~~ may be made on a day subsequent to that on which the original question was decided, ~~a vote of the majority of the entire council~~ four votes shall be required to sustain it.

2.08.070 Call of the council.

~~A call of the council shall be ordered at any time by request of two or more members, and absent members shall be sent for, but a call cannot be made after voting has commenced. When a call of the council has been requested and ordered, the door shall be closed until the report of the police officerman has been received and acted upon, or until further proceedings under the call are dispensed with by a majority of the whole council.~~

2.08.080 Disturbances and disorderly conduct.

Whenever any disturbance or disorderly conduct shall occur in any of the meetings of the common council, the president shall have power to cause the room to be cleared of all persons guilty of such disorderly conduct ~~except the councilmembers~~. In case any ~~councilmember~~ man shall be guilty of disorderly conduct, the president or presiding officer shall have power to request that order the police to take him or her into custody for the time being or until the meeting shall adjourn issue him or her a disorderly conduct citation. ~~Such member shall have the right to appeal from such order to the council as in other cases.~~

2.08.090 Appropriations and accounts.

All demands or accounts shall be acted upon at the time of presentation, unless one or more members shall demand a reference. In the latter case the accounts shall be referred to the city manager for investigation and report at the next meeting, unless the council by a two-thirds vote of all members present otherwise disposes of the same.

2.08.100 Publication, construction and effect of ordinances.

(a) All general ordinances of the city and all regulations imposing any penalty shall be published in the official paper of the city once and shall be immediately recorded, with the affidavit of publication, by the city clerk in a book kept for that purpose. A printed copy of any such ordinance or regulation in any book, pamphlet or newspaper, and published or purporting to be published therein by direction of the city council shall be prima facie proof of due passage, publication and recording thereof.

~~(b) Ordiannees shall be placed on the agenda and approved by the common council twice during two different council meetings, except for those ordinances or which a public hearing has been held before the plan and architectural review commission, which shall be placed on the council agenda and approved by the common council once at one council meeting. All~~

~~ordinances shall take effect and be in force from and after passage and publication, unless otherwise provided, and published copies thereof have appended the date of first publication.~~

(b) Ordinances shall be placed on the agenda and approved by the Common Council twice during two different Council meetings. The ordinance will not be adopted until the second approval. All ordinances shall take effect and be in force from and after passage and publication, unless otherwise provided, and published copies thereof have appended the date of first publication.

(c) The publication of all the ordinances of the city, as compiled by the city attorney, printed in either pamphlet or book form, is expressly authorized.

(d) The copies of ordinances, as printed and contained in this code shall be admitted in all courts and on all other occasions in the state as evidence according to and as provided by Section 327.04 of the Wisconsin Statutes.

2.08.110 Amendment of rules.

Amendments of Chapter 2.08 shall require a two-thirds vote of all of the members of the council. ~~These rules shall not be rescinded or amended unless the proposed amendment or motion to rescind has laid over from a regular meeting, and then it shall require a vote of two-thirds of all the members of the council.~~

2.08.120 Suspension of rules.

These rules shall not be suspended except by a two-thirds vote of all the members of the council. A vote to waive the second reading of an ordinance prior to passage requires a suspension of these rules and therefore a two-thirds vote.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

DATED:

ORDINANCE NO. _____
 AN ORDINANCE AMENDING CHAPTER 2.12
 CITY MANAGER
 (4/2/2010 3:00 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 2.12 is hereby amended to read as follows:

2.12.010 Executive and administrative powers.

The city manager shall have charge of the executive branch of the city government and shall possess and exercise all executive and administrative powers imposed and conferred by general law or special charter upon the mayor and common council and upon the various boards, commissions, and officers in force in this city at the time of its reorganization under Chapter 64 of the Wisconsin Statutes and shall, in addition thereto, have such powers as are imposed and conferred upon him under said Chapter 64 and by state law.

~~**2.12.011 Appointment of board, commission and committee members.**~~

~~(a) A nominations committee, comprised of the common council members who are not designated to be members of the board of review during the current year, shall review all board, commission, and committee applicants and recommend nominees to the common council.~~

~~(b) After considering the candidates nominated to the various boards, commissions and committees, the common council shall appoint the members of said boards, commissions, or committees.~~

2.12.011 Appointment of Board, Commission and Committee Members.

(a) The City Manager and the Common Council President shall review all board, commission and committee applicants and recommend nominees to the Common Council.

(b) After considering the candidates nominated to the various boards, commissions, and committees, the Common Council shall appoint the members of said boards, commissions, or committees.

2.12.020 Authority to make purchases.

The city manager shall have authority to make purchases and contract for services and supplies for up to Ten thousand Dollars (\$10,000) ~~seven thousand five hundred dollars~~ without the necessity of first securing approval from the common council. This authority is granted only on specifically budgeted items. This spending authority does not apply to the city's contingency account. All bids for public construction and for purchase of services and supplies costing in excess of ~~seven thousand five hundred dollars~~ shall be subject to council approval.

2.12.030 Administrative referral of properly filed rezoning petitions.

The city manager or his/her designee is authorized to accept and automatically refer to the plan and architectural review commission properly completed petitions to rezone property within the city limits.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

DATED:

ORDINANCE NO. _____
AN ORDINANCE AMENDING CHAPTER 2.16
DEPARTMENT OF ADMINISTRATION
(04-06-10)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 2.16 is hereby amended to read as follows:

2.16.010 Office of City Assessor ~~ing~~division.

The assessor division shall be supervised by the City Assessor, individual or corporate, who shall be appointed by the City Manager and confirmed by the Common Council. It shall be the duty of the City Assessor to perform all work in connection with the assessing of property and the preparation of all assessments as required by State law. Said firm or individual shall perform such other duties as directed by the City Manager. If a firm is appointed to be city assessor said firm shall comply with the provisions of Wisconsin Statutes Section 62.09(c). Prior to appointment, the contract with any ~~corporate~~ assessor shall be approved by the common council.

2.16.020 ~~Treasury~~ Finance Division.

(a) The Finance ~~treasury~~ Division shall be supervised by the Finance Director ~~city treasurer~~ who shall be appointed by the City Manager. It shall be the duty of the ~~city treasurer~~ Finance Director to collect and account for all taxes, license fees and other fees, accounts or charges due or owing to the city and such other duties as required by state law or by ordinance of the common council or by direction of the City Manager. In addition, it shall be the duty of the Finance Director to be responsible for the reporting of all city revenues and expenditures to federal and state agencies that require such reporting as well as for all Community Development Authority revenues and expenditures as required by the Community Development Authority Board of Directors.

(b) The city may require the City Treasurer to give a fidelity and surety bond which shall run to the city in an amount and upon such terms as shall be determined by the City Council. The premium of any bond furnished pursuant to this provision shall be paid by the city.

(c) Pursuant to Section ~~74.08~~ 74.09 of the Wisconsin Statutes, the City Treasurer is hereby authorized to print or stamp upon the tax receipts the separate proportion or rate of taxes levied for state, county, local, school and other purposes, and may where such method is used, carry the aggregate amount of state, county, local, school and other taxes in a single column on said tax receipt.

(d) A certified public accountant, duly licensed as such by the state of Wisconsin, shall be retained and hired by the city to make a full and complete examination and audit of the

treasurer's accounts and books within six months after the close of the accounts and books at the end of each fiscal year. The accountant shall attach to the accounts and books a report to the Common Council as to their correctness.

(e) The city elects not to give the bond on the municipal treasurer provided for by Section 70.67(1) of the Wisconsin Statutes until otherwise ordered by the common council.

(f) Pursuant to Section 70.67(2) of the Wisconsin Statutes, the city shall be obligated to pay, in case the treasurer thereof shall fail to do so, all state and county taxes required by law to be paid by such treasurer to the county treasurer.

2.16.030 Office of City Clerk-comptroller.

(a) The office of the City Clerk shall be under the supervision of the City Clerk who shall be appointed by the city manager.

~~(b) The office of the comptroller in and for the city shall be dispensed with and abolished and the duties of said office are hereby transferred to the office of the city clerk, and the city clerk is hereby charged with the performance of such duties.~~

(b) The City Clerk shall discharge all duties imposed upon him or her by Wisconsin statutes and by local ordinance or by direction of the City Council and/or City Manager.

(c) The city may require the City Clerk to give a fidelity and surety bond which shall run to the city in an amount and upon such terms as shall be determined by the Common Council. If the city demands such a bond, it shall pay the premium for the same.

2.16.040 Office of City Attorney.

The office of the City Attorney shall be under the supervision of the City Attorney who shall be appointed by the City Manager and shall be responsible for the conduct of all legal services for the city; shall serve as legal advisor to the council, City Manager, and all city departments and offices; and shall perform such other duties as may be required by the City Manager or City Council or as required by state law or local ordinance.

2.16.050 Office of Chief Information Officer.

The Office of Chief Information Officer shall be under the supervision of the City Chief Information Officer (CIO) who shall be appointed by the City Manager and shall be responsible for the administration of the internal computer and communication networks of the City as well as the development and integration of new technologies to improve city operations; and shall perform such other duties as may be required by the City Manager or City Council or as required by state law or local ordinance.

2.16.060 Office of Community TV and Media Services.

The Office of Community TV and Media Services shall be under the supervision of the Community TV and Media Services Manager who shall be appointed by the City Manager and shall be responsible for the operations of the Public and Educational Access community cable channels as well as City media services and communications; and shall perform such other duties as may be required by the City Manager or City Council or as required by state law or local ordinance.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

DATED:

ORDINANCE NO. _____
 AN ORDINANCE AMENDING CHAPTER 2.20
 DEPARTMENT OF PUBLIC WORKS
 (4/2/2010 3:04 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 2.20 is hereby amended to read as follows:

2.20.010 Director of Public Works.

The Department of Public Works shall be under the supervision of the Director of Public Works who shall be appointed by the City Manager ~~or his appointee~~; and the Director of Public Works may perform the functions and duties of the board of public works as designated in Section 62.14 of the Wisconsin Statutes; and whenever the Wisconsin Statutes or local ordinances refer to functions and duties of the board of public works, such duties or functions shall be performed by the Director of Public Works. The Director of Public Works shall have the authority, subject to City Manager approval, to appoint division superintendents as may be necessary to carry out the management responsibilities of the department.

2.20.030 Director of ~~Division of~~ Parks and Recreation.

(a) DIRECTOR OF PARKS AND RECREATION. The Department of Parks and Rereation shall be supervised by the director of parks and recreation, who shall be appointed by the City Manager.

(b) DUTIES OF DIRECTOR. The director shall ~~govern~~, manage, control, improve and care for all public parks, parkways, boulevards, ~~pleasure drives~~, and conservancy areas and buildings used for recreational activities in close coordination with the Director of Public Works. It shall be the duty of the director to conduct, ~~supervise~~, equip and ~~coordinate the maintenance of~~ public playgrounds, athletic fields, parks, swimming facilities, indoor recreation centers, and winter sport areas.

The director shall work with the appropriate bodies of the school district and the University of Wisconsin-Whitewater ~~local university~~ in an effort to use facilities to the best advantage of the residents of the city.

(c) SECRETARY OF PARK AND RECREATION BOARD. The director of parks and recreation shall be the Secretary of the Parks and Recreation Board, and exercise all executive and administrative powers imposed upon him or her.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

ORDINANCE NO. _____

ORDINANCE CREATING
CHAPTER 2.22 NEIGHBORHOOD SERVICES DEPARTMENT
(4/2/2010 3:07 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

Section 1: Whitewater Municipal Code, Chapter 2.22, is hereby created to read as follows:

2.22 Neighborhood Services Department.

2.22.010 DIRECTOR OF NEIGHBORHOOD SERVICES. The Department of Neighborhood Services shall be supervised by the Director of Neighborhood Services, who shall be appointed by the City Manager.

2.22.020 DUTIES OF DIRECTOR. The director shall govern, manage, control, improve and care for all public buildings other than those buildings used for recreational activities. It shall also be the duty of the director to oversee and supervise all code enforcement activities of the city as well as the contract management of city planning services. The director shall also be responsible for the issuance of all building permits and enforcement of the zoning ordinance and the building, plumbing, and electrical codes of the city. The director may, subject to the approval of the City Manager, appoint a qualified plumbing inspector and electrical inspector to assist in the duties of this office.

2.22.030 SECRETARY OF PLAN AND ARCHITECTURAL REVIEW COMMISSION. The director of neighborhood services shall be the secretary of the Plan and Architectural Review Commission, and exercise all executive and administrative powers imposed upon him or her.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

ORDINANCE NO. _____
 AN ORDINANCE AMENDING CHAPTER 2.24
 DEPARTMENT OF FIRE DEPARTMENT
 (4/2/2010 3:08 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 2.24 is hereby amended to read as follows:

ARTICLE 1. ~~DIVISION DEPARTMENT OF FIRE DEPARTMENT.~~

2.24.010 Generally.

The ~~division Department~~ of Fire ~~Department~~ shall be governed by the provisions of this Chapter.

2.24.020 Fire department--Membership.

The Fire Department shall consist of one chief, two assistant chiefs, and one captain and one lieutenant for each hose company and for each hook and ladder company, ~~three hose companies and one hook and ladder company with their proper officers, and one fire warden at large for the city. The chief shall also be chief fire warden.~~ The Fire Chief shall be th Chief Fire Warden and there shall be one Fire Warden at Large for the City.

2.24.030 Fire chief--Duties.

It shall be the duty of the chief to take charge of all fire apparatus and implements of the city, and of places where the same are kept. Under the direction of the city manager and the regulations of the common council he shall have full control and command of all fire companies and apparatus at fires and whenever on duty or in use and ~~may require any inhabitant to assist in drawing any apparatus to a fire~~ or in using the same or the removal or guarding of property at a fire. It shall be his duty to see that all implements and property of the fire department are kept in order and ready for immediate use; that the provisions of the waterworks ordinance and fire limits ordinance are complied with, and to report any delinquencies therein to the city manager. He shall maintain proper discipline among the firemen and all persons employed in the Fire Department, and may, with the approval of the City Manager and common council, adopt and enforce any lawful regulations and rules therefore.

(a) State Code Adopted. The flammable and combustible liquid code for the state of Wisconsin, issued by the Industrial Commission is incorporated as a part of this section and the fire chief is given authority to enforce said code.

2.24.040 Assistant chief--Duties.

The assistant chief shall aid the chief and obey his orders for the extinguishment of fires and preservation of property exposed at fires, and in the absence of the chief shall take command of the department and perform duties of the chief.

2.24.050 Absence of fire chief and assistant--Duties of firemen.

In case both the chief and assistant chief are absent from a fire, the city manager, or, in his absence, the fireman of the first company arriving may assume all the duties and exercise all powers of chief, or may designate any officer of the fire department to do so.

2.24.060 Fire department--Duties of company stewards.

The company stewards shall be custodians of all apparatus, implements and property of the fire department and shall keep a list and record of the same and the disposition thereof; keep the same in repair and ready for use; and account for the same. They shall report to the chief and be under his direction. They shall make a true inventory of all property of the department on hand on the first of January each year and report the same to the annual meeting of the members and shall file the same with the city clerk.

2.24.070 Fire Inspector Duties (the highlighted changes have already been passed by the council)

a) It shall be the duty of the Fire Inspector to inquire diligently as to the violation of any ordinance or regulation relating to the prevention of fires, or their growth and spread, and report findings to the Fire Chief, who shall act as chief Fire Inspector, any condition that would hinder the preservation of life and property. If, in the opinion of the Fire Inspector, a condition exists that is deemed unsafe or unfit, he or she shall order the cause thereof removed or abated. If the cause is not removed or abated within the time constraints set forth by the Fire Inspector, the person(s) responsible for the correction of the cause shall be subject to penalties set forth in this chapter.

b) Fire Inspectors may enter into any enclosure or building in their jurisdiction, except for the interior of private dwellings, at proper times as often as may be necessary; but not less than once a year, to execute the above listed duties as they pertain to code compliance. The owner or occupant of any premises who refuses to permit, prevents or interferes with entry into or upon any premises, or inspection activities themselves, by any inspector, shall be guilty of violating this chapter and shall be subject to penalties set forth in this chapter. If entry is denied to a public building or inspectable property as set forth in this code, the Fire Inspector may obtain a special inspection warrant under the Wisconsin Statutes. Upon the complaint of any person or whenever they shall deem necessary, fire inspectors may inspect any building or premises within their jurisdiction.

c) The Fire Chief and any Fire Inspector can issue an order to vacate all occupants forthwith of any property, building or area deemed unsafe that presents a significant life or safety hazard.

d) Any person who violates any provision of this section, or who fails to comply with any order made by a fire inspector within the time constraints set forth by a fire inspector, shall for each and every violation and noncompliance be subject to a forfeiture of not less than ten dollars (\$10.00), and no more than one hundred dollars (\$100.00). In addition, if a fire inspector issues orders to correct a violation or condition, and said violation or condition is not corrected on a subsequent visit by a fire inspector, the fire inspector shall have the power to issue re-inspection fees under Chapter 1.29 to the offending party.

e) This subsection shall not be construed to hold the City of Whitewater or any of its officers, employees or agents, including the Whitewater Fire Department, its members, or any of its inspectors liable while discharging their duties in good faith and acting without malice, by reason of (1) any inspection or re-inspection authorized herein, or (2) approval or disapproval of any condition noted on, in, or about any premises within its jurisdiction.

~~2.24.070 Fire warden duties.~~

~~It shall be the duty of the fire warden to inquire diligently as to the violation of any ordinance or regulation for the prevention of fires and he may enter into any enclosure or building or place at proper times to examine the same as to danger from fires; and if any place shall be in the opinion of any fire warden in danger from fire, he shall order the cause thereof removed or abated; and if not done without delay, he shall report the same to the city manager who shall take such action as may be proper and in case of immediate danger may cause the summary removal or abatement or disuse thereof. In case any such cause of danger shall remain after its removal has been ordered by a fire warden and after a penalty therefore has been duly imposed under any ordinance of this city and the same shall in the opinion of the city manager and the common council be or become a nuisance, it may be so declared by them by resolution and removed or abated summarily.~~

2.24.080 Fire apparatus outside city--Contracts authorized.

(a) The fire department may enter into contracts with surrounding townships for fire service and protection of the townships subject to the approval of the common council.

(b) The city manager and city clerk may enter into contracts for insurance to protect the city and its fire department from damages arising out of answering calls in surrounding townships which have a contract with the fire department approved by the common council, and to protect the city and its fire department from damages arising out of answering emergency calls in surrounding cities at the request of the fire departments of said cities.

2.24.090 Fire apparatus outside city--Contract approved.

(a) The contracts herewith submitted, entered into, by and between the volunteer fire department of Whitewater, and various surrounding townships; contracting for fire protection are hereby adopted and approved.

(b) Inasmuch as the fire truck and equipment to be used in the fighting of rural fires is to

be purchased by the fire department and paid for by it, all income and revenue derived from such contracts shall be paid to the Whitewater volunteer fire department.

(c) On account of the commercial benefit which will accrue from these contracts, the city agrees:

(1) To carry and pay for insurance which will protect the city and its fire department from damages arising out of answering a call in the country, whether the liability arises from injury to one of its own firemen, its apparatus, to other persons or their property,

(2) To house the apparatus for rural service and furnish the alarm when a call comes in from the country without charge to the fire department,

(d) The City Manager ~~mayor~~ and City Clerk are authorized and directed to execute the contracts with the townships for and in behalf of the city.

2.24.095 Ambulance services.

(a) The city shall provide the fire department with an ambulance, or ambulances, and accessory rescue equipment, as may be necessary to serve the city and such other municipalities in the area with whom the city may contract for ambulance services. The city shall provide insurance to protect the city and the fire department from damages arising out of answering ambulance calls authorized by this section.

(b) The city manager and city clerk may enter into contracts with surrounding municipalities for ambulance services to the municipalities, subject to the approval of the city council.

(c) The fire department shall house ambulance service apparatus and provide ambulance drivers to serve on call.

(d) The city manager shall have authority to establish ambulance service rates to be charged to patrons of the ambulance service both within the city and within townships having an ambulance service contract with the city. The city manager shall have authority to negotiate compensation with ambulance drivers and to include same in the ambulance service charge along with such other charges as may be deemed necessary to make the ambulance service self sustaining. All ambulance service contracts and ambulance service charges heretofore entered into or levied by the city are ratified and confirmed.

ARTICLE 3. DIVISION OF BUILDING INSPECTION

~~2.24.130 Building inspector—Duties.~~

~~The division of building inspection shall be supervised by the building inspector who may be the city manager. The building inspector shall be responsible for the issuance of all building permits and enforcement of the zoning ordinance and the building, plumbing, and~~

electrical codes of the city. The building inspector may appoint a qualified plumbing inspector and electrical inspector to assist in the duties of his office.

Ordinance introduced by Councilmember _____, who moved
its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

ORDINANCE NO. _____

ORDINANCE CREATING
SECTION 2.24.096 AUTHORIZING VEHICLE ACCIDENT SITE
RESPONSE CHARGES

(4/2/2010 3:12 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

Section 1: Whitewater Municipal Code, Section 2.24.096, is hereby created to read as follows:

2.24.096

(a) Purpose of Section. This section is enacted because the City of Whitewater Fire Department responds to the scene of motor vehicle accidents and provides services at the scene in addition to emergency medical services, to preserve the health and property of persons and the public. In order for the Fire Department to provide such services, it is necessary to charge the owners of the vehicles involved in the accident, and their insurance companies, for the services provided.

(b) Charges Authorized. The City of Whitewater Fire Department is hereby authorized to charge fees to the owner and/or operator of a motor vehicle (and their insurance companies) when the City of Whitewater Fire Department provides services to their vehicle, or to the accident scene, as a direct result of their vehicle's involvement. This may include but is not limited to: car fires, disconnecting the battery, fluid clean-ups, flush-downs, stabilization, site clean-up and extrications. This fee shall be charged in addition to the emergency medical services charges that are incurred.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

DATED:

ORDINANCE NO. _____

ORDINANCE CREATING
CHAPTER 2.25 DEPARTMENT OF POLICE DEPARTMENT
(4/2/2010 3:24 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

Section 1: Whitewater Municipal Code, Chapter 2.25, is hereby created to read as follows:

2.25.100 Police chief--Powers and duties.

The ~~division Department~~ of Police Department shall be under the supervision of the police chief who shall be the commanding officer thereof and shall be responsible for the enforcement of law and order. He shall be responsible for the care and maintenance of all property and equipment in his department and shall have such additional powers and be subject to such additional duties as are now or hereafter may be enacted by city manager or as directed by the city council.

2.25.110 Police department--Membership.

The police department of the city of Whitewater shall consist of the Chief of Police and such additional police officers as the common council may authorize from time to time.

2.25.111 Community service officer.

The chief of police is authorized to appoint a community service officer, and said community service officer shall be empowered to enforce all parking ordinances of the city and all amendments thereto.

2.25.120 State law enforcement standards adopted.

The statutory provisions of Wisconsin Statutes 165.85 and 165.86 and all amendments thereto are adopted and by reference are made part of this chapter as though fully set forth herein.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

0-11

DATED:

ORDINANCE NO. _____

ORDINANCE CREATING
CHAPTER 2.26 HUMANE OFFICER
(4/2/2010 3:14 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

Section 1: Whitewater Municipal Code, Chapter 2.26, is hereby created to read as follows:

2.26.010 Humane officer--Duties.

The Humane Officer ~~may shall~~ be the ~~police chief city manager~~ or his/her delegate designee. ~~The humane officer shall be encouraging the responsible for humane care for dogs and cats and other pets under conditions as set forth by ordinances, and under the direction of the City Manager. He or she shall be responsible for the acceptance and pickup of lost, stray or injured pets, imposing collecting charges and fines, rendering such animals safe from health hazards such as rabies or distemper, and keeping records of same by tattooing the animal to coordinate with his tag, and maintaining animal population controls by such means as adoption and spaying, castration or neutering such adopted animals and euthanization of unclaimed animals, and in general attempting to keep the animal population in the city adequately cared for with a minimum objection from owners and non-owners, and encouraging the formation of a humane society in the city, and enforcement of regulations governing animals as provided by this code.~~

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

ORDINANCE NO. _____
AN ORDINANCE AMENDING CHAPTER 2.28
FIRE AND POLICE COMMISSION
(4/2/2010 3:15 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 2.28 is hereby amended to read as follows:

2.28.010 Created--Membership.

There shall be created as hereinafter specified a Fire and Police Commission consisting of five members (one of whom shall be a city council member) who shall have the power and perform the duties as specified in Section 62.13 of the Wisconsin Statutes ~~for 1955.~~

~~**2.28.020 Appointment--Terms.**~~

~~The board of fire and police commissioners shall be appointed by the city manager at the time specified by statute, one member to serve until the first Monday in May, 1952; one to serve until the first Monday in May, 1954; one to serve until the first Monday in May, 1955; one to serve until the first Monday in May, 1956; and annually thereafter one commissioner who shall hold his office for five years and until his successor is appointed and qualified.~~

2.28.020 Appointment--Terms.

The board of fire and police commissioners shall be appointed by the common council at the time specified by statute, one member to serve until the first Monday in May, 1952; one to serve until the first Monday in May, 1954; one to serve until the first Monday in May, 1955; one to serve until the first Monday in May 1956; and annually thereafter one commissioner who shall hold his office for five years and until his/her successor is appointed and qualified. In the year 2009 and thereafter, one member of the fire and police commission shall be a member of the city council and shall be appointed by the city council to a one-year term; the one-year term shall commence on the first day of May in each calendar year.

2.28.030 State statutes applicable.

The provisions of Section 62.13 of the Wisconsin Statutes ~~for 1955~~ and all acts amendatory thereto so far as the same are applicable are incorporated herein and shall be effective in the same manner as if set forth in full herein.

2.28.040 Power and authority limited.

The power and authority of the fire and police commission hereby created shall not extend any control whatsoever over the Whitewater volunteer fire department. This chapter shall

not affect the organization of the Whitewater volunteer fire department as it existed heretofore, and the department is authorized to continue to operate on the same relationship with the city as it has prior to the adoption of the ordinance codified in this chapter.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

DATED:

ORDINANCE NO. _____
AN ORDINANCE REPEALING CHAPTER 2.32
DEPARTMENT OF PUBLIC HEALTH
(10/2/2009 3:16 PM.)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 2.32 is hereby repealed.

2.32 IS SET FORTH BELOW FOR INFORMATION PURPOSES ONLY.

2.32.010 Membership--General duties of health officer.

(a) The department of public health shall be under the supervision of the city manager and shall consist of the health officer and the city-school nurse. Appointment of the city health officer and city nurse shall be as provided in Section 2.32.020.

(b) The duties of the health officer shall be as provided by Section 2.32.030. The health officer shall have the powers and duties of boards of health and local health officers provided by state law and shall enforce all health regulations of the city.

(c) The city nurse shall be governed by Section 2.32.020.

2.32.020 Health officer and city nurse--Appointment.

(a) The city manager shall appoint a health officer for the city.

(b) CITY NURSE. The employment of a public health nurse is authorized within the limitations of appropriations made therefore by the common council. The nurse shall work under the direction of the city manager and shall conduct a public health nursing program in cooperation with the State Board of Health and in cooperation with the city schools.

2.32.030 Health officer--Duties.

(a) It shall be the duty of the health officer to examine into all nuisances, sources of filth, and causes of sickness and report the same to the city manager; and for the purpose of such examination, said health officer shall have power to enter buildings or go upon any lot within the limits of the city where such officer has reason to believe that any nuisance, source of filth, or cause of disease does or may exist.

(b) The health officer shall also immediately notify the city manager of every case of contagious or infectious disease coming to his knowledge in the city, and see that the same is properly quarantined; and in all such cases where it shall be necessary to destroy any clothing or other property for the public safety, he shall first have the same property inventoried and appraised by some competent person to be named by the city manager and shall return such inventory and appraisal in writing to the city clerk.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

DATED:

0-15
no changes

**NO PROPOSED CHANGES TO CHAPTER 2.36
MUNICIPAL COURT
(10/2/2009 3:17 PM)**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

2.36 IS SET FORTH BELOW FOR INFORMATION PURPOSES ONLY.

2.36.010 Court established.

Pursuant to the authority granted by Chapter 755, Wisconsin Statutes, and all acts amendatory thereto enacted after the laws of 1977, there is established the municipal court for the city of Whitewater.

2.36.020 Municipal judge--Office created.

Pursuant to the authority granted by Chapter 755, there is created the office of municipal judge of the municipal court for the city of Whitewater.

2.36.030 Judge--Election--Term.

The municipal judge shall be elected at large at the spring election for a term of two years commencing on May 1st succeeding his election.

2.36.040 Judge--Salary.

The municipal judge shall receive a salary as fixed by the common council, which shall be in lieu of fees and costs. The municipal judge shall, in addition to his salary, receive an appropriation for the operation of the court, including a part-time clerk. Said clerk shall be hired by the municipal judge and be under his supervision and control. The court clerk may keep an office at the city hall.

2.36.050 Judge--Bond--Oath.

The municipal judge shall execute and file with the city clerk, who will transmit to the clerk of circuit court for Walworth and Jefferson Counties, the oath prescribed by law, and a bond in the penal sum of ten thousand dollars.

2.36.060 Judge--Jurisdiction.

The municipal judge shall have such jurisdiction as provided by law of the Wisconsin Statutes, and exclusive jurisdiction of violations of city ordinances.

2.36.070 Court--When open.

The municipal court for the city shall be open as determined by order of the municipal judge.

2.36.080 Court--Procedure.

The procedure in municipal court for the city shall be as provided by this chapter and state law, including, but not excluding because of enumeration, the applicable chapters of the Wisconsin Statutes.

2.36.090 Judge--Collection of fines, costs and forfeitures.

All forfeitures received by the municipal judge shall be paid to the city treasurer within seven days of receipt. At the same time, the judge shall report the title of the action, the offense for which the forfeiture was imposed and the amount of the forfeiture, fines and costs. The judge may keep his office at his regular business office, and all records created at such location shall be open to periodic audit as requested by the city. Monthly court reports to the state of Wisconsin shall be prepared by the court clerk hired by the judge, and shall be transmitted to the city treasurer prior to the tenth of each month following the completion of a calendar month.

2.36.100 Judge--Contempt power.

In the following cases, and no other, a judge may punish for contempt;

(1) Persons guilty of disorderly, contemptuous and insolent behavior towards him, while engaged in any judicial proceedings, or other conduct which tends to interrupt such proceeding or impair the respect due his authority;

(2) Persons guilty of resistance or disobedience to any lawful order or process made or issued by him.

2.36.110 Contempt--Penalty.

The municipal judge shall have the power to punish any violations under Section 2.36.100 by imposing a forfeiture not to exceed fifty dollars, or upon default in payment of the forfeiture, a jail sentence not to exceed seven days.

2.36.120 Contempt--Accused to be heard.

No person shall be punished for contempt before a judge until an opportunity has been given him to be heard in his defense, and for that purpose the judge may, if the offender is not present, issue his warrant to bring the offender before him.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

0-15

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

DATED:

O-16
No changes

CHAPTER 2.40
EMERGENCY MANAGEMENT
(4/2/2010 3:18 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

2.40 IS SET FORTH BELOW FOR INFORMATION PURPOSES ONLY.

2.40.010 Declaration of policy.

To prepare the city to cope with emergencies resulting from enemy action and manmade or natural disaster, it is declared to be necessary to establish an organization for emergency management for the city by conferring upon the city manager, and others specified, duties and powers consistent with Ch. 166, Wis. Stats.

2.40.020 Definitions.

(a) "Emergency management" means and includes "civil defense" and means all measures undertaken by or on behalf of the city, including:

(1) Preparing for and minimizing the effect of enemy action and natural or manmade disaster upon the civilian population;

(2) Effectuating emergency repairs to, or the emergency restoration of, vital public utilities and facilities destroyed or damaged by such action or disaster.

(b) "Civil defense" means all measures undertaken by or on behalf of the state, county and municipalities to prepare for and minimize the effects of enemy action upon the civilian population.

2.40.030 Emergency management committee.

(a) How Constituted. There is created an emergency management committee composed of the city manager, a member of the police, fire, EMS, and DPW departments.

(b) Duties. The emergency management committee shall be an advisory and planning group and shall advise the coordinator of emergency management and the city council of all emergency management matters. It shall meet at the discretion of the city manager or coordinator. It shall annually prepare a budget for emergency management and present the same to the council for adoption. It shall complete an annual report for the council. The emergency management committee shall investigate funding from the state and federal governments to reimburse the city for emergency management costs.

(c) Authority. The coordinator or one of the appointed deputy coordinators should be advised as soon as practical of any incident that may be or is a threat to life or property of the citizens of the city. These incidents can be man-made or natural in origin. The coordinator or his

appointed deputy shall coordinate with existing services to deliver appropriate emergency services.

2.40.040 Coordinator of emergency management services.

(a) Coordinator. There is created the office of coordinator of emergency management services.

(1) Powers and Duties.

(A) The powers and duties of the coordinator of emergency management for the city are pursuant to Ch. 166, Wis. Stats.

(B) The coordinator of emergency management shall develop and promulgate emergency management plans for the city consistent with state and county plans.

(C) The coordinator of emergency management shall advise as soon as practicable the county office of emergency management of any situations which arise that will likely require cooperation under any joint agreements that are in place.

(D) The coordinator of emergency management shall direct the emergency management program and perform such other duties related to emergency management as required by the city manager and emergency management committee of the city.

(E) The coordinator shall direct the city emergency management training programs and exercises.

(F) The coordinator shall direct the city participation in emergency management training programs and exercises. If ordered by the county head of emergency management services, the coordinator shall prepare and submit reports on emergency management programs and exercises.

(2) Appointment and Term.

(A) The coordinator shall be appointed by the city manager and confirmed by the city council.

(B) The term of office of coordinator shall be until a successor is appointed and qualified.

(b) Deputy Coordinator. There is created the office of deputy coordinator of emergency management. There may be as many deputy coordinators as deemed necessary by the city manager.

(1) Appointment. The deputy coordinator shall be appointed by the City Manager in consultation with emergency management coordinator and confirmed by the City Council.

(2) Term. The term of office of deputy coordinator shall be at the discretion of the City Manager or until such time as a successor is appointed and qualified.

2.40.050 Sharing of costs.

City Obligations. The city will provide emergency office space, furnishings, clerical help and such office supplies that are necessary to deal with an emergency operation affecting the city. The costs will be paid by the city with the help of any federal or state financial aid that may be available.

2.40.060 Utilization of existing services and facilities.

(a) Policy. In preparing and executing the emergency management program, the services, equipment, supplies and facilities of the existing departments and agencies of the city shall be utilized to the maximum extent practicable.

(b) Responsibility. In order to assure that in an emergency all the facilities of the existing city government are expanded to the fullest to meet such emergencies, department and agency heads assigned to specific responsibilities under the city emergency operations plan will fulfill duties as prescribed in the plan.

2.40.070 Penalties and enforcement.

Penalties. It is unlawful for any person willfully to obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any order, rule, regulation, or plan issued pursuant to this chapter, or to do any act forbidden by any order, rule, regulation, or plan issued pursuant to the authority contained in this chapter. For a violation of any of the provisions of this chapter he shall forfeit not less than one hundred dollars, or more than five hundred dollars; and in default of payment thereof, shall be imprisoned in the county jail for a period not exceeding ninety days.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

ORDINANCE NO. _____
AN ORDINANCE AMENDING CHAPTER 2.42
EMERGENCY JOINT ACTION FOR COUNTY AND CITY
(10/2/2009 – 3:08 p.m.)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 2.42 is hereby amended to read as follows:

SECTION 68. Whitewater Municipal Ordinance Title 2, Section 2.42.010, is hereby amended to read as follows:

2.42.010 Ordinance adopted.

A joint action ordinance of the board of supervisors of Walworth County providing for a county-municipal joint action emergency government plan of organization was adopted by the county board on the fifteenth day of June, 1971. A copy of said county ordinance is on file in the office of the city clerk and made a part of this chapter by reference, and is ratified and accepted by the city.

This ratification and acceptance of the Joint Action Ordinance No. 27 constitutes a mutual agreement between the city and the county as provided in the joint action ordinance.

~~**2.42.020 Coordinator of emergency government designated.**~~

~~The county municipal coordinator of emergency government, appointed and employed by the Walworth County board as provided in the referred to ordinance, is designated and appointed coordinator of emergency government for the city, subject to the conditions and provisions as set forth in the Wisconsin Statutes, and the Walworth County joint action ordinance.~~

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

0-18
No Change

**NO PROPOSED CHANGES TO CHAPTER 2.44
EQUAL OPPORTUNITIES COMMISSION
(12/31/2009 3:25 PM)**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

2.44 IS SET FORTH BELOW FOR INFORMATION PURPOSES ONLY. NO CHANGES PROPOSED

2.44.010 Declaration of policy--Commission created.

It is the policy of the city pursuant to the United States and Wisconsin Constitutions and also the city's power to protect the public health, safety, and general welfare that all persons, regardless of age, race, color, religion, ancestry or national origin are entitled to fair and equal access to employment, housing, and other opportunities, and to that end the city hereby enacts this chapter which prohibits any person, not herein exempted, from discriminating against properly qualified persons by impairing to any degree, access to any employment, housing, housing accommodations and other as related opportunities on the basis of age, race, color, religion, ancestry or national origin; and creates a commission on equal opportunities with the power and duty to enforce equal opportunity in employment, housing and other as related opportunities for all properly qualified persons.

2.44.020 Definitions.

In this chapter unless the context requires otherwise:

- (1) "Accommodation" includes any room, apartment, house, mobile home, building or structure, any part of which is used for human habitation on a temporary or permanent basis.
- (2) "Age" means the statutory age at which the individual acquires full capacity to enter into binding agreements and transact business.
- (3) "Agent" means the representative of a person and includes but is not limited to a real estate broker, real estate salesman or agent and shall mean any natural person, partnership, association or corporation who for a fee or other valuable consideration sells, purchases, exchanges or lends, or negotiates, or offers or attempts to negotiate the sale, purchase, exchange or rental of housing or holds himself out as engaged in the business of selling, purchasing, exchanging or lending housing, or procuring employment.
- (4) "Commission" means the Whitewater commission on equal opportunities and "commissioner" means a member thereof.
- (5) "Complainant" means any person who files a complaint with the commission pursuant to Sections 2.44.070 through 2.44.110.
- (6) "Discriminate," "discrimination," and "discriminating," refer to any type of act or

refusal to act prohibited by Section 2.44.050 which unless exempted by Section 2.44.060 is based to any degree on a consideration by the actor of the age, race, color, religion, ancestry or national origin of another person.

(7) "Discrimination in employment" means discrimination because of age, race, color, sex, creed, national origin or ancestry, by an employer individually or in concert with others against any employee or any applicant for employment, in regard to his hire, tenure or term, condition or privilege of employment and by any labor organization against any member or applicant for membership, and also includes discrimination on any of said grounds in the fields of housing, recreation, education, health and social welfare as related to a condition or privilege of employment. All other provisions of Sections 111.31 and 111.32, Wisconsin Statutes of 1965 ("Fair Employment Act") are hereby adopted by reference.

(8) "Employment" means the act of an individual, firm, or corporation offering to hire or hiring the services of an individual seeking to be employed.

(9) "Hearing" means a hearing under the jurisdiction of the commission except where otherwise indicated.

(10) "Housing" means any improved property, including any mobile home as defined in Section 66.058, Wisconsin Statutes, which is used or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence.

(11) "Members of owner's immediate family" means and includes only the spouse of the owner of housing as defined and the parents and children or legally adopted children of both or of either of them.

(12) "Owner" means any person who, alone or jointly or severally with others shall be the legally recorded holder of the title with or without actual possession thereof or who has charge, care or control of any housing as the agent of the owner or as executory, administrator, lessee, sublessee, assignee, managing agent or other person having the right of possession or the right to sell, rent or lease any housing in the city.

(13) "Owner-occupied dwelling" means a building used for human habitation in which the owner thereof maintains his permanent living quarters.

(14) "Person" includes any individual, partnership, labor or other association, corporation, legal representative, receiver, trustee, in bankruptcy or other fiduciary, or the lessee, proprietor, manager, employee or any other agent of any such person.

(15) "Probable cause" shall mean reasonable grounds to believe that a violation of Section 2.44.050, not exempted by Section 2.44.060 may have occurred or may be occurring.

(16) "Respondent" means any person who, according to the allegations contained in any complaint filed with the commission, has violated any discriminatory practice prohibited by this chapter and has been named in the complaint as a respondent.

(17) "Single-occupancy room" means any room which the owner has leased or rented, or in any way offered to lease or rent, to a sole individual; provided, however, that the owner permanently occupies living quarters in the same dwelling.

(18) "Unimproved residential lot" means:

(A) Any residential lot upon which no permanent building or structure containing living quarters has been constructed,

(B) Any land for sale, lease or use as a site for a building, structure, or part thereof, intended or designed to be used or occupied as a residence, home or place of habitation of one or more persons, including a mobile home park as defined in Section 66.058 of the Wisconsin Statutes.

2.44.030 Chapter implementation--Commission appointment, terms and compensation.

(a) The purposes and provisions of this chapter shall be implemented by:

(1) The Whitewater commission on equal opportunities whose five members shall be appointed by the city manager, subject to confirmation by the common council of the city, to serve five year terms; and, where necessary; CITY IS CURRENTLY NOT DOING THIS -- WHAT SHOULD DISPOSITION OF THIS SECTION BE?

(2) The Whitewater city attorney.

(b) Initial terms of commission members shall be as follows: One shall be initially appointed for one year; one shall be initially appointed for two years; one shall be initially appointed for three years; one shall be initially appointed for four years; and one shall be initially appointed for five years. Thereafter all commissioners shall be appointed to serve five-year terms. No commission member shall serve over one full consecutive five year term. Any appointments to fill vacancies on the board shall be for the duration of the unexpired term only. A member of the commission may be removed by the city manager subject to the approval of the common council of the city, only for inefficiency, neglect of duty, misconduct or malfeasance in office; provided, however, the commissioner is first given a written statement of the charges and an opportunity to be heard thereon. Commission members shall be reimbursed for all actual and necessary expenses, but shall receive no other compensations.

2.44.040 Commission--Powers and duties.

The Whitewater commission on equal opportunities shall have the following powers and duties:

(1) To adopt, amend, publish and rescind rules for governing its meetings and hearings;

(2) To adopt, amend, publish and rescind regulations consistent with, and for the enforcement of, this chapter;

(3) To appoint such other employees, agents and staff as are necessary to promote the purposes of this chapter, subject to the approval of the city manager, and to prescribe their duties;

(4) To receive and investigate all complaints alleging any discriminatory practice prohibited by this chapter;

(5) To appoint mediators who initially shall seek a settlement agreeable to both the complainant and the respondent by means of informal conferences; any compensation therefor shall be subject to the city manager's approval;

(6) If necessary, to hold hearings after efforts at settlement, based on complaints made against any person and a determination of probable cause; to administer oaths and take testimony; to compel the production of books, papers and any other documents relating to any matters involved in the complaints; and to subpoena witnesses and compel their attendance. If a witness either fails or refuses to obey a subpoena issued by the commission, the commission may order attendance. At any time after it has issued such an order, the commission may petition a court of competent jurisdiction for its enforcement. To issue, after hearing, such final orders as are necessary to promote the purposes of this chapter;

(7) To issue temporary orders effective for a maximum of twenty days, except in extraordinary circumstances, restraining the respondent from taking any action which would tend to render ineffectual or unenforceable any order which the commission might issue;

(8) To refer orders, pursuant to Sections 2.44.070 through 2.44.140, to the city attorney to be enforced by him in the name of the city;

(9) To make available to the public, in writing, copies of

(A) transcripts of all of its proceedings except initial settlement efforts by its mediators,

(B) all temporary and final orders and

(C) all decisions and opinions rendered; budgetary provisions to be made therefor;

(10) To require a written report of the manner of compliance with any final order it may issue; and

(11) To recommend to the city manager for common council consideration any budget and/or legislation necessary to further promote the purposes of this chapter, and to file annual written reports of its work with the city clerk.

2.44.050 Prohibited acts.

(a) It is a prohibited discriminatory practice for any person to:

(1) Print, publish, circulate, issue, display, post, mail or communicate in any other way, announcement, statement, advertisement, publication or sign, the import of which indicates to any degree a decision or purpose to impair in any way the access of any person, on the basis of his age, race, color, religion, ancestry or national origin to any employment or to any transferable interest in any housing or housing accommodation or unimproved residential lot;

(2) Refuse to sell, lease, sublease, rent or in any other manner deny, withhold, or impair the transfer of title, leasehold or any other interest in any part of any housing or housing accommodation, when such refusal is based to any degree on a consideration of age, race, color, religion, ancestry or national origin of the person refused;

(3) Refuse to lend money or security, guarantee any loan, accept any mortgage or in any other manner make available any other funds or resources for the construction, acquisition, purchase, rehabilitation, repair or maintenance of any housing or housing accommodation or unimproved residential lot when such refusal is based to any degree on a consideration of the race, color, religion, ancestry or national origin of the person refused;

(4) Refuse to furnish any facilities or services or repairs for any housing or housing accommodation, whether ordinarily provided pursuant to legal duty or local custom, when such refusal is based to any degree on a consideration of the race, color, religion, ancestry or national origin of the person refused.

(b) It is unlawful for any person to do or refuse to do any act which to any degree effects the purpose of any activity prohibited by this chapter or to intentionally aid, abet, incite, compel, or coerce any person to engage in any of the practices forbidden by this chapter.

(c) Nothing herein shall be deemed to prohibit an owner, or his agent, from requiring that any person who seeks employment or who seeks to buy, rent, lease, finance, or construct housing, to supply any or all information concerning either his family, marital, financial and/or business status, but not concerning age, race, color, religion, ancestry or national origin which shall continue to be valid criteria.

2.44.060 Exemptions to prohibited acts.

(a) Nothing in this chapter shall bar any religious or denominational institution or organization, or any charitable or educational organization which is operated, supervised or controlled by or in connection with a religious organization, from limiting admission to or giving preference to persons of the same religion or denomination, or from making such selection as is reasonable calculated by such organization, to promote the religious principles for which it is established or maintained.

(b) No prohibition in this chapter shall apply to an offer to lease or rent, or to the lease or rental, of single-occupancy rooms in an owner-occupied dwelling; provided, however, that the

number of persons, other than the owner and his immediate family, who dwell therein does not exceed two.

2.44.070 Complaint--By whom made--Contents.

(a) Any complaint alleging any discriminatory practice prohibited by this chapter shall be in writing. Such complaints may be initiated by:

(1) The complainant, who may mail his complaint to the commission or dictate it to an agent of the commission;

(2) Any agent of the complainant, including any agent who himself has solicited offers to buy, lease, rent or in any other manner seek access to any interest in any part of any housing or housing accommodation or sought employment, for the complainant; or

(3) Any member of the commission on his own initiative.

(b) The complaint shall contain:

(1) The name and address of the complainant;

(2) The name and address of the respondent or respondents;

(3) A statement setting forth the particulars of the alleged discrimination or discriminatory practice, and;

(4) The date or dates of the alleged discrimination or discriminatory practice.

2.44.080 Complaint--Where filed.

Complaints shall be filed with the Whitewater commission on equal opportunities by the complainant, his duly authorized agent or a member or duly authorized agent of the commission, and may be filed in person or by mail.

2.44.090 Complaint--When filed.

Complaints alleging any discriminatory practice prohibited by this chapter shall be filed no later than ninety days after the complainant knew or should reasonably have known that the alleged act or acts occurred.

2.44.100 Complaint--Notice to respondent.

Upon the filing of a complaint the commission shall serve a copy thereof upon the respondent within ten days of the filing.

2.44.110 Complaint--Amendment and withdrawal.

A complaint may be amended or withdrawn at any time with and subject to the approval of the commission and under such terms as the commission shall direct, notice of amendment or withdrawal shall be given to each party.).

2.44.120 Complaint--Investigations--Hearings--Determinations--Appeal.

(a) An agent designated by the commission shall promptly investigate all duly filed complaints. Within thirty days of the filing of each complaint, the agent shall issue to the complainant and respondent an initial determination in writing of whether probable cause, as defined in Section 2.44.020(15), exists, and setting forth the basis of the determination.

(b) Should a determination be made that there is no probable cause to believe discrimination in violation of this chapter has been, or is being committed, the complainant shall be afforded an opportunity to appeal such decision to the full commission. Should the full commission decide that there is no probable cause, the complainant may appeal to the circuit or any county court of Walworth or Jefferson Counties.

(c) Should a determination be made that there is probable cause to believe discrimination in violation of this chapter has been or is being committed, an agent designated by the commission shall endeavor by means of conference, conciliation or persuasion to eliminate the alleged discriminatory practice.

(d) In any case where efforts at settlement have failed to eliminate the discriminatory practice alleged by the complainant, the commission shall promptly cause to be issued a notice of hearing to determine the merits of the complaint.

(e) FINDINGS AND DETERMINATIONS--APPEAL.

(1) If after hearing, and on the basis of the official record made therein, the commission finds that the respondent has engaged in, or is engaging in any discrimination prohibited by this chapter, it shall make written findings of facts and conclusions thereon and shall order such action to be taken by the respondent and, where necessary, by the complainant, as will effect the purposes of this chapter by eliminating the discrimination found.

(2) A certified copy of such recommended findings, conclusions, and orders, together with a summary of the findings of fact shall be mailed to the last known address of the complainant and respondent.

(3) If within twenty days following the mailing of the decision the commission does not receive notice of appeal, the findings, conclusions and orders of the commission shall be conclusive. Notice thereof shall be mailed to respondent by certified mail, or in lieu thereof by personal service.

(4) After final determination by the commission, either party may, within thirty days, appeal by certiorari to a court of competent jurisdiction.

2.44.130 Complaint--Hearing--Disqualification of commissioners.

No commissioner, agent, or investigator, who pursuant to Sections 2.44.070 through 2.44.140, has filed a complaint on his own initiative shall participate in any subsequent hearing or proceeding except as a witness, nor shall he participate in the deliberations of the commissions in such case.

2.44.140 Commission order--Judicial enforcement.

Whenever in the judgment of the commission, judicial enforcement of a commission order is necessary, the commission shall in writing request the city attorney to commence proceedings in a court of competent jurisdiction to enforce such orders in the name of the city. Upon receipt of any such request, the city attorney shall have the duty to seek enforcement of such orders in a court of competent jurisdiction.

2.44.150 Violations--Remedies and penalties.

(a) REMEDIES. The commission shall have the power and duty, after investigation and hearing, to issue and implement such orders as may be necessary to effect the purposes of this chapter. Such orders may include:

(1) Cease and desist orders;

(2) Affirmative action by the respondent and, where necessary, by the complainant; and

(3) Any other orders which may be necessary to effect the purposes of this chapter.

(b) PENALTIES. Any person who willfully violates this chapter or any lawful order issued hereunder shall, for each such violation, on order of the commission, forfeit not less than twenty-five dollars nor more than two hundred fifty dollars. Each day such violation continues shall constitute a separate offense. Payment of any such forfeiture shall be stayed during the period in which any appeal may be taken and during the pendency of any appeal.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

ORDINANCE NO. _____
AN ORDINANCE AMENDING CHAPTER 2.46 HANDICAPPED
DISCRIMINATION COMMISSION RENAMING IT THE DISABILITY RIGHTS
COMMISSION
(10/2/2009 3:20 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, do hereby ordain as follows:

SECTION 1. Whitewater Municipal Code, Chapter 2.46, is hereby amended to read as follows:

Chapter 2.46 ~~HANDICAPPED~~ DISABILITY RIGHTS DISCRIMINATION COMMISSION

- 2.46.010 Declaration of policy.**
- 2.46.020 Definitions.**
- 2.46.030 Commission - - Formation.**
- 2.46.040 Commission - - Powers and duties.**
- 2.46.050 General prohibitions.**
- 2.46.060 ~~Aets of the city.~~**
- 2.46.070 Grievance procedures.**
- 2.46.080 Disqualification of commissioners.**
- 2.46.090 Liberal construction - - Severability.**
- 2.46.100 ~~Penalty.~~**

2.46.010 Declaration of policy.

It is the policy of the city, pursuant to the United States and State of Wisconsin Constitutions and Regulations, and also the city's power to protect the public health, safety and general welfare, that all ~~handieapped~~ persons with disabilities are entitled to fair and equal access to City of Whitewater services, programs and benefits afforded to all persons; and to that end the city hereby enacts this chapter to prohibit discrimination against any ~~handieapped~~ person with a

disability; and creates a disability rights commission ~~commission on handicapped discrimination~~ with the power and duty to hear grievances of any ~~handicapped~~ person with a disability, concerning City actions or inaction. (Ord. 1043 §1(part), 1984).

2.46.020 Definitions.

(a) ~~“Handicapped individual”~~ “A person with disabilities” means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. ~~As further described in 51.55 Federal Regulations.~~

(b) “Is regarded as having an impairment” means 1) a physical or mental impairment that does not substantially limit major life activities, but that is treated as constituting such a limitation, or 2) ~~has~~ a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment, or 3) has none of the impairments, but is treated by others as having such impairment.

(c) “Major life activities” means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (Ord. 1043 §1(part), 1984).

2.46.030 Commission – Formation.

- (a) The purposes and provisions of this chapter shall be implemented by:
 - (1) The Whitewater Disability Rights Commission ~~on handicapped discrimination~~, whose five members shall be appointed by the ~~city manager~~, ~~subject to conformation by the common council of the city~~, under the procedures set forth in Whitewater Municipal Code Chapter 2.12 to serve five-year terms; and, where necessary, by
 - (2) The City Attorney.

~~(b) The initial terms of the commission members shall be as follows: two shall be initially appointed for one year, two or two years, and one for three years. Thereafter, all Commissioners shall be appointed to serve five-year terms. No commission member shall serve over one full consecutive five-year term. Any appointments to fill the vacancies on the Commission shall be for the duration of the unexpired term only. A member of the commission may be removed by the city manager subject to the approval of the common council, only for inefficiency, neglect of duty, misconduct or malfeasance in office; provided, however, the commission is first given a written statement of the charges and an opportunity to be heard thereon. Commission members shall be reimbursed for all actual and necessary expenses, but shall receive no other compensation. (Ord. 1043 §1(part), 1984).~~

2.46.040 Commission - - Powers and duties.

The commission shall have the following powers and duties:

- (a) To adopt, amend, publish and rescind rules for governing its meetings and hearings;
- (b) To request assistance from other city staff to promote the purposes of this chapter, subject to the approval of the City Manager, and to describe their duties;
- (c) To receive and investigate all grievances alleging any discriminatory practice prohibited by this chapter;
- ~~(d) To request staff to review and discuss grievances and the possible solution with the person so aggrieved, and to present the solution to the commission if the matter is solved at this level;~~
- ~~(e) To make available to the public, in writing, copies of transcripts of its proceedings, all temporary and final orders and all decisions and opinions rendered. To make a written report of the manner of compliance with any final order it may issue;~~

(d) To conduct hearings as set forth in Section 2.46.070 (c):

(e) To recommend to the City Manager, for Common Council consideration, any budget and/or legislation necessary to further promote the purposes of this chapter and to file annual written reports of its work with the City Clerk. (~~Ord. 1043 §1(part), 1984~~).

2.46.050 General prohibitions.

(a) It shall be a prohibited discriminatory practice for the City of Whitewater, or its officers or employees, to do any of the following:

(1) To exclude a qualified ~~handicapped individual~~ person with disabilities from participation in programs or activities open to the general public, regardless of the availability of permissibly separate or different programs or activities designed especially for ~~the handicapped persons with disabilities;~~

(2) To provide a different or separate aid, benefit or service to qualified ~~handicapped individuals~~ persons with disabilities or to any class of qualified ~~handicapped individuals~~ persons with disabilities than is provided to others, unless such action is necessary to provide such individuals with aid, benefits or services that are as effective as those provided to others;

(3) To aid or perpetuate discrimination against such individuals by funding an agency, organization, or person that discriminates on the basis of ~~handicap~~ disability in providing any aid, benefit or service to beneficiaries of the program or activity;

(4) ~~Other general prohibitions adopted by reference as 31CFR Part 51, Department of Treasury, Office of Revenue Sharing, and all acts amendatory thereto. (Ord. 1043 §1(part), 1984).~~

2.46.060 Acts of the city.

~~The city shall perform all acts required by the federal law and state regulations law, including self evaluation process, designation of responsible employee and adoption of grievance~~

~~procedures, notices and involvement of handicapped individuals persons with disabilities in the process as source of information and solutions to problems, and shall not discriminate against handicapped individuals persons with disabilities in employment. Methods of compliance and time periods shall be observed for nonstructural and structural changes, as required by the federal and state regulations. (Ord. 1043 §1(part), 1984).~~

2.46.070 Grievance procedures.

(a) ~~Any Grievances~~ alleging any discrimination by the City, its officers, employees or departments, prohibited by this chapter shall be in writing. Such grievance may be initiated by the individual who may dictate it to an agent of the individual or an agent of the commission, or it may be initiated by any member of the Commission on ~~its~~ his or her own initiative. It shall contain:

- (1) Name and address of the aggrieved;
- (2) Name and address of the individual, ~~partnership or corporation~~ or department against whom the grievance is alleged;
- (3) A statement setting forth the particulars of the alleged discrimination or discriminatory practice;
- (4) A request for an action that can be taken to solve the grievance, and various solutions that may be suggested for the Commission to review.

(b) Grievances shall be filed with the City Clerk Manager, who shall ~~refer~~ refer forward a copy of the grievance to the City Manager, and the chairperson of the Commission. The City Manager shall designate a staff person who shall attempt to resolve the matter with the aggrieved person, staff designated for review and possible solution; In the event that a solution cannot be agreed upon between the aggrieved and the staff, ~~the request shall be referred to~~ the matter shall be placed on the agenda of a meeting of the Commission to be scheduled at an accessible site within thirty

days of receipt of the grievance. Notice of the meeting shall be given to the aggrieved party at least ten days before the ~~scheduled~~ meeting date which will be scheduled at a time convenient to the aggrieved and the commission. At the meeting the Commission shall schedule the matter for hearing on a future date and make any other procedural orders necessary to allow the parties to properly present their position at the hearing.

(c) The grievance may be ~~amended or~~ withdrawn by the complainant at any time with and, subject to the approval of the commission, may be amended and under such terms as the commission shall direct. Notice of amendment or withdrawal shall be given to ~~each party~~ all parties.

(d) Hearing. The aggrieved and/or an agent designated by the aggrieved person, and the a staff person assigned by the City Manager to represent the City's position ~~to review the grievance~~, shall both present oral and/or written information under oath at the hearing. After the parties have been given the opportunity to present all information, the Commission shall make written findings of fact and conclusions and, if a violation is found, shall order ~~such~~ any necessary action to be taken ~~as necessary~~ to remedy the violation. If no violation is found, the Commission shall dismiss the grievance. If the order includes the expenditure of city funds, the order shall be transmitted to the City Council for final action. ~~In the event that the commission rules against the aggrieved, an appeal~~ The Commission's decision may be ~~requested before~~ appealed to the Common Council by either the aggrieved person or the City Manager ~~for further consideration~~ within twenty days of the decision of the commission. The Council may affirm, modify, or reverse the decision under appeal procedures it establishes. ~~A further appeal from the decision of the Common Council may be filed within thirty days by certiorari to a court of competent jurisdiction.~~ (Ord. 1043-§1(part), 1984).

2.46.080 Disqualification of commissioners.

No commissioner who files a grievance on his or her own initiative shall participate in any subsequent hearing or proceeding except as a witness, and shall not participate in the deliberations of the Commission in such case. (~~Ord. 1043 §1(part), 1984~~).

2.46.090 Liberal construction - - Severability.

The provisions of this chapter shall be liberally construed in order to promote the purposes and provisions contained herein. The provisions are severable and if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such shall not affect or impair any of the remaining provisions. (~~Ord. 1043 §1(part), 1984~~).

2.46.100 Penalty.

~~Any person who willfully violates this chapter or any lawful order issued hereunder shall, for each such violation, on order of the commission, forfeit not less than fifty dollars nor more than two hundred dollars. Each day such violation continues shall constitute a separate offense. Payment of such forfeiture shall be stayed during the period in which any appeal may be taken and during the pendency of any appeal. (Ord. 1043 §1(part), 1984).~~

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

ADOPTED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

ORDINANCE NO. _____
AN ORDINANCE AMENDING CHAPTER 2.52
PARK AND RECREATION BOARD
(12/31/2009 3:30 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

NO PROPOSED CHANGES.

SECTION 1: Whitewater Municipal Code Chapter 2.52 is hereby amended to read as follows:

2.52.010 Established.

There is hereby established a park and recreation board for the city, which shall have in addition to the powers granted herein, all of the powers now or hereafter granted under Wisconsin Statute 27.08.

2.52.020 Purpose.

The establishment of this board shall be for the purpose of acquiring, improving, developing, maintaining, and operating public parks, recreation facilities, equipment, and activities. This board shall provide a park and recreation program for the citizens of Whitewater, coordinating and correlating all recreation activities for the maximum benefit of the community and operating with other public or private organizations to more efficiently utilize the city's resources. The board shall interpret any and all programs which they may promulgate.

2.52.030 Membership--Terms--Vacancies--Officers.

(a) The board shall consist of seven members. Each of the four citizen members shall be a resident of the city or a resident of the Whitewater Unified School District. The three ex officio members shall not have a specified residency requirement. The board shall serve without compensation.

(b) The board shall consist of three ex officio members who will serve permanently or as long as they are holding office in or are representatives of the following organizations or departments:

(1) District administrator of the Whitewater Unified School District or his designated representative;

(2) Common council member;

(3) University of Wisconsin--Whitewater, director of recreation sports and facilities, or equivalent position. If this position is not filled, a representative from the department of health, physical education and recreation would be appointed in consultation with

chairperson of health, physical education and recreation and the assistant chancellor for student affairs.

(c) The board shall also consist of three citizens who shall be appointed by the city manager upon advisement of the recreation board and approval of the common council.

(d) There shall be one alternate member appointed to serve. In the event one of the seven regular members is unable to attend then the alternate member shall be called upon to attend and shall have full power to act and vote.

(e) Each citizen member shall serve for a term of three years beginning on the first of January, except that when the first board is appointed, one member shall be appointed for one year, another for two years, and the third for three years. Citizen members shall be limited to three consecutive terms and cannot be reappointed as a board member until one three-year term has elapsed.

(f) Vacancies to finish unexpired terms only will be filled in the same manner as the original appointments upon advisement of the recreation board and approval of the common council.

~~(g) OFFICERS. A chairman and vice chairman shall be elected by the board members. The election of officers will take place at the January meeting and those elected will serve for the term of one year. The recreation director will automatically serve as secretary.~~

THIS SECTION WAS REPLACED SINCE THE PRINTING OF THIS VERSION WHICH READS AS FOLLOWS:

(g) OFFICERS. A chairman and vice chairman shall be elected by the board members. The election of officers will take place at the 1st meeting in May and those elected will serve for the term of one year. The recreation director will automatically serve as secretary.

2.52.040 Organization.

(a) The board shall organize and adopt rules for its own government in accordance with the provisions of this chapter. Meetings shall be held monthly or at the call of the chairman, and shall be open to the public. Minutes shall be kept showing all actions taken and a copy shall be filed with the city clerk and the recreation director as a public record.

(b) A quorum shall be four members, but all action shall require the approval of the majority of the board.

2.52.050 Powers.

The board shall have control and jurisdiction over all playgrounds, recreation centers and other places which have previously, or may in the future, be dedicated for the purpose of public recreation and given over to their control. The board shall furthermore have all powers listed at

Section 27.08 of the 1967 Wisconsin Statutes and any amendment thereto as though specifically set forth herein. The board shall adopt rules and regulations which may be necessary to exercise said powers. All rules and regulations shall be subject to final approval by the common council. The board shall have the authority to enlarge the duties of the director of parks and recreation listed in Section 2.20.030(b) of this title, and to determine general policies of the program and the level of leadership employed.

2.52.060 Selection of parks and recreation director.

The board shall participate in the interview and selection process for the hiring of a parks and recreation director. It shall be the sole responsibility of the city manager to appoint the director.

2.52.070 Finances.

The board shall submit to the city manager by October 1st of each year a proposed program and budget for the ensuing year. The board shall not contract any liability in excess of the budget appropriated unless specifically authorized by the city manager and approved by the common council. All moneys received for the purpose of the board, whether from the general fund or from charged for activities, facilities, or services shall be deposited in the general fund of the city and segregated on the books of the city. The city treasurer shall act as treasurer of the board without additional compensation. All expenditures shall be made in accord with the appropriations by the city council only upon the approval of the board and city manager any by the issuance of an order for the expenditure by the city clerk.

2.52.080 Reports.

The board shall issue an annual written report of its finances and activities and an inventory of all its public parks, recreational lands, facilities, and equipment, for the previous year to the common council by April 1st of each year.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

0-21
no changes

NO PROPOSED CHANGES TO CHAPTER 2.53
BIRGE FOUNTAIN COMMITTEE
(12/31/2009 3:30 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

2.53 IS SET FORTH BELOW FOR INFORMATION PURPOSES ONLY. NO CHANGES PROPOSED.

2.53.010 Established.

There is established a Birge Fountain committee for the city of Whitewater, which shall have the powers granted in this chapter.

2.53.020 Purpose.

The establishment of this committee is for the purpose of promoting the beauty, preservation and historical significance of the Birge Fountain and Birge Fountain Park (which has also been referred to as Flat Iron Park).

2.53.030 Membership--Terms--Vacancies--Officers.

(a) The committee shall consist of seven members. One member shall be a member of the city council; one member shall be the city public works director, or his/her designee; and one member shall be a member of the city landmarks commission. The remaining four members shall be citizens of the city of Whitewater.

(b) The initial committee members shall be appointed by the city council by resolution and shall include all of the current members of the Birge Fountain restoration committee which is a sub-committee of the landmarks commission. Thereafter, the committee shall be appointed under the procedures set forth in Section 2.12.011.

(c) Each citizen member shall have an interest in the preservation of the Birge Fountain and Birge Fountain Park.

(d) There shall be one alternate member appointed to serve in the event one of the seven regular members is unable to attend, and the alternate member shall then be called upon to attend and shall have full power to act and vote.

(e) All initial members shall serve until the first Tuesday in May, 2006 and thereafter new members shall begin regular terms starting the first Wednesday in May, 2006 as follows. The council member shall serve for a one-year term. Each citizen member shall serve for a term of three years, except that when the first committee is appointed, one member shall be appointed for one year, one member shall be appointed for two years, and two members shall be appointed for three years.

(f) Vacancies to complete unexpired terms will be filled by the procedure set forth in Section 2.12.011.

(g) A chairperson, vice chairperson and secretary shall be elected by the committee members. The election of officers will take place at the May meeting, and those elected will serve the term of one year.

(h) The city finance director, or his or her designee, shall act as treasurer of the board without additional compensation.

2.53.040 Organization.

(a) The committee shall organize and adopt rules for its own governance in accordance with the provisions of this chapter. Meetings shall be held monthly or at the call of the chairperson, and shall be open to the public. Minutes shall be kept showing all actions taken, and a copy shall be filed with the city clerk as a public record.

(b) A quorum shall be four members, but all actions shall require the approval of at least four members.

2.53.050 Powers and duties.

The committee shall have the following powers and duties:

(a) To take actions necessary to preserve and maintain the Birge Fountain and Birge Fountain Park.

(b) To develop plans and allocate funds for the purpose of assuring the future preservation and maintenance of the Birge Fountain and Birge Fountain Park.

(c) To promote public education, interest and support for the preservation of the Birge Fountain and Birge Fountain Park.

(d) To raise funds for the purpose of the preservation, major repairs and improvements to the Birge Fountain and Birge Fountain Park.

(e) The committee shall have the exclusive control of restricted special revenue Birge Fountain restoration funds, which is created. Said fund shall be a segregated and restricted special revenue fund which may only be used for expenditures for the preservation, major repairs and improvements to the Birge Fountain and Birge Fountain Park. If the city ever decides to eliminate the restricted fund, the proceeds therein shall be transferred to a 501(c)(3) non-profit corporation to be used for the continued preservation, major repairs and improvements to the Birge Fountain and Birge Fountain Park. The committee may further submit to the city manager each year a proposed budget for the ensuing year. If funds are allocated by the city council, said funds shall be separate from the special revenue fund described above. Expenditures out of this

allocated fund shall be made in accordance with the appropriations by the city council and only upon approval of the committee. Any renovation, change or improvements proposed by the committee which significantly alter the character of the Birge Fountain or Birge Fountain Park must be approved by the city council, after it receives the advice and recommendation of the landmarks commission, before implementation.

2.53.060 Reports.

The board shall issue and file with the city clerk an annual written report of its financial activities.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

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ORDINANCE NO. _____
AN ORDINANCE AMENDING CHAPTER 2.56
LIBRARY BOARD
(12/17/09 - 3:45 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 2.56, Section 2.56.010 is hereby amended to read as follows:

2.56.010 Membership.

The Library Board shall consist of seven members who shall be appointed pursuant to the terms of Whitewater Municipal Ordinance Chapter 2.12 ~~by the city manager~~ and whose appointments shall be confirmed by the common council. Members shall be residents of the municipality, except that not more than two members may be residents of towns adjacent to the municipality. Upon their first appointment, the members shall be divided as follows: Three members shall serve for three years, two members shall serve for two years and one to serve from one year from July 1st in the year of their appointment. Each regular appointment shall be for a term of three years. The appointing authority shall appoint as one of the members a school district administrator, or his representative, to represent the public school district or districts in which the public library is located. Not more than one member of the municipal governing body shall be a member of the library board.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

0-23
No changes

NO PROPOSED CHANGES TO CHAPTER 2.60
BOARD OF REVIEW
(12/31/2009 3:39 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

2.60 IS SET FORTH BELOW FOR INFORMATION PURPOSES ONLY. NO CHANGES PROPOSED.

2.60.010 Membership.

The board of review shall be five members consisting of the city manager, the city clerk in a nonvoting capacity, and the city council members who are serving the second year of their city council term. In any year where there are only three members serving the second year of their city council term, there shall be a fourth council member appointed to the board. Any council member elected to replace a council member shall serve on the board of review during the second year of the term. In addition thereto, all of the other council members shall be alternate board of review members. Any alternate may be called upon to serve in the absence of any one of the members of the Board of Review.

2.60.020 Sessions.

Pursuant to Wisconsin Statutes 70.47(3)(b) and any amendments thereto to Section 70.47(3)(b), the city does elect to permit itself the right to hold its first meeting for as few as four hours between eight a.m. and midnight. This change in time shall not become effective unless notice therefor is published in the official city newspaper at least ten days before the first meeting.

2.60.030 Board of review information.

(a) Declaration of Purpose. As part of the Budget Adjustment Act, 1997 Wisconsin Act 237, a number of significant changes regarding property tax assessment appeals and board of review procedures were enacted; and Section 279(K) of 1997 Wisconsin Act 237, Section 70.47(7)(af) of the Wisconsin Statutes was created; and Section 70.47(7)(af), Wis. Stats., required that the municipality provide by ordinance for the confidentiality of information about income and expenses that is provided to the assessor under Section 70.47(7)(af), Wis. Stats., and shall provide exceptions for persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of the court. The following provisions are declared to be in the city's best interest:

(b) Confidential Information. Whenever the assessor, in the performance of the assessor's duties, requests or obtains income and expense information pursuant to Section 70.47(7)(af), Wis. Stats., or any successor statute thereto, then, such income and expense information that is provided to the assessor shall be held by the assessor on a confidential basis, except, however, that the information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use

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by the assessor in performance of official duties of the assessor's office and use by the board of review in performance of its official duties), or pursuant to order of a court. Income and expense information provided to the assessor under Section 70.47(7)(af), unless a court determines that it is inaccurate, is, per Section 70.47(7)(af), not subject to the right of inspection and copying under Section 19.35(1), Wis. Stats.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

DATED:

0-24
No changes

**NO PROPOSED CHANGES TO CHAPTER 2.66
PUBLIC RECORDS
(12/31/2009 3:35 PM)**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

2.66 IS SET FORTH BELOW FOR INFORMATION PURPOSES ONLY. NO CHANGES PROPOSED.

2.66.010 Definitions.

(a) "Authority" means any of the following city entities having custody of a city record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

(b) "Custodian" means that officer, department head, division head, or employee of the city designated under Section 2.66.030 or otherwise responsible by law to keep and preserve any city records or file, deposit or keep such records in his or her office, or who is lawfully in possession or entitled to possession of such public records and who is required by this section to respond to requests for access to such records.

(c) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. Record includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. Record does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

2.66.020 Duty to maintain records.

(a) Except as provided under Section 2.66.070, each officer and employee of the city shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

(b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefore to the officer or employee, who shall file the receipt with the

city clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

2.66.030 Legal custodian(s).

(a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate an employee of his or her staff to act as the legal custodian.

(b) Unless otherwise prohibited by law, the city clerk or the clerk's designee shall act as legal custodian for the common council and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the common council.

(c) For every authority not specified in subsections (a) or (b) of this section, the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his or her absence or the absence of his or her designee.

(e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Subchapter 11 of Chapter 19 of the Wisconsin Statutes and this section. The designation of a legal custodian does not affect the powers and duties of an authority under this section.

2.66.040 Public access to records.

(a) Except as provided in Section 2.66.060, any person has a right to inspect a record and to make or receive a copy of any record as provided in Wisconsin Statutes Section 19.35(1).

(b) Records will be available for inspection and copying during all regular office hours.

(c) A requester shall be permitted to use facilities comparable to those available to city employees to inspect, copy or abstract a record.

(d) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(e) A requester shall be charged a fee to defray the cost of locating and copying records as follows:

(1) The cost of photocopying each page shall be set by the city clerk and set forth on a schedule which shall be kept in the clerk's office. Any increase as determined by the clerk

shall be subject to the approval of the common council. The cost will be calculated not to exceed the actual, necessary and direct cost of reproduction.

(2) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.

(3) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audiotapes or videotapes, shall be charged.

(4) If mailing or shipping is necessary, the actual cost thereof shall also be charged.

(5) There shall be no charge for locating a record unless the actual cost therefor exceeds fifty dollars, in which case the actual cost shall be determined by the legal custodian and billed to the requester.

(6) The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment, if such estimate exceeds five dollars.

(7) Elected and appointed officials of the city shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.

(8) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.

(f) Pursuant to Wisconsin Statutes Section 19.34, and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and costs thereof.

2.66.050 Access procedures.

(a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Wisconsin Statutes Section 19.37. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 2.66.040(f)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.

(b) Each custodian, upon request for any record, shall as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefore. If the legal custodian, after conferring with the city attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.

(c) A request for a record may be denied as provided in Section 2.66.060. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons, for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Wisconsin Statutes Section 19.37(1), or upon application to the attorney general or a district attorney.

2.66.060 Limitations on right to access.

(a) As provided by Wisconsin Statutes Section 19.36, the following records are exempt from inspection under this section:

(1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;

(2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;

(3) Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection; and

(4) A record of any portion of a record containing information qualifying as a common law trade secret.

(b) As provided by Wisconsin Statutes Section 43.30, public library circulation records are exempt from inspection under this section.

(c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the city attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:

(1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them;

(2) Records of current deliberations after a quasi-judicial hearing;

(3) Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline or any city officer or employee, or the investigation of charges against a city officer or employee, unless such officer or employee consents to such disclosure;

(4) Records concerning current strategy for crime detection or prevention;

(5) Records of current deliberations or negotiations on the purchase of city property, investing of city funds, or other city business whenever competitive or bargaining reasons require nondisclosure;

(6) Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data;

(7) Communications between legal counsel for the city and any officer, agent or employee of the city, when advice is being rendered concerning strategy with respect to current litigation in which the city or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under Wisconsin Statutes Section 905.03.

(d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the city attorney prior to releasing any such record and shall follow the guidance of the city attorney when separating out the exempt material. If, in the judgment of the custodian and the city attorney, there is no feasible way to separate the exempt material from the non-exempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

2.66.070 Destruction of public records.

City officers may destroy records of which they are the legal custodians and which are considered obsolete but not less than seven years after the record was effective unless a specific period of time is provided by the Wisconsin Statutes.

A. Prior to the destruction of any public records, at least sixty days' notice in writing shall be given the State Historical Society of Wisconsin. The Historical Society may upon application, waive such notice.

B. Notwithstanding any minimum period of time for retention set forth above, any taped

recording of a meeting, as defined in Wisconsin Statutes Section 19.82(2), by any governmental body, as defined under Wisconsin Statutes Section 19.82(1), of the city may be destroyed no sooner than one year after the minutes have been approved and published if the purpose of the recording was to make minutes of the meeting.

C. Transcripts of Tape Recordings of Municipal Court Trials. Audio tape recordings of trials or juvenile matters in municipal court shall be kept until the time has expired for taking an appeal of such matters to the Circuit Court of Walworth County or Jefferson County. Upon the expiration of such period, city officers are empowered to dispose of, erase, destroy or reuse any such audio tapes; and to destroy any written duplicate copies of transcripts made from such tapes.

D. Municipal Court, Traffic, Juvenile or Ordinance Violation Case Files. All court papers or written court records in the possession of the municipal court or the city police department in proceedings commenced by the issuance of municipal court citations or pleadings shall be kept for six years after the entry of final judgment.

E. All police dispatch audio tapes shall be kept for thirty days except those tapes that cover significant incidents. Tapes covering significant incidents will be retained seven years after the incident is closed.

2.66.080 Preservation through microfilm.

Any city officer, or the director of any department or division of city government may, subject to the approval of the common council, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in sec. 16.61(7)(a) and (b), Stats., and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of sections 2.66.040 through 2.66.060 of this ordinance.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

ORDINANCE NO. _____
AN ORDINANCE AMENDING CHAPTER 2.70
PERSONNEL AND COMPENSATION RENAMING IT
HUMAN RESOURCES AND COMPENSATION

(12/31/2009 2:50 PM)

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 2.70 is hereby amended to read as follows:

2.70.010 The City of Whitewater employee manual and any amendments or revisions thereof as periodically approved by the city council is hereby adopted herein and made a part of this ordinance.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

DATED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

0-26
No changes

**NO PROPOSED CHANGES TO CHAPTER 2.72
SPECIAL PROVISIONS – SALARIED EMPLOYEES
(4/2/2010 3:21 PM)**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

2.72 IS SET FORTH BELOW FOR INFORMATION PURPOSES ONLY. NO CHANGES PROPOSED.

2.72.010 Existing conditions.

Special salary and benefit conditions of employment, previously established for employees covered by this pay and benefits plan shall remain in effect.

2.72.020 Uniform allowance--Lieutenants.

The position of lieutenant, listed in grade F of the management pay plan in Section 2.70.020 shall be entitled to the same annual uniform allowance that is allocated to patrol officers per the current employment agreement between the city of Whitewater and the Wisconsin Professional Police Officers Association of Whitewater.

2.72.030 Worker's compensation--Lieutenants.

In the event an employee becomes entitled to and receives worker's compensation under Chapter 102, Wisconsin Statutes, his worker's compensation for the period of compensable temporary total disability will be supplemented for a period of one year so that he will receive his full salary during said period taking into consideration worker's compensation, Social Security payment, if any, and the amount to be supplemented by the city. This compensatory time shall not be deducted from the employee's accumulated sick leave time. The city shall pay, in addition to salary, the regular premiums on said employee's health, welfare and pension benefits during this time.

2.72.040 Safety glasses--Superintendents.

The employer agrees to furnish safety glasses with permanently affixed clear side shield provided that the member shall obtain an eye examination and pay for the same prior to the ordering of the glasses

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

Kevin Brunner, City Manager

0-26

Michele R. Smith, City Clerk

DATED:

WHITEWATER VOLUNTEER FIRE DEPARTMENT



Chief Don Gregoire

1st Assistant Patrick Wellnitz

2nd Assistant Ron Kelley

Secretary Dave Haberman

Treasurer Brian Fuerstenberg

April 2, 2010

City Council Members,

We are recommending the new fire engine chassis to be manufactured by HME and the body to be built by US Tanker. Both current frontline fire engines are HME / US Tanker models. We have considerable experience and satisfaction with the HME / US Tanker builders and their bid was the lowest received.

The estimated cost of the total apparatus is \$530,000 and includes the vehicle and all required equipment to put the Engine in service. The FEMA grant funds of \$225,000 will be used towards the purchase, leaving \$305,000 of the cost allocated to the City of Whitewater. One of the requirements of the FEMA grant is to have a signed contract with the builder no later than April 20, 2010.

The new fire engine will replace 1222, a 1985 Pierce Arrow fire engine that was scheduled to be replaced in 2011.

Sincerely,

Don Gregoire, Chief



ORDINANCE NO. 1683
ORDINANCE CREATING CHAPTER 5.19
SIDEWALK CAFE PERMIT

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do hereby ordain as follows:

Section 1. Whitewater Municipal Code Chapter 5.19 Sidewalk cafe permit is hereby created to read as follows:

A. Purpose: To further encourage the revitalization of the downtown and other areas of the city, including the development of social and economic activity, the city council finds and determines:

1. That there exists a need for outdoor eating facilities in certain areas of the city to provide a unique environment for relaxation, social interaction, and food consumption.
2. That sidewalk cafes will permit enhanced use of the available public rights of way, will complement restaurants operating from fixed premises, and will promote economic activity in the area.
3. That the existence of sidewalk cafes encourages additional pedestrian traffic but their presence may impede the free and safe flow of pedestrians. Therefore, a need exists for regulations and standards for the existence and operation of sidewalk cafes to ensure a safe environment.
4. That the establishment of permit conditions and safety standards for sidewalk cafes is necessary to protect and promote public health, safety, and welfare.

B. Definitions.

1. "Sidewalk cafe" shall mean an expansion of a full service restaurant creating an outdoor dining facility on part of the public right of way that immediately adjoins the licensed premises for the purpose of consuming food or beverages prepared at the full service restaurant adjacent thereto. "Full service restaurant" shall mean an establishment requiring a State of Wisconsin restaurant license and whose food sales are greater than thirty percent (30%) of its gross receipts.

C. Permit required.

1. A full service restaurant may apply to the neighborhood services director or his or her designee for a permit to allow a restaurant to operate a sidewalk cafe. The neighborhood services director or designee may approve, approve with conditions or restrictions, or deny a permit where necessary to protect the public health, safety or welfare, to prevent a nuisance from developing or continuing, or due to violation of this section, the city code of ordinances, or

applicable state or federal law.

2. Before a permit may be issued, the application and site plan shall be reviewed for approval by the city fire department and city building inspector.

3. Each permit shall be effective for one year from July 1st until June 30.

4. The permit issued may be transferred to a new owner only for the location and area listed in the permit. The transferred permit shall be valid only for the remainder of the period for which it was originally issued. A new certificate of insurance must be filed with the city before the permit transfer.

D. Permit application. Application for a permit to operate a sidewalk cafe shall be submitted to the department of public works and shall include at least the following information:

1. Completed city application form.

2. Copy of a valid restaurant license issued by the State of Wisconsin.

3. Copy of a current certificate of commercial liability insurance in the amount of at least \$100,000 per occurrence.

4. A layout, drawn to scale, which accurately depicts the dimensions of the existing sidewalk area and adjacent private property, the proposed location of the sidewalk cafe, size and number of tables, chairs, steps, planters, and umbrellas, location of doorways, trees, parking meters, sidewalk benches, trash receptacles, light poles and any other sidewalk obstructions, either existing or proposed, within the pedestrian area. This layout shall be submitted on 8-1/2" x 11" paper, suitable for reproduction.

5. Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed tables, chairs, umbrellas, barriers or other objects related to the sidewalk cafe.

6. A non-refundable application fee.

E. Permit fees.

1. There shall be a One Hundred Fifty Dollar (\$150.00) application fee for an initial sidewalk cafe permit, with or without an alcohol license expansion.

2. The annual renewal fee for a permit, with or without an alcohol license expansion, shall be \$25.00.

F. Sidewalk cafe standards. The following standards, criteria, conditions, and restrictions shall apply to all sidewalk cafes, provided, however, that the neighborhood services director or designee may impose additional conditions and restrictions to protect and promote the

public health, safety, or welfare, to prevent a nuisance from developing or continuing, and to comply with this section, the city of Whitewater code of ordinances, and all applicable state and federal laws.

1. Sidewalk cafes are restricted to the public right of way immediately adjacent to the licensed full service restaurant to which the permit is issued.

2. Tables, chairs, umbrellas or other fixtures in the sidewalk cafe:

a. Shall not be placed within five feet of fire hydrants, alleys, or bike racks. Shall not be placed within five feet of a pedestrian crosswalk or corner curb cut.

b. Shall not block designated ingress, egress, or fire exits from or to the restaurant, or any other structures.

c. Shall be readily removable and shall not be physically attached, chained or in any manner affixed to any structure, tree, signpost, light pole, or other fixture, curb, or sidewalk.

d. Shall be removed when the sidewalk cafe is not in operation.

e. Shall be maintained in a clean, sanitary and safe manner.

3. Sidewalk cafes shall be located in such a manner that a distance of not less than four feet is maintained at all times as a clear and unobstructed pedestrian path. For the purpose of the minimum clear path, parking meters, traffic signs, trees, light poles and all similar obstacles shall be considered obstructions.

4. The sidewalk cafe, along with the sidewalk and roadway immediately adjacent to it, shall be maintained in a neat and orderly manner at all times. Debris shall be removed as required during the day and again at the close of each business day.

5. Plant tubs may be located in the sidewalk cafe with the approval of the neighborhood services director or designee. Plant tubs shall be maintained in a safe, neat, clean, and presentable manner.

6. Umbrellas and other decorative material shall be made of treated wood, canvas, cloth, or similar material that is manufactured to be fire-resistant. No portion of an umbrella shall be less than six feet eight inches above the sidewalk.

7. Signs to be used in the sidewalk cafe shall be in accordance with chapter 19.54 of the city code of ordinances. However, the neighborhood services director may allow temporary easel signs.

8. No food preparation, food or beverage storage, refrigeration apparatus, or equipment shall be allowed in the sidewalk café unless authorized by the Neighborhood services Director as part of a special event.

9. No amplified entertainment shall be allowed in the sidewalk cafe unless authorized by the Neighborhood Services Director as part of a special event.

10. A copy of the site plan, as approved in conjunction with the current sidewalk cafe permit, shall be maintained on the permittee's premise and shall be available for inspection by city personnel at all times.

11. The sidewalk cafe permit covers only the public right of way described in the permit. Tables and chairs on private property will be governed by other applicable regulations.

12. Sidewalk cafes shall not operate after 10:00 p.m. or before 7:00 a.m.

13. The use of a portion of the public right of way as a sidewalk cafe shall not be an exclusive use. All public improvements, including, but not limited to trees, light poles, traffic signals, pull boxes, or manholes, or any public initiated maintenance procedures, shall take precedence over said use of the public right of way at all times. The City Manager, Chief of Police, the neighborhood services director or their designees may temporarily order the removal of the sidewalk cafe for special events, including but not limited to, parades, sponsored runs or walks, or for public health and safety reasons.

14. The area encompassing the sidewalk café shall be roped off or otherwise enclosed by a freestanding barrier. The barrier shall be at least three feet high. The neighborhood services director shall approve the barrier to assure that it is safe and visually appealing.

15. The city, its officers and employees, shall not be responsible for sidewalk cafe fixtures that are relocated or damaged.

G. Alcohol licensing and service of alcohol beverages.

1. A permittee may sell and serve alcohol beverages in an outdoor cafe only if the permittee complies with all the requirements for obtaining an alcohol beverage license, and the sidewalk cafe is listed on the alcohol beverage license application as being an part of the licensed premises.

2. Alcohol may be served at sidewalk cafes under the following conditions:

a. The permittee has a valid and appropriate retail alcohol beverage license for the principal premises.

b. The retail alcohol beverage license premises description includes the sidewalk cafe in the description of the licensed premises as an extended area.

c. The retail alcohol beverage license permits the sale of the type of alcohol beverages to be served in the sidewalk cafe.

d. Alcohol beverages are sold and served by the licensee or licensee's employees and sold or served only to patrons seated at tables in the sidewalk cafe.

e. Alcohol beverages are served by the licensee or the licensee's employees in compliance with alcohol beverage laws, ordinances and regulations.

f. Alcohol beverages may only be served at the sidewalk cafe when food service is available through the licensed establishment.

g. The permittee shall be responsible for policing the sidewalk cafe area to prevent underage persons from entering or remaining in the sidewalk cafe, except when underage persons are allowed to be present on the licensed premises under applicable laws.

h. The permittee shall not allow patrons of the sidewalk cafe to bring alcohol beverages into the sidewalk cafe from another location, nor to carry open containers of alcohol beverages about in the sidewalk cafe area, nor to carry open containers of alcohol beverages served in the sidewalk cafe outside the sidewalk cafe area.

i. The bar from which the alcohol beverages are dispensed shall be located indoors and shall not be located in the sidewalk cafe area.

j. At times of closing or during times when consumption of alcohol beverages is prohibited, permittee shall remove from the sidewalk cafe area all containers used for or containing alcohol beverages. No container of alcohol beverages shall be present in the sidewalk cafe between 10:00 p.m. and 7:00 a.m.

H. Liability and insurance. By obtaining the sidewalk cafe permit, the permittee agrees to indemnify, defend, save, and hold harmless the City, its officers and employees, from any and all claims, liability, lawsuits, damages, and causes of action, which may arise out of the permit or the permittee's activity on the sidewalk cafe. The permittee shall sign an indemnification agreement approved by the city attorney prior to operation of the sidewalk cafe.

1. The permittee shall maintain in full force and effect commercial liability insurance in the amount of at least \$100,000 per occurrence for bodily injury and property damage, with the city of Whitewater named as an additional insured, shall show that the coverage extends to the area used for the sidewalk cafe.

2. The permittee shall provide the city with an original certificate of insurance as evidence that the requirements set forth in this section have been met prior to commencing operations.

I. Revocation or suspension. The approval of a sidewalk cafe permit is conditional at all times. A sidewalk cafe permit may be revoked or suspended by the neighborhood services director or designee where necessary based on a violation of this ordinance or to protect the public health, safety, or welfare, to prevent a nuisance from developing or continuing, in emergency situations, or due to noncompliance with this section, the city code of ordinances, or

applicable state or federal law.

J. Appeal. A revocation, suspension, or denial of a permit may be appealed by the permittee to the Common Council committee. If the neighborhood services director's decision is appealed, the alcohol licensing committee shall hold a hearing and either grant, grant with conditions, or deny the permit. The permittee holder or applicant shall be notified of the Common Council appeal meeting and shall have the right to be heard prior to a decision.

K. Penalty. The penalty for violation of this section shall be a forfeiture of not less than \$50 or more than \$200 per day for each violation, together with the costs of prosecution.

Section 2. This ordinance shall take effect upon passage and publication as provided by law.

It was moved by Binnie and seconded by Stauffer to approve the ordinance as presented.

It was then moved by Stewart and seconded by Taylor to amend the motion to state that Permit Revocations may be appealed to full Council. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. Motion is now amended.

It was then moved by Binnie and seconded by Stauffer to amend the Ordinance to allow amplification and/or outdoor food preparation permits to be authorized by the Neighborhood Services Director. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. Amendment passes.

A vote was then taken on the amended motion. (to approve ordinance with the understanding that appeals may be submitted the full Council and to allow the Neighborhood Services Director to authorize sound amplification permits and / or outdoor food preparation permits. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

Michele Smith

From: Kalan, Terri [kalant@ci.superior.wi.us]
Sent: Thursday, March 18, 2010 1:01 PM
To: Michele Smith
Subject: RE: Sidewalk Cafes
Attachments: O09-3706, Sidewalk Cafe.doc; O09-3705, Outdoor Alcohol License.doc

I am attaching our Sidewalk Café and Outdoor Alcohol Licenses. We just adopted them at the end of 2009. We will only issue Sidewalk Café licenses to full service restaurants.

*Terri Kalan, City Clerk
Superior, WI 715-395-7369*

From: Michele Smith [mailto:MSmith@ci.whitewater.wi.us]
Sent: Wednesday, March 17, 2010 3:33 PM
To: Clerk List
Subject: [clerklist] Sidewalk Cafes

Hello everyone,

If you have a sidewalk café ordinance, would you be willing to share a copy?

Also, any experiences relating alcohol served at a sidewalk cafes (good or bad) would be appreciated.

Thanks.
Michele Smith, Clerk
City of Whitewater
Pop.: 14,110

The Wisconsin Municipal Clerks Association does not take responsibility for any information obtained through this listserv. Some responses may be only a personal way of conducting business, and may not be appropriate to your community. WARNING: Some questions in all likelihood require professional assistance. After reviewing any and all responses received, please confirm this information with your own professional and legal staff. You are currently subscribed to clerklist as: KALANT@ci.superior.wi.us
To unsubscribe send a blank email to leave-clerklist-1081849A@list.wisclerks.org

ORDINANCE #009-3706

ORDINANCE INTRODUCED BY THE LICENSE AND FEES COMMITTEE AMENDING CITY CODE CHAPTER 74 - LICENSES, PERMITS, AND BUSINESS REGULATIONS, BY CREATING ARTICLE X, SIDEWALK CAFÉ LICENSE

The Common Council of the City of Superior, Wisconsin, does ordain as follows:

SECTION 1: Chapter 74 Licenses, Permits and Business Regulations is amended by creating Article X, Sidewalk Café License as follows:

ARTICLE X, SIDEWALK CAFÉ LICENSE

Sec. 74-260 Definition

Establishments holding a full service restaurant license from the State of Wisconsin may be eligible for a Sidewalk Cafe License to allow sidewalk café seating for service of food and beverages on the public sidewalk directly adjacent to the establishment.

Sec. 74-261 License required; application; and license fees

No person or establishment may operate a Sidewalk Café within the City without having secured a license from the City Clerk. Application for Sidewalk Café License shall be made in writing on the form prescribed by the City Clerk and must include a site plan drawn to scale and shall accurately describe the café area and furniture, and shall indicate the nature of fencing or other measures intended to provide control over the operation of the café seating area. The license period is July 1 – June 30. There shall be an initial application fee of one hundred dollars (\$100.00); and no renewal fee if there are no changes to the outdoor area.

Sec. 74-262 Approvals

a) All applications must be approved by the Common Council, after recommendation for approval by the following Departments: Police, Fire, Health, and Building Inspection; and License & Fees Committee. Renewals will be approved by the Common Council with other applicable alcohol renewal applications.

b) In making their determination on whether or not to recommend approval of Sidewalk Café License, the License & Fees Committee shall, on a case-by-case basis, take into consideration public safety, size of the café area, location with respect to adjacent residential uses and neighborhood conditions, noise, parking, hours of operation, and security.

Sec. 74-263 Surface

a) The entire sidewalk surface for the proposed sidewalk café must be paved. For purposes of this section, a paved surface includes: concrete, asphalt, cement, brick, pavers, or other impervious surface. The appearance, lighting, signage, visual barriers must be reasonably compatible with the surrounding Area.

b) An establishment is not eligible if the café placement would present a safety hazard due to any other elements of the topography or layout of the sidewalk, regardless of the width or square footage of the adjacent public sidewalk, or would impede pedestrian traffic.

Sec. 74-264 Hours

All tables, chairs, barriers and other items relating to the sidewalk café may not be in place prior to 10:00 a.m. and must be removed by 10:00 p.m. nightly.

Sec. 74-265 Lease and Insurance requirements

A lease with the City of Superior, and a certificate of commercial general liability insurance, in the amount of \$1,000,000, designating the City of Superior as an additional insured for the sidewalk cafe site, is required.

Sec. 74-266 Outdoor Alcohol Consumption at a Sidewalk Café

a) If a sidewalk café has an outdoor alcohol consumption license, as outlined in Chapter 14, food service shall be required to be available at all times the sidewalk cafe is open. Consumption of alcohol shall be limited to persons seated at tables in the sidewalk café site.

b) Each sidewalk café serving alcohol shall be responsible for control of the area to be sure customers are of the legal drinking age, and that alcohol beverages are not removed from the sidewalk café area.

SECTION 2: All ordinances and parts of ordinance in conflict herewith are hereby repealed.

SECTION 3: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

Passed and adopted this 6th day of October, 2009.

Attest:

Mayor

City Clerk

ORDINANCE #009-3705

ORDINANCE INTRODUCED BY THE LICENSE AND FEES COMMITTEE AMENDING CITY CODE CHAPTER 14, ALCOHOL BEVERAGES, BY CREATING AN OUTDOOR ALCOHOL CONSUMPTION LICENSE

The Common Council of the City of Superior, Wisconsin, does ordain as follows:

SECTION 1: Chapter 14, Alcohol Beverages, is hereby amended by adding Section 14-23 (5) and (6); Section 14-24 (a)(3)f; and Section 14-58 (c) is created, to read as follows:

Section 14-23 Other Licenses is hereby amended by *adding*:

- (5) Karaoke
- (6) Outdoor Alcohol Consumption License as provided in article III.

Section 14-24. License Fees is hereby amended by *adding*:

- (a) (3) f. Outdoor Alcohol Consumption license (Initial fee)\$100.00

Section 14-58 Premise is hereby amended by *creating*:

(c) **Outdoor Alcohol Consumption License.** No licensee authorized under this section shall permit the sale, service, or consumption of alcohol on any unenclosed part of the licensed premises or adjacent premises owned or leased by the licensee except when granted an Outdoor Alcohol Consumption License by the Common Council. The license is a privilege in which no rights vest and therefore, may be revoked for violations of any provisions.

(1) **Application.** An application shall be made in writing on the form prescribed by the City Clerk and must include a site plan drawn to scale and dimensions showing the location of fixtures, entrances/exits and furniture; and shall accurately describe the outdoor area and the nature of fencing or other measures intended to provide control over the operation of the outdoor seating area. (All applicable building/fire codes apply)

(2) **Approval.**

a. All initial applications must be approved by the Common Council, after recommendation for approval by the following Departments: Police, Fire, Health, Building Inspection; and the License & Fees Committee. Renewals will be approved by the Common Council with other applicable alcohol renewal applications.

b. In making their determination on whether or not to recommend approval of an Outdoor Alcohol Consumption License, the License & Fees Committee shall, on a case-by-case basis, take into consideration public safety; size of the outdoor area; location with respect to adjacent residential uses and neighborhood conditions; noise; parking; hours of operation; harmful, offensive or otherwise adverse impact to the surrounding neighborhood; and security and monitoring of alcohol consumption when recommending the license be granted as requested, modified for denied.

(3) **Control over area.** A licensed operator shall have control over the outdoor seating area at all times the outdoor seating area is in operation and the area shall be capable of being constantly observed by serving or security personnel.

(4) **Amplified sound.** Amplified sound, such as music, is permitted but may not be audible outside of the outdoor seating area.

(5) Improved Surface. The outdoor area must be suitable for pedestrian traffic. The appearance, lighting, signage, visual barriers must be reasonably compatible with the surrounding area.

(6) Fee. There shall be an initial application fee of one hundred dollars (\$100.00); and no renewal fee if there are no changes to the outdoor area.

(7) Time of Operation. The outdoor seating area may only be open during regular business hours. No one may be in the outdoor seating area beyond those hours unless they are employees of the licensed premise and are actually involved in the process of clean-up, maintenance or repair. The shift commander of the Police Department has the authority to order any outdoor seating area to be closed down at any time the Shift Commander believes it is in violation of this ordinance.

(8) State Statutes Enforced Within Outdoor Seating Area. Every licensee under this Section shall comply with and enforce all provisions of Ch. 125, Wis. Stats., applicable to Class "B" licensed premises, except insofar as such provisions are clearly inapplicable. Violation of the provisions of Ch. 125, Wis. Stats., shall be grounds for immediate revocation of the Outdoor Alcohol Beverage License by the Common Council.

SECTION 2: All ordinances and parts of ordinance in conflict herewith are hereby repealed.

SECTION 3: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof.

SECTION 4: This ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

Passed and adopted this 6th day of October, 2009.

Attest:

Mayor

City Clerk

Michele Smith

From: Juliet Edmands [JEdmands@mtpleasantwi.gov]
Sent: Wednesday, March 17, 2010 3:41 PM
To: Michele Smith
Subject: RE: Sidewalk Cafes
Attachments: Ord 3-2004 regarding outside alcohol service.doc; image001.jpg

We created an ordinance in 2004, attached. no problems I know of.

Juliet Edmands, CMC, WCMC, CMTW

Clerk Treasurer
 Village of Mt. Pleasant
 6126 Durand Av
 Racine, WI 53406

(262) 554-8750
 (262) 554-6785 FAX
 Pop 26,140

Please consider the environment before printing this email.



From: Michele Smith [mailto:MSmith@ci.whitewater.wi.us]
Sent: Wednesday, March 17, 2010 3:33 PM
To: Clerk List
Subject: [clerklist] Sidewalk Cafes

Hello everyone,

If you have a sidewalk café ordinance, would you be willing to share a copy?

Also, any experiences relating alcohol served at a sidewalk cafes (good or bad) would be appreciated.

Thanks.
 Michele Smith, Clerk
 City of Whitewater
 Pop.: 14,110

The Wisconsin Municipal Clerks Association does not take responsibility for any information obtained through this listserv. Some responses may be only a personal way of conducting business, and may not be appropriate to your community. **WARNING:** Some questions in all likelihood require professional assistance. After reviewing any and all responses received, please confirm this information with your own professional and legal staff. You are currently subscribed to clerklist as: JEdmands@mtpleasantwi.gov
 To unsubscribe send a blank email to leave-clerklist-1080216C@list.wisclerks.org

ORDINANCE 3 -2004

AN ORDINANCE AMENDING SECTION 12.03 (6) (1) OF THE
GENERAL ORDINANCES OF THE VILLAGE OF MT. PLEASANT,
RACINE COUNTY, WISCONSIN, RELATING TO LIMITATIONS
ON USE OF AN AREA OUTSIDE LICENSED AREA

The Village Board of the Village of Mt. Pleasant, Racine County, Wisconsin, does ordain as follows:

Section 12.03 (6) (1) is hereby amended and created to read as follows:

- (1) Limitations on Service / Consumption of Intoxicating Liquor or Fermented Malt Beverages in Outside Areas. Providing the initial or renewal alcohol beverage license describes adjacent premises owned or leased by the licensee or is amended to so describe such premises, service and consumption of intoxicating liquor or fermented malt beverages shall be permitted in such adjacent area on the condition that:
1. A site plan for such use is first submitted and receives favorable recommendation from the Village Plan Commission and approval by the Village Board, which site plan shall show that no dwelling, except if located in the same structure as the licensed premises, shall be within 150' of the outer boundary of such area.
 2. The area is designated by a fence, decorative chain and posts or other suitable barricades at least three feet in height that cordons the area off from the remainder of the outside area. Such barriers may be placed to allow the public access from the outside as well as through the licensed premises.
 3. The area is cleared of all persons by not later than 10:00 p.m.
 4. No loud music or dancing shall be allowed in the outside area.
 5. The outdoor area shall be supervised at all times by the licensee or an authorized employee.
 6. All other Village ordinances, including those relating to littering, noise or drinking of intoxicants where prohibited shall be observed.

Passed by the Village Board of the Village of Mt. Pleasant, Racine County, Wisconsin, this 12th day of April, 2004

VILLAGE OF MT. PLEASANT

By: _____
James M. Turek, President

Attest:

Juliet Edmands, Village Clerk

Michele Smith

From: Donna Austad [Donna.Austad@ci.eau-claire.wi.us]
Sent: Thursday, March 18, 2010 9:03 AM
To: Michele Smith
Subject: Re: Sidewalk Cafes
Attachments: Sidewalk Cafes & food cart vendors 13.12.06.doc

Michelle,
Here is the C-EC ordinance on sidewalk cafes & sidewalk food cart vendors.
We haven't had any problems with them.
DonnaA

Donna Austad, WCMC
City of Eau Claire (pop 65,950)
203 S. Farwell St
ph - (715) 839 - 4912
fax- (715) 839 - 6177

>>> "Michele Smith" <MSmith@ci.whitewater.wi.us> 3/17/2010 3:32 PM >>>

Hello everyone,

If you have a sidewalk café ordinance, would you be willing to share a copy?

Also, any experiences relating alcohol served at a sidewalk cafes (good or bad) would be appreciated.

Thanks.

Michele Smith, Clerk

City of Whitewater

Pop.: 14,110

13.12.062 SIDEWALK CAFE PERMIT.

A. Purpose: To further encourage the revitalization of the downtown and Water Street areas of the city, including the development of social and economic activity, the city council finds and determines:

1. That there exists a need for outdoor eating facilities in certain areas of the city to provide a unique environment for relaxation, social interaction, and food consumption.
2. That sidewalk cafes will permit enhanced use of the available public rights of way, will complement the restaurants operating from fixed premises, and will promote economic activity in an area.
3. That the existence of sidewalk cafes encourages additional pedestrian traffic and their presence may impede the free and safe flow of pedestrians. Therefore, a need exists for regulations and standards for the existence and operation of sidewalk cafes to ensure a safe environment.
4. That the establishment of permit conditions and safety standards for sidewalk cafes is necessary to protect and promote public health, safety, and welfare.

B. Definitions.

1. "Sidewalk cafe" shall mean an expansion of a full service restaurant creating an outdoor dining facility on part of the public right of way that immediately adjoins the licensed premises for the purpose of consuming food or beverages prepared at the full service restaurant adjacent thereto. "Full service restaurant" shall mean an establishment requiring a restaurant license under chapter 8.16 of the city code of ordinances whose food sales are greater than 50 percent of its gross receipts.

2. "Downtown" shall mean the qualifying properties lying within the area bounded on the north by Cameron Street and William Street as extended to the Chippewa River, on the east by Dewey Street, on the south by Lake Street, and on the west by Fifth Avenue/Fulton Street/Whipple Street. The permitted area includes sidewalk located on both sides of a described boundary street.

3. "Water Street" shall mean the qualifying properties lying within the area bounded on the north by Chippewa Street, on the east by Second Avenue, on the south by the Chippewa River, and on the west by Ninth Avenue. The permitted area includes sidewalk located on both sides of a described boundary street.

C. Permit required.

1. Notwithstanding the provisions of section 13.12.060, a full service restaurant located in the downtown or Water Street areas of the city may apply to the director of public works or designee for a permit to allow a restaurant to operate a sidewalk cafe. The director of public works or designee may approve, approve with conditions or restrictions, or deny a permit where necessary to protect the public health, safety or welfare, to prevent a nuisance from developing or continuing, or due to violation of this section, the city code of ordinances, or applicable state or federal law.

2. Before a permit may be issued, the application and site plan shall be reviewed for approval by the city/county health, city fire inspections and city building inspections departments.

3. Each permit shall be effective for one year, from April 1 until March 31.

4. The permit issued may be transferred to a new owner only for the location and area listed in the permit. The transferred permit shall be valid only for the remainder of the period for which it was originally issued. A new certificate of insurance must be filed with the city within 30 days of the permit transfer.

D. Permit application. Application for a permit to operate a sidewalk cafe shall be submitted to the department of public works and shall include at least the following information:

1. Completed city application form.

2. Copy of a valid restaurant license in the city as required by chapter 8.16, Food Service Establishments.

3. Copy of a current certificate of insurance in the amount and categories required by section 13.12.062(H).

4. A layout, drawn to scale, which accurately depicts the dimensions of the existing sidewalk area and adjacent private property, the proposed location of the sidewalk cafe, size and number of tables, chairs, steps, planters, and umbrellas, location of doorways, trees, parking meters, bus shelters, sidewalk benches, trash receptacles, and any other sidewalk obstructions, either existing or proposed, within the pedestrian area. This layout shall be submitted on 8½" x 11" paper, suitable for reproduction.

5. Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed tables, chairs, umbrellas or other objects related to the sidewalk cafe.

6. A non-refundable application fee, as stated in the City of Eau Claire Fees and Licenses Schedule.

E. Permit fees.

1. The application fee for an initial sidewalk cafe permit, with or without an alcohol license expansion, shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

2. The annual renewal fee for a permit, with or without an alcohol license expansion, shall be as stated in the City of Eau Claire Fees and Licenses Schedule.

F. Sidewalk cafe standards. The following standards, criteria, conditions, and restrictions shall apply to all sidewalk cafes, provided, however, that the director of public works or designee may impose additional conditions and restrictions to protect and promote the public health, safety, or welfare, to prevent a nuisance from developing or continuing, and to comply with this section, the city code of ordinances, and all applicable state and federal laws.

1. Sidewalk cafes are restricted to the public right of way immediately adjacent to the licensed full service restaurant to which the permit is issued.

2. Tables, chairs, umbrellas or other fixtures in the sidewalk cafe:

a. Shall not be placed within five feet of bus stops, taxi stands, fire hydrants, alleys, bike racks. Shall not be placed within five feet of a pedestrian crosswalk or corner curb cut.

b. Shall not block designated ingress, egress, or fire exits from or to the restaurant, or any other structures.

c. Shall be readily removable and shall not be physically attached, chained or in any manner affixed to any structure, tree, post sign, or other fixture, curb, or sidewalk.

d. Shall be removed when the sidewalk cafe is not in operation. Plant tubs may remain in the sidewalk cafe if approved under section 13.12.062(F)(5).

e. Shall be maintained in a clean, sanitary and safe manner.

3. Sidewalk cafes shall be located in such a manner that a distance of not less than four feet is maintained at all times as a clear and unobstructed pedestrian path. For the purpose of the minimum clear path, parking meters, traffic signs, trees, and all similar obstacles shall be considered obstructions.

4. The sidewalk cafe, along with the sidewalk and roadway immediately adjacent to it, shall be maintained in a neat and orderly manner at all times. Debris shall be removed as required during the day and again at the close of each business day.

5. Plant tubs shall be located in the sidewalk cafe with the approval of the director of public works or designee. Plant tubs shall be maintained in a safe, neat, clean, and presentable manner.

6. Umbrellas and other decorative material shall be treated wood, canvas, cloth, or similar material that is manufactured to be fire-resistant. No portion of an umbrella shall be less than six feet eight inches above the sidewalk.

7. Signs to be used in the sidewalk cafe shall be in accordance with chapter 16.16 of the city code of ordinances.

8. No food preparation, food storage, refrigeration apparatus, or equipment shall be allowed in the sidewalk cafe.

9. No amplified entertainment shall be allowed in the sidewalk cafe unless authorized as part of a special event.

10. A copy of the site plan, as approved in conjunction with the current sidewalk cafe permit, shall be maintained on the permittee's premise and shall be available for inspection by city personnel at all times.

11. The sidewalk cafe permit covers only the public right of way described in the permit. Tables and chairs on private property will be governed by other applicable regulations.

12. Sidewalk cafes shall not operate after 10:00 p. m. or before 6:00 a. m.

13. The use of a portion of the public right of way as a sidewalk cafe shall not be an exclusive use. All public improvements, including, but not limited to trees, light poles, traffic signals, pull boxes, or manholes, or any public initiated maintenance procedures, shall take precedence over said use of the public right of way at all times. The Chief of Police or designee may temporarily order the removal of the sidewalk cafe for special events, including but not limited to, parades, sponsored runs or walks, or for public health and safety.

14. The city, its officers and employees, shall not be responsible for sidewalk cafe fixtures that are relocated or damaged.

G. Alcohol licensing. Alcohol beverages are not allowed on the public sidewalk at any time. Such activity is governed by chapters 5.28 and 9.52 of the city code of ordinances and by state laws. Notwithstanding the foregoing, the sale and service of alcohol beverages by full service restaurants located in the downtown or Water Street areas may be permitted, provided an expansion of the premise is approved by the City Council for the area described in the sidewalk cafe permit.

H. Liability and insurance. The permittee agrees to indemnify, defend, save, and hold harmless the City, its officers and employees, from any and all claims, liability, lawsuits, damages, and causes of action, which may arise out of the permit or the permittee's activity on the sidewalk cafe.

1. Commercial liability insurance in the amount of at least \$1,000,000 per occurrence for bodily injury and property damage, with the city of Eau Claire named as an additional insured, shall show that the coverage extends to the area used for the sidewalk cafe.

2. The permittee shall provide the city with an original certificate of insurance as evidence that the requirements set forth in this section have been met prior to commencing operations.

I. Revocation or suspension. The approval of a sidewalk cafe permit is conditional at all times. A sidewalk cafe permit may be revoked or suspended by the director of public works or designee where necessary to protect the public health, safety, or welfare, to prevent a nuisance from developing or continuing, in emergency situations, or due to noncompliance with this section, the city code of ordinances, or applicable state or federal law.

J. Appeal. A revocation, suspension, or denial of a permit may be appealed by the permittee to the administrative review board under ch. 1.06. The permit suspension or revocation shall remain in effect pending the hearing.

K. Penalty. The penalty for violation of this section shall be a forfeiture of not less than \$50 or more than \$500 per day for each violation, together with the costs of prosecution. (Ord. 6586, 2005).

13.12.065 Sidewalk cart food vendors. Notwithstanding the provisions of sections 13.12.060 and 9.76.100 of this code, the city council may issue licenses for sidewalk cart food vendors for the sale of specified food and beverage items from mobile pushcarts on the public sidewalks, which shall be operated and conducted in accordance with the following conditions:

A. Each applicant shall file an application with the city clerk or designee on forms provided by the city for each proposed sidewalk cart. The city clerk or designee may require such information on the application as the city clerk or designee considers reasonable and necessary.

B. Each applicant shall pay an annual fee in an amount as stated in the city of Eau Claire fees and licenses schedule for each proposed sidewalk cart.

C. No application shall be accepted for filing unless the applicant possesses the proposed sidewalk cart ready and available for inspection.

D. Each sidewalk cart shall be separately licensed and such license shall not be transferable to another sidewalk cart.

E. All sidewalk cart food vendor licenses shall expire on March first of each year, subject to renewal year to year thereafter.

F. Each sidewalk cart shall be non-motorized and capable of being moved and kept under control by one person. The city council may grant a special license to a handicapped person to operate a sidewalk cart propelled by electric motor, provided that the applicant shall meet all other conditions for a license.

G. All sidewalk carts shall be equipped with at least one leak-proof container for the deposit of waste, garbage, litter, and refuse. All such containers shall be kept covered with tight-fitting lids. When leaving the sales area, the licensee and his employee(s) shall be responsible for the removal of all litter resulting from his business or customer's use of his business.

H. Affixed permanently and prominently to each cart shall be a sign no smaller than twelve (12) inches by twelve (12) inches displaying the name, address, and telephone number of the licensee.

I. Each licensee shall provide proof of liability insurance for any single accident and for any property damage in the amount of \$250,000. A certificate of insurance for such coverage shall be delivered to the city clerk or designee prior to issuance of a license.

J. Each licensee shall comply with all state codes and standards relating to the serving and selling of food or food products.

K. No cart operator shall use noise-makers, other than bells, lights, or music to attract customers. Such bells and music shall not be used after 9:00 p.m. on any day.

L. No cart shall operate before 8:00 a.m. or after 11:00 p.m. on any day except in the downtown and Water Street areas, as defined in section 13.12.062 B., wherein no cart shall operate between the hours of 2:00 a. m. and 8:00 a. m.

M. No cart shall operate in any street, alley, or boulevard.

N. No cart shall operate on any public sidewalk within 50 feet of any business selling the same type product. Further, no cart shall operate on any public sidewalk within 50 feet of any concessions operation or other sidewalk cart vendor selling the same type product.

O. All vending activities shall be conducted so as to maintain a sufficient width of unobstructed public pedestrian walkway adjacent to the vending site. Any vending activities within the city's public parks shall only be permitted on the public sidewalks along the outside perimeter of those parks and shall not include the park's bicycle or walking paths, with the exception of public areas as stated in subsection P. hereof.

P. Sidewalk carts may be allowed to operate within the publicly owned property of Phoenix Park.

Q. A vendor shall be present within the vending site at all times during which items are displayed or sold.

R. The penalty for violation of any provision in this section shall be a forfeiture of not less than \$50.00 per day nor more than \$200.00 per day for each violation, together with the cost of prosecution. (Ord. 6706, 2006; Ord. 6408, 2003).

ORDINANCE NO. _____

**AN ORDINANCE IMPOSING THE NON-FAMILY RESIDENTIAL
OVERLAY DISTRICT ZONING CLASSIFICATION FOR CERTAIN
PROPERTY IN THE CITY OF WHITEWATER**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do, pursuant to Municipal Code Section 19.69, hereby impose the Non-Family Residential Overlay District Zoning classification on the below properties:

SECTION 1: The Non-Family Residential Overlay District, Section 19.25, is hereby imposed upon the following described properties:

Address

Tax ID #

SEE ATTACHED EXHIBIT 1 (LIST OF PROPERTIES)

SEE ATTACHED EXHIBIT 2 (MAP SHOWING SAID PROPERTIES).

SECTION 2: The official zoning map of the City of Whitewater is hereby amended to show the above action.

SECTION 3: This ordinance shall take effect upon passage and publication as provided by law.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

ADOPTED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

|||

Michele Smith

From: Wally McDonell [wkm@hmattys.com]
Sent: Friday, March 12, 2010 11:08 AM
To: Michele Smith
Cc: Kevin Brunner
Subject: Residential overlay zoning district

March 12, 2010

To: Common Council of the City of Whitewater

Dear Council:

You will be reviewing a Residential Overlay District ordinance on March 16, 2010 that allows the Council to impose special zoning, which limits the number of unrelated persons who can reside in a single-family residential unit to no more than 2, on designated residential areas in the city. Because this type of regulation has been challenged by landowners in other states around the country, I am providing my opinion as to the legality of the proposed ordinance.

SHORT ANSWER

It is my opinion that the "2 unrelated" restriction in the proposed residential overlay ordinance would be upheld if it is challenged in court.

There has not been a published decision in Wisconsin ruling on this issue. However, many municipalities throughout the United States have ordinances similar to Whitewater's proposed residential overlay zoning district. There have been lawsuits filed by landowners in other states requesting that the regulations be invalidated. I have researched the case law throughout the country extensively and found that the great majority of courts considering similar ordinances have found them to be valid. I have attached the case of *Ames Rental Property Association v. City of Ames*, 736 NW 2d 255 (2007), which is a recent decision upholding a similar restriction. (Copy attached). In that case, the court upheld an ordinance which included a limitation on no more than 3 unrelated people residing in a single dwelling unit. The court ruled that the ordinance was rationally related to the government's interest in providing quiet neighborhoods, and therefore did not offend the Equal Protection Clause of either the Iowa Constitution or the United States Constitution. I also rely heavily on the United States Supreme Court case, *Village of Belle Terre v. Borass*, 416 U.S. 1, 1974, that upheld a zoning ordinance that limited single-family homes to no more than 2 unrelated persons. (Copy attached.)

If you have any questions in regard to this issue, feel free to contact me at any time.

Wallace K. McDonell

This electronic mail transmission and any attachments are confidential and may be privileged. They should be read or retained only by the intended recipient. If you have received this transmission in error, please notify the sender immediately and delete the transmission from your system.

Wallace K. McDonell
 Harrison, Williams, McDonell, & Swatek, LLP
 452 W. Main Street
 P.O. Box 59
 Whitewater, WI 53190

ORDINANCE NO. _____

**AN ORDINANCE CREATING CHAPTER 19.25
R-O NON-FAMILY RESIDENTIAL
OVERLAY DISTRICT**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code, Chapter 19.25, R-O Non-family Residential Overlay District, is hereby created to read as follows:

19.25.010 – Purpose and Intent.

The purpose and intent of the Non-Family Residential Overlay District is to stabilize and protect property values and to provide a mechanism to protect, preserve, and enhance essential characteristics of low density single family residential areas, in particular, areas where due to economic factors and housing pressure in the immediate area, there is the potential for the reduction of family occupied residences, and therefore the loss of the single family character of the neighborhood which will potentially lead to overcrowding, undue population concentration and lower property values.

19.25.020 - Overlay District Application. The restrictions set forth herein are in addition to the restrictions and requirements of the basic district applicable to a particular site. To the extent there is a conflict between the restrictions or requirements associated with the district, the requirements that most restrictively limit the use of the site shall apply.

19.25.030 – Non-Family Residential Overlay District Additional Restrictions. In all Non-Family Residential Overlay Districts, the non-family household limitation set forth in Whitewater Municipal Ordinance 19.09.520 is reduced from 3 to 2. Therefore, in any Non-Family Residential Overlay District a non-family household shall be limited to 2 unrelated persons.

19.25.040 – Exceptions. This limitation shall not apply to community living arrangements allowed by federal and state law (such as foster homes and adult family homes for the disabled) and, in particular, those allowed under Wisconsin Statute §62.23.

19.25.050 – Registration. The owner of any property claiming non-conforming use status regarding the unrelated persons limitation imposed by R-O zoning shall register with the City Clerk on a form provided by the Clerk within sixty (60) days of the imposition of the zoning on the property. The information required on the registration form shall include the history of the property that supports its designation as a non-conforming use; the names and dates of residency of current tenants, and the names and dates of residency of all tenants who resided at the premises for the last two years. The party claiming the non-conforming use status shall also have a continuing requirement to update the registration information to provide the names of

current tenants. Failure to register within sixty (60) days shall cause the non-conforming use to terminate. The City shall mail a notice of this requirement to the address on the property's real estate tax statement within fifteen (15) days of the imposition of the zoning on the property.

SECTION 2: This ordinance shall take effect upon passage and publication as provided by law.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

ADOPTED:

ORDINANCE NO. _____

AN ORDINANCE IMPOSING THE NON-FAMILY RESIDENTIAL OVERLAY DISTRICT ZONING CLASSIFICATION FOR CERTAIN PROPERTY IN THE CITY OF WHITEWATER

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do, pursuant to Municipal Code Section 19.69, hereby impose the Non-Family Residential Overlay District Zoning classification on the below properties:

SECTION 1: The Non-Family Residential Overlay District, Section 19.25, is hereby imposed upon the following described properties:

Address

Tax ID #

SEE ATTACHED EXHIBIT 1 (LIST OF PROPERTIES)

SEE ATTACHED EXHIBIT 2 (MAP SHOWING SAID PROPERTIES).

SECTION 2: The official zoning map of the City of Whitewater is hereby amended to show the above action.

SECTION 3: This ordinance shall take effect upon passage and publication as provided by law.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

ADOPTED:

ESTERLY AVENUE	122	/FJ 00025	Baica, Adrian & Dr. Malvina F.	122 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	123	/FJ 00002	Wood, William J. & Heidi S.	123 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	129	/FJ 00003	Heistad-Johnson, Jeffrey A. & Anna	129 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	132	/FJ 00026	Roselle, Blayne D. & Amy R.	132 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	135	/FJ 00004	Hayes, Glenn C. & Christine C.	135 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	140	/FJ 00028	Ganser, Thomas & Beverly	140 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	141	/FJ 00005	Gempler, David P.	141 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	149	/FJ 00006	Doris Buth Engle Est.	943 W. Highland Street	Whitewater, WI 53190
ESTERLY AVENUE	154	/FJ 00030	Maroski, Dirk E. & Susanne	154 N. Esterly Avenue	Whitewater, WI 53190
ESTERLY AVENUE	159	/FJ 0006A	Halbach, David & Susan	159 N. Esterly Avenue	Whitewater, WI 53190
ESTERLY AVENUE	162	/FJ 00031	Never Rest Farm Properties LLC	W6212 HWY. 12	Whitewater, WI 53190
ESTERLY AVENUE	165	/FJ 00007	Ahrens, Debra	5213 Caprock Dr. NE	Rio Rancho, NM 87144
ESTERLY AVENUE	170	/FJ 00032	Dalee, Roderick & Mary	269 N. Franklin Street	Whitewater, WI 53190
ESTERLY AVENUE	175	/FJ 00008	Truesdale, John & Jean	175 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	180	/FJ 00033	Leaver, James & Rose	180 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	181	/FJ 00008A	Coffaris, Jerre & Catherine	181 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	201	/FJ 00009	Meumann, Neale W.	201 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	204	/FJ 00034	Jennings, Robert L. & G.	204 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	211	/FJ 00010	Swader, Rose Ann	211 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	211	/WUP 00099T	Swader, Rose Ann	211 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	214	/BUL 00014B	Deming Wang & Chunju Chen	214 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	214	/FJ 00034A	Deming Wang & Chunju Chen	214 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	216	/FJ 00034A	Deming Wang & Chunju Chen	214 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	216	/BUL 00014B	Deming Wang & Chunju Chen	214 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	219	/FJ 00012	Beckum, Charles & Michelle	219 N. Esterly Ave.	Whitewater, WI 53190

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EXHIBIT 1 TO ORDINANCE
 APOSING OVERLAY DISTRICT
 ZONING CLASSIFICATION

City of Whitewater
Property Owner Records

STREET	HOUSE#	APT	TAX PARC#	OWNER'S NAME	OWNER'S MAILING ADDRESS	CITY, STATE, ZIP CODE
ESTERLY AVENUE	219		WUP 00099U	Beckum, Charles & Michelle	219 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	222		/FJ 00035	Nielson, Christine	222 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	225		/FJ 00013	Storck, Ray O. & S.	225 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	230		/FJ 00037	Hohf, Denise Reid	230 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	231		/FJ 00014	Patterson, Edith H.	P.O. Box 163	Whitewater, WI 53190
ESTERLY AVENUE	237		/FJ 00016	Garcia, Raymond R. & Dorothy Louring Garcia	4409 Keating Terrace	Madison, WI 53711
ESTERLY AVENUE	237		WUP 00099X	Kepple, Michael & Linda	3020 Willow Knolls Rd.	Peoria, IL 61614
ESTERLY AVENUE	240		/FJ 00037A	Pitcher, Robert L.	240 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	245		/FJ 00017	Schutte, William A.	245 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	245		WUP 00099Z	Schutte, William A.	245 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	252		/FJ 00038	Johns, Philip T. & Jane D.	252 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	255		/FJ 00019	DeWind, Henry A. & V.	255 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	262		/FJ 00039	Sandra M. Sanborn	262 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	274		/FJ 00041	Krishnanand, Verma	274 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	275		/FJ 00021	Nies, James B. & Susan M.	275 N. Esterly Avenue	Whitewater, WI 53190
ESTERLY AVENUE	277		/FJ 00023	Dickmeyer, Cathy	277 N. Esterly Ave.	Whitewater, WI 53190
ESTERLY AVENUE	280		/FJ 00042	Race, Terry P. & Peggy J.	280 N. Esterly Ave.	Whitewater, WI 53190

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RANKLIN ST, North	115	/WUP 00097	Zeise, Richard & Darlene	115 N. Franklin Street	Whitewater, WI 53190
RANKLIN ST, North	124	/COO 00019	Triebold, Richard & Jeanne	124 N. Franklin Street	Whitewater, WI 53190
RANKLIN ST, North	125	/COO 00001	Fischer, James & Karen	125 N. Franklin Street	Whitewater, WI 53190
RANKLIN ST, North	131	/COO 00002	Wilson, David A. & Kerry J.	131 N. Franklin Street	Whitewater, WI 53190

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EXHIBIT 1, Page 3

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City of Whitewater
Property Ownership Records

STREET	HOUSE #	APT	TAX PARC#	OWNER'S NAME	OWNER'S MAILING ADDRESS	CITY, STATE, ZIP CODE
FRANKLIN ST, North	132		/COO 00020	Hackbarth, Eugene J. & Kathleen M.	132 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	137		/COO 00003	Stradinger, Theodore & Robin	137 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	138		/COO 00021	Schramm, Robert & Margaret	138 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	143		/COO 00004	Paynter, Myron & N.A.	143 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	144		/COO 00022	Fellows, Robin & Katherine	144 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	149		/COO 00005	Schmaling, James & M.C.	149 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	150		/COO 00023	Valadez, Jose	150 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	150		/WUP 00099B	Valadez, Jose	150 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	155		/COO 00006	Harvatine, Sean & Sarah	155 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	156		/COO 00024	Clougherty, Mary	156 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	163		/COO 00007	Miles, Brant R. & Ivy L.	163 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	164		/COO 00025	Menningen, Kenneth & Laura	164 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	164		/WUP 00099D	Menningen, Kenneth & Laura	164 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	170		/COO 00026	Faziu, Rexhep	170 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	175		/COO 00008A	FBR LLC	P.O. Box 44507	Madison, WI 53744
FRANKLIN ST, North	178		/COO 00027	Hartwick, James M. & Anne T.	178 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	184		/COO 00028	Winship, James & Richardson, Rita	184 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	184		/WUP 00099H	Winship, James & Richardson, Rita	184 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	185		/COO 00009	Janovec, Jared A. & Jodie R.	185 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	204		/COO 00029	Miller, Eileen	204 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	205		/COO 00010	Mertens, Robert J. & Jane	205 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	211		/COO 00011	Fairhaven Corporation	435 Starin Road	Whitewater, WI 53190
FRANKLIN ST, North	212		/COO 00030	Gehrenbeck, Robert H. & Read, Sarah R.	212 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	215		/COO 00012	Fairhaven Corporation	435 W. Starin Rd.	Whitewater, WI 53190
FRANKLIN ST, North	218		/COO 00030A	Parker, Lynne E.	1429 S. Main Street	Ft. Atkinson, WI 53538
FRANKLIN ST, North	225		/COO 00013	Vacant Lot	435 Starin Road	Whitewater, WI 53190
FRANKLIN ST, North	226		/COO 00030B	Vandling, George M. & Sander, Heidi J.	226 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	230		/COO 00031	Wuenstel, Mark J. & Peggy	230 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	233		/COO 00014	Denzin, Nancy C.	233 N. Franklin St.	Whitewater, WI 53190
FRANKLIN ST, North	236		/COO 00031A	Trait, Richard E. & V.J. Revocable Trust	236 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	236		/WUP 00099L	Trait, Richard E. & V.J. Revocable Trust	236 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	243		/COO 00015	Andersen, James & Joan	243 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	244		/COO 00032	McCarthy, Sharon	244 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	249		/COO 00015A	Lange, Dwayne & Jeanine M.	249 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	250		/COO 00033	Sahyun, Steven & Dohnelly, Martha	250 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	263		/COO 00016	Qi Shun Guo	263 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	264		/COO 00034	Jeffrey D McDonald & Kerrie K. Kachel	264 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	269		/COO 00017	Dalee, Roderick & Mary	269 N. Franklin Street	Whitewater, WI 53190

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EXHIBIT 1, Page 4

City of Whitewater
Property Ownership Records

STREET	HOUSE #	APT	TAX PARC#	OWNER'S NAME	OWNER'S MAILING ADDRESS	CITY, STATE, ZIP CODE
FRANKLIN ST, North	275		/COO 00018	Mursch, Brant & Genevieve C.	275 N. Franklin Street	Whitewater, WI 53190
FRANKLIN ST, North	276		/COO 00035	Grubel, Barbara	66 Craig Ave.	Madison, WI 53705
FRANKLIN ST, North	282		/COO 00036	Schvets, Nancy L.	164 State Street	Burlington, WI 53105

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EXHIBIT 1, Page 5

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STARIN ROAD		451	/COO 00018A	Limani, Fekrije	451 Starin Road	Whitewater, WI 53190
STARIN ROAD	No	No	504	/DS 00022 - /DS 00027	City of Whitewater (community building)	P.O. Box 178 Whitewater, WI 53190
STARIN ROAD		519	/WUP 00099A	Engler, Catherine J.	519 W. Starin Rd.	Whitewater, WI 53190
STARIN ROAD		613	/BUL 00015	Ramos, Brian D. & Cathy J. and Samantha J. Gehm	802 Flora Lane	Madison, WI 53714
STARIN ROAD		623	/BUL 00013	Eppers, Jeffrey J.	623 W. Starin Rd.	Whitewater, WI 53190
STARIN ROAD		633	/BUL 00012B	Dell, David & Blazanka	633 W. Starin Rd.	Whitewater, WI 53190

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EXHIBIT 1, Page 6

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PARK STREET	105	/TA 00001	BLGL Inc.	1691 Mound View Place	Whitewater, WI 53190
PARK STREET	115	/TA 00002	Dickinson, Timothy & Jean	115 N. Park Street	Whitewater, WI 53190
PARK STREET	120	/CLA 00001A	Smith, William J. & Marilyn M.	120 N. Park Street	Whitewater, WI 53190
PARK STREET	121	/TA 00003	Rademaker, David L. & Mandi L.	121 N. Park Street	Whitewater, WI 53190
PARK STREET	129	/TA 00004	Koch, David & Barbara	129 N. Park Street	Whitewater, WI 53190
PARK STREET	130	/CLA 00002	Van Frachen, Mark A. & Sara A.	130 N. Park Street	Whitewater, WI 53190
PARK STREET	135	/TA 00005	Waga, Vernon and Lucille	135 N. Jefferson Street	Whitewater, WI 53190
PARK STREET	136	/CLA 00003	Cipriano, Michael & Cristina A.	136 N. Park Street	Whitewater, WI 53190
PARK STREET	142	/CLA 00004	Georgianne M. Lombard	142 Park Street	Whitewater, WI 53190
PARK STREET	143	/TA 00006	Sdano, Ronnie & Robin	143 N. Park Street	Whitewater, WI 53190
PARK STREET	148	/CLA 00005	Heth, Darrell & Gail	148 N. Park Street	Whitewater, WI 53190
PARK STREET	149	/TA 00007	Bock, Kirby & Barbara	149 N. Park Street	Whitewater, WI 53190
PARK STREET	154	/CLA 00006	Ferencz, George Joseph & Jane Riegel	154 N. Park Street	Whitewater, WI 53190
PARK STREET	160	/CLA 00007	Hassimi Traore, Lauren Bower Smith	160 N. Park Street	Whitewater, WI 53190
PARK STREET	161	/PA 00002	Ladwig & Vos Inc.	140 Longmeadow Drive	Burlington, WI 53105
PARK STREET	163	/PA 00002	Ladwig & Vos Inc.	140 Longmeadow Drive	Burlington, WI 53105
PARK STREET	166	/CLA 00008	Hiscox, Myron & Susan	166 N. Park Street	Whitewater, WI 53190
PARK STREET	167	/PA 00003	Vaughn, Thomas & Donna	317 W. Main Street	Whitewater, WI 53190
PARK STREET	170	/CLA 00009	Wendorf, Diane & Olson, Charles	170 N. Park Street	Whitewater, WI 53190
PARK STREET	175	/PA 00004	Sill, Robert M. & Donna A.	175 N. Park Street	Whitewater, WI 53190
PARK STREET	178	/CLA 00010	Craggs, Janet Bilgen and Jay	178 Park Street	Whitewater, WI 53190
PARK STREET	178	/CLA 00011	Craggs, Janet Bilgen and Jay	178 Park Street	Whitewater, WI 53190

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City of Whitewater
Property Ownership Records

STREET	HOUSE #	APT	TAX PARC#	OWNER'S NAME	OWNER'S MAILING ADDRESS	CITY, STATE, ZIP CODE
PARK STREET	183	A	/PA 00005	Muhasky, David A.	183A N. Park Street	Whitewater, WI 53190
PARK STREET	183		/PA 00005	Muhasky, David A.	183A N. Park Street	Whitewater, WI 53190
PARK STREET	205		/PA 00005A	Lien, Joshua & Jennifer	205 N. Park Street	Whitewater, WI 53190
PARK STREET	206		/CLA 00012	Koller J. Stettler/Carly V. Lund	206 N. Park Street	Whitewater, WI 53190
PARK STREET	210		/CLA 00013	Nosek, Roy & Donna	210 N. Park Street	Whitewater, WI 53190
PARK STREET	211		/PA 00006	Simon, Mitchell & Deidre	211 N. Park Street	Whitewater, WI 53190
PARK STREET	216		/CLA 00014	Reesnes, Mary Jane	216 N. Park Street	Whitewater, WI 53190
PARK STREET	217		/PA 00007	Miles, Robert & Marilyn	217 N. Park Street	Whitewater, WI 53190
PARK STREET	227		/PA 00008	Haenisch, Elizabeth O.	227 N. Park Street	Whitewater, WI 53190
PARK STREET	228		/CLA 00015	Fischer, Margaret M.	228 N. Park Street	Whitewater, WI 53190
PARK STREET	228		/CLA 00016	Fischer, Margaret M.	228 N. Park Street	Whitewater, WI 53190
PARK STREET	234		/CLA 00016A	Bezat, Aurel & Daniela	234 N. Park Street	Whitewater, WI 53190
PARK STREET	237		/PA 00009	Kissel, R. Michael & Kelly	P.O. Box 546	Burlington, IL 60109
PARK STREET	243		/PA 00009A	Marínez, Yvonne M.	243 N. Park Street	Whitewater, WI 53190
PARK STREET	244		/CLA 00017	Fairhaven Corporation	435 W. Starin Rd.	Whitewater, WI 53190
PARK STREET	251		/PA 00009B	Duclos, Robert L. & Kristen E.	251 N. Park Street	Whitewater, WI 53190
PARK STREET	254		/CLA 00017A	Granum, David & Kathleen	254 N. Park Street	Whitewater, WI 53190
PARK STREET	255		/PA 00010	White, Anita M.	255 N. Park Street	Whitewater, WI 53190
PARK STREET	263		/PA 00011	Matthews, Frank & Shirley	263 N. Park Street	Whitewater, WI 53190
PARK STREET	269		/PA 00011A	Hoehnen, Natalie Christina	2540 Dorset Court	Brookfield, WI 53045
PARK STREET	275		/PA 00011B	Schwolow, Jean	275 N. Park Street	Whitewater, WI 53190
PARK STREET	281		/PA 00011C	Cull, Joseph P.	W316 S 53580 HWY 83	Waukesha, WI 53189

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736 N.W.2d 255**AMES RENTAL PROPERTY ASSOCIATION, Appellant,****v.****CITY OF AMES, Appellee.****No. 05-0463.****Supreme Court of Iowa.****July 27, 2007.**

[736 N.W.2d 257]

Thomas G. Fisher, Jr. of Parrish Kruidenier Moss Dunn Boles Gribble Cook & Fisher, L.L.P., Des Moines, for appellant.

Kirke C. Quinn of Jordan & Quinn, P.C., Boone, and John R. Klaus, City Attorney, Ames, for appellee.

STREIT, Justice.

In an effort to stem the flow of students into residential areas, Ames, the home of Iowa State University, passed a zoning ordinance which only permits single-family dwellings in certain areas of the city. For purposes of the ordinance, a "family" is any number of related persons or no more than three unrelated persons. A landlord association brought a declaratory judgment against the City claiming the ordinance violates the equal protection clauses of the United States Constitution and the Iowa Constitution. The district court granted summary judgment in favor of Ames because it found the ordinance was rationally related to a legitimate government interest. We affirm.

I. Facts and Prior Proceedings

Ames Rental Property Association (hereinafter ARPA) is a corporation comprised of people who own residential real estate within the city limits of Ames. The members' properties include various houses located within areas the City has zoned for single-family dwellings. While many of these houses are sufficiently large to comfortably accommodate more than three people, section 29.201(62) of the Ames Municipal Code operates to prohibit ARPA members from leasing a given house, regardless of its size, to more than three unrelated persons.

Chapter 29 of the Ames Municipal Code is a comprehensive and detailed zoning ordinance enacted by the city in April 2000 to regulate the use of real estate within the City's boundaries. Section 29.701(1) restricts use of property

in areas designated "residential low density" zones to "primarily single family dwellings."¹

Section 29.201(51) defines a single-family dwelling as "any building consisting of no more than one dwelling unit, designed for and occupied exclusively by one family." The term "dwelling unit" is defined as "any building or a portion thereof which contains living facilities, including provisions for sleeping, eating, meal preparation and a bathroom."² Ames Mun.Code § 29.201 (54).

[736 N.W.2d 258]

The controversy in this case focuses on the definition of "family" as provided by section 29.201(62). A "family" means:

[A] person living alone, or any of the following groups living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities:

(a) Any number of people *related* by blood, marriage, adoption, guardianship or other duly-authorized custodial relationship;

(b) Three *unrelated* people;

(c) Two *unrelated* people and any children *related* to either of them;

....

(Emphasis added.)

ARPA members have been cited with violating the zoning ordinance for renting houses to more than three unrelated persons. Members' tenants have also been cited.

In February 2004, ARPA filed a declaratory judgment in Story County. It requested Ames Municipal Code section 29.201(62), defining "family" for purposes of determining the use of houses within a "single family" zoning district, be declared in violation of the equal protection clauses and the takings clauses of the Iowa Constitution and the United States Constitution. Ames denied ARPA's allegations.

Ames filed a motion for summary judgment. The district court granted Ames's motion and dismissed ARPA's petition. ARPA appealed.

On appeal, ARPA asserts only its equal protection claim under both the Iowa and United States Constitutions.

II. Scope of Review

Summary judgment is appropriate if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Tetzlaff v. Camp, 715 N.W.2d 256, 258 (Iowa 2006) (citing Keokuk Junction Ry. v. IES Indus., Inc., 618 N.W.2d 352, 355 (Iowa 2000)). ARPA acknowledges there are no facts in dispute. Thus, on review we must determine whether the district court correctly applied the law. Diggan v. Cycle Sat, Inc., 576 N.W.2d 99, 102 (Iowa 1998) (citing Putensen v. Hawkeye Bank, 564 N.W.2d 404, 407 (Iowa 1997)). We review constitutional claims de novo. Grovijohn v. Virjon, Inc., 643 N.W.2d 200, 202 (Iowa 2002).

III. Merits

A. Federal Constitution

ARPA argues Ames's zoning ordinance violates both the Iowa and Federal Constitutions. However, the Supreme Court has examined a more restrictive ordinance and held it did not violate the United States Constitution. Village of Belle Terre v. Boraas, 416 U.S. 1, 9, 94 S.Ct. 1536, 1541, 39 L.Ed.2d 797, 804 (1974) (holding a zoning ordinance limiting occupancy of single-family homes to any number of related persons or not more than two unrelated persons does not offend the Equal Protection Clause of the United States Constitution). Undeterred, ARPA argues the Supreme Court will likely overturn Belle Terre if given the opportunity to do so. We will not be so presumptuous as to predict how the Supreme Court would rule if presented with this case. Belle Terre is still good law. Ames's zoning ordinance does not violate the Equal Protection Clause of the United States Constitution.

B. Iowa Constitution

Nevertheless, we must still consider the ordinance under the Iowa Constitution. While the Supreme Court's judgment under the federal Equal Protection

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Clause is persuasive, it is not binding on this court as we evaluate the City's ordinance under the Iowa Constitution. Racing Ass'n of Cent. Iowa v. Fitzgerald, 675 N.W.2d 1, 5 (Iowa 2004).

The Iowa Constitution guarantees "[a]ll laws of a general nature shall have a uniform operation; the general assembly shall not grant to any citizen, or class of citizens, privileges or immunities, which, upon the same terms shall not equally belong to all citizens." Iowa Const. art. 1, § 6. This provision "means similarly situated persons must receive similar treatment under the law." Grovijohn, 643 N.W.2d at 203-04 (citations omitted).

The first step of an equal protection claim is to identify the classes of similarly situated persons singled out for differential treatment. *Id.* at 204. Here,

the classes are related persons versus unrelated persons living in Ames's single-family zones. ARPA members allege Ames's ordinance violates the rights of their tenants and would-be tenants to equal protection.³

If the claimed dissimilar treatment does not involve a suspect class or a fundamental right, any classification made by the statute need only have a rational basis. *Id.* ARPA concedes "[t]he district court properly concluded that the rational basis test should be applied." See *Belle Terre*, 416 U.S. at 6-7, 94 S.Ct. at 1539-40, 39 L.Ed.2d at 802-03 (finding zoning ordinance limiting number of unrelated persons per household involved neither a suspect class nor a fundamental right); *State v. Seering*, 701 N.W.2d 655, 664 (Iowa 2005) (stating freedom of choice in residence "is not a fundamental interest entitled to the highest constitutional protection").

Under the rational basis test, we must determine whether the ordinance in question is rationally related to a legitimate governmental interest. *Racing Ass'n of Cent. Iowa*, 675 N.W.2d at 7-8. Under this deferential standard, the zoning ordinance is valid unless the relationship between the classification and the purpose behind it is so weak the classification must be viewed as arbitrary or capricious. *Id.* at 8. A statute or ordinance is presumed constitutional and the challenging party has the burden to "negat[e] every reasonable basis that might support the disparate treatment." *Id.* The City is not required or expected to produce evidence to justify its legislative action. *Heller v. Doe by Doe*, 509 U.S. 312, 320, 113 S.Ct. 2637, 2643, 125 L.Ed.2d 257, 271 (1993). "A legislative judgment is presumed to be supported by facts known to the [city counsel], unless facts judicially

[736 N.W.2d 260]

known or proved preclude that possibility." *Egan v. United States*, 137 F.2d 369, 375 (8th Cir.1943) (citations omitted).

In the context of zoning, legitimate government interests include "promoting the health, safety, morals, or the general welfare of the community." Iowa Code § 414.1 (2003). Here, Ames articulated several bases for the zoning ordinance: "promot[ing] a sense of community, sanctity of the family, quiet and peaceful neighborhoods, low population, limited congestion of motor vehicles and controlled transiency." In *Belle Terre*, the Supreme Court found similar interests valid:

The police power is not confined to the elimination of filth, stench, and unhealthy places. It is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people.

Belle Terre, 416 U.S. at 9, 94 S.Ct. at 1541, 39 L.Ed.2d at 804. We agree governing bodies have a legitimate interest in promoting and preserving neighborhoods that are conducive to families—particularly those with young

children. See Moore v. City of E. Cleveland, 431 U.S. 494, 503, 97 S.Ct. 1932, 1938, 52 L.Ed.2d 531, 540 (1977) (noting the Supreme Court's prior decisions established the Federal Constitution "protects the sanctity of the family precisely because the institution of the family is deeply rooted in this Nation's history and tradition"); Callender v. Skiles, 591 N.W.2d 182, 191 (Iowa 1999) (acknowledging "promoting the sanctity and stability of the family" is a legitimate government interest). Quiet neighborhoods with a stable population and low traffic are laudable goals. Ames's objectives are therefore valid.

Next, we must determine whether the City's objectives are "rationally related" to the zoning ordinance in question. ARPA argues the ordinance "does not address the purposes relied upon by the city." ARPA explains:

[A]ny legitimate goal that the City seeks to achieve can be achieved by a narrower, more direct ordinance. The ordinance as it is presently adopted is under-inclusive because it allows related individuals to live in large numbers in small areas and create noise, litter, and use or park an excessive number of cars. At the same time it is over-inclusive because it prohibits unrelated residents who might live in quite reasonable numbers for the square footage of the house and not create noise, litter, and may not use or park an excessive number of cars.

However, under the rational basis test, we do not require the ordinance to be narrowly tailored. "If the classification has some `reasonable basis,' it does not offend the constitution simply because the classification `is not made with mathematical nicety or because in practice it results in some inequality.'" Scott County Prop. Taxpayers Ass'n, Inc. v. Scott County, 473 N.W.2d 28, 31 (Iowa 1991) (quoting United States R.R. Retirement Bd. v. Fritz, 449 U.S. 166, 175, 101 S.Ct. 453, 459, 66 L.Ed.2d 368, 376 (1980)). For legislation to be violative of the Iowa Constitution under the rational basis test, the classification must involve "extreme degrees of overinclusion and underinclusion in relation to any particular goal." Racing Ass'n of Cent. Iowa, 675 N.W.2d at 10 (emphasis added).

This requires more than imagining extreme examples of groups of people who do or do not offend the goals of the zoning ordinance. Sure, the ordinance would allow the Beverly Hillbillies⁴ to live in a

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single-family zone while prohibiting four judges from doing so. However, neither hypothetical is typical of reality.⁵ City council members are permitted to legislate based on their observations of real life.

In the present case, we find the relationship between the ordinance and the City's goals is neither arbitrary nor capricious. Quite candidly, Ames states "[i]t cannot be ignored that Ames is a university campus city and, therefore, experiences typical secondary effects of mass student congestion."⁶ Based on its

experience with students living off campus, the Ames city council made a reasonable policy decision to limit to three the number of unrelated persons who may reside in a single-family dwelling in certain areas. It did so because groups of unrelated persons typically have different living styles in comparison to groups of related persons. See *Dinan v. Bd. of Zoning Appeals*, 220 Conn. 61, 595 A.2d 864, 870 (1991) (noting a group of college students is less likely to become involved in the neighborhood and community in comparison to a typical family because of its short-term living arrangement). For example, although related persons may live together in large numbers, they normally live together in a more permanent status and remain in one place for a longer period of time. In contrast, groups of unrelated persons typically live together as roommates. Such arrangements are relatively short term and normally involve young adults. These persons tend not to establish roots in the community nor do they provide playmates for their neighbors' children. Moreover, large numbers of young adults living together typically attract friends, which create additional noise and traffic. By limiting the number of unrelated persons who may live together, Ames's ordinance furthers the City's goal of creating family-oriented neighborhoods that are safe and quiet for young children. It is also reasonable for the city council to conclude density will be lessened by the ordinance. Therefore, Ames's ordinance does not violate the equal protection clause of the Iowa Constitution.⁷

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Certainly this ordinance is imprecise and based on stereotypes. Nevertheless, it is a reasonable attempt to address concerns by citizens who fear living next door to the hubbub of an "Animal House."⁸ Significantly, the ordinance is not limited to college students nor does it bar them from living in single-family zones. The City's definition of "family" is quite flexible and expansive enough to encompass unmarried couples and groups of three unrelated persons. See *Champoux*, 555 N.W.2d at 74 (noting ordinance prohibiting four or more unrelated persons from living together "is expansive enough to allow numerous other household relationships in addition to that of the traditional family"). Other cases striking down ordinances which limit the number of unrelated persons who may live together have done so applying other constitutional provisions, using a heightened level of scrutiny, or addressing a more restrictive ordinance.⁹ ARPA only challenges the ordinance on

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equal protection grounds and agrees rational basis is the proper standard. See *Racing Ass'n of Cent. Iowa*, 675 N.W.2d at 5 (applying the same analysis under the state equal protection provision as applied under the federal equal protection clause but reserving the right to employ a different analytical framework under state constitutional provisions).

ARPA may be correct that this ordinance will do little to further the City's goals. Nevertheless, it is the City's prerogative to fashion remedies to problems

affecting its residents. If the ordinance proves to be ineffective, then the elected city council may change course and amend or repeal it. The court's power to declare a statute or ordinance unconstitutional is tempered by the court's respect for the legislative process. Under the rational basis test, we must generally defer to the city council's legislative judgment. The Supreme Court has said:

The Constitution presumes that, absent some reason to infer antipathy, even improvident decisions will eventually be rectified by the democratic process and that judicial intervention is generally unwarranted no matter how unwisely we may think a political branch has acted. Thus, we will not overturn such a statute unless the varying treatment of different groups or persons is so unrelated to the achievement of any combination of legitimate purposes that we can only conclude that the legislature's actions were irrational.

Vance v. Bradley, 440 U.S. 93, 97, 99 S.Ct. 939, 942-43, 59 L.Ed.2d 171, 176 (1979); accord State v. Simmons, 714 N.W.2d 264, 277 (Iowa 2006).

IV. Conclusion

We find Ames's zoning ordinance, which allows an unlimited number of related persons to live together while limiting to three the number of unrelated persons in single-family zones, is rationally related to the government's interest in providing quiet neighborhoods. Accordingly, it does not offend the equal protection clause of either the Iowa Constitution or the United States Constitution.

AFFIRMED.

All justices concur except WIGGINS, HECHT, and APPEL, JJ., who dissent.

Notes:

1. A two-family dwelling, i.e., a building that contains two dwelling units, each designed for separate and independent occupancy, is allowable in residential low-density zones if it preexisted the enactment of chapter 29. See Ames Mun.Code §§ 29.201(53), .701(2).
2. Excepted from this definition are "hotels, manufactured homes, nursing homes, residential corrections facilities, rooming houses, sororities or fraternities, or supervised group homes." Ames Mun.Code § 29.201(54).
3. Normally, a party may only assert his own rights. Krull v. Thermogas Co., 522 N.W.2d 607, 614 (Iowa 1994). However, there is an exception to this general rule where the challenger's interest is as great as the persons whose rights are alleged to be violated. *Id.* Here, ARPA members have a legitimate interest in Ames's ordinance because they are being fined for violating the ordinance and presumably the ordinance makes the homes more difficult to rent. A direct economic injury through constriction of the market and imposition of sanctions is a sufficient injury to satisfy standing. Craig v. Boren, 429 U.S. 190, 194, 97

S.Ct. 451, 455, 50 L.Ed.2d 397, 405 (1976) (holding bar owner had standing to challenge state statute prohibiting males under the age of twenty-one from buying 3.2% beer while permitting the sale to women ages eighteen years and older because the bar owner incurred a "direct economic injury"). Thus, ARPA members have standing in representative capacity to raise the potential rights of unrelated persons affected by Ames's ordinance. Krull, 522 N.W.2d at 614; see also Sierra Club v. Morton, 405 U.S. 727, 739, 92 S.Ct. 1361, 1368, 31 L.Ed.2d 636, 645 (1972) (stating an organization whose members are injured may represent those members in a lawsuit).

4. The Beverly Hillbillies was a popular sitcom on CBS from 1962 through 1972. The show's main character was an Ozarks mountaineer who struck it rich upon the discovery of oil on his land. Thereafter, he moved to Beverly Hills with his mother-in-law, his daughter, and his nephew. High jinks ensued when the clan refused to conform to privileged society.

5. Offering examples of overinclusion and underinclusion, ARPA stated "a fifteen-member family could live in a tiny one-bedroom house with fifteen cars parked in the streets and driveways, while four unrelated people cannot live in a fifteen bedroom house with no cars at all."

6. Many of the cases addressing similar ordinances involve college towns. See State v. Champoux, 5 Neb.App. 68, 555 N.W.2d 69 (1996) (Lincoln, Nebraska, home of the University of Nebraska); Town of Durham v. White Enters., Inc., 115 N.H. 645, 348 A.2d 706 (1975) (Durham, New Hampshire, home of the University of New Hampshire); City of Brookings v. Winker, 554 N.W.2d 827 (S.D. 1996) (Brookings, South Dakota, home of South Dakota State University); Anderson v. Provo City Corp., 108 P.3d 701 (Utah 2005) (Provo, Utah, home of Brigham Young University).

7. See Jones v. Wildgen, 320 F.Supp.2d 1116, 1131-32 (D.Kan.2004) (holding statute prohibiting more than three unrelated persons from renting home in single-family zoning district does not violate the Equal Protection Clause of the United States Constitution); Rademan v. City & County of Denver, 186 Colo. 250, 526 P.2d 1325, 1327-28 (1974) (holding ordinance restricting certain areas of the city to single-family occupancy does not violate the Equal Protection or Due Process clauses of the Federal Constitution); Dinan, 595 A.2d at 871 (holding ordinance which allows any number of related persons to occupy a home and up to two roomers in addition to the family of an occupant does not violate the equal protection or due process clauses of the Connecticut Constitution); Hayward v. Gaston, 542 A.2d 760, 770 (Del. 1988) (holding ordinance which prohibits more than four unrelated persons from living together in single-family residential zone does not violate the Equal Protection Clause of the Federal Constitution); Champoux, 555 N.W.2d at 74 (holding ordinance limiting to three the number of unrelated persons who may live together does not violate the due process clause of the Nebraska Constitution or the rights of association and privacy provided by the Federal Constitution); Town of Durham, 348 A.2d at 709 (holding ordinance which restricts the number of unrelated persons who may live in different classes of dwelling units based on habitable square footage is constitutional); City of Brookings, 554 N.W.2d at 831-32 (holding ordinance which prohibits more than three unrelated adults to occupy a dwelling unit does not violate either equal protection or due process clauses of the South Dakota Constitution); see also Anderson, 108 P.3d at 710 (holding zoning ordinance which allows property owners in some single-family zoning residential zones near university campus to rent accessory apartments (located in basement or upper floors) to up to four related or unrelated individuals on condition owner resides in primary dwelling does not violate owners' constitutional right to equal protection or right to travel, and is not an invalid restraint on alienation).

8. See Animal House (Universal Pictures 1978) (depicting the hilarious missteps and misdeeds of the Delta House fraternity members at Faber College). The City's definition of

500 (1977)). "This result is particularly possible in view of `the ill-defined parameters of the equal protection clause.'" *Id.* (quoting *Miller v. Boone County Hosp.*, 394 N.W.2d 776, 781 (Iowa 1986)).

In analyzing an equal protection challenge under the Iowa Constitution we must first determine whether the Ames city council had a valid reason to treat related persons differently from unrelated persons in its zoning ordinance. *Id.* at 7. In doing so, we must not only ask whether the ordinance serves a legitimate government purpose, but also whether the claimed state interest is realistically conceivable. *Id.* Second, we must decide whether the city's claimed reason has a basis in fact. *Id.* at 8. Lastly, we must consider whether the relationship between the classification, i.e., the differences between related and unrelated persons, and the purpose of the classification is so weak that the classification must be viewed as arbitrary. *Id.*

Under the Iowa Constitution we employ an overinclusive-underinclusive dichotomy analysis to determine whether legislation survives rational basis scrutiny. *Compare id.* at 10 (finding the legislative purpose behind a taxation provision cannot withstand rational basis review because of the extreme degrees of overinclusion and underinclusion), and *Bierkamp v. Rogers*, 293 N.W.2d 577, 584 (Iowa 1980) (finding a classification based on extreme degrees of overinclusion and underinclusion cannot pass rational basis review), with *Vance v. Bradley*, 440 U.S. 93, 108, 99 S.Ct. 939, 948, 59 L.Ed.2d 171, 183 (1979) (demonstrating the United States Supreme Court's tolerance for laws that are overinclusive and underinclusive when conducting a rational basis review). If we find "a classification involves extreme degrees of overinclusion and underinclusion in relation to any particular goal," then that provision fails rational basis review. *Bierkamp*, 293 N.W.2d at 584; see also *Racing Ass'n of Cent. Iowa*, 675 N.W.2d at 10. For reasons stated below, I find Ames's zoning ordinance contains extreme degrees of overinclusion and underinclusion. Accordingly, the ordinance violates the equal protection clause of the Iowa Constitution.

As the majority states, Ames's purpose in treating related persons differently from unrelated persons is to "`promot[e] a sense of community, sanctity of the family, quiet and peaceful neighborhoods, low population, limited congestion of motor vehicles and controlled transiency.'" Although Ames has a legitimate purpose in promoting the quality and character of its neighborhoods, I cannot accept that distinguishing between related and unrelated persons in a zoning law is rationally related to the promotion of a sense of community, sanctity of the family, quiet and peaceful neighborhoods, low population, limited congestion of motor vehicles, and controlled transiency.

Ames contends these interests will be advanced if groups of more than three unrelated persons are not allowed to live in a home together. However, the record is devoid of any evidence or argument that a group of more than three related persons will portray different or desirable behavior or living patterns than a group of more than three unrelated persons.

I find the ordinance regulates where no regulation is needed and fails to regulate where regulation is needed. The ordinance is both overinclusive and underinclusive. Further, the degree to which this over- and under-inclusiveness is present is extreme because it is irrational to suppose the type of relationship persons residing in a home have to each other has any rational bearing on the character or behavior of those persons. See Charter Twp. of Delta v. Dinolfo, 419 Mich. 253, 351 N.W.2d 831,

[736 N.W.2d 265]

841-42 (1984) (holding with regard to a similar housing provision "[a] greater example of over- and under-inclusiveness we cannot imagine"). This irrationality and the extreme over- and under-inclusiveness of the ordinance is easily illustrated by examining family and societal dynamics in the twenty-first century.

Families today, especially ones with teenagers, are just as likely as a group of unrelated persons to have numerous vehicles parked outside their home. In fact, in a college community like Ames, students, the unrelated persons most targeted by the ordinance, are more likely to rely on alternative means of transportation—public transportation, foot, or bicycle—than a vehicle. "Manifestly, restricting occupancy of single-family housing based generally on the biological or legal relationships between its inhabitants bears no reasonable relationship to the goals of reducing parking and traffic problems, controlling population density and preventing noise and disturbance." McMinn v. Town of Oyster Bay, 66 N.Y.2d 544, 498 N.Y.S.2d 128, 488 N.E.2d 1240, 1243 (1985) (citing Moore v. City of East Cleveland, 431 U.S. 494, 499-500, 97 S.Ct. 1932, 1935-36, 52 L.Ed.2d 531, 537-38 (1977); City of Santa Barbara v. Adamson, 27 Cal.3d 123, 164 Cal.Rptr. 539, 610 P.2d 436, 441 (1980); State v. Baker, 81 N.J. 99, 405 A.2d 368, 373 (1979)).

Further, it is irrational to relate a peaceful neighborhood with a neighborhood populated solely by families, or three or less unrelated persons. As another court has articulated under a similar ordinance, "twenty male cousins could live together, motorcycles, noise, and all, while three unrelated clerics could not." Charter Twp. of Delta, 351 N.W.2d at 841. Or, that an ordinance of this type would prohibit a group of four unrelated "widows, widowers, older spinsters or bachelors or even of judges' from residing in a single unit within the municipality." Baker, 405 A.2d at 371 (quoting Kirsch Holding Co. v. Borough of Manasquan, 59 N.J. 241, 281 A.2d 513, 517 (1971)).

This ordinance also has no rational relationship to population control. A family of any size can reside in a home in Ames, whereas only three unrelated persons can live together. The majority does not cite to any evidence that supports its conclusion that population "density will be lessened by the ordinance." Instead, it seems to this dissenter that it is irrational and contradictory to find the ordinance, which allows one group to house an unlimited number of related persons, would in any way reduce the overall

population density.

Further, it is irrational to suppose this ordinance promotes a quiet and peaceful neighborhood. This ordinance does not distinguish between a raucous family that plays loud music at their home, has large parties at their home, and houses more vehicles than persons living in their home, and a house of four single, quiet, homebodies whose only knowledge of wild parties and loud music comes from watching television. As another court summarizes, housing ordinances of this sort create an irrational discrepancy in treatment because a tenant-occupied house whose "residents happen to be the quiet, neat type who use bicycles as their means of transportation" are subject to the ordinance; "whereas the owner-occupied house is not subject to the ordinance, even though its residents happen to be of a loud, litter-prone, car-collecting sort." Coll. Area Renters & Landlord Ass'n v. City of San Diego, 50 Cal.Rptr.2d 515, 521 (Ct.App. 1996).

In today's modern society families are more mobile, especially in a college community, where professors, visiting professors, graduate students, and administrators

[736 N.W.2d 266]

are frequently moving to new universities to continue or further their studies and careers. These university families come in and out of Ames, yet under this ordinance their transitory nature is not a factor. See City of Des Plaines v. Trottnor, 34 Ill.2d 432, 216 N.E.2d 116, 119 (1966). The majority dismisses this fact and finds students or other unrelated persons are the only transitory or mobile residents in a university town.

Instead of promoting families, this ordinance disadvantages those most likely to live with roommates—the poor and the elderly. See Holy Name Hosp. v. Montroy, 153 N.J.Super. 181, 379 A.2d 299, 302 (1977). The ordinance distinguishes between acceptable and prohibited uses of property by reference to the type of relationship a person has with those they live with, not by the conduct of those that live in the residence.

Ames claims it is promoting a sense of community with this ordinance: But whose community is Ames promoting? Is Ames only interested in promoting traditional families or those who can afford to live in a home without roommates—the wealthy and the upper-middle class? It is irrational for a city to attempt to promote a sense of community by intruding into its citizens' homes and differentiating, classifying, and eventually barring its citizens from the community solely based on the type of relationship a person has to the other persons residing in their home.

Although the majority may classify these examples of overinclusive and underinclusive applications of the ordinance as extreme, they do so in the context of social norms as they existed thirty-three years ago when the

Supreme Court decided *Belle Terre*. In that era the typical household consisted of a mother, a father, and children, with one breadwinner and one vehicle. In today's society this is no longer the case. Today it is not unusual to see a group of unrelated single persons living together and sharing expenses. The simple fact is that in today's modern society the overinclusive and underinclusive examples identified in this dissent and by other courts that have found similar ordinances unconstitutional are closer to the norms than to the extremes.

If Ames wants to regulate population it can do so by reference to floor space and facilities. Noise and conduct can be controlled with nuisance and criminal laws. Traffic and parking can be controlled by limiting the number of vehicles to all households or with off-street parking regulations. See *Coll. Area Renters & Landlord Ass'n*, 50 Cal.Rptr.2d at 521.

In sum, I find the ordinance does not reasonably and rationally further Ames's stated legislative goal and is therefore unconstitutional under Iowa law.

HECHT and APPEL, JJ., join this dissent.

MEMORANDUM

TO: Common Council and City Manager Brunner
FROM: Michele Smith
DATE: 4/1/2010
RE: Voting Machines for Ward 10 Polling Place

Councilmembers Taylor and Singer have asked for an update on the status of moving Ward 10 to the Campus. As I e-mailed you about two weeks ago, Jefferson County has advised us that although the voting machine has been approved for use, the modem to transmit results has not, and the handicapped accessible machine will no longer comply with requirements once we switch to the new machine.

I telephoned Jefferson County Clerk, Barb Frank, who advised me that she will definitely **not** be purchasing new election machines in 2010. She was unwilling to commit to a specific purchase date at this time. The reason she is not purchasing is the fact that the modems for the machines have not yet been approved by election board, and in addition, the handicapped accessible machines will have to be revised in order to comply with requirements. Until those certifications occur, the machines cannot be legally used in the State of Wisconsin.

I have also telephoned Steve at the Government Accountability Board. Steve advised me that the company providing the machines (ES & S) has not complied with the requirements that the election board has requested. He said that the Company has not yet applied for certification of the equipment we need. As a result, the dates we can receive equipment are unknown. In addition to that fact, we will be reapportioning voting wards next year, once census results are sent to us.

We cannot go out and purchase equipment from another Vendor as it is necessary for entire counties to have compatible equipment, and we need to wait for the County to make their final decision.

We have not yet signed the Memorandum of Understanding with the University regarding the polling place move for Ward 10. However, funds committed by organizations to pay for machines are in the possession of the Leadership Development office.

These machine issues do **NOT** affect Aldermanic District 2 polling place, as that district is in Walworth County and uses a different brand of machine.

Our options are: 1) Rescind the Resolution moving Ward 10 polling place until all equipment is approved by election board; 2) Revisit the issue once the census and ward redistricting are completed (Summer of 2011) [there are only two elections scheduled for 2011, both of which are anticipated to be lower turnout elections]. These options would be contingent upon the Whitewater Student Government's approval, as they are committing funds to purchase machines.

Direction is requested.

Memo

To: Kevin Brunner, City Manager
Common Council

From: Matt Amundson, Parks and Recreation Director

Date: April 1, 2010

Re: April 8, 2010 Council Meeting

Park Hours for Indian Mounds Park

The Parks and Recreation Board will be discussing this item at its April 5th meeting and pending approval by the Parks and Recreation Board, I will be asking the Council for approval. The proposed change in hours came from the Indian Mounds Park Committee, which was formed to review possible park improvements and enhancements. Park hours are currently 6AM-12PM and the committee feels that the park differs from the standard park and feels that Sunrise-Sunset would be in spirit with the intended use of Indian Mounds Park.

Whitewater Mounds Archeological Preserve

At the January 4th Parks and Recreation Board meeting, the board approved changing the name of Indian Mounds Park to Whitewater Mounds Archeological Preserve. This request came to the Parks and Recreation Board from the Indian Mounds Park Committee. In accordance with the Park Naming Policy, public comment was sought on the name change with a public notice in the Whitewater Register dated, February 11, 2010. I received the following note from Whitewater resident Richard Helmick:

"I strongly support the renaming of the area encompassing the Indian mounds on the city's West side. I believe this site to be of significant cultural and historical value to the city, state, and country. The citizens of Whitewater can be proud of this unique treasure."

No other information was submitted during the 30 day period for public comment. The park name change and change in park hours will be reflected in a new park sign that will be ordered in the coming weeks pending council approval of the change in hours and naming.

Cravath Lakefront Park Electrical Improvements

The 2010 Parks and Recreation Budget included \$11,000 for electrical upgrades at Cravath Lakefront Park. Included in this funding was \$4,000 of private donation from DLK Enterprises. The goal of the improvement is to extend electrical service

along the North edge of the parking lot to better serve food vendors during festivals and events held in the park.

A Request for Proposals (RFP) was sent to all electricians in Whitewater. A second rfp was sent out to further clarify and define the project. A summary of the 3 proposals received is listed below:

Sta-Lite Corp	\$9,400
Delta Electric	\$11,500
Craftsman Electric	\$14,210

It is my recommendation to go with the lowest proposal presented by Sta-Lite Corp for a total of \$9,400. Sta-Lite has an extensive knowledge of the current electrical system in the park and has presented excellent service to the City in the past.

Your consideration of these matters is greatly appreciated.

Thanks!
Matt Amundson



MEMO

TO: Common Council, Cable Commission and Kevin Brunner
FROM: R. Alan Lockett, Community TV/Media Services Manager
SUBJECT: Recording of Boards and Commissions
DATE: 03/31/2010

Common Council, Cable Commission and Kevin Brunner,

At the last Common Council Meeting, Max Taylor had requested discussion regarding filming of Boards and Commissions by our TV channel. Upon the request of Kevin Brunner, I asked other communities on a random basis which meetings they were filming. From my findings the city's with exclusively a government channel, and the larger cities tended to record more meetings. Most meetings covered in general were the Common Council, Plan Commission and School Board (same as the meetings our channel covers). Other regular meetings were recorded exclusively for record (i.e. Board of Review and Police/Fire Commissions). Communities that are the county seat also covered regular County Board meetings as well. A spreadsheet with my findings is attached.

If the Council were to request our channel to cover more of these meetings, I would insist that they be held in the Community Room in the Municipal Building. The room requires minimal setup for recording, creating the least impact in time commitment. In addition, we would need to look at the camera operator time commitment to determine how this would impact our current operation financially. Revenue from cable franchise, which funds our operation, has dropped significantly this past year. In the year 2006 we collected \$111,613.02, 2007 was \$117,156.13, 2008 was \$116,187.00, and in 2009 the revenue dropped to \$109,364.12 in total franchise fees collected. This decrease of \$6,822 is the most I have seen in the ten years I have run the channel for the city. With our channel recording over 180 different events each year, every dollar counts toward keeping our channel vital in our community. I look forward to discussing this further at the April 8th Council Meeting.

Kind regards,

A handwritten signature in black ink, appearing to read "R. Alan Lockett".

R. Alan Lockett

City	Population	Monthly meetings Recorded
Juneau, City of	2,485	City Council, School Board, Safety Committee, Utility Commission
Waterloo	3,259	City Council and School Board
Mauston, City of	4,265	City Council twice per month, Mauston School Board, Juneau County Board
Reedsburg	7,827	2 Common Council, School Board
Hartford	13,853	Common Council + Public Works Committee, Common Council + Finance Committee, Plan Commission, Recreation Commission, Library Board, Community Development Authority, Utility Committee, Police & Fire Commission for the record
Whitewater	14,291	Common Council 2x, Plan Commission, Court (up to 4 times per month), School Board, CDA (once or twice per year), Alcohol Review Board (once or twice per year), Board of Review (once or twice per year)
River Falls	14,352	City Council twice per month, Plan Commission, Utility Commission
Fitchburg	23,344	City Council 2x, Plan Commission 2x, Committee of the Whole 1x (also known as COW), Finance, Public Works, Public Safety & Human Services, Commission on Aging, Parks & Rec, Senior Advisory Council, Commission on Economic Development Authority, EMS, Police & Fire, Library Board, Library Oversight Committee, Court - 2x, Broadband Telecommunications, School Board
Stevens Point, City of	25,327	Plan Commission, Public Protection, Personnel, Public Works, Finance, City Council, School Board twice a month, County Board, Park Board
Sheboygan, City of	47,895	2 City Council per month, Committee of the Whole, Special Council Meetings, County Board
Oshkosh	63,679	Common Council (twice a month), County Board (twice a month), School Board (twice a month), Plan Commission (twice a month), Parks Board (once a month), Traffic Review Board (twice a month), Sustainability Board (once a month), Redevelopment Authority (bi-monthly), Stormwater Utility Board (quarterly)
Eau Claire	65,426	city council, plan commission, parks waterways, county board, school board, chip falls common council
Waukesha School District	68,008	School Board meeting, F & F committee meeting, C & I committee meeting, Policy committee meeting, Human resources committee meeting

MEMORANDUM

To: Kevin Brunner, City Manager
Fr: Dean Fischer, Director of Public Works
Date: March 26, 2010



Subject: Snow and Ice Control Policy

The Snow and Ice Control Policy that is used as standard operating procedure by Public Works has not been updated for several years.

Attached you will find a copy of the existing policy and the updated policy. The following are a few of changes in the policy:

- The salt content of the salt/sand mixture has been lowered from 20% salt to 7% salt
- The updated policy does not list the specific equipment used for winter maintenance
- Lists several of the factors to be considered before scheduling personnel and equipment

Public works has been working under this basic policy for a number of years and has found that these standard operating procedures have provided reasonable snow and ice control for the City's traveling public.

Please have the Council consider adoption of this policy at its April 8 meeting.

C: Chuck Nass, Superintendent

CITY OF WHITEWATER - SNOW AND ICE CONTROL POLICY

Standard Operating Procedure

This Standard Operating Procedure contains statements of policies and directions, relating to the organization and operation of Snow and Ice Control. It may be necessary to deviate from these statements due to immediate circumstances, but only under the direction of the Street Superintendent or ^{or} his designee.

Obviously certian areas of the City have a greater intensity of use and a priority for maintenance to serve the users. The concern of safety, general welfare and duration of travel necessitate priority of certian areas. In order to provide efficient operation, it may be necessary to partially complete a lower class of service requirement to reach a higher priority area. It may be necessary to clear a route immediately for power outage, watermain breaks, fires, ambulance calls, or other obvious emergencies. ^{ies}

The following lists the priority of areas to which service will be directed beginning with first class, first priority.

CLASS of SERVICE

- Class 1: Streets that are designated as State and Federal Highways.
- Class 2: Central Business District.
- Class 3: County Trunk, and other streets that move traffic in and out of the City.
- Class 4: Collector streets are those that carry a large amount of ^{traffic} within the City, including school traffic.

Class 5: All other streets which serve individual premises.

Included in this class are cleaning of intersections for better traffic movement.

Class 6: Alleys in residential development and parking lots.

Class 7: Public sidewalks are the walks which abut the public owned property in the community.

The determination for the need of maintenance will be made by the Street Superintendent or his designee. Assistance of the National Weather Service and the Police Department will be used to determine the services needed.

Service provided will be in order of class priority of streets.

Class 1: Streets shall be kept open at all times with a goal of bare pavement; this is to be achieved by plowing or sanding or salting as necessary.

Class 2: Areas shall be kept open to travel in the same manner as Class 1 streets; the accumulations of snow shall be hauled from Class 2 areas as appropriate.

Class 3: These streets shall be kept open to traffic by plowing, and 4: sanding and salting as necessary.

Class 5: These streets shall be open to traffic within 24 hours after a storm.

Class 6: These areas shall be open to traffic within 36 hours and 7: of the storm.

Plowing of snow shall begin as the Street Superintendent or his designee directs. This operation will generally begin at an accumulation of 2 inches more or less, depending on current conditions.

For the purpose of plowing, the City has been divided into ~~four~~^{FIVE} areas. Every street in every area has been assigned a plowing class. In any given area, class one and two streets will be plowed before class three streets are started. Plowing will then continue by class of streets. If continuing snow fall is sufficient to require replowing, then the priority of class one streets would be reinstated before resuming work on other streets.

Snow hauling operations in the Central Business District will generally be done at night to avoid heavy traffic. Private equipment may assist in this operation.

Sanding/salting operations may begin before or after plowing operations, relating directly to conditions of the streets with priority given to the class of street as in plowing.

Currently the City prepares and stockpiles a mixture of sand and salt (approximately 20% salt) for use on streets, sidewalks, alleys and parking lots. This is the major ingredient for combating slippery conditions. However, with a bare pavement policy for Class 1 and Class 2 streets, it may be necessary to increase the salt content of the mixture or to use salt only as determined by the Street Superintendent or his designee. At the present there are no direct legislations to regulate the use of salt on streets and highways, however, the State of Wisconsin recommends a maximum use of 300 pounds per lane mile of treatment. The Salt Institute of America suggests treatments of 300 - 800 pounds per lane mile. It is the Street ^{Division's} Department's goal to use as little salt as possible to achieve desirable

conditions. The spreading machines are calibrated to deliver the desired amount of sand/salt or salt at different levels of need.

Equipment available to the City of Whitewater for winter maintenance is as follows:

<u>NUMBER</u>	<u>EQUIPMENT</u>
3	Truck mounted snow plows
2	Truck mounted plows with salt or sand spreader
1	Grader
1	End loader
1	End loader with snow blower attachment
1	Jeep 4 x 4 with plow
2	Trucks for hauling snow
2	Trucks & drivers (private equipment)

Personnel available for the winter maintenance program is all Street and Park Department employees on call, plus outside sources of personnel from the Water or Wastewater Departments.

The City recognizes that the conditions may be so unusual or unexpected that a departure from these general procedures should be authorized. Therefore, when conditions warrant, the Street Superintendent or his designee, may order a departure from these general rules when, in his opinion, conditions warrant such action.

City of Whitewater-Snow and Ice Control Policy

Standard Operating Procedure

The following is the City of Whitewater's Department of Public Works' program and procedures for scheduling staffing and equipment in a snow and ice emergency.

The City of Whitewater limits the amount of salt that is applied to its streets in an effort to protect its groundwater and the quality of its lakes and waterways. Only main arterials, main connector streets, school bus routes, and streets surrounding schools as well as major hills and curves are salted. All other City of Whitewater streets receive salt/sand to act as an abrasive on hills, intersections and curves.

Weather reports from our local weather bureaus are monitored daily. Multiple internet weather forecasting sites and radars are also monitored. Scheduling and timing a full-scale plowing operation has to be a well-thought out process because of its cost. Commencing a plowing operation too early or too late can add considerable amounts of additional expense to the operation and could generate citizen complaints. When a storm warning is received, it is necessary to consider these factors before scheduling personnel and equipment:

- Time of day storm starts
- Day of the week
- Duration of storm
- Temperatures-during and after storm
- Wind velocity -- during and after storm
- Water content of snow
- Type of precipitation; snow, sleet or freezing rain
- Time of year
- Intensity of storm

The following is a prioritized list of public areas in the city that will be served during the city's snow and ice control operations from highest to lowest priority. These areas are serviced by city owned equipment and augmented by private equipment and/or contractors.

Class of Service

Class 1: Streets that are designated as State or Major Collector Highways.

Class 2: Central Business District.

Class 3: County Trunk, and other streets that move traffic in and out of the City.

Class 4: Collector streets are those that carry a large amount of traffic within the City, including school traffic.

Class 5: All other streets which serve individual premises. Included in this class are cleaning of intersections for better traffic movement.

Class 6: Alleys in residential development and parking lots.

Class 7: Public sidewalks are the walks which abut the public owned property in the community.

The determination for the need of maintenance will be made by the Street Superintendent or his designee. Assistance of the National Weather Service and the Police Department will be used to determine the services needed.

Service provided will be in order of class priority of streets.

Class 1: Streets shall be kept open at all times with a goal of bare pavement; this is to be achieved by plowing or sanding or salting as necessary.

Class 2: Areas shall be kept open to travel in the same manner as Class 1 Streets; the accumulations of snow shall be hauled from Class 2 areas as appropriate to designated snow storage areas with capabilities to handle melted snow runoff.

Class 3 and 4: These streets shall be kept open to traffic by plowing, sanding and salting as necessary.

Class 5: These streets shall be open to traffic within 24 hours after a storm.

Class 6 and 7: These areas shall be open to traffic within 36 hours of the storm.

Plowing of snow shall begin as the Street Superintendent or his designee directs. This operation will generally begin at an accumulation of 2 inches, depending on current conditions.

For the purpose of plowing, the City has been divided into six areas. Every street in every area has been assigned a plowing class. In any given area, Class 1 and 2 streets will be plowed before class three streets are started. Plowing will then continue by Class of streets. If snow continues to fall, then the priority of class 1 streets would be reinstated before resuming work on other streets.

Snow hauling operations in the Central Business District will generally be done at night to avoid heavy traffic but may be completed during the day depending on storm timing.

Sanding/salting operations may begin before or after plowing operations, relating directly to conditions of the streets with priority given to the class of street as in plowing.

Currently the City prepares and stockpiles a mixture of sand and salt (approximately 7% salt) for use on streets, sidewalks, alleys and parking lots. This is the major ingredient for combating slippery conditions. However, with a bare pavement policy for Class 1 and Class 2 streets, it may be necessary to increase the salt content of the mixture or to use salt only as determined by the Street Superintendent or his designee. At the present there are no direct legislations to regulate the use of salt on streets and highways, however, the State of Wisconsin

recommends a maximum use of 300 pounds per lane mile of treatment. It is the Street Division's goal to use as little salt as possible to achieve desirable conditions. The spreading machines are calibrated to deliver the desired amount of sand/salt or salt at or below State of Wisconsin recommended maximum use of 300 pounds per lane mile.

The City recognizes that the conditions may be so unusual or unexpected that a departure from these general procedures could be authorized. Therefore, when conditions warrant, the Street Superintendent or his designee may declare a snow emergency.

Council approved: _____ (date)

MEMORANDUM

To: Kevin Brunner, City Manager
 Fr: Dean Fischer, Director of Public Works
 Date: March 31, 2010



Subject: 2009 Annual Stormwater Permit Report

Attached you will find the 2009 Annual Stormwater Permit Report. You have signed the report and the report has been sent to the DNR.

DNR prefers that the City Council review the report. In this case the report is being presented for review after submittal to the DNR. In the future, I will get the report to the Council prior to the submittal date.

It is very important that the Council review the information in this report. The reported information represents the City position on several issues in regards to the Stormwater Permit.

Staff has informed Council many times before that the fiscal impact to meet the discharge limit of the permit will be significant. The significant costs are purchasing land identified for detention ponds and the construction of the ponds. The costs need to be borne by the Stormwater Utility, which will require rate increases in the very near future.

DNR is reacting to the concerns of the municipalities of not being able to meet the deadline dates for meeting the discharge requirements. DNR code NR 151 is presently being considered for amendments or revisions to allow communities more time to meet the discharge permit requirements. The revision language of the code basically will require the City to define its schedule to meet the discharge level with the approval of DNR. If the NR 151 code revision passes soon, it is expected that the City will have to submit a "strategy" stormwater management report (schedule) to the DNR by March 31, 2011 indicating how the City will meet the discharge requirements of the permit. DNR's approval of the "strategy" report will require a systematic timeline with deadlines to meet discharge limits. The "strategy" report will most likely become the instrument the DNR will use for any enforcement actions taken against the City for not meeting the requirements.

Please put this on the Council's April 8 agenda for discussion and approval.

C: S-4g

State of Wisconsin
 Department of Natural Resources
 dnr.wi.gov

Due by March 31, 2010

This form is for the purpose of annual reporting on activities undertaken pursuant to the Municipal Separate Storm Sewer System (MS4) General Permit No. WI-S050075-1. An owner or operator of a municipal separate storm sewer system covered by the general permit under Chapter NR 216, Wis. Adm. Code, is required to submit an annual report to the Department of Natural Resources by March 31 of each year to report on activities for the previous calendar year. This form is for reporting on activities undertaken in calendar year 2009. In addition, this form serves as the owner or operator's reapplication for permit coverage as required under s. NR 216.09, Wis. Adm. Code.

Use of this specific form is optional. The Department of Natural Resources has created this form for the user's convenience and believes that the information requested on this form meets the reporting and reapplication requirements for an owner or operator of a municipal separate storm sewer system covered by the general permit.

Instructions: Complete each section of the form that follows. If additional space is needed to respond to a question, attach additional pages. Provide descriptions that explain the program actions taken to-date to comply with the general permit. Complete and submit the annual report by March 31, 2010, to the appropriate address indicated on the last page of this form.

SECTION I. Municipal Information

Name of Municipality City of Whitewater		Facility ID No. (FIN) 31439	
Mailing Address 312 W. Whitewater Street	City Whitewater	State WI	Postal Code 53190
County(s) in which Municipality is located Walworth/Jefferson	Type of Municipality: (check one) <input type="checkbox"/> County <input checked="" type="checkbox"/> City <input type="checkbox"/> Village <input type="checkbox"/> Town <input type="checkbox"/> Other (specify)		

SECTION II. Municipal Contact Information

Name of Municipal Contact Person Dean Fischer		Title Public Works Director	
Mailing Address 312 W. Whitewater Street	City Whitewater	State WI	Postal Code 53190
E-mail Address dfischer@ci.whitewater.wi.us	Telephone No. (including area code) 262-473-0140	Fax No. (including area code) 262-473-0549	

SECTION III. Certification

I hereby certify that I am an authorized representative of the municipality covered under MS4 General Permit No. WI-S050075-1 for which this annual report is being submitted and that the information contained in this document and all attachments were gathered and prepared under my direction or supervision. Based on my inquiry of the person or persons under my direction or supervision involved in the preparation of this document, to the best of my knowledge, the information is true, accurate, and complete. I further certify that the municipality's governing body or delegated representatives have reviewed or been apprised of the contents of this annual report. I understand that Wisconsin law provides severe penalties for submitting false information.

Authorized Representative Printed Name Kevin M. Brunner		Authorized Representative Title City Manager	
Authorized Representative Signature <i>X Kevin M. Brunner</i>		Date Signed <i>X 3/23/10</i>	
E-mail Address kbrunner@ci.whitewater.wi.us	Telephone No. (including area code) 262-473-0100	Fax No. (including area code) 262-473-0509	

SECTION IV. General Information

a. Describe what efforts the municipality has undertaken to invite the municipal governing body, interest groups, and the general public to review and comment on the annual report.

The annual report is presented to the Council. Report is posted to the city's website www.ci.whitewater.wi.us. City manager notes the completed report in his weekly web newsletter.

b. Describe how elected and municipal officials and appropriate staff have been kept apprised of the municipal storm water discharge permit and its requirements.

Staff continuously reminds the city Council of the requirements of the permit particularly during capital improvement planning and yearly operation budget sessions. Management staff is kept apprised of the permit requirements at staff meetings and the requirement of performing some of the directives of the permit. Operational staff is updated at public works employee meetings and individual staff meetings.

c. Has the municipality prepared its own municipal-wide storm water management plan? Yes No

If yes, title and date of storm water management plan:

Stormwater Management Plan - City of Whitewater - dated June 2008 - prepared by Strand Associates

d. Has the municipality entered into a written agreement with another municipality or a contract with another entity to perform one or more of the conditions of the general permit as provided under Section 2.10 of the general permit? Yes No

If yes, describe these cooperative efforts:

City belongs to the Rock River Stormwater Group. The group consists of cities, towns, UW-Whitewater, and several partners to cooperatively develop and provide public education and outreach. The City of Whitewater has signed an agreement to belong to this group and holds the office of Treasurer.

e. Does the municipality have an internet website? Yes No

If yes, provide web address:

www.ci.whitewater.wi.us

If the municipality has an internet website, is there current information about or links provided to the MS4 general permit and/or the municipality's storm water management program? Yes No

If yes, provide web address:

www.ci.whitewater.wi.us/Departments/Public_Works/stormwater.html

SECTION V. Permit Conditions

a. **Minimum Control Measures:** For each of the permit conditions listed below, provide a description of the status of implementation of program elements, the status of meeting measurable goals, and compliance with permit schedule in section 3 of the MS4 general permit. Be specific in describing the actions that have been taken during the reporting year to implement each permit condition and whether measurable goals have been met, including any data collected to document a measurable goal. Also, explain the reasons for any variations from the compliance schedule in the MS4 general permit.

- **Public Education and Outreach**

The City belongs to the Rock River Stormwater Group (RRSG), which is a group formed to cooperatively develop a public education and outreach program. Matt Amundson, Parks/Recreation Director, is responsible for the education and outreach for the City following the RRSG program. The City posted stormwater related website links to the city's website under its Stormwater Utility webpage: www.ci.whitewater.wi.us/departments/public_works/stormwater. City continues to publish articles in quarterly city newsletters and broadcast such articles on the city's cable station. Articles and workshops are advertise via a private local website: www.whitewaterbanner.com. Please see the attachment A, which logs all the activities completed by the city.

- **Public Involvement and Participation**

The City belongs to the Rock River Stormwater Group (RRSG), which is a group formed to cooperatively develop a public education and outreach program. Matt Amundson, Parks/Recreation Director, is responsible for the education and outreach for the City following the RRSG program. The City posted stormwater related website links to the city's website under its Stormwater Utility webpage: www.ci.whitewater.wi.us/departments/public_works/stormwater. City continues to publish articles in quarterly city newsletters and broadcast such articles on the city's cable station. Articles and workshops are advertise via a private local website: www.whitewaterbanner.com. Please see the attachment A, which logs all the activities completed by the city.

- **Illicit Discharge Detection and Elimination**

The city completed initial inspections of all major and minor outfalls in 2009. The outfalls were GPS and entered into the GIS system. The inspection reports are linked directly to the outfall location in the GIS system. City submitted the proposed on-going field screening program to DNR with a cover letter dated January 15, 2010.

- **Construction Site Pollutant Control**

City continues the inspection of construction erosion control sites. City is working to streamline the permit process and to educate the permit requestor on quality construction site erosion control.

- **Post-Construction Storm Water Management**

Post construction stormwater management requirements are complete per the permit. City continues to update technical standards.

- **Pollution Prevention**

The pollution prevention plan has been submitted as part of the Stormwater Mgt Plan dated June 2008. City is submitting site specific pollution prevention plan for the City garage complex located at 150 E. Starin Road as Attachment B of this annual report. Attachment C is the City's updated Snow & Ice Policy.

b. **Storm Water Quality Management:** Has the municipality completed a pollutant-loading analysis to assess compliance with the 20% TSS reduction developed urban area performance standard? Yes No

If yes, provide the following: Model used WinSlamm Version 9.2.2 Reduction (%) 17.8

Has the municipality completed a pollutant-loading analysis to assess compliance with the 40% TSS reduction developed urban area performance standard? Yes No

If yes, provide the following: Model used WinStamm Version 9.2.2 Reduction (%) 17.8

If no, include a description of any actions the municipality has undertaken during 2009 to help achieve the 40% standard by March 10, 2013.

The City's Stormwater Mgt Plan identifies actions the city can take to accomplish 40% TSS reduction. The actions requires significant capital investment and must be done over time so as to not to overburden the Stormwater Utility rate payers.

Has the municipality completed an evaluation of all municipal owned or operated structural flood control facilities to determine the feasibility of retrofitting to increase TSS removal? Yes No If yes, describe: The evaluations are in the 2008 Stormwater management plan.

c. Storm Sewer System Map: Describe any changes or updates to the storm sewer system map made in the reporting year. Provide an updated map. The updated storm sewer system map is attachment D. Only changes made in 2009 were some street reconstruction projects. City had one private stormwater detention basin constructed off of Milwaukee Street.

SECTION VI. Fiscal Analysis

- a. Provide a fiscal analysis that includes the annual expenditures for 2009, and the budget for 2009 and 2010. A table to document fiscal information is provided on page 6.
- b. What financing/fiscal strategy has the municipality implemented to finance the requirements of the general permit?
 Storm water utility General fund Other _____
- c. Are adequate revenues being generated to implement your storm water management program to meet the permit requirements? Yes No

Please provide a brief summary of your financing/fiscal strategy and any additional information that will assist the Department in understanding how storm water management funds are being generated to implement and administer your storm water management program.

City is preparing a capital improvement plan to continue movement to reach the 40% TSS reduction requirement. Once the capital plan is completed, city will determine a finance plan. The finance plan will definitely require borrowing of monies and the need to increase stormwater utility user fees

SECTION VII. Inspections and Enforcement Actions

Note: If an ordinance listed below has previously been submitted and has not been amended since that time, a copy does not need to be submitted again. If the ordinance was previously submitted, indicate such in the space provided.

- a. As of the date of this annual report, has the municipality adopted a construction site pollutant control ordinance in accordance with subsection 2.4.1 of the general permit? Yes No If yes, attach copy or provide web link to ordinance:

<http://municipalcodes.lexisnexis.com/codes/whitewater/>

- b. As of the date of this annual report, has the municipality adopted a post-construction storm water management ordinance in accordance with subsection 2.5.1 of the general permit? Yes No If yes, attach copy or provide web link to ordinance:

<http://municipalcodes.lexisnexis.com/codes/whitewater/>

- c. As of the date of this annual report, has the municipality adopted an illicit discharge detection and elimination ordinance in accordance with subsection 2.3.1 of the general permit? Yes No If yes, attach copy or provide web link to ordinance:

<http://municipalcodes.lexisnexis.com/codes/whitewater/>

- d. As of the date of this annual report, has the municipality adopted any other ordinances it has deemed necessary to implement a program under the general permit (e.g., pet waste ordinance, leaf management/yard waste ordinance, parking restrictions for street cleaning, etc.)? Yes No If yes, attach copy or provide web link to ordinance:

<http://municipalcodes.lexisnexis.com/codes/whitewater/> -- This ordinance was revised as it was outdated. Staff requested that lawn clippings be specifically listed in the ordinance as to not being allowed to be blown into the streets. Attachment E.

- e. Provide a summary of available information on the number and nature of inspections and enforcement actions conducted during the reporting period to ensure compliance with the ordinances described in a. to d. above.

City reviews erosion control plans for all construction project and then conducts inspections. Followup emails or letters are sent to contractors & property owners to perform any correction(s) or maintenance of erosion control facilities prior to any enforcement actions. No enforcement actions were necessary in 2009.

SECTION VIII. Water Quality Concerns

a. Does any part of the MS4 discharge to an outstanding resource water (ORW) or exceptional resource water (ERW) listed under s. NR 102.10 or 102.11, Wis. Adm. Code? (A list of ORWs and ERWs may be found on the Department's Internet site at: <http://dnr.wi.gov/org/water/wm/wqs/orwerw/>) Yes No If yes, list:

b. Does any part of the MS4 discharge to an impaired waterbody listed in accordance with section 303(d)(1) of the federal Clean Water Act, 33 USC § 1313(d)(1)(C)? (A list of the most current Wisconsin impaired waterbodies may be found on the Department's Internet site at: <http://dnr.wi.gov/org/water/wm/wqs/303d/303d.html>) Yes No If yes, complete the following:

- Impaired waterbody to which the MS4 discharges:
- Description of actions municipality has taken to comply with section 1.5.2 of the MS4 general permit for discharges of pollutant(s) of concern to an impaired waterbody:

c. Identify any known water quality improvements in the receiving water to which the MS4 discharges during the reporting period.

No known improvements.

d. Identify any known water quality degradation in the receiving water to which the MS4 discharges during the reporting period and what actions are being taken to improve the water quality in the receiving water.

None known.

SECTION IX. Department of Commerce Authority

Section 2.4.1.1.3 of the MS4 general permit requires a permittee that does not already have authority from the Wisconsin Department of Commerce (Commerce) to regulate erosion control at public buildings and places of employment to request such authority from Commerce within 18 months after the start date of permit coverage. However, as of January 1, 2010, responsibility for erosion control administration and enforcement for commercial building sites was transferred from Commerce to the Department of Natural Resources. This transfer took place due to 2009 Wisconsin Act 28, the 2009 state budget legislation, which moved s. 101.1205, Wis. Stats., commercial building construction site soil erosion and sediment control statutory language, to s. 281.33, Wis. Stats. As of January 1, 2010, the State's requirements for erosion control at commercial building construction sites will be administered by the Department of Natural Resources. Accordingly, a permitted municipality that was delegated to serve as an agent for Commerce will continue to serve as an agent for the Department of Natural Resources in accordance with the original agreement with Commerce unless this delegation is revoked by the Department of Natural Resources.

As of January 1, 2010, was the municipality granted authority from the Wisconsin Department of Commerce to regulate erosion control at public buildings and places of employment? Yes No

SECTION X. Reapplication for Permit Coverage

Provide a description of any proposed changes to the municipality's storm water management program and any other relevant change that the municipality plans or anticipates.

See Attachment F

Fiscal Analysis Table. Complete the fiscal analysis table provided below.

Program Element	Annual Expenditure		Budget		Source of Funds
	2009	2009	2009	2010	
Public Education and Outreach	Please see Attachment G	Please see Attachment H	Please see Attachment H	Please see Attachment H	Stormwater Utility
Public Involvement and Participation	Please see Attachment G	Please see Attachment H	Please see Attachment H	Please see Attachment H	Stormwater Utility
Illicit Discharge Detection and Elimination	Please see Attachment G	Please see Attachment H	Please see Attachment H	Please see Attachment H	Stormwater Utility
Construction Site Pollutant Control	Please see Attachment G	Please see Attachment H	Please see Attachment H	Please see Attachment H	Stormwater Utility
Post-Construction Storm Water Management	Please see Attachment G	Please see Attachment H	Please see Attachment H	Please see Attachment H	Stormwater Utility
Pollution Prevention	Please see Attachment G	Please see Attachment H	Please see Attachment H	Please see Attachment H	Stormwater Utility
Storm Water Quality Management (including pollutant-loading analysis)	Please see Attachment G	Please see Attachment H	Please see Attachment H	Please see Attachment H	Stormwater Utility
Storm Sewer System Map	Please see Attachment G	Please see Attachment H	Please see Attachment H	Please see Attachment H	Stormwater Utility
Other	Please see Attachment G	Please see Attachment H	Please see Attachment H	Please see Attachment H	Stormwater Utility

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Goal

RRSG Accomplished

City of Whitewater

Goal 1:	Establish public participation activities in all MS4 communities		
Activity 1	Storm drain stenciling or marking programs will be promoted in each municipality. Municipalities must promote the program via a media release and by having materials about the program available for interested publics.	10 complete kits created and stored in Janesville and Watertown with custom RRSG door hangers. Articles have been written in RRR newsletter and picked up in local newspaper for promotion.	Preparing for extensive stencil project as part of Make A Difference Day, held cooperatively with UW-Whitewater on 4/23/10
Activity 2	Municipalities will maintain information on local volunteer monitoring efforts and promote them where appropriate. Monitoring fact sheets and brochures will be distributed to municipalities by the RRBE. Municipalities will also identify priority monitoring locations.	Monitoring information and links on the website.	The City of Whitewater was awarded a Lakes Management Planning Grant; SEWPRC is currently completing the final report which is expected to be completed in June 2010. An aquatic plant inventory, history of lakes and watershed, recreational use analysis and a community survey have been completed to date
Activity 3	Municipalities will provide assistance to local groups interested in stream/lake clean-ups. At least two municipalities will be lead sponsors of stream clean-ups. All municipalities will promote area clean-ups.		Clean-up of the Whitewater Creek from Main St to the North City limits was completed in early 2009 as part of a FEMA project

Goal

RRSG Accomplished

City of Whitewater

Goal	RRSG Accomplished		
Goal 2	Provide information about stormwater issues and concerns to media outlets, in municipal newsletters, on portal website and in brochures or fact sheets.		
Activity 1	Monthly, seasonal media releases will be developed by the RRSWEC and RRBE and provided in two formats, as a media release and in a ready to print 8.5 x 11 newsletter article with integrated graphics.	Monthly newsletters were distributed to members and articles for RR Reflections published.	PSA's distributed to Whitewater Banner, Whitewater Register, Royal Purple, Daily Union, & city website on limiting salt use (January), Creation of RRSG (January), Low Impact Lawn Care (July), Leaf Collection (October), & Green Giving (November).
Activity 2	The permittees will maintain existing UWEX/DNR stormwater materials in their municipal building or other public locations.		A large public stormwater display (photo attached) was hosted at the Whitewater Public Library (December); Clean Water Bright Future posters were distributed throughout city owned buildings.
Activity 3	Municipalities will place appropriate local stormwater information on their municipal website which will include a link to the basin portal website. The basin portal website will have information on lawn care practices, rain gardens, rain barrels, pet waste, etc.	Website has sections on all these topics. Linked to many municipal websites	City website maintains stormwater information (http://www.ci.whitewater.wi.us/index.php?option=com_content&view=category&layout=blog&id=149&Itemid=545) and is linked to RRSG site.
Activity 4	The RRWSEC will, along with municipal help, provide local cable stations with quality storm water DVD's. The RRSWEC will send stations reminders about seasonally appropriate programs at least 3x per year.	Dane Waters DVD distributed to ten local cable stations	Whitewater Cable TV receives and posts PSA's and has aired the Dane Waters DVD

Goal

RRSG Accomplished

City of Whitewater

Goal 3:	Provide workshops, presentations or other training opportunities to targeted groups and the general public		
Activity 1	Each municipality will insure that at least 6 presentations/briefings are provided annually by themselves, the RRSWEC or other local/basin groups.	Two raingarden workshops in Horicon, Summer 09. Salt workshop in Madison promoted by group Oct 09. RR Basin e-mails sent monthly with workshops opportunities.	Fischer, Nass, & Thomson reviewed training video in January; entire Public Works staff views video in February. PW staff training includes discussion of Stormwater BMP's along with improving practices around city facilities such as vehicle washing, cleaning of equipment, fertilizing city green areas, maintaining spills, reporting illicit discharges, etc.
Activity 2	A construction site erosion workshop will be developed and held by the RRSG, with at least 40 participants.	Completed in Spring 09	City Staff attended workshop in Milton, staff participating included Fischer, Nass, Parker, Jones, Babcock, & Thomson. City promoted to local developers and two attended.
Activity 3	The RRSG will sponsor at least 2 rain garden or sustainable backyard workshops with at least 30 participants.	Completed September 09 with 40+ attendees. Promoted through municipal flyers, basin monthly e-mail, website, and press releases.	City Staff attended and hosted a well attended (20+) Rain Garden workshop in Whitewater, staff participating included Fischer & Amundson. Fischer attended Low Impact Lawn Care workshop.
Activity 4	RRSG members, the RRSWEC and RRBE will promote training opportunities, developed by others, for construction or stormwater professionals via email and by direct mail for those professionals without email.	RR Basin e-mails sent for applicable workshops and put on website. Collecting mailing addresses for professionals for direct mailings.	Training promoted to local developers (See Activity #2)
Activity 5	RRSG members, the RRSWEC and RRBE will promote facility management and snow removal workshops to staff and local businesses.	Nearby salt workshops in Madison and Milwaukee promoted by RRSG.	City staff attended presentation (See Activity #1) Whitewater Parks and Recreation Board approved Turf Management Plan in January; DPW Staff attended salt calibration workshop in Madison
Activity 6	RRSG members, the RRSWEC and RRBE will promote training opportunities, developed by others, to local groups and citizenry by mass media or email.	Basin e-mails sent monthly and press releases for RRSG workshops.	Through PSA's, city website, etc the city promoted education efforts throughout the community.
Activity 7	Each municipality will encourage their elected officials to participate, when appropriate, in events and workshops.		Whitewater Council updated on creation of RRSG and Rain Garden Workshop.

Goal

RRSG Accomplished

City of Whitewater

Goal 4	Outreach at events and in community locations will occur in each community		
Activity 1	Each community will identify 1-3 events annually to display a stormwater poster or booth, they will notify the RRSWEC of their need and the requested display. Each municipality will also post a display with handouts at a community location at least once in 2009.	Municipalities will have posters to display with the accompanying brochure. Two displays are available for general stormwater and rain garden topics.	Display posted at public library for the month of December. Clean Water Bright Future posters placed in City buildings.
Activity 2	The RRSWEC and RRBE working with the RRSG members will develop a list of desired displays and existing displays. From the list of desired displays, at least one new display will be developed in 2009.	Decided that a developer-targeted poster would be better for this year.	Posters created in draft format, anticipate promotion in 2010.
Goal 5	Provide construction professionals with information on requirements and municipal expectations		
Activity 1	Each municipality will inform local construction professionals on any changes to performance or technical		Notify commercial sites that DNR is now the oversight agency in 2010 as building permits are applied for.
Activity 2	The RRSWEC, working with the RRSG members will provide seasonal reminders of key practices in person, by letter or via email.	Database of all developer contacts being compiled for future use. Current announcements getting distributed by individual members.	Have list of local developers that we keep in contact with. We currently meet semi-annually w/ current/on-going developers to discuss project and communicate expectations on rules and guidelines including erosion control and stormwater management
Activity 3	Each municipality will maintain a checklist, flow chart, and/or fact sheet for developers, contractors, landowners, and consultants on how the municipality handles permit review.		In Development

Goal

RRSG Accomplished

City of Whitewater

Goal 7	Develop and promote demonstration sites of key BMP's		
Activity 1	At least 2 new BMP demonstration sites will be identified in 2009 and implemented in 2010. All existing demonstration sites will be cataloged, including rain gardens, shoreline restorations, rain barrel/rain harvesting, detention basins, porous pavement etc. Write-ups will be begun on existing sites for inclusion on the webpage; specifics on what will be included in the write-ups will be developed by June 2009.	Current BMP sight identified by members. St Luke's is Watertown offered as new demonstration site.	Plan to contact Fairhaven (Prairie Village) as a potential BMP site
Goal 8	Provide stormwater education opportunities to teachers and youth education		
Activity 1	The RRSG portal page will maintain weblinks, documents or information on environmental action projects for youth, community groups or college students to implement. The municipalities will provide explanations about what the projects entail and basic information about the project. They will also provide local information about the actions being discussed.	New website created and will be updated with all new, relevant information for residents and professionals	Information of events, information and news articles are posted on the City's website, which also contains a link to the RRSG Webpage.
Activity 2	The RRBE will provide to interested schools copies of the Stormwater Curriculum and Rain Garden Sampler.	RRBE provided copies and was implemented at St. Luke's	City staff currently working with UW-W on water, stormwater, and stream monitoring efforts
	Additional Education and Outreach Activities completed in 2009		
	Stormwater BMP field guides ordered by members to distribute to stormwater professionals		
	Two technical factsheets will be developed by end of 09 for developers		

Attachment B

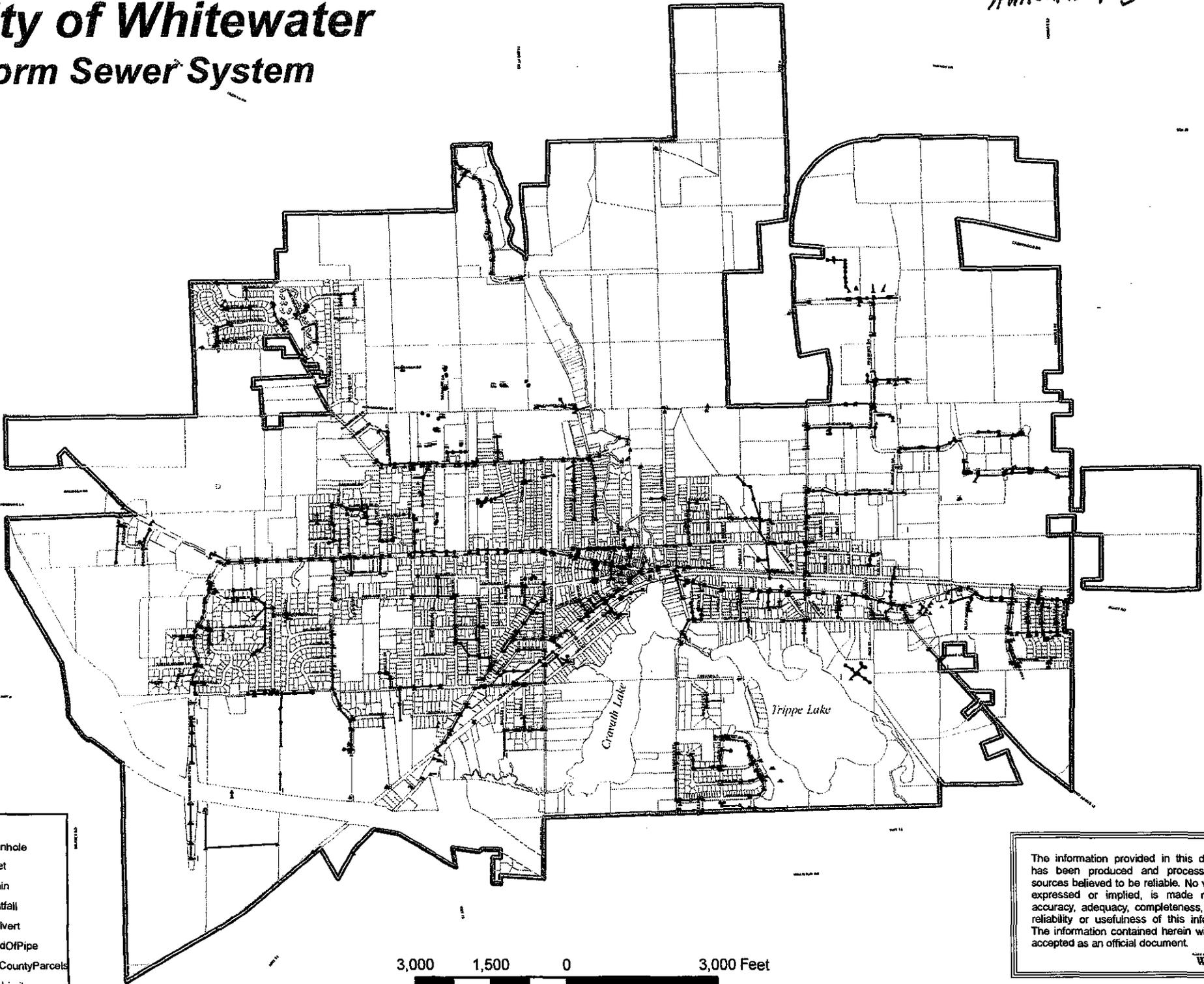
Stormwater Pollution Prevention Plan for City
garage complex will be mailed separately.

Attachment C

Snow and Ice Control Policy will be sent separately after City Council approval.

City of Whitewater Storm Sewer System

Attachment D

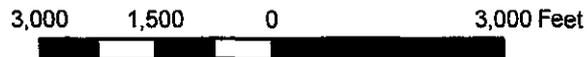


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ITTC/CH/EST

- Legend**
- DManhole
 - DInlet
 - DMain
 - └ DOutfall
 - ┌ DCulvert
 - ▲ DEndOfPipe
 - ▭ TwoCountyParcels
 - ▭ City Limits



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ORDINANCE NO. _____
AN ORDINANCE AMENDING CHAPTER 12.08
STREET OBSTRUCTIONS

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, do hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Chapter 12.08, Section 12.08.010, is hereby amended to read as follows:

12.08.010 Prohibited.

- (a) No person, except as provided in Section 12.08.020, shall place, deposit, keep, or cause to be placed, deposited or kept in or upon any street, alley, gutter, sidewalk or public ground within the limits of this city any stone, brick, timber, lumber, iron, wood or other material for building, or any wood, snow, rubbish, earth, grass clippings or lawn debris, or any thing or substance whatever; nor shall any person burn or cause to be burned any such substance in any public street or alley; nor shall any person leave any automobile, truck, trailer, equipment or other vehicle standing or parked in or upon any street, alley, sidewalk, or public ground so as to encumber the same, or so as to obstruct, impede, or hinder travel thereon; nor shall any person leave, or cause to suffer any box, barrel, crate, cask, bale, package, merchandise, or other thing to stand, be or remain upon any street, alley, sidewalk, gutter, or public ground longer than may be actually necessary for the act of delivering or receiving the same.
- (b) Any person violating any of the provisions of this section shall forfeit and pay a penalty of not less than twenty-five dollars nor more than two hundred fifty dollars, together with the costs of prosecution.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

ADOPTED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

Attachment F

Section X:

Provide a description of any proposed changes to the municipality's storm water management program and any other relevant change that the municipality plans or anticipates.

The Stormwater Management report dated June 2008 identified several areas where detention ponds could be constructed to help meet the 40% TSS reduction requirement. Since the completion of the report, several of the identified areas are no longer allowable for pond construction due to the lands either being delineated wetlands or the drainage ditch(s) being designated as navigable. City will need to find other areas or methods to meet the 40% requirement.

Two operational items to note as relevant to the stormwater management program are:

- DPW was able to sweep sand from city streets used for snow and ice control during moderate temperature periods in late winter prior to any rain events. The reclaimed sand is being recycled for use for snow and ice control again.
- The City has reduced the amount of salt in the salt/sand mixture used for snow and ice control. Page 3-14 of the 2008 Report indicates the salt/sand mixture is 20%/80%. The mixture is now 7%/93%.

CITY OF WHITEWATER
REVENUES WITH COMPARISON TO BUDGET
FOR THE 12 MONTHS ENDING DECEMBER 31, 2009

C-9

STORMWATER UTILITY FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET AMOUNT	VARIANCE	% OF BUDGET
<u>STORMWATER REVENUES</u>					
630-41110-63 RESIDENTIAL REVENUES	27,886.50	111,503.86	101,598.00	(9,905.86)	109.8
630-41112-63 COMMERCIAL REVENUES	19,016.06	79,983.07	87,956.00	7,972.93	90.9
630-41113-63 INDUSTRIAL REVENUES	9,259.94	39,836.17	30,597.00	(9,239.17)	130.2
630-41114-63 PUBLIC/TAX EXEMPT REVENUES	14,294.04	56,793.46	70,452.00	13,658.54	80.6
630-41115-63 PENALTIES	.00	2,241.86	2,900.00	658.14	77.3
TOTAL STORMWATER REVENUES	70,456.54	290,358.42	293,503.00	3,144.58	98.9
<u>MISC REVENUES</u>					
630-42110-63 INTEREST INCOME	8.11	574.10	5,000.00	4,425.90	11.5
630-42212-63 GRANTS	(23,150.01)	(23,150.01)	10,000.00	33,150.01	(231.5)
TOTAL MISC REVENUES	(23,141.90)	(22,575.91)	15,000.00	37,575.91	(150.5)
<u>OTHER FINANCING SOURCES</u>					
630-49930-63 RETAINED EARNINGS-(INC)-DEC	.00	.00	(41,208.00)	(41,208.00)	.0
630-49950-63 CAPITAL IMPROVE-LOAN	.00	.00	190,000.00	190,000.00	.0
TOTAL OTHER FINANCING SOURCES	.00	.00	148,792.00	148,792.00	.0
TOTAL FUND REVENUE	47,314.64	267,782.51	457,295.00	189,512.49	58.6

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CITY OF WHITEWATER
EXPENDITURES WITH COMPARISON TO BUDGET
FOR THE 12 MONTHS ENDING DECEMBER 31, 2009

STORMWATER UTILITY FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET AMOUNT	VARIANCE	% OF BUDGET
<u>ADMINISTRATIVE/GENERAL EXPENSE</u>					
630-63300-115	ADMINISTRATIVE SALARIES	2,354.12	29,364.83	26,529.00 (2,835.83)	110.7
630-63300-116	ACCOUNTING/FINANCE SALARIES	1,425.30	18,662.24	18,576.00 (86.24)	100.5
630-63300-117	PLANNING SALARIES	.00	.00	5,062.00 5,062.00	.0
630-63300-120	EMPLOYEE BENEFITS-TOTAL	8,550.21	50,836.89	42,531.00 (8,305.89)	119.5
630-63300-154	PROFESSIONAL DEVELOPMENT	99.00	305.53	1,000.00 694.47	30.6
630-63300-214	PROF SERVICES/AUDIT EXPENSES	.00	2,211.00	2,500.00 289.00	88.4
630-63300-220	ENGINEERING/PLANNING- TO GF	.00	6,000.00	6,000.00 .00	100.0
630-63300-221	GIS EXPENSES	.00	2,032.29	2,000.00 (32.29)	101.6
630-63300-225	MOBILE COMMUNICATIONS	.00	.00	250.00 250.00	.0
630-63300-247	SOFTWARE EXPENSES	1,000.00	2,666.00	1,200.00 (1,466.00)	222.2
630-63300-310	OFFICE SUPPLIES	1,096.18	2,669.19	2,500.00 (169.19)	106.8
630-63300-352	INFO TECHNOLOGY EXPENSES	.00	.00	500.00 500.00	.0
630-63300-362	CREDIT/DEBIT CARD EXPENSES	.00	.00	1,000.00 1,000.00	.0
630-63300-519	INSURANCE EXPENSES	.00	686.40	3,000.00 2,313.60	22.9
630-63300-913	ERF TRANSFER-DPWERF	9,000.00	19,000.00	19,000.00 .00	100.0
TOTAL ADMINISTRATIVE/GENERAL EXPENSE		23,524.81	134,434.17	131,648.00 (2,786.17)	102.1
<u>STREET CLEANING</u>					
630-63310-111	SALARIES/WAGES	1,533.88	22,210.03	13,192.00 (9,018.03)	168.4
630-63310-351	FUEL EXPENSES	1,078.90	3,013.70	4,500.00 1,486.30	67.0
630-63310-353	EQUIPMENT PARTS/SUPPLIES	.00	3,680.10	4,500.00 819.90	81.8
TOTAL STREET CLEANING		2,612.78	28,903.83	22,192.00 (6,711.83)	130.2
<u>STORM WATER MANAGEMENT</u>					
630-63440-111	SALARIES/WAGES	229.01	13,562.63	9,133.00 (4,429.63)	148.5
630-63440-114	CONSTRUCTION SITE INSPECTIONS	177.92	2,262.12	2,312.00 49.88	97.8
630-63440-295	CONTRACTUAL SERVICES	.00	3,020.71	2,500.00 (520.71)	120.8
630-63440-320	PUBLIC EDUCATION/OUTREACH	.00	5,380.85	7,500.00 2,119.15	71.7
630-63440-350	REPAIR/MAINTENANCE SUPPLIES	(9,659.53)	3,679.36	7,500.00 3,820.64	49.1
630-63440-351	FUEL EXPENSES	425.56	1,327.64	1,500.00 172.36	88.5
630-63440-590	PERMIT FEES-DNR	.00	2,000.00	2,000.00 .00	100.0
630-63440-810	CAPITAL EQUIPMENT	(54,032.50)	.00	190,000.00 190,000.00	.0
630-63440-820	CAPITAL IMPROVEMENTS	.00	.00	11,000.00 11,000.00	.0
TOTAL STORM WATER MANAGEMENT		(62,859.54)	31,233.31	233,445.00 202,211.69	13.4

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CITY OF WHITEWATER
 EXPENDITURES WITH COMPARISON TO BUDGET
 FOR THE 12 MONTHS ENDING DECEMBER 31, 2009

STORMWATER UTILITY FUND

	PERIOD ACTUAL	YTD ACTUAL	BUDGET AMOUNT	VARIANCE	% OF BUDGET
<u>COMPOST SITE/YARD WASTE EXP</u>					
630-63600-111 SALARIES/WAGES	2,095.28	35,956.59	39,575.00	3,618.41	90.9
630-63600-113 SEASONAL WAGES	117.00	4,722.38	1,935.00	(2,787.38)	244.1
630-63600-340 OPERATING SUPPLIES/LEAF BAGS	4,328.10	7,487.11	3,500.00	(3,987.11)	213.9
630-63600-351 FUEL EXPENSES	1,821.05	4,144.31	3,500.00	(644.31)	118.4
630-63600-352 VEHICLE/EQUIPMENT/REPAIR PARTS	221.20	1,252.17	2,000.00	747.83	62.6
TOTAL COMPOST SITE/YARD WASTE EXP	8,582.63	53,562.56	50,510.00	(3,052.56)	106.0
<u>LAKE MANAGEMENT/MAINT EXP</u>					
630-63610-291 LAKE WEED CONTROL EXPENSES	.00	5,866.10	6,000.00	133.90	97.8
630-63610-295 CONTRACTUAL EXPENSES	.00	100.00	13,500.00	13,400.00	.7
TOTAL LAKE MANAGEMENT/MAINT EXP	.00	5,966.10	19,500.00	13,533.90	30.6
TOTAL FUND EXPENDITURES	(28,139.32)	254,099.97	457,295.00	203,195.03	55.6
NET REVENUE OVER EXPENDITURES	75,453.96	13,682.54	.00	(13,682.54)	.0

170

C-9

CITY OF WHITEWATER
STORMWATER UTILITY-FUND 630
REVENUES-2010

REVENUES

	DESCRIPTION	2007 ACTUAL	2008 ACTUAL	2009 BUDGET	2009 YTD-JULY	2009 ACT-EST	2010 BUDGET
41110	Residential Revenues	36,959	112,570	101,598	55,775	110,650	110,650
41112	Commercial Revenues	19,720	78,860	87,956	40,468	79,100	79,100
41113	Industrial Revenues	9,423	40,876	30,597	20,272	39,200	39,200
41114	Public/Tax Exempt Revenues	6,240	54,018	70,452	28,205	56,800	56,800
41115	Penalties	(1,007)	2,643	2,900	1,543	2,000	2,000
41116	Other Revenues	-	-	-	-	-	-
41118	Reserve ERU's	-	-	-	-	-	-
	Total Revenues	71,335	288,967	293,503	146,263	287,750	287,750

REVENUES/OTHER SOURCES

	DESCRIPTION	2007 ACTUAL	2008 ACTUAL	2009 BUDGET	2009 YTD-JULY	2009 ACT-EST	2010 BUDGET
42110	Interest Income	128	2,008	5,000	460	720	1,000
42212	Grants	23,150	-	10,000	-	-	-
42400	Insurance Claims Recovery	-	10,603	-	-	-	-
49920	Trans-City-Stormwater Assets	980,242	981	-	-	-	-
49930	Retained Earnings-(Inc)-Dec	-	-	(42,471)	-	-	(30,091)
****	Capital Improvement-Loan	-	-	190,000	-	-	400,075
	Total Revenues/Other Sources	1,003,520	13,592	162,529	460	720	370,984

STORMWATER UTILITY REVENUE TOTALS

	DESCRIPTION	2007 ACTUAL	2008 ACTUAL	2009 BUDGET	2009 YTD-JULY	2009 ACT-EST	2010 BUDGET
	Revenue Totals	1,074,855	302,559	456,032	146,723	288,470	658,734

**CITY OF WHITEWATER
STORMWATER UTILITY-FUND 630
EXPENSES-2010**

ADMINISTRATIVE/GENERAL EXPENSES

SECTION NUMBER: 630.63300

	DESCRIPTION	2007 ACTUAL	2008 ACTUAL	2009 BUDGET	2009 YTD-JULY	2009 ACT-EST	2010 BUDGET
115	Administration Salaries	-	16,893	26,529	16,912	26,529	29,568
116	Accounting/Finance Salaries	-	19,180	18,576	10,833	18,576	19,035
117	Planning Salaries	-	3,591	5,062	-	-	-
120	Employee Benefits-Total	-	39,343	42,283	25,505	41,200	50,642
154	Professional Development	-	876	1,000	207	300	1,000
214	Prof Services/Audit Expenses	-	2,100	2,500	2,176	2,176	2,500
220	Engineering-Transfer to GF	-	6,000	6,000	-	6,000	6,000 (A)
221	GIS Services/Expenses	-	2,170	2,000	32	1,000	1,000 (B)
225	Mobile Communications	-	-	250	-	-	250
247	Software Expenses	6,000	1,627	1,200	1,666	1,666	1,200
310	Office Supplies	-	1,621	2,500	987	1,500	2,000
345	Safety Program-All DPW	-	-	-	-	-	1,000 (C)
350	Contingencies	-	-	-	-	-	-
352	Information Technology Expenses	-	-	500	-	-	500
362	Credit/Debit Card Expenses	-	-	1,000	-	500	500
519	Insurance	-	253	3,000	458	1,000	2,500
550	Depreciation	26,310	-	-	-	-	-
810	Capital Equipment	5,367	-	-	-	-	-
913	ERF Transfer-DPW ERF	-	19,000	19,000	10,000	19,000	19,000 (D)
Total Adm./General Expenses		37,677.0	112,654	131,400	68,776.0	119,447	136,695

STREET CLEANING

SECTION NUMBER: 630.63310

	DESCRIPTION	2007 ACTUAL	2008 ACTUAL	2009 BUDGET	2009 YTD-JULY	2009 ACT-EST	2010 BUDGET
111	Salaries/Wages	-	24,438	12,177	10,452	15,400	12,599
351	Fuel Expenses	-	5,599	4,500	957	2,000	4,000
353	Equipment Parts/Supplies	-	6,345	4,500	1,944	3,500	4,500
360	Repair-Major-Insurance	-	11,103	-	-	-	-
550	Depreciation Expense	-	28,300	-	-	-	-
Total Street Cleaning Exp.		-	75,785	21,177	13,353	20,900	21,099

STORMWATER MAINTENANCE

SECTION NUMBER:

63063440

	DESCRIPTION	2007 ACTUAL	2008 ACTUAL	2009 BUDGET	2009 YTD-JULY	2009 ACT-EST	2010 BUDGET
111	Salaries/Wages	-	13,655	9,133	7,234	10,800	21,804
113	Seasonal Wages	-	-	-	-	-	387
114	Storm & Illicit Discharge Inspections	-	2,436	2,312	1,284	1,750	-
295	Contractual Services	-	36,287	2,500	1,711	1,711	2,000
320	Public Education/Outreach	-	379	7,500	5,000	5,000	7,500
350	Repair & Maintenance Supplies	-	9,710	7,500	5,136	6,500	7,500
351	Fuel Expenses	-	1,548	1,500	455	650	1,500
590	Permit Fees-DNR	-	2,000	2,000	2,000	2,000	2,000
810	Capital Improvements	-	-	190,000	-	-	400,075 (E)
820	Capital Equipment	-	1,551	11,000	-	11,000	- (F)
Total Stormwater Maintenance		-	67,566	233,445	22,820	39,411	442,766

COMPOST SITE/YARD WASTES

SECTION NUMBER:

630.63600

	DESCRIPTION	2007 ACTUAL	2008 ACTUAL	2009 BUDGET	2009 YTD-JULY	2009 ACT-EST	2010 BUDGET
111	Salaries/Wages	-	29,168	39,575	21,435	35,700	40,946
113	Seasonal Wages	-	3,779	1,935	2,422	3,471	1,548
340	Operating Supplies/Leaf Bags	-	3,052	3,500	17	3,500	4,000
351	Fuel Expenses	-	7,984	3,500	1,600	2,700	3,500
352	Vehicle/Equipment Repair/Parts	-	159	2,000	815	1,500	2,000
Total Compost Site/Yard Wastes		-	44,142	50,510	26,289	46,871	51,994

LAKE MANAGEMENT/MAINTENANCE

SECTION NUMBER:

630.63610

	DESCRIPTION	2007 ACTUAL	2008 ACTUAL	2009 BUDGET	2009 YTD-JULY	2009 ACT-EST	2010 BUDGET
291	Lake Weed Control Expenses	-	4,031	6,000	600	5,867	6,180
295	Contractual Expenses	-	-	13,500	-	-	-
Total Lake Manage/Maintenance		-	4,031	19,500	600	5,867	6,180

STORMWATER UTILITY EXPENSE - TOTALS

	DESCRIPTION	2007 ACTUAL	2008 ACTUAL	2009 BUDGET	2009 YTD-JULY	2009 ACT-EST	2010 BUDGET
Expense Totals		37,677	304,178	456,032	131,838	232,496	658,734

DEPARTMENT - STORMWATER - 630

BUDGET NARRATIVE

ITEM	AMOUNT
NOTES:	
A. ENGINEERING-TRANSFER-ADMINISTRATIVE Transfer to the General Fund for engineering services	6,000
B. GIS Stormwater-25% transfer to GF, Water, WWT, SW operation & supplies for a total of \$4,000	1,000
C. SAFETY PROGRAM - \$1,000 transfer to DPW Administration-GF	1,000
D. ERF PAYMENT-TRANSFER TO DPW EQUIPMENT REPLACEMENT FD Transfer to DPW ERF for equipment used for stormwater,street cleaning, and compost site work.	19,000
E. CAPITAL PROJECTS Construction-Detention Pond - Site #11 Clay St. (Roundabout to Nature Park Road)	133,750 <u>266,325</u> 400,075
F. CAPITAL EQUIPMENT	NONE

**RESOLUTION AUTHORIZING THE PURCHASE OF LANDS FOR
THE RIGHT-OF-WAY NECESSARY TO EXTEND STARIN ROAD**

WHEREAS, the City of Whitewater has decided to extend Starin Road from its intersection with Fremont Street to a planned intersection with Highway 59; and

WHEREAS, in order to complete said improvement, the City will need to acquire real estate as set forth below; and

WHEREAS, it is in the City of Whitewater and the general public's best interest to acquire said property in order to extend Starin Road.

Now, therefore, subject to the approval of the City of Whitewater Plan Commission, **BE IT RESOLVED** that the City Manager and the City Clerk are hereby authorized to sign any and all documents necessary to purchase the property as set forth in the attached Kutz Offer to Purchase and the attached Kligora Offer to Purchase on the terms and conditions, including the price, as set forth therein.

Resolution introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

ADOPTED:

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

R-A

VACANT LAND OFFER TO PURCHASE

1 Attorney DRAFTING THIS OFFER ON 04-01-10 [DATE] IS (AGENT-OF-SELLER) (AGENT OF BUYER) (DUAL-AGENT) ~~STRIKE TWO~~

2 **GENERAL PROVISIONS** The Buyer, The City of Whitewater

3 offers to purchase the Property known as [Street Address] approximately 7.49 acres, See Exhibit A

4 in the City of Whitewater, County of Walworth

5 Wisconsin, (insert additional description, if any, at lines 179 - 187 or attach as an addendum, line 188), on the following terms:

6 vPURCHASE PRICE: Eighty-seven Thousand Five Hundred and 00/100

7 **(See Exhibit A)** Dollars (\$ 87,500.00).

8 vEARNEST MONEY of \$ -0- accompanies this Offer and earnest money of \$ -0-

9 will be paid within _____ days of acceptance.

10 vTHE BALANCE OF PURCHASE PRICE will be paid in cash or equivalent at closing unless otherwise provided below.

11 v ADDITIONAL ITEMS INCLUDED IN PURCHASE PRICE: Seller shall include in the purchase price and transfer, free and clear of

12 encumbrances, all fixtures, as defined at lines 15 - 18 and as may be on the Property on the date of this Offer, unless excluded at line 14,

13 and the following additional items: _____

14 vITEMS NOT INCLUDED IN THE PURCHASE PRICE: _____

15 A "Fixture" is defined as an item of property which is physically attached to or so closely associated with land so as to be treated as part

16 of the real estate, including, without limitation, physically attached items not easily removable without damage to the Property, items

17 specifically adapted to the Property, and items customarily treated as fixtures including but not limited to all: perennial crops; garden

18 bulbs; plants; shrubs and trees. CAUTION: Annual crops are not included in the purchase price unless otherwise agreed at line 13.

19 vZONING: Seller represents that the Property is zoned _____

20 **ACCEPTANCE** Acceptance occurs when all Buyers and Sellers have signed an identical copy of the Offer, including signatures on

21 separate but identical copies of the Offer. **CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider**

22 **whether short term deadlines running from acceptance Provide adequate time for both binding acceptance and performance.**

23 **BINDING ACCEPTANCE** This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or

24 before 04-7-10. **CAUTION: This Offer maybe withdrawn prior to delivery of the accepted Offer.**

25 **DELIVERY OF DOCUMENTS AND WRITTEN NOTICES** Unless otherwise stated in this Offer, delivery of documents and written notices

26 to a Party shall be effective only when accomplished by one of the methods specified at lines 27 - 36.

27 (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account with

28 a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery designated at lines 30 or 32 (if any),

29 for delivery to the Party's delivery address at lines 31 or 33.

30 Seller's recipient for delivery (optional): _____

31 Seller's delivery address: _____

32 Buyer's recipient for delivery (optional): Kevin Brunner

33 Buyer's delivery address: 312 W. Whitewater St., Whitewater, WI 53190

34 (2) By giving the document or written notice personally to the Party or the Party's recipient for delivery if an individual is designated at lines 30 or 32.

35 (3) By fax transmission of the document or written notice to the following telephone number:

36 Buyer: (262) 473-0500 Seller: (_____) _____

37 **OCCUPANCY** Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Offer (lines

38 179 - 187 or in an addendum per line 188). Occupancy shall be given subject to tenant's rights, if any. **Caution: Consider an agreement**

39 **which addresses responsibility for clearing the Property of personal property and debris, if applicable.**

40 **LEASED PROPERTY** If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights under said

41 lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) ~~STRIKE ONE~~

42 lease(s), if any, are _____

43 **PLACE OF CLOSING** This transaction is to be closed at the place designated by Buyer's mortgagee or 312 W. Whitewater Street,

44 Whitewater, WI no later than April 30, 2010 unless another date or place is agreed to in writing.

45 **CLOSING PRORATIONS** The following items shall be prorated at closing: real estate taxes, rents, private and municipal charges,

46 property owner's association assessments, fuel and _____

47 _____. Any income, taxes or expenses shall accrue to Seller, and be prorated, through the day prior to closing.

48 Net general real estate taxes shall be prorated based on (the net general real estate taxes for the current year, if known, otherwise on

49 the net general real estate taxes for the preceding year) (_____)

50 _____). ~~STRIKE AND COMPLETE AS APPLICABLE~~

51 **CAUTION: If proration on the basis of net general real estate taxes is not acceptable (for example, completed/pending**

52 **reassessment, changing mill rate, lottery credits), insert estimated annual tax or other formula for proration.**

53 **PROPERTY CONDITION PROVISIONS**

54 v **PROPERTY CONDITION REPRESENTATIONS:** Seller represents to Buyer that as of the date of acceptance Seller has no notice

55 or knowledge of conditions affecting the Property or transaction (see below) other than those identified in Seller's Real Estate Condition

56 Report dated _____, which was received by Buyer prior to Buyer signing this Offer and which is made a part of this Offer

57 by reference ~~COMPLETE DATE OR STRIKE AS APPLICABLE~~ and _____

58 _____ ~~INSERT CONDITIONS NOT ALREADY INCLU~~

59 A "condition affecting the Property or the "action" is defined as follows:

60 (a) planned or commenced public Improvements which may result in special assessments or otherwise materially affect the Property

61 or the present use of the Property;

62 (b) completed or pending reassessment of the Property for property tax purposes;

63 (c) government agency or court order requiring repair, alteration or correction of any existing condition;

64 (d) any land division involving the subject Property, for which required state or local approvals had not been obtained;

65 (e) any portion of the Property being in a 100 year floodplain, a wetland or a shoreland zoning area under local, state or federal laws;

66 (f) conditions constituting a significant health or safety hazard for occupants of Property;

67 (g) underground or aboveground storage tanks on the Property for storage of flammable or combustible liquids including but not limited to

68 gasoline and heating oil which are currently or which were previously located on the Property; **NOTE: Wis. Adm. Code, Chapter**

69 **Comm 10 contains registration and operation rules for such underground and aboveground storage tanks.**

70 (h) material violations of environmental laws or other laws or agreements regulating the use of the Property;

71 (i) high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property;

72 (j) any portion of the Property being subject to, or in violation of, a Farmland Preservation Agreement under a County Farmland Preservation

73 Plan or enrolled in, or in violation of, a Forest Crop, Woodland Tax, Managed Forest Conservation Reserve or comparable program;

74 (k) boundary disputes or material violation of fence laws (Wis. Stats. Chapter 90) which require the erection and maintenance of legal

75 fences between adjoining properties where one or both of the properties is used and occupied for farming or grazing purposes;

76 (l) wells on the Property required to be abandoned under state regulations (Wis. Adm. Code NR 112.26) but which are not abandoned;

77 (m) cisterns or septic tanks on the Property which are currently not servicing the Property;

78 (n) subsurface conditions which would significantly increase the cost of the development proposed at lines 271-272, if any, including, but not limited

79 to, subsurface foundations, organic or non-organic fill, dumpsites or containers on Property which contained or currently contain toxic or

80 hazardous materials, high groundwater, soil conditions (e.g. low load bearing capacity) or excessive rocks or rock formations on the Property;

81 (o) a lack of legal vehicular access to the Property from public roads;

82 (p) prior reimbursement for corrective action costs under the Agricultural Chemical Cleanup Program; (Wis. Stats. §94.73.)

83 (q) other conditions or occurrences which would significantly increase the cost of the development proposed at lines 271 to 272 or

84 reduce the value of the Property to a reasonable person with knowledge of the nature and scope of the condition or occurrence.

85 **v PROPERTY DIMENSIONS AND SURVEYS:** Buyer acknowledges, that any land dimensions, total square footage/acreage figures,

86 or allocation of acreage information, provided to Buyer by Seller or by a broker, may be approximate because of rounding or other

87 reasons, unless verified by survey or other means. **CAUTION: Buyer should verify land dimensions, total square footage/acreage**

88 **figures or allocation of acreage information if material to Buyer's decision to purchase.**

89 **v ISSUES RELATED TO PROPERTY DEVELOPMENT:** WARNING: If Buyer contemplates developing Property or a use other than the

90 current use, there are a variety of issues which should be addressed to ensure the development or new use is feasible. Municipal and zoning

91 ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements or uses and therefore should

92 be reviewed. Building permits, zoning variances, Architectural Control Committee approvals, estimates for utility hook-up expenses, special

93 assessments, charges for installation of roads or utilities, environmental audits, subsurface tests, or other development related fees may need

94 to be obtained or verified in order to determine the feasibility of development of, or a particular use for, a property. Optional contingencies

95 which allow Buyer to investigate certain of these issues can be found at lines 271 - 314 and Buyer may add contingencies as needed in

96 addenda (see line 188). Buyer should review any plans for development or use changes to determine what issues should be addressed

97 in these contingencies.

98 **v INSPECTIONS:** Seller agrees to allow Buyer's inspectors reasonable access to the Property upon reasonable notice if the inspections

99 are reasonably necessary to satisfy the contingencies in this Offer. Buyer agrees to promptly provide copies of all such inspection

100 reports to Seller, and to listing broker if Property is listed. Furthermore, Buyer agrees to promptly restore the Property to its original

101 condition after Buyer's inspections are completed, unless otherwise agreed in this Offer. An "inspection" is defined as an observation

102 of the Property which does not include testing of the Property, other than testing for leaking LP gas or natural gas used as a fuel source,

103 which are hereby authorized.

104 **v TESTING:** Except as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Property.

105 A "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Property and the laboratory

106 or other analysis of these materials. If Buyer requires testing, testing contingencies must be specifically provided for at lines 179 - 187 or

107 in an addendum per line 188. Note: Any contingency authorizing testing should specify the areas of the Property to be tested, the purpose

108 of the test, (e.g., to determine if environmental contamination is present), any limitations on Buyer's testing and any other material terms of

109 the contingency (e.g., Buyer's obligation to return the Property to its original condition). Seller acknowledges that certain inspections or tests

110 may detect environmental pollution which may be required to be reported to the Wisconsin Department of Natural Resources.

111 **v PRE-CLOSING INSPECTION:** At a reasonable time, pre-approved by Seller or Seller's agent, within 3 days before closing, Buyer shall

112 have the right to inspect the Property to determine that there has been no significant change in the condition of the Property, except for

113 changes approved by Buyer.

114 **v PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING:** Seller shall maintain the Property until the earlier of closing or

115 occupancy of Buyer in materially the same condition as of the date of acceptance of this Offer, except for ordinary wear and tear. If, prior

116 to closing, the Property is damaged in an amount of not more than five per cent (5%) of the selling price, Seller shall be obligated to repair

117 the Property and restore it to the same condition that it was on the day of this Offer. If the damage shall exceed such sum, Seller shall

118 promptly notify Buyer in writing of the damage and this Offer may be canceled at option of Buyer. Should Buyer elect to carry out this

119 Offer despite such damage, Buyer shall be entitled to the insurance proceeds relating to the damage to the Property, plus a credit towards

120 the purchase price equal to the amount of Seller's deductible on such policy. However, if this sale is financed by a land contract or a

121 mortgage to Seller, the insurance proceeds shall be held in trust for the sole purpose of restoring the Property.

122 **FENCES** Wisconsin Statutes section 90.03 requires the owners of adjoining properties to keep and maintain legal fences in equal

123 shares where one or both of the properties is used and occupied for farming or grazing purposes. **CAUTION: Consider an agreement**

124 **addressing responsibility for fences if Property or adjoining land is used and occupied for farming or grazing purposes.**

125 **DELIVERY/RECEIPT** Unless otherwise stated in this Offer, any signed document transmitted by facsimile machine (fax) shall be treated

126 in all manner and respects as an original document and the signature of any Party upon a document transmitted by fax shall be considered

127 an original signature. Personal delivery to, or actual receipt by, any named Buyer or Seller constitutes personal delivery to, or actual receipt

128 by Buyer or Seller. Once received, a notice cannot be withdrawn by the Party delivering the notice without the consent of the Party receiving

129 the notice. A Party may not unilaterally reinstate a contingency after a notice of a contingency waiver has been received by the other Party.

130 **The delivery provisions in this Offer may be modified when appropriate (e.g., when mail delivery is not desirable (see lines 25 - 36).**

131 Buyer and Seller authorize the agents of Buyer and Seller to distribute copies of the Offer to Buyer's lender, appraisers, title insurance companies

132 and any other settlement service providers for the transaction as defined by the Real Estate Settlement Procedures Act (RESPA).

133 **PROPERTY ADDRESS:**

134 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) earnest money payment(s); (2) binding acceptance; (3) occupancy; (4)
135 date of closing; (5) contingency deadlines **STRIKE AS APPLICABLE** and all other dates and deadlines in this Offer except:
136 _____ . If "Time is of the Essence"

137 applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does
138 not apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

139 **DATES AND DEADLINES** Deadlines expressed as a number of "days" from an event, such as acceptance, are calculated by excluding
140 the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day. Deadlines
141 expressed as a specific number of "business days" exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal
142 law, and other day designated by the President such that the postal service does not receive registered mail or make regular deliveries
143 on that day. Deadlines expressed as a specific number of "hours" from the occurrence of an event, such as receipt of a notice, are
144 calculated from the exact time of the event, and by counting 24 hours per calendar day. Deadlines expressed as a specific day of the
145 calendar year or as the day of a specific event, such as closing, expire at midnight of that day.

146 **THE FINANCING CONTINGENCY PROVISIONS AT LINES 148-162 ARE A PART OF THIS OFFER IF LINE 148 IS MARKED,**
147 **SUCH AS WITH AN "X". THEY ARE NOT PART OF THIS OFFER IF LINE 148 IS MARKED N/A OR IS NOT MARKED.**

148 **FINANCING CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a _____
149 **INSERT LOAN PROGRAM OR SOURCE** first mortgage loan commitment as described below, within _____ days of acceptance of this
150 Offer. The financing selected shall be in an amount of not less than \$ _____ for a term of not less than _____ years,
151 amortized over not less than _____ years. Initial monthly payments of principal and interest shall not exceed \$ _____.
152 Monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard insurance premiums, and private
153 mortgage insurance premiums. The mortgage may not include a prepayment premium. Buyer agrees to pay a loan fee not to exceed
154 _____ % of the loan. (Loan fee refers to discount points and/or loan origination fee, but DOES NOT include Buyer's other closing
155 costs.) If the purchase price under this Offer is modified, the financed amount, unless otherwise provided, shall be adjusted
156 to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as necessary to maintain
157 the term and amortization stated above. **CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE 158 OR 159.**

158 **FIXED RATE FINANCING:** The annual rate of interest shall not exceed _____ %.
159 **ADJUSTABLE RATE FINANCING:** The initial annual interest rate shall not exceed _____ %. The initial interest rate shall
160 be fixed for _____ months, at which time the interest rate may be increased not more than _____ % per year. The maximum
161 interest rate during the mortgage term shall not exceed _____ %. Monthly payments of principal and interest may be adjusted
162 to reflect interest changes.

163 **LOAN COMMITMENT:** Buyer agrees to pay all customary financing costs (including closing fees), to apply for financing promptly, and
164 to provide evidence of application promptly upon request by Seller. If Buyer qualifies for the financing described in this Offer or other
165 financing acceptable to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the deadline for loan
166 commitment at line 149. Buyer's delivery of a copy of any written loan commitment to Seller (even if subject to conditions) shall
167 satisfy the Buyer's financing contingency unless accompanied by a notice of unacceptability. **CAUTION: BUYER, BUYER'S LENDER**
168 **AND AGENTS OF BUYER OR SELLER SHOULD NOT DELIVER A LOAN COMMITMENT TO SELLER WITHOUT BUYER'S PRIOR**
169 **APPROVAL OR UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.**

170 **SELLER TERMINATION RIGHTS:** If Buyer does not make timely delivery of said commitment, Seller may terminate this Offer if Seller
171 delivers a written notice of termination to Buyer prior to Seller's actual receipt of a copy of Buyer's written loan commitment.

172 **FINANCING UNAVAILABILITY:** If financing is not available on the terms stated in this Offer (and Buyer has not already delivered an
173 acceptable loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including copies
174 of lender(s)' rejection letter(s) or other evidence of unavailability. Unless a specific loan source is named in this Offer, Seller shall then
175 have 10 days to give Buyer written notice of Seller's decision to finance this transaction on the same terms set forth in this Offer and this
176 Offer shall remain in full force and effect, with the time for closing extended accordingly. If Seller's notice is not timely given, this Offer shall
177 be null and void. Buyer authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit worthiness
178 for Seller financing.

179 **ADDITIONAL PROVISIONS/CONTINGENCIES** _____
180 _____
181 _____
182 _____
183 _____
184 _____
185 _____
186 _____
187 _____

188 **ADDENDA:** The attached **Addendum 1** _____ is/are made part of this Offer.

189 **TITLE EVIDENCE**
190 **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Property by warranty deed (or other
191 conveyance as provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and
192 agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use
193 restrictions and covenants, general taxes levied in the year of closing and _____
194 _____
195 _____ (provided none of the foregoing prohibit present use of the Property), which constitutes merchantable title
196 for purposes of this transaction. Seller further agrees to complete and execute the documents necessary to record the conveyance.

197 v **FORM OF TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of the
198 purchase price on a current ALTA form issued by an insurer licensed to write title insurance in Wisconsin. **CAUTION: IF TITLE**
199 **EVIDENCE WILL BE GIVEN BY ABSTRACT, STRIKE TITLE INSURANCE PROVISIONS AND INSERT ABSTRACT PROVISIONS.**

200 v **PROVISION OF MERCHANTABLE TITLE:** Seller shall pay all costs of providing title evidence. For purposes of closing, title evidence
201 shall be acceptable if the commitment for the required title insurance is delivered to Buyer's attorney or Buyer not less than 3 business
202 days before closing, showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be
203 merchantable, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and
204 exceptions, as appropriate. **CAUTION: BUYER SHOULD CONSIDER UPDATING THE EFFECTIVE DATE OF THE TITLE**
205 **COMMITMENT PRIOR TO CLOSING OR A "GAP ENDORSEMENT" WHICH WOULD INSURE OVER LIENS FILED BETWEEN THE**
206 **EFFECTIVE DATE OF THE COMMITMENT AND THE DATE THE DEED IS RECORDED.**

207 v **TITLE ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to title by
208 the time set for closing. In such event, Seller shall have a reasonable time, but not exceeding 15 days, to remove the objections, and
209 the time for closing shall be extended as necessary for this purpose. In the event that Seller is unable to remove said objections, Buyer
210 shall have 5 days from receipt of notice thereof, to deliver written notice waiving the objections, and the time for closing shall be extended
211 accordingly. If Buyer does not waive the objections, this Offer shall be null and void. Providing title evidence acceptable for closing does
212 not extinguish Seller's obligations to give merchantable title to Buyer.

213 v **SPECIAL ASSESSMENTS:** Special assessments, if any, for work actually commenced or levied prior to date of this Offer shall be
214 paid by Seller no later than closing. All other special assessments shall be paid by Buyer. **CAUTION: Consider a special agreement**
215 **if area assessments, property owner's association assessments or other expenses are contemplated.** "Other expenses" are one-
216 time charges or ongoing use fees for public improvements (other than those resulting in special assessments) relating to curb, gutter,
217 street, sidewalk, sanitary and stormwater and storm sewer (including all sewer mains and hook-up and interceptor charges), parks, street
218 lighting and street trees, and impact fees for other public facilities, as defined in Wis. Stat. § 66.55(1)(c) & (f).

219 **ENTIRE CONTRACT** This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding the
220 transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and inures to the benefit of
221 the Parties to this Offer and their successors in interest.

222 **DEFAULT**

223 Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Offer. A
224 material failure to perform any obligation under this Offer is a default which may subject the defaulting party to liability for damages or
225 other legal remedies.

226 If Buyer defaults, Seller may:

- 227 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or
- 228 (2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) direct Broker to return
229 the earnest money and have the option to sue for actual damages.

230 If Seller defaults, Buyer may:

- 231 (1) sue for specific performance; or
- 232 (2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.

233 In Addition, the Parties may seek any other remedies available in law or equity.

234 The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the
235 discretion of the courts. If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of
236 the remedies outlined above. By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes
237 covered by the arbitration agreement.

238 **NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ**
239 **THIS DOCUMENT CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE OFFER BUT**
240 **ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OR**
241 **HOW TITLE SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.**

242 **EARNEST MONEY**

243 v **HELD BY:** Unless otherwise agreed, earnest money shall be paid to and held in the trust account of the listing broker (buyer's agent
244 if Property is not listed or seller if no broker is involved), until applied to purchase price or otherwise disbursed as provided in the Offer.

245 **CAUTION: Should persons other than a broker hold earnest money, an escrow agreement should be drafted by the Parties**
246 **or an attorney. If someone other than Buyer makes payment of earnest money, consider a special disbursement agreement.**

247 v **DISBURSEMENT:** If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after clearance
248 from payor's depository institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest
249 money shall be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according
250 to a written disbursement agreement signed by all Parties to this Offer (Note: Wis. Adm. Code § RL 18.09(1)(b) provides that an offer
251 to purchase is not a written disbursement agreement pursuant to which the broker may disburse). If said disbursement agreement has
252 not been delivered to broker within 60 days after the date set for closing, broker may disburse the earnest money: (1) as directed by
253 an attorney who has reviewed the transaction and does not represent Buyer or Seller; (2) into a court hearing a lawsuit involving the
254 earnest money and all Parties to this Offer; (3) as directed by court order; or (4) any other disbursement required or allowed by law.
255 Broker may retain legal services to direct disbursement per (1) or to file an Interpleader action per (2) and broker may deduct from the
256 earnest money any costs and reasonable attorneys fees, not to exceed \$250, prior to disbursement.

257 v **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to this
258 Offer. Buyer's or Seller's legal right to earnest money cannot be determined by broker. At least 30 days prior to disbursement per (1)
259 or (4) above, broker shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree with broker's
260 proposed disbursement, a lawsuit may be filed to obtain a court order regarding disbursement. Small Claims Court has jurisdiction over
261 all earnest money disputes arising out of the sale of residential property with 1 - 4 dwelling units and certain other earnest money disputes.
262 Buyer and Seller should consider consulting attorneys regarding their legal rights under this Offer in case of a dispute. Both Parties
263 agree to hold the broker harmless from any liability for good faith disbursement of earnest money in accordance with this Offer or
264 applicable Department of Regulation and Licensing regulations concerning earnest money. See Wis. Adm. Code Ch. RL 18. **NOTE:**
265 **WISCONSIN LICENSE LAW PROHIBITS A BROKER FROM GIVING ADVICE OR OPINIONS CONCERNING THE LEGAL RIGHTS**
266 **OR OBLIGATIONS OF PARTIES TO A TRANSACTION OR THE LEGAL EFFECT OF A SPECIFIC CONTRACT OR CONVEYANCE.**
267 **AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS REQUIRED.**

R-A

268 PROPERTY ADDRESS:

269 OPTIONAL PROVISIONS: THE PARAGRAPHS AT LINES 271 - 314 WHICH ARE PRECEDED BY A BOX ARE A PART OF THIS OFFER IF
270 MARKED, SUCH AS WITH AN "X". THEY ARE NOT PART OF THIS OFFER IF MARKED N/A OR ARE LEFT BLANK.

271 PROPOSED USE CONTINGENCY: Buyer is purchasing the property for the purpose of: _____
272 _____ . This Offer is contingent upon Buyer obtaining the following:

273 Written evidence at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense from a qualified soils expert that the Property is free of any subsoil
274 condition which would make the proposed development impossible or significantly increase the costs of such development.

275 Written evidence at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense from a certified soils tester or other qualified expert that indicates that
276 the Property's soils at locations selected by Buyer and all other conditions which must be approved to obtain a permit for an acceptable private
277 septic system for: _____ [insert proposed use of Property; e.g., three

278 bedroom single family home] meet applicable codes in effect as of the date of this offer. An acceptable system includes all systems approved
279 for use by the State for the type of property identified at line 277. An acceptable system does not include a holding tank, privy, composting
280 toilet or chemical toilet or other systems (e.g., mound system) excluded in additional provisions or an addendum per lines 179 - 188.

281 Copies at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense of all public and private easements, covenants and restrictions affecting the
282 Property and a written determination by a qualified independent third party that none of these prohibit or significantly delay or increase
283 the costs of the proposed use or development identified at lines 271 to 272.

284 Permits, approvals and licenses, as appropriate, or the final discretionary action by the granting authority prior to the issuance
285 of such permits, approvals and licenses at (Buyer's) (Sellers) ~~STRIKE ONE~~ expense for the following items related to the proposed
286 development _____

287 Written evidence at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense that the following utility connections are located as follows (e.g.,
288 on the Property, at the lot line across the street, etc.): electricity _____; gas _____; sewer
289 _____; water _____; telephone _____; other _____

290 This proposed use contingency shall be deemed satisfied unless Buyer within _____ days of acceptance delivers
291 written notice to Seller specifying those items of this contingency which cannot be satisfied and written evidence substantiating why each
292 specific item included in Buyer's notice cannot be satisfied.

293 MAP OF THE PROPERTY: This Offer is contingent upon (Buyer obtaining) (Seller providing) ~~STRIKE ONE~~ a map of the Property prepared
294 by a registered land surveyor, within _____ days of acceptance, at (Buyer's) (Sellers) ~~STRIKE ONE~~ expense. The map shall identify the legal
295 description of the Property, the Property's boundaries and dimensions, visible encroachments upon the Property, the location of improvements,
296 if any, and: _____

297 _____ ~~STRIKE AND COMPLETE AS APPLICABLE~~ Additional map features
298 which may be added include, but are not limited to: specifying how current the map must be; staking of all corners of the Property; identifying
299 dedicated and apparent streets, lot dimensions, total acreage or square footage, easements or rights-of-way. **CAUTION: Consider the cost
300 and the need for map features before selecting them.** The map shall show no significant encroachment(s) or any information materially
301 inconsistent with any prior representations to Buyer. This contingency shall be deemed satisfied unless Buyer, within five days of the earlier
302 of: 1) Buyer's receipt of the map, or 2) the deadline for delivery of said map, delivers to Seller, and to listing broker if Property is listed, a copy
303 of the map and a written notice which identifies the significant encroachment or the information materially inconsistent with prior representations.

304 INSPECTION CONTINGENCY: This Offer is contingent upon a qualified independent inspector(s) conducting an inspection(s), at
305 Buyers expense, of the Property and _____

306 _____ which discloses no defects as defined below. This contingency shall be deemed satisfied
307 unless Buyer within _____ days of acceptance delivers to Seller, and to listing broker if Property is listed, a copy of the Inspector's
308 written inspection report and a written notice listing the defects identified in the report to which Buyer objects. This Offer shall be null and
309 void upon timely delivery of the above notice and report. **CAUTION: A proposed amendment will not satisfy this notice requirement.**
310 Buyer shall order the inspection and be responsible for all costs of inspection, including any inspections required by lender or follow-up to
311 inspection. Note: This contingency only authorizes inspections, not testing, see lines 98 to 110. For the purposes of this contingency a defect
312 is defined as any condition of the Property which constitutes a significant threat to the health or safety of persons who occupy or use the
313 Property or gives evidence of any material use, storage or disposal of hazardous or toxic substances on the Property. Defects do not include
314 conditions the nature and extent of which Buyer had actual knowledge or written notice before signing this Offer.

315 This Offer was drafted on _____ [date] by [Licensee and Firm] _____

316 (X) _____ Kevin M. Brunner _____ 4/1/10
317 Buyer's Signature Print Name Here: Kevin Brunner, City Manager Social Security No. or FEIN Date

318 (X) _____ _____ _____
319 Buyer's Signature Print Name Here: Social Security No. or FEIN Date

320 EARNEST MONEY RECEIPT _____ acknowledges receipt of earnest money as per line 8 of the above Offer. (See lines 242 - 267)
321 _____ (By) _____

322 SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OFFER SURVIVE CLOSING AND
323 THE CONVEYANCE OF THE PROPERTY. SELLER AGREES TO CONVEY THE PROPERTY ON THE TERMS AND CONDITIONS AS SET FORTH
324 HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OFFER.

325 (X) _____ _____ _____
326 Seller's Signature Print Name Here: Roger Kutz Social Security No. or FEIN Date

327 (X) _____ _____ _____
328 Seller's Signature Print Name Here: Christine Kutz Social Security No. or FEIN Date

329 This Offer was presented to Seller by _____ on _____, _____, at _____ a.m./p.m.

330 THIS OFFER IS REJECTED _____ THIS OFFER IS COUNTERED [See attached counter] _____
331 Seller Initials Date Seller Initials Date

R-A

04/01/10 - 4:50 p.m.

ADDENDUM 1 - Page 1

1. Description of Property. The property to be purchased is approximately 1.91 acres (proposed right-of-way) and a 5.58 acre remnant, and is shown on the attached Exhibit A which shows the approximate location of the real estate. Prior to closing, Buyer will obtain a Survey Map establishing the accurate surveyed legal description for the parcels, which Survey Map shall also indicate the actual acreage of the parcels being purchased under this Offer to Purchase.

2. The purchase price for the Property under this Offer to Purchase shall be \$87,500.00 (Eighty-seven Thousand Five Hundred and 00/100) Dollars even if the acreage is less than 7.49 acres. If the acreage is more than 7.49 acres, the purchase price shall increase based on \$11,680.00 per acre. The purchase price shall be paid in cash by Buyer pursuant to this Offer to Purchase.

3. Seller represents to Buyer that, as of the date of Seller's execution of this Offer to Purchase, the Property is vacant and unoccupied and no leases affect the Property and that the Property is not currently used for any business use and, accordingly, there are no persons, firms, families, individuals, businesses or farming operations which will be displaced or be in need of relocation, nor which would be deemed to have rights to receive compensation or relocation assistance payments or benefits due to the purchase of this property by Buyer under any applicable law, rule, code or provision governing the exercise of rights of condemnation or eminent domain or purchases in lieu thereof by Buyer. Buyer shall be entitled to occupancy of this Property at the time of closing, and Seller waives any and all rights to receive rent-free occupancy of the Property after Buyer takes title to the Property.

4. The City of Whitewater shall, within 18 months of the closing of this transaction, construct an extension of Starin Road as a public road being a paved roadway with curb and gutter within the road right-of-way acquired herein, and extension of such roadway northerly and easterly to Newcomb Street and the extension of such roadway northerly and westerly to Fremont Street, (a portion of Starin Road east of Fremont Street is already constructed) together with such related stormwater management, stormsewer, sidewalks, walkways and such other utilities as the City of Whitewater may deem appropriate. As a part of such roadway construction, the paved roadway from the westerly boundary of the lands being acquired by the City from Kutz to Newcomb Street shall have a minimum width of not less than twenty (20) feet (face of curb to face of curb), and the City shall install, at the time of such roadway construction, two (2) driveway accesses from Starin Road to the Kutz lands north of the roadway to serve the Kutz lands lying north of the roadway, with one such access being easterly of the drainage ditch and one such access being westerly of the drainage ditch, with each such driveway access to include curb cut, driveway apron, sidewalk or walkway crossing and gravel drive to the south boundary of remaining Kutz land, having a minimum width of twenty (20) feet for each driveway, and the

KMB 4/2/10
Buyer's Initials Date

Seller's Initials Date

ADDENDUM 1 – Page 2

driveways and that portion of the Starin Road roadway lying between the two (2) driveways must provide a thirty-three (33) foot clear span for farm equipment and machinery (clear span includes roadway and unobstructed terrace areas, unobstructed by trees, signs, street lights, etc. for the thirty-three (33) foot clear span). The driveway accesses to the Kutz lands north of the Starin Road roadway, both east of the drainage ditch and west of the drainage ditch, shall be installed, constructed and located so as to provide a width and grade suitable for ingress/egress and access with farm equipment and machinery to, from and between the Starin Road roadway and the Kutz land lying north of the roadway, and the owner of the Kutz lands lying northerly of the Starin Road roadway shall be allowed to utilize Starin Road and said driveway accesses for ingress and egress with farm equipment and machinery. Neither Seller nor Seller's lands lying north of the road right-of-way acquired herein shall be charged, assessed or deferred assessed for any of said improvements.

5. The City of Whitewater shall have the option to set the closing to an earlier date with seven (7) day's notice.

6. Buyer shall have the right at all times after the acceptance of this Offer to Purchase to enter onto the Property for purposes of conducting such investigations, evaluations, testing and surveys of the Property as Buyer may deem appropriate in order to determine whether or not the Property is suitable for roadway and water detention purposes and whether or not objectionable adverse conditions exist in, on or about, or affect, the Property, including, inter alia, environmental assessments, soil boring and surface investigations. All such investigations, evaluations, testing, surveys and similar activities undertaken by Buyer shall be at Buyer's sole cost and expense. If this transaction does not close, Buyer shall reimburse Seller for any crop damages or other damage to the real estate caused by the testing or evaluation.

7. The terms and provisions of this Offer to Purchase Agreement shall not be more strictly construed against one party than against the other merely by virtue of the fact that this Offer to Purchase has been prepared by legal counsel for one of the parties, it being recognized that both parties have had the opportunity to have the terms and provisions contained in this Agreement reviewed by their respective legal counsel and have contributed, or have been afforded the opportunity to contribute, materially and substantially to the terms, provisions and content of this Agreement.

8. The terms and provisions of this Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.

<u>KMB</u>	<u>4/1/10</u>
Buyer's Initials	Date
<u> </u>	<u> </u>
Seller's Initials	Date

ADDENDUM 1 Page 3

9. It is agreed that any document (other than a final original document required to be recorded with the Register of Deeds Office for Walworth County, Wisconsin) may be transmitted by facsimile to the facsimile number(s) designated under this Agreement for the intended recipient, and that transmission of said document or notice to such facsimile number(s) shall be deemed to constitute delivery of said document to the party to which such document is directed upon completion of transmission of such document or notice to the facsimile machine number provided for the intended recipient as specified in this Agreement, or such other facsimile machine number as may have subsequently been specified for such purpose. It is further agreed that any document or notice, other than a document required to be recorded in the Office of the Register of Deeds for Walworth County, Wisconsin, which is delivered via facsimile transmission shall be considered to be an original document delivered to the recipient upon completion of such transmission, and the parties agree, upon request of either party, to execute and deliver an additional original copy of any such document or notice delivered via facsimile transmission. Notwithstanding the foregoing, the requirements for execution and delivery of a duplicate original signed copy of this Agreement, as provided for under this Agreement, shall require execution as an original and delivery of an original as-executed duplicated original copy of this Agreement.

10. Kutz shall cap off the existing drain tile system at the north boundary of the property acquired by the City by May 15, 2010.

11. Kutz shall have the right to install additional drain tile on his property to collect water on his property coming off of the slope for the roadway to be constructed by the City.

12. Within seven (7) days of closing, the City shall cut down and remove trees on the north side of the ditch extending from the Kutz north/south ditch to the west to Jefferson Street. The City will provide a place for the spoils from the ditch cleaning disposal, provided it is not wetland unless placement of spoils in the wetland is permitted under the permit or approval obtained by Kutz from NRCS. Kutz will obtain a permit or approval from NRCS and thereafter clean the ditch from the existing north/south Kutz ditch west to Jefferson Street for the initial cleaning of the ditch. Kutz will also complete an initial clean out of the north/south ditch on the Kutz lands from the existing south boundary of the Kutz property to the north boundary of the Kutz property, including the portion of the existing ditch located on the portion of the Kutz property being purchase by the City. The City shall be responsible for the future cleaning and maintenance of the north/south ditch, which extends through the Kutz property from the Starin Road right-of-way north to Kutz's northern property line, and also the City will clean and maintain the ditch from that point to the west to its intersection with Jefferson Street, all of such cleaning and maintenance to be done without cost, charge or assessment to Kutz or the Kutz

KMB
Buyer's Initials

4/2/10
Date

Seller's Initials

Date

R-A

ADDENDUM 1 – Page 4

lands lying north of the lands being purchased by the City from Kutz under this Offer. Kutz shall provide the City with easements necessary to perform said work. Kutz shall have the right to drain water from the Kutz property into and through the north-south drainage ditch on the Kutz property and westerly along the drainage ditch on the northerly portion of the Kutz property and into and through the westerly continuation of said east-west ditch from the northwest corner of the Kutz property west to Jefferson Street. At closing, the City will grant Kutz an easement to discharge and drain waters from the Kutz lands into and through the drainage ditch from the northwest corner of the Kutz property to Jefferson Street.

13. The City shall provide Kutz with a temporary easement for ingress and egress, including farm machinery, over the unpaved roadway on the south side of the City landfill/compost site from Jefferson Street east to a point approximately 200 feet east of the north/south Kutz drainage ditch so as to provide Kutz the right to utilize such access area as a means of ingress and egress to the Kutz lands with farm equipment and machinery until such time as the Starin Road extension is completed, as provided for in paragraph 4 above, at which point in time the temporary easement shall cease and terminate. The City specifically agrees that it will not restrict use of the Starin Road extension from Newcomb Street to the westerly boundary of the lands being acquired by the City from Kutz against use by farm equipment, machinery and related farm and crop-hauling vehicles, nor will such section of Starin Road be posted with any type of weight or vehicle width restrictions which would hinder use of Starin Road from Newcomb Street to the westerly boundary of the property being acquired by the City from Kutz with farm equipment, machinery, vehicles or crop-hauling vehicles or equipment.

14. The City will provide Kutz with the cross sections of that segment of the Starin Road extension lying within the boundaries of the land purchased from Kutz for the Starin Road right-of-way, including the grade, slope, cut, fill and elevations.

15. This transaction is contingent on the approval of it by the City of Whitewater Common Council on or before April 20, 2010.

<u>KMB</u>	<u>4/1/10</u>
Buyer's Initials	Date
<u> </u>	<u> </u>
Seller's Initials	Date

END OF ADDENDUM

R-A

VACANT LAND OFFER TO PURCHASE

1 Attorney DRAFTING THIS OFFER ON 03-19-10 [DATE] IS (AGENT-OF-SELLER) (AGENT OF BUYER) (DUAL-AGENT) ~~STRIKE TWO~~

2 GENERAL PROVISIONS The Buyer, The City of Whitewater

3 offers to purchase the Property known as [Street Address] approximately 4.23 acres, See Exhibit A

4 in the City of Whitewater, County of Walworth

5 Wisconsin, (insert additional description, if any, at lines 179 - 187 or attach as an addendum, line 188), on the following terms:

6 vPURCHASE PRICE: Seventy-six Thousand One Hundred Forty and 00/100-----

7 (See Exhibit A) Dollars (\$ 76,140.00)

8 vEARNEST MONEY OF \$ -0- accompanies this Offer and earnest money of \$ -0-

9 will be paid within _____ days of acceptance.

10 vTHE BALANCE OF PURCHASE PRICE will be paid in cash or equivalent at closing unless otherwise provided below.

11 v ADDITIONAL ITEMS INCLUDED IN PURCHASE PRICE: Seller shall include in the purchase price and transfer, free and clear of
12 encumbrances, all fixtures, as defined at lines 15 - 18 and as may be on the Property on the date of this Offer, unless excluded at line 14,
13 and the following additional items: _____

14 vITEMS NOT INCLUDED IN THE PURCHASE PRICE: _____

15 A "Fixture" is defined as an item of property which is physically attached to or so closely associated with land so as to be treated as part
16 of the real estate, including, without limitation, physically attached items not easily removable without damage to the Property, items
17 specifically adapted to the Property, and items customarily treated as fixtures including but not limited to all: perennial crops; garden
18 bulbs; plants; shrubs and trees. CAUTION: Annual crops are not included in the purchase price unless otherwise agreed at line 13.

19 vZONING: Seller represents that the Property is zoned _____

20 ACCEPTANCE Acceptance occurs when all Buyers and Sellers have signed an identical copy of the Offer, including signatures on
21 separate but identical copies of the Offer. CAUTION: Deadlines in the Offer are commonly calculated from acceptance. Consider
22 whether short term deadlines running from acceptance Provide adequate time for both binding acceptance and performance.

23 BINDING ACCEPTANCE This Offer is binding upon both Parties only if a copy of the accepted Offer is delivered to Buyer on or
24 before 03-26-10 CAUTION: This Offer maybe withdrawn prior to delivery of the accepted Offer.

25 DELIVERY OF DOCUMENTS AND WRITTEN NOTICES Unless otherwise stated in this Offer, delivery of documents and written notices
26 to a Party shall be effective only when accomplished by one of the methods specified at lines 27 - 36.

27 (1) By depositing the document or written notice postage or fees prepaid in the U.S. Mail or fees prepaid or charged to an account with
28 a commercial delivery service, addressed either to the Party, or to the Party's recipient for delivery designated at lines 30 or 32 (if any),
29 for delivery to the Party's delivery address at lines 31 or 33.

30 Seller's recipient for delivery (optional): _____

31 Seller's delivery address: _____

32 Buyer's recipient for delivery (optional): Kevin Brunner

33 Buyer's delivery address: 312 W. Whitewater St., Whitewater, WI 53190

34 (2) By giving the document or written notice personally to the Party or the Party's recipient for delivery if an individual is designated at lines 30 or 32.

35 (3) By fax transmission of the document or written notice to the following telephone number:

36 Buyer: (262) 473-0500 Seller: ()

37 OCCUPANCY Occupancy of the entire Property shall be given to Buyer at time of closing unless otherwise provided in this Offer (lines
38 179 - 187 or in an addendum per line 188). Occupancy shall be given subject to tenant's rights, if any. Caution: Consider an agreement
39 which addresses responsibility for clearing the Property of personal property and debris, if applicable.

40 LEASED PROPERTY If Property is currently leased and lease(s) extend beyond closing, Seller shall assign Seller's rights under said
41 lease(s) and transfer all security deposits and prepaid rents thereunder to Buyer at closing. The terms of the (written) (oral) ~~STRIKE ONE~~

42 lease(s), if any, are _____

43 PLACE OF CLOSING This transaction is to be closed at the place designated by Buyer's mortgage or 312 W. Whitewater Street,
44 Whitewater, WI no later than April 15, 2010 unless another date or place is agreed to in writing.

45 CLOSING PRORATIONS The following items shall be prorated at closing: real estate taxes, rents, private and municipal charges,
46 property owner's association assessments, fuel and _____

47 Any income, taxes or expenses shall accrue to Seller, and be prorated, through the day prior to closing.

48 Net general real estate taxes shall be prorated based on (the net general real estate taxes for the current year, if known, otherwise on
49 the net general real estate taxes for the preceding year) (_____)

50 _____) ~~STRIKE AND COMPLETE AS APPLICABLE~~

51 CAUTION: If proration on the basis of net general real estate taxes is not acceptable (for example, completed/pending
52 reassessment, changing mill rate, lottery credits), insert estimated annual tax or other formula for proration.

53 PROPERTY CONDITION PROVISIONS

54 v PROPERTY CONDITION REPRESENTATIONS: Seller represents to Buyer that as of the date of acceptance Seller has no notice
55 or knowledge of conditions affecting the Property or transaction (see below) other than those identified in Seller's Real Estate Condition
56 Report dated _____, which was received by Buyer prior to Buyer signing this Offer and which is made a part of this Offer
57 by reference ~~COMPLETE DATE OR STRIKE AS APPLICABLE~~ and _____

58 _____ INSERT CONDITIONS NOT ALREADY INCLUDED IN THE CONDITION REPORT.

59 A "condition affecting the Property or tran ion" is defined as follows:

60 (a) planned or commenced public improvements which may result in special assessments or otherwise materially affect the Property

61 or the present use of the Property;

62 (b) completed or pending reassessment of the Property for property tax purposes;

63 (c) government agency or court order requiring repair, alteration or correction of any existing condition;

64 (d) any land division involving the subject Property, for which required state or local approvals had not been obtained;

65 (e) any portion of the Property being in a 100 year floodplain, a wetland or a shoreland zoning area under local, state or federal laws;

66 (f) conditions constituting a significant health or safety hazard for occupants of Property;

67 (g) underground or aboveground storage tanks on the Property for storage of flammable or combustible liquids including but not limited to

68 gasoline and heating oil which are currently or which were previously located on the Property; **NOTE: Wis. Adm. Code, Chapter**

69 **Comm 10 contains registration and operation rules for such underground and aboveground storage tanks.**

70 (h) material violations of environmental laws or other laws or agreements regulating the use of the Property;

71 (i) high voltage electric (100 KV or greater) or steel natural gas transmission lines located on but not directly serving the Property;

72 (j) any portion of the Property being subject to, or in violation of, a Farmland Preservation Agreement under a County Farmland Preservation

73 Plan or enrolled in, or in violation of, a Forest Crop, Woodland Tax, Managed Forest Conservation Reserve or comparable program;

74 (k) boundary disputes or material violation of fence laws (Wis. Stats. Chapter 90) which require the erection and maintenance of legal

75 fences between adjoining properties where one or both of the properties is used and occupied for farming or grazing purposes;

76 (l) wells on the Property required to be abandoned under state regulations (Wis. Adm. Code NR 112.26) but which are not abandoned;

77 (m) cisterns or septic tanks on the Property which are currently not servicing the Property;

78 (n) subsoil conditions which would significantly increase the cost of the development proposed at lines 271-272, if any, including, but not limited

79 to, subsurface foundations, organic or non-organic fill, dumpsites or containers on Property which contained or currently contain toxic or

80 hazardous materials, high groundwater, soil conditions (e.g. low load bearing capacity) or excessive rocks or rock formations on the Property;

81 (o) a lack of legal vehicular access to the Property from public roads;

82 (p) prior reimbursement for corrective action costs under the Agricultural Chemical Cleanup Program; (Wis. Stats. §94.73.)

83 (q) other conditions or occurrences which would significantly increase the cost of the development proposed at lines 271 to 272 or

84 reduce the value of the Property to a reasonable person with knowledge of the nature and scope of the condition or occurrence.

85 v PROPERTY DIMENSIONS AND SURVEYS: Buyer acknowledges, that any land dimensions, total square footage/acreage figures,

86 or allocation of acreage information, provided to Buyer by Seller or by a broker, may be approximate because of rounding or other

87 reasons, unless verified by survey or other means. **CAUTION: Buyer should verify land dimenstions, total square footage/acreage**

88 **figures or allocation of acreage information if material to Buyer's decision to purchase.**

89 v ISSUES RELATED TO PROPERTY DEVELOPMENT: WARNING: If Buyer contemplates developing Property or a use other than the

90 current use, there are a variety of issues which should be addressed to ensure the development or new use is feasible. Municipal and zoning

91 ordinances, recorded building and use restrictions, covenants and easements may prohibit certain improvements or uses and therefore should

92 be reviewed. Building permits, zoning variances, Architectural Control Committee approvals, estimates for utility hook-up expenses, special

93 assessments, charges for installation of roads or utilities, environmental audits, subsoil tests, or other development related fees may need

94 to be obtained or verified in order to determine the feasibility of development of, or a particular use for, a property. Optional contingencies

95 which allow Buyer to investigate certain of these issues can be found at lines 271 - 314 and Buyer may add contingencies as needed in

96 addenda (see line 188). Buyer should review any plans for development or use changes to determine what issues should be addressed

97 in these contingencies.

98 ~~INSPECTIONS: Seller agrees to allow Buyer's inspectors reasonable access to the Property upon reasonable notice if the inspections~~

99 ~~are reasonably necessary to satisfy the contingencies in this Offer. Buyer agrees to promptly provide copies of all such inspection~~

100 ~~reports to Seller, and to listing broker if Property is listed. Furthermore, Buyer agrees to promptly restore the Property to its original~~

101 ~~condition after Buyer's inspections are completed, unless otherwise agreed in this Offer. An "inspection" is defined as an observation~~

102 ~~of the Property which does not include testing of the Property, other than testing for leaking LP gas or natural gas used as a fuel source,~~

103 ~~which are hereby authorized.~~

104 ~~TESTING: Except as otherwise provided, Seller's authorization for inspections does not authorize Buyer to conduct testing of the Property.~~

105 ~~A "test" is defined as the taking of samples of materials such as soils, water, air or building materials from the Property and the laboratory~~

106 ~~or other analysis of these materials. If Buyer requires testing, testing contingencies must be specifically provided for at lines 179 - 187 or~~

107 ~~in an addendum per line 188. Note: Any contingency authorizing testing should specify the areas of the Property to be tested, the purpose~~

108 ~~of the test, (e.g., to determine if environmental contamination is present), any limitations on Buyer's testing and any other material terms of~~

109 ~~the contingency (e.g., Buyer's obligation to return the Property to its original condition). Seller acknowledges that certain inspections or tests~~

110 ~~may detect environmental pollution which may be required to be reported to the Wisconsin Department of Natural Resources.~~

111 v PRE-CLOSING INSPECTION: At a reasonable time, pre-approved by Seller or Seller's agent, within 3 days before closing, Buyer shall,

112 have the right to inspect the Property to determine that there has been no significant change in the condition of the Property, except for

113 changes approved by Buyer.

114 v PROPERTY DAMAGE BETWEEN ACCEPTANCE AND CLOSING: Seller shall maintain the Property until the earlier of closing or

115 occupancy of Buyer in materially the same condition as of the date of acceptance of this Offer, except for ordinary wear and tear. If, prior

116 to closing, the Property is damaged in an amount of not more than five per cent (5%) of the selling price, Seller shall be obligated to repair

117 the Property and restore it to the same condition that it was on the day of this Offer. If the damage shall exceed such sum, Seller shall

118 promptly notify Buyer in writing of the damage and this Offer may be canceled at option of Buyer. Should Buyer elect to carry out this

119 Offer despite such damage, Buyer shall be entitled to the insurance proceeds relating to the damage to the Property, plus a credit towards

120 the purchase price equal to the amount of Seller's deductible on such policy. However, if this sale is financed by a land contract or a

121 mortgage to Seller, the insurance proceeds shall be held in trust for the sole purpose of restoring the Property.

122 FENCES Wisconsin Statutes section 90.03 requires the owners of adjoining properties to keep and maintain legal fences in equal

123 shares where one or both of the properties is used and occupied for farming or grazing purposes. **CAUTION: Consider an agreement**

124 **addressing responsibility for fences if Property or adjoining land is used and occupied for farming or grazing purposes.**

125 DELIVERY/RECEIPT Unless otherwise stated in this Offer, any signed document transmitted by facsimile machine (fax) shall be treated

126 in all manner and respects as an original document and the signature of any Party upon a document transmitted by fax shall be considered

127 an original signature. Personal delivery to, or actual receipt by, any named Buyer or Seller constitutes personal delivery to, or actual receipt

128 by Buyer or Seller. Once received, a notice cannot be withdrawn by the Party delivering the notice without the consent of the Party receiving

129 the notice. A Party may not unilaterally reinstate a contingency after a notice of a contingency waiver has been received by the other Party.

130 **The delivery provisions in this Offer may be modified when appropriate (e.g., when mail delivery is not desirable (see lines 25 - 36).**

131 Buyer and Seller authorize the agents of Buyer and Seller to distribute copies of the Offer to Buyer's lender, appraisers, title insurance companies

132 and any other settlement service providers for the transaction as defined by the Real Estate Settlement Procedures Act (RESPA).

R-A

133 **PROPERTY ADDRESS:**
134 **TIME IS OF THE ESSENCE** "Time is of the Essence" as to: (1) earnest money payment(s); (2) binding acceptance; (3) occupancy; (4)
135 date of closing; (5) contingency deadlines **STRIKE AS APPLICABLE** and all other dates and deadlines in this Offer except:
136 _____ . If "Time is of the Essence"

137 applies to a date or deadline, failure to perform by the exact date or deadline is a breach of contract. If "Time is of the Essence" does
138 not apply to a date or deadline, then performance within a reasonable time of the date or deadline is allowed before a breach occurs.

139 **DATES AND DEADLINES** Deadlines expressed as a number of "days" from an event, such as acceptance, are calculated by excluding
140 the day the event occurred and by counting subsequent calendar days. The deadline expires at midnight on the last day. Deadlines
141 expressed as a specific number of "business days" exclude Saturdays, Sundays, any legal public holiday under Wisconsin or Federal
142 law, and other day designated by the President such that the postal service does not receive registered mail or make regular deliveries
143 on that day. Deadlines expressed as a specific number of "hours" from the occurrence of an event, such as receipt of a notice, are
144 calculated from the exact time of the event, and by counting 24 hours per calendar day. Deadlines expressed as a specific day of the
145 calendar year or as the day of a specific event, such as closing, expire at midnight of that day.

146 **THE FINANCING CONTINGENCY PROVISIONS AT LINES 148-162 ARE A PART OF THIS OFFER IF LINE 148 IS MARKED,**
147 **SUCH AS WITH AN "X". THEY ARE NOT PART OF THIS OFFER IF LINE 148 IS MARKED N/A OR IS NOT MARKED.**

148 **FINANCING CONTINGENCY:** This Offer is contingent upon Buyer being able to obtain a
149 **INSERT LOAN PROGRAM OR SOURCE** first mortgage loan commitment as described below, within _____ days of acceptance of this
150 Offer. The financing selected shall be in an amount of not less than \$ _____ for a term of not less than _____ years,
151 amortized over not less than _____ years. Initial monthly payments of principal and interest shall not exceed \$ _____.
152 Monthly payments may also include 1/12th of the estimated net annual real estate taxes, hazard insurance premiums, and private
153 mortgage insurance premiums. The mortgage may not include a prepayment premium. Buyer agrees to pay a loan fee not to exceed
154 _____ % of the loan. (Loan fee refers to discount points and/or loan origination fee, but DOES NOT include Buyer's other closing
155 costs.) If the purchase price under this Offer is modified, the financed amount, unless otherwise provided, shall be adjusted
156 to the same percentage of the purchase price as in this contingency and the monthly payments shall be adjusted as necessary to maintain
157 the term and amortization stated above. **CHECK AND COMPLETE APPLICABLE FINANCING PROVISION AT LINE 158 OR 159.**

158 **FIXED RATE FINANCING:** The annual rate of interest shall not exceed _____ %.

159 **ADJUSTABLE RATE FINANCING:** The initial annual interest rate shall not exceed _____ %. The initial interest rate shall
160 be fixed for _____ months, at which time the interest rate may be increased not more than _____ % per year. The maximum
161 interest rate during the mortgage term shall not exceed _____ %. Monthly payments of principal and interest may be adjusted
162 to reflect interest changes.

163 **LOAN COMMITMENT:** Buyer agrees to pay all customary financing costs (including closing fees), to apply for financing promptly, and
164 to provide evidence of application promptly upon request by Seller. If Buyer qualifies for the financing described in this Offer or other
165 financing acceptable to Buyer, Buyer agrees to deliver to Seller a copy of the written loan commitment no later than the deadline for loan
166 commitment at line 149. Buyer's delivery of a copy of any written loan commitment to Seller (even if subject to conditions) shall
167 satisfy the Buyer's financing contingency unless accompanied by a notice of unacceptability. **CAUTION: BUYER, BUYER'S LENDER**
168 **AND AGENTS OF BUYER OR SELLER SHOULD NOT DELIVER A LOAN COMMITMENT TO SELLER WITHOUT BUYER'S PRIOR**
169 **APPROVAL OR UNLESS ACCOMPANIED BY A NOTICE OF UNACCEPTABILITY.**

170 **SELLER TERMINATION RIGHTS:** If Buyer does not make timely delivery of said commitment, Seller may terminate this Offer if Seller
171 delivers a written notice of termination to Buyer prior to Seller's actual receipt of a copy of Buyer's written loan commitment.

172 **FINANCING UNAVAILABILITY:** If financing is not available on the terms stated in this Offer (and Buyer has not already delivered an
173 acceptable loan commitment for other financing to Seller), Buyer shall promptly deliver written notice to Seller of same including copies
174 of lender(s)' rejection letter(s) or other evidence of unavailability. Unless a specific loan source is named in this Offer, Seller shall then
175 have 10 days to give Buyer written notice of Seller's decision to finance this transaction on the same terms set forth in this Offer and this
176 Offer shall remain in full force and effect, with the time for closing extended accordingly. If Seller's notice is not timely given, this Offer shall
177 be null and void. Buyer authorizes Seller to obtain any credit information reasonably appropriate to determine Buyer's credit worthiness
178 for Seller financing.

179 **ADDITIONAL PROVISIONS/CONTINGENCIES** _____
180 _____
181 _____
182 _____
183 _____
184 _____
185 _____
186 _____
187 _____

188 **ADDENDA:** The attached **Addendum 1** _____ is/are made part of this Offer.

189 **TITLE EVIDENCE**
190 v **CONVEYANCE OF TITLE:** Upon payment of the purchase price, Seller shall convey the Property by warranty deed (or other
191 conveyance as provided herein) free and clear of all liens and encumbrances, except: municipal and zoning ordinances and
192 agreements entered under them, recorded easements for the distribution of utility and municipal services, recorded building and use
193 restrictions and covenants, general taxes levied in the year of closing and _____
194 _____
195 _____ (provided none of the foregoing prohibit present use of the Property), which constitutes merchantable title
196 for purposes of this transaction. Seller further agrees to complete and execute the documents necessary to record the conveyance.

R-A

197 v **FORM OF TITLE EVIDENCE:** Seller shall give evidence of title in the form of an owner's policy of title insurance in the amount of the
198 purchase price on a current ALTA form issued by an Insurer licensed to write title insurance in Wisconsin. **CAUTION: IF TITLE**
199 **EVIDENCE WILL BE GIVEN BY ABSTRACT, STRIKE TITLE INSURANCE PROVISIONS AND INSERT ABSTRACT PROVISIONS.**

200 v **PROVISION OF MERCHANTABLE TITLE:** Seller shall pay all costs of providing title evidence. For purposes of closing, title evidence
201 shall be acceptable if the commitment for the required title insurance is delivered to Buyer's attorney or Buyer not less than 3 business
202 days before closing, showing title to the Property as of a date no more than 15 days before delivery of such title evidence to be
203 merchantable, subject only to liens which will be paid out of the proceeds of closing and standard title insurance requirements and
204 exceptions, as appropriate. **CAUTION: BUYER SHOULD CONSIDER UPDATING THE EFFECTIVE DATE OF THE TITLE**
205 **COMMITMENT PRIOR TO CLOSING OR A "GAP ENDORSEMENT" WHICH WOULD INSURE OVER LIENS FILED BETWEEN THE**
206 **EFFECTIVE DATE OF THE COMMITMENT AND THE DATE THE DEED IS RECORDED.**

207 v **TITLE ACCEPTABLE FOR CLOSING:** If title is not acceptable for closing, Buyer shall notify Seller in writing of objections to title by
208 the time set for closing. In such event, Seller shall have a reasonable time, but not exceeding 15 days, to remove the objections, and
209 the time for closing shall be extended as necessary for this purpose. In the event that Seller is unable to remove said objections, Buyer
210 shall have 5 days from receipt of notice thereof, to deliver written notice waiving the objections, and the time for closing shall be extended
211 accordingly. If Buyer does not waive the objections, this Offer shall be null and void. Providing title evidence acceptable for closing does
212 not extinguish Seller's obligations to give merchantable title to Buyer.

213 v **SPECIAL ASSESSMENTS:** Special assessments, if any, for work actually commenced or levied prior to date of this Offer shall be
214 paid by Seller no later than closing. All other special assessments shall be paid by Buyer. **CAUTION: Consider a special agreement**
215 **if area assessments, property owner's association assessments or other expenses are contemplated.** "Other expenses" are one-
216 time charges or ongoing use fees for public improvements (other than those resulting in special assessments) relating to curb, gutter,
217 street, sidewalk, sanitary and stormwater and storm sewer (including all sewer mains and hook-up and interceptor charges), parks, street
218 **lighting and street trees,** and impact fees for other public facilities, as defined in Wis. Stat. § 66.55(1)(c) & (f).

219 **ENTIRE CONTRACT** This Offer, including any amendments to it, contains the entire agreement of the Buyer and Seller regarding the
220 transaction. All prior negotiations and discussions have been merged into this Offer. This agreement binds and inures to the benefit of
221 the Parties to this Offer and their successors in interest.

222 **DEFAULT**
223 Seller and Buyer each have the legal duty to use good faith and due diligence in completing the terms and conditions of this Offer. A
224 material failure to perform any obligation under this Offer is a default which may subject the defaulting party to liability for damages or
225 other legal remedies.

226 If **Buyer defaults,** Seller may:
227 (1) sue for specific performance and request the earnest money as partial payment of the purchase price; or
228 (2) terminate the Offer and have the option to: (a) request the earnest money as liquidated damages; or (b) direct Broker to return
229 the earnest money and have the option to sue for actual damages.

230 If **Seller defaults,** Buyer may:
231 (1) sue for specific performance; or
232 (2) terminate the Offer and request the return of the earnest money, sue for actual damages, or both.

233 In Addition, the Parties may seek any other remedies available in law or equity.
234 The Parties understand that the availability of any judicial remedy will depend upon the circumstances of the situation and the
235 discretion of the courts. If either Party defaults, the Parties may renegotiate the Offer or seek nonjudicial dispute resolution instead of
236 the remedies outlined above. By agreeing to binding arbitration, the Parties may lose the right to litigate in a court of law those disputes
237 covered by the arbitration agreement.

238 **NOTE: IF ACCEPTED, THIS OFFER CAN CREATE A LEGALLY ENFORCEABLE CONTRACT. BOTH PARTIES SHOULD READ**
239 **THIS DOCUMENT CAREFULLY. BROKERS MAY PROVIDE A GENERAL EXPLANATION OF THE PROVISIONS OF THE OFFER BUT**
240 **ARE PROHIBITED BY LAW FROM GIVING ADVICE OR OPINIONS CONCERNING YOUR LEGAL RIGHTS UNDER THIS OFFER OR**
241 **HOW TITLE SHOULD BE TAKEN AT CLOSING. AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS NEEDED.**

242 **EARNEST MONEY**

243 v **HELD BY:** Unless otherwise agreed, earnest money shall be paid to and held in the trust account of the listing broker (buyer's agent
244 if Property is not listed or seller if no broker is involved), until applied to purchase price or otherwise disbursed as provided in the Offer.
245 **CAUTION: Should persons other than a broker hold earnest money, an escrow agreement should be drafted by the Parties**
246 **or an attorney. If someone other than Buyer makes payment of earnest money, consider a special disbursement agreement.**

247 v **DISBURSEMENT:** If negotiations do not result in an accepted offer, the earnest money shall be promptly disbursed (after clearance
248 from payor's depository institution if earnest money is paid by check) to the person(s) who paid the earnest money. At closing, earnest
249 money shall be disbursed according to the closing statement. If this Offer does not close, the earnest money shall be disbursed according
250 to a written disbursement agreement signed by all Parties to this Offer (Note: Wis. Adm. Code § RL 18.09(1)(b) provides that an offer
251 to purchase is not a written disbursement agreement pursuant to which the broker may disburse). If said disbursement agreement has
252 not been delivered to broker within 60 days after the date set for closing, broker may disburse the earnest money: (1) as directed by
253 an attorney who has reviewed the transaction and does not represent Buyer or Seller; (2) into a court hearing a lawsuit involving the
254 earnest money and all Parties to this Offer; (3) as directed by court order; or (4) any other disbursement required or allowed by law.
255 Broker may retain legal services to direct disbursement per (1) or to file an interpleader action per (2) and broker may deduct from the
256 earnest money any costs and reasonable attorneys fees, not to exceed \$250, prior to disbursement.

257 v **LEGAL RIGHTS/ACTION:** Broker's disbursement of earnest money does not determine the legal rights of the Parties in relation to this
258 Offer. Buyer's or Seller's legal right to earnest money cannot be determined by broker. At least 30 days prior to disbursement per (1)
259 or (4) above, broker shall send Buyer and Seller notice of the disbursement by certified mail. If Buyer or Seller disagree with broker's
260 proposed disbursement, a lawsuit may be filed to obtain a court order regarding disbursement. Small Claims Court has jurisdiction over
261 all earnest money disputes arising out of the sale of residential property with 1 - 4 dwelling units and certain other earnest money disputes.
262 Buyer and Seller should consider consulting attorneys regarding their legal rights under this Offer in case of a dispute. Both Parties
263 agree to hold the broker harmless from any liability for good faith disbursement of earnest money in accordance with this Offer or
264 applicable Department of Regulation and Licensing regulations concerning earnest money. See Wis. Adm. Code Ch. RL 18. **NOTE:**
265 **WISCONSIN LICENSE LAW PROHIBITS A BROKER FROM GIVING ADVICE OR OPINIONS CONCERNING THE LEGAL RIGHTS**
266 **OR OBLIGATIONS OF PARTIES TO A TRANSACTION OR THE LEGAL EFFECT OF A SPECIFIC CONTRACT OR CONVEYANCE.**
267 **AN ATTORNEY SHOULD BE CONSULTED IF LEGAL ADVICE IS REQUIRED.**

R-A

268 PROPERTY ADDRESS:

269 OPTIONAL PROVISIONS: THE PARAGRAPHS AT LINES 271 - 314 WHICH ARE PRECEDED BY A BOX ARE A PART OF THIS OFFER IF
270 MARKED, SUCH AS WITH AN "X". THEY ARE NOT PART OF THIS OFFER IF MARKED N/A OR ARE LEFT BLANK.

271 PROPOSED USE CONTINGENCY: Buyer is purchasing the property for the purpose of:
272 _____

273 Written evidence at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense from a qualified soils expert that the Property is free of any subsoil
274 condition which would make the proposed development impossible or significantly increase the costs of such development.

275 Written evidence at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense from a certified soils tester or other qualified expert that indicates that
276 the Property's soils at locations selected by Buyer and all other conditions which must be approved to obtain a permit for an acceptable private
277 septic system for: _____ [insert proposed use of Property; e.g., three

278 bedroom single family home] meet applicable codes in effect as of the date of this offer. An acceptable system includes all systems approved
279 for use by the State for the type of property identified at line 277. An acceptable system does not include a holding tank, privy, composting
280 toilet or chemical toilet or other systems (e.g. mound system) excluded in additional provisions or an addendum per lines 179 - 188.

281 Copies at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense of all public and private easements, covenants and restrictions affecting the
282 Property and a written determination by a qualified independent third party that none of these prohibit or significantly delay or increase
283 the costs of the proposed use or development identified at lines 271 to 272.

284 Permits, approvals and licenses, as appropriate, or the final discretionary action by the granting authority prior to the issuance
285 of such permits, approvals and licenses at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense for the following items related to the proposed
286 development _____

287 Written evidence at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense that the following utility connections are located as follows (e.g.,
288 on the Property, at the lot line across the street, etc.): electricity _____; gas _____; sewer
289 _____; water _____; telephone _____; other _____

290 This proposed use contingency shall be deemed satisfied unless Buyer within _____ days of acceptance delivers
291 written notice to Seller specifying those items of this contingency which cannot be satisfied and written evidence substantiating why each
292 specific item included in Buyer's notice cannot be satisfied.

293 MAP OF THE PROPERTY: This Offer is contingent upon (Buyer obtaining) (Seller providing) ~~STRIKE ONE~~ a map of the Property prepared
294 by a registered land surveyor, within _____ days of acceptance, at (Buyer's) (Seller's) ~~STRIKE ONE~~ expense. The map shall identify the legal
295 description of the Property, the Property's boundaries and dimensions, visible encroachments upon the Property, the location of improvements,
296 if any, and: _____

297 _____ ~~STRIKE AND COMPLETE AS APPLICABLE~~ Additional map features
298 which may be added include, but are not limited to: specifying how current the map must be; staking of all corners of the Property; identifying
299 dedicated and apparent streets, lot dimensions, total acreage or square footage, easements or rights-of-way. **CAUTION: Consider the cost
300 and the need for map features before selecting them.** The map shall show no significant encroachment(s) or any information materially
301 inconsistent with any prior representations to Buyer. This contingency shall be deemed satisfied unless Buyer, within five days of the earlier
302 of: 1) Buyer's receipt of the map, or 2) the deadline for delivery of said map, delivers to Seller, and to listing broker if Property is listed, a copy
303 of the map and a written notice which identifies the significant encroachment or the information materially inconsistent with prior representations.

304 INSPECTION CONTINGENCY: This Offer is contingent upon a qualified independent inspector(s) conducting an inspection(s), at
305 Buyer's expense, of the Property and _____
306 _____ which discloses no defects as defined below. This contingency shall be deemed satisfied

307 unless Buyer within _____ days of acceptance delivers to Seller, and to listing broker if Property is listed, a copy of the inspector's
308 written inspection report and a written notice listing the defects identified in the report to which Buyer objects. This Offer shall be null and
309 void upon timely delivery of the above notice and report. **CAUTION: A proposed amendment will not satisfy this notice requirement.**
310 Buyer shall order the inspection and be responsible for all costs of inspection, including any inspections required by lender or follow-up to
311 inspection. Note: This contingency only authorizes inspections, not testing, see lines 98 to 110. For the purposes of this contingency a defect
312 is defined as any condition of the Property which constitutes a significant threat to the health or safety of persons who occupy or use the
313 Property or gives evidence of any material use, storage or disposal of hazardous or toxic substances on the Property. Defects do not include
314 conditions the nature and extent of which Buyer had actual knowledge or written notice before signing this Offer.

315 This Offer was drafted on _____ [date] by [Licensee and Firm] _____

316 (X) _____
317 Buyer's Signature Print Name Here: Kevin Brunner, City Manager Social Security No. or FEIN Date

318 (X) _____
319 Buyer's Signature Print Name Here: Social Security No. or FEIN Date

320 EARNEST MONEY RECEIPT _____ acknowledges receipt of earnest money as per line 8 of the above Offer. (See lines 242 - 267)
321 _____ (By) _____

322 SELLER ACCEPTS THIS OFFER. THE WARRANTIES, REPRESENTATIONS AND COVENANTS MADE IN THIS OFFER SURVIVE CLOSING AND
323 THE CONVEYANCE OF THE PROPERTY. SELLER AGREES TO CONVEY THE PROPERTY ON THE TERMS AND CONDITIONS AS SET FORTH
324 HEREIN AND ACKNOWLEDGES RECEIPT OF A COPY OF THIS OFFER.

325 (X) _____
326 Seller's Signature Print Name Here: Kligora Trust by Donald J. Kligora Social Security No. or FEIN Date

327 (X) _____
328 Seller's Signature Print Name Here: Kligora Trust by Carolyn C. Kligora Social Security No. or FEIN Date

329 This Offer was presented to Seller by _____ on _____ at _____ a.m./p.m.

330 THIS OFFER IS REJECTED _____ THIS OFFER IS COUNTERED [See attached counter]
331 Seller Initials Date Seller Initials Date

ADDENDUM 1 – Page 1

1. Description of Property. The property to be purchased is approximately 2.55 acres (proposed right-of-way) and a 1.68 acre detention basin parcel, and is shown on the attached Exhibit A which shows the approximate location of the real estate. Prior to closing, Buyer will obtain a Survey Map establishing the accurate surveyed legal description for the parcels, which Survey Map shall also indicate the actual acreage of the parcels being purchased under this Offer to Purchase.

2. The purchase price for the Property under this Offer to Purchase shall be \$76,140.00 (Seventy-six Thousand One Hundred Forty and 00/100) Dollars even if the acreage is less than 4.23 acres. If the acreage is more than 4.23 acres, the purchase price shall increase based on \$18,000.00 per acre. The purchase price shall be paid in cash by Buyer pursuant to this Offer to Purchase.

3. Seller represents to Buyer that, as of the date of Seller's execution of this Offer to Purchase, the Property is vacant and unoccupied and no leases affect the Property and that the Property is not currently used for any business use and, accordingly, there are no persons, firms, families, individuals, businesses or farming operations which will be displaced or be in need of relocation, nor which would be deemed to have rights to receive compensation or relocation assistance payments or benefits due to the purchase of this property by Buyer under any applicable law, rule, code or provision governing the exercise of rights of condemnation or eminent domain or purchases in lieu thereof by Buyer. Buyer shall be entitled to occupancy of this Property at the time of closing, and Seller waives any and all rights to receive rent-free occupancy of the Property after Buyer takes title to the Property.

4. The City of Whitewater shall, within 18 months of the closing of this transaction, construct a paved roadway with curb and gutter within the road right-of-way acquired herein, and Seller shall not be specially assessed for said improvements.

5. The City of Whitewater shall have the option to set the closing to an earlier date with seven (7) day's notice.

6. Buyer shall have the right at all times after the acceptance of this Offer to Purchase to enter onto the Property for purposes of conducting such investigations, evaluations, testing and surveys of the Property as Buyer may deem appropriate in order to determine whether or not the Property is suitable for roadway and water detention purposes and whether or not objectionable adverse conditions exist in, on or about, or affect, the Property, including, inter alia, environmental assessments, soil boring and surface investigations. All such investigations, evaluations, testing, surveys and similar activities undertaken by Buyer shall be at Buyer's sole cost and expense. If this transaction does not close, Buyer shall reimburse Seller for any crop damages or other damage to the real estate caused by the testing or evaluation.

Buyer's Initials Date

Seller's Initials Date

R-A

ADDENDUM 1 – Page 2

7. The terms and provisions of this Offer to Purchase Agreement shall not be more strictly construed against one party than against the other merely by virtue of the fact that this Offer to Purchase has been prepared by legal counsel for one of the parties, it being recognized that both parties have had the opportunity to have the terms and provisions contained in this Agreement reviewed by their respective legal counsel and have contributed, or have been afforded the opportunity to contribute, materially and substantially to the terms, provisions and content of this Agreement.

8. The terms and provisions of this Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.

9. It is agreed that any document (other than a final original document required to be recorded with the Register of Deeds Office for Walworth County, Wisconsin) may be transmitted by facsimile to the facsimile number(s) designated under this Agreement for the intended recipient, and that transmission of said document or notice to such facsimile number(s) shall be deemed to constitute delivery of said document to the party to which such document is directed upon completion of transmission of such document or notice to the facsimile machine number provided for the intended recipient as specified in this Agreement, or such other facsimile machine number as may have subsequently been specified for such purpose. It is further agreed that any document or notice, other than a document required to be recorded in the Office of the Register of Deeds for Walworth County, Wisconsin, which is delivered via facsimile transmission shall be considered to be an original document delivered to the recipient upon completion of such transmission, and the parties agree, upon request of either party, to execute and deliver an additional original copy of any such document or notice delivered via facsimile transmission. Notwithstanding the foregoing, the requirements for execution and delivery of a duplicate original signed copy of this Agreement, as provided for under this Agreement, shall require execution as an original and delivery of an original as-executed duplicated original copy of this Agreement.

10. This transaction is contingent on the approval of it by the City of Whitewater Common Council on or before April 8, 2010.

Buyer's Initials

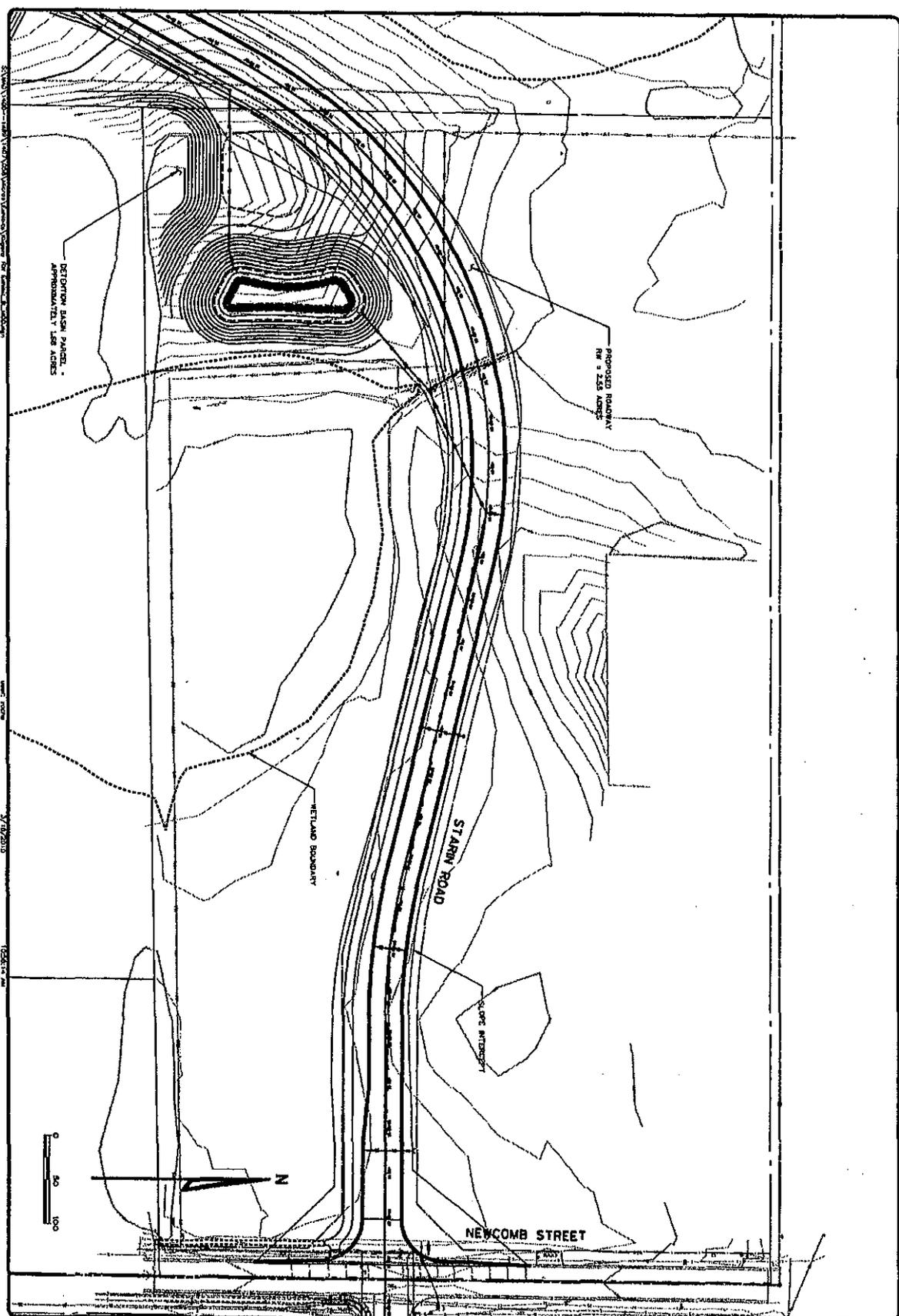
Date

Seller's Initials

Date

END OF ADDENDUM

R.A



STRAND
 ENGINEERS
 1400 1/2
 S.W. 1st St.
 Wausau, WI 54980
 PHONE: 715/795-1100
 FAX: 715/795-1101

**STARIN ROAD
 KLIQORA RIGHT-OF-WAY**

STARIN ROAD EXTENSION
 CITY OF WHITEWATER
 WHITEWATER, WISCONSIN

DATE:	NO.	REVISIONS	DATE
DES BY: CLK Bn			
BY:			
DATE:			
CONTRACTOR:			

EXHIBIT A