

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

May 19, 2009

The meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. MEMBERS ABSENT: Binnie. OTHERS PRESENT: City Manager Kevin Brunner, City Attorney Wallace McDonell.

It was moved by Olsen and seconded by Stewart to approve the Common Council minutes of April 8, 2009 and April 21, 2009 and to acknowledge receipt and filing of the Financial Reports for April, 2009; the Report of Manually-Produced Checks for April 2009.; the Irvin L. Young Library Board Minutes of 4/13/09; the Whitewater Landmarks Commission Minutes of 4/1/09; and the Whitewater Police Department Consolidated Monthly Report for March 2009. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Binnie.

APPROVAL OF PAYMENT OF INVOICES PROCESSED THROUGH MAY 14, 2009.

It was moved by Olsen and seconded by Stewart to approve payment of invoices processed through May 14, 2009 in the amount of \$117,986.21. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Binnie.

STAFF REPORTS: The City Manager gave an update on State and Federal grants that the City is pursuing. DPW Director, Dean Fischer, announced that the Whitewater Street project has been completed ahead of schedule, and summarized upcoming DPW projects. Cable TV Coordinator, Alan Luckett, presented Bo McCready with an award of excellence from the WAPC annual conference video competition on April 1 for his part as co-producer of the video, "Esterly Harvesting Machine Company".

HEARING OF CITIZEN COMMENTS. None.

COMMON COUNCIL ANNOUNCEMENTS. None.

FIRST READING OF ORDINANCE ADOPTING POLICY ON ATTENDANCE AT BOARD AND COMMISSION MEETINGS.

Councilmember Taylor requested that an ordinance be drafted that specified what action must be taken to deal with a Board or Commission member who does not regularly attend meetings. It was moved by Taylor and seconded by Winship to amend the ordinance by removing the words "the Board may request that the City Council select another individual to serve out the member's term" and replace them with "the Board will place that item on the next scheduled meeting's agenda and make recommendation to the common council. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Binnie. Amendment passes.

**AN ORDINANCE CREATING A POLICY ON BOARD AND COMMISSION APPOINTMENT
AND ATTENDANCE**

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, Section 2.12.012 is hereby created to read as follows:

2.12.12 Board and Commission Appointment and Attendance Policy.

(a) PURPOSE: To establish an open appointments procedure and attendance policy for members of city boards and commissions.

(b) APPLICABILITY: This policy applies to the members and alternate members appointed by the City Council to the Board of Zoning Appeals, Cable TV Committee, Handicapped Discrimination Commission, Commission on Equal Opportunity, Fire & Police Commission, Industrial Development Commission (CDA), Landmarks Commission, Library Board, Park and Recreation Board, Plan & Architectural Review Commission, and other committees and boards as designated by the Common Council.

(c) PROCEDURE:

- 1) All vacancies shall be announced in the official newspaper and posted prior to appointment.
- 2) A standard application form shall be distributed by the City Clerk for use by all applicants, including incumbents who wish to be reappointed.
- 3) Unless otherwise specified by City ordinance, all applicants shall have resided within the City for at least one year.
- 4) Unless otherwise specified by City Ordinance, no member of any board or commission shall serve more than two consecutive 5-year terms, or two consecutive 4-year terms, or three consecutive 3-year terms as applicable for that board or commission. An incumbent may continue to serve beyond this period until their replacement has been duly appointed. An appointment to fill a partial term shall not count in the limits specified above.
- 5) Unless otherwise specified by City Ordinance, an individual who has been replaced as a result of the maximum service limits shall be eligible for reappointment after they have been off the board or commission for a minimum of one term.

(d) MEETING PARTICIPATION: To ensure that voting members are well versed in the issues facing the board or commission, regular attendance is mandatory. In the event that a regular member fails to attend three consecutive regular meetings, or fails to attend at least $\frac{3}{4}$ of the regular meetings during the preceding twelve months, without good cause, the board or commission will place that item on the next scheduled meeting agenda and make a recommendation to the Common Council. Ordinance introduced by Taylor. Seconded by Winship. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Binnie. FIRST READING APPROVED: May 19, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE AMENDING CHAPTER 17, LANDMARKS COMMISSION, AS IT RELATES TO "CITY-OWNED HISTORICALLY SIGNIFICANT PERSONAL PROPERTY". City Attorney McDonell indicated that the proposed ordinance is an attempt to identify historically-significant property owned by the City and allow the Landmarks

Commission to protect this property at the time of its disposition. Linda Loomer of the Landmarks Commission gave examples of the letters and lanterns that were a part of the White Memorial Building, brick pavers from old city streets and other items. A registry of property will be maintained by the City Clerk.

ORDINANCE AMENDING TITLE 17 LANDMARKS COMMISSION

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

Section 1. Subsections 17.04.010 and 17.04.020 of Chapter 17.04 General Provisions of Title 17 of the Whitewater Municipal Code are hereby amended to read as follows:

17.04.010 Intent.

It is the policy of the city that the protection, enhancement, perpetuation and use of archeological sites, geological formations, and structures and city-owned historically significant personal property of special character or special historical interest or value is necessary to the prosperity and well-being of the people. This title is adopted to:

- (1) Effect the protection, enhancement and perpetuation of such improvements and city-owned historically significant personal property and of districts which represent or reflect elements of the city's cultural, social, economic, political, architectural, archeological and geological history;
- (2) Safeguard the city's historic and cultural heritage, as embodied and reflected in such landmarks, city-owned historically significant personal property and historic districts;
- (3) Stabilize property values;
- (4) Foster civic awareness and pride in the beauty and notable accomplishments of the past;
- (5) Protect and enhance the city's attractions to residents, tourists and visitors and serve as a support and stimulus to business and industry;
- (6) Strengthen the economy of the city;
- (7) Promote the use of historic districts and landmarks for the education, pleasure and well-being of the people of the city; and
- (8) Integrate the modern environment with historic buildings and sites.

17.04.020 Definitions.

In this title, unless the context clearly requires otherwise:

- (1) "Exterior alteration" means any modification of exterior dimensions of a structure including the attachment of appurtenances such as stairs, fire escapes, chimneys, carports and other similar construction or the modification of materials including, but not limited to roofing, siding, masonry, wood trim, windows or signs. Normal maintenance of existing exterior features or materials including cleaning, painting and replacement shall not be considered exterior alterations.
- (2) "Historical marker" means any plaque or marker adopted by the commission to identify a specially designated landmark or landmark site.
- (3) "Historic district" means an area designated by the Whitewater landmarks commission (hereinafter referred to as commission) which has a special historic, architectural or cultural interest, significance or value as part of the heritage, development or cultural characteristics of the community, state or nation.

(4) "Improvement" means any building, structure, work of art or other object which is all or part of any physical betterment of real property.

(5) "Landmark" means any building or structure which has a special historic, architectural or cultural interest, significance or value as part of the heritage, development or cultural characteristics of the community, state or nation and which has been designated as a landmark, under this section.

(6) "Landmark site" means any parcel of land of historic, geological or archeological significance due to its substantial value in tracing the history of man, or upon historic event has occurred, and which has been designated as a landmark site under this section; or any parcel of land, or part thereof, on which is situated a landmark.

(7) "Specially designated landmark" means any landmark or landmark site either within or outside an historic district of such significance that the owner agrees to special restrictions in exchange for an historical marker. (Ord. 999 §1(2), 1982).

(8) "City-owned historically significant personal property" means personal property owned by the City of Whitewater that is deemed by the Commission to have special historic, archaeological or aesthetic character such that it is in the City of Whitewater's best interest to preserve, protect and safeguard it.

Section 2. Subsections 17.08.010 and 17.08.040 of Chapter 17.08 Landmarks Commission of Title 17 of the Whitewater Municipal code are hereby amended to read as follows:

17.08.010 Composition and qualifications.

(a) A commission is created consisting of seven members, who shall be appointed under the procedures set forth in Title 2 of the Whitewater Municipal Code by the city manager subject to confirmation by the city council. One member shall be a council member. Six shall be members of the community.

(b) Each member shall have, to the highest extent practicable, a known interest in landmarks preservation.

17.08.040 Powers and duties.

The commission shall have the following powers and duties:

(1) To develop appropriate criteria and standards for identifying and evaluating neighborhoods, places, structures, and improvements, and city-owned historically significant personal property which might be classified as landmarks, landmark sites, historic districts or specially designated landmarks or city-owned historically significant personal property;

(2) To designate landmarks, landmark sites and historic districts or city-owned historically significant personal property within the city limits. Once designated by the commission, such landmarks, landmark sites and historic districts and city-owned historically significant personal property shall be subject to all the provisions of this section;

(3) To compile a list of structures which would be eligible for specially designated landmark status. Such structures may be within or outside of an historic district. The commission may negotiate with the owners of such structures for an agreement binding the owner and property. Such agreement may be for a specified period of time and shall be binding on subsequent owners until the end of the time specified. Structures covered by such agreements are eligible to receive an historical marker;

(4) To cooperate with federal, state and local agencies in pursuing the objective of historic preservation and to nominate properties designated hereunder to the National Register of Historic Places;

- (5) To develop and recommend ordinances, legislation and programs and otherwise provide information on historic preservation to the city council;
- (6) To designate appropriate markers for specially designated landmarks and historic districts;
- (7) To take all steps necessary, including the taking and collecting of photographs, drawings, descriptions, recorded interviews, written data and documentation, to permanently record the origin, development, use and historical significance of each landmark, landmark site or historic district, or city-owned historically significant personal property;
- (8) To promote public education, interest and support for the preservation and enhancement of such landmarks, landmark sites, and historic districts and historically significant personal property.

Section 3. Subsection 17.12.060 of Chapter 17.12 Designation of Landmarks, Landmark Sites and Historic Districts of Title 17 of the Whitewater Municipal Code is hereby amended to read as follows:

17.12.060 Voluntary restrictive covenants.

The owner of any landmark or landmark site may, at any time following such designation of his property, enter into a restrictive covenant on the subject property after negotiation with the commission. The commission may assist the owner in preparing such covenant in the interest of preserving the landmark or landmark site, and the owner shall record such covenant in the office of the Walworth County or Jefferson County register of deeds depending on the site location and shall notify the city assessor of such covenant and the conditions thereof.

Section 4. Subsection 17.12.065 of Chapter 17.12 Designation of Landmarks, Landmark Sites and Historic Districts of Title 17 of the Whitewater Municipal Code is hereby created to read as follows:

17.12.065 Criteria for Designation of Historically Significant Personal Property.

- (1) The Landmarks Commission may designate property as city-owned historically significant personal property if it is found by the Landmarks Commission to have special historic, archaeological or aesthetic character.
- (2) Upon designation of personal property as city-owned historically significant personal property, the Landmarks Commission may take reasonable actions to notify the general public and city officers and employees of the designation. These actions may include, but are not limited to, creating a registry of said property to be maintained by the city clerk, the labeling of the property by a placard or otherwise, or the safe storage of the property.
- (3) Any officer or employee of the City of Whitewater who becomes aware of any personal property that may qualify as city-owned historically significant personal property is encouraged to immediately notify the Landmarks Commission of the existence of said property.

Section 5. Subsection 17.16.080 of Chapter 17.16 Construction and Alteration of Title 17 of the Whitewater Municipal Code is hereby created to read as follows:

17.16.080 Criteria for Alteration or Disposal of Historically Significant Personal Property

Once personal property has been designated historically significant personal property by the Landmarks Commission, it shall not be altered or disposed of by the city without permission by the Landmarks Commission or, in the alternative, by action of the City Council. Prior to authorizing the disposition or alteration of the historically significant personal property, the City Council shall receive and consider the recommendation of the Landmarks Commission. The Landmarks Commission shall issue a recommendation within sixty (60) days of a written request. If the Landmarks Commission fails to issue a recommendation within sixty (60) days, the Council may act on the request without considering the Landmarks Commission's recommendation.

Ordinance introduced by Councilmember Singer, who moved its adoption. Seconded by Councilmember Taylor. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Binnie. FIRST READING APPROVED: May 19, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE REPEALING REQUIREMENT FOR BOARD MEMBERS TO TAKE AN OATH OF OFFICE. Landmarks Commission member Rick Daniels stated that some of their members were uncomfortable with having "So help me God" as part of the oath, and some are curious as to what taking the oath actually means. Taylor argued that an oath is important as a symbolic act to dedicate a person's intent to do the important work of the City. Winship felt that while the oath would be appropriate for elected officials it should not be a requirement for volunteer committee members. Councilmember Singer stated that it is more important to make provisions for Board members to know the rules and responsibilities of their committee than it is to take an oath of office. Councilmember Taylor moved to postpone action on the Ordinance, which would repeal the requirement for an Oath of Office. There was no second to the motion.

AN ORDINANCE REPEALING THE OATH OF OFFICE ORDINANCE

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

SECTION 1: Whitewater Municipal Code Chapter 1.16, Section 1.16.065 is hereby repealed.

Ordinance introduced by Councilmember Singer, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Winship, Singer, Kienbaum, Stewart. NOES: Taylor. ABSENT: Binnie. FIRST READING APPROVED: May 19, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE AMENDING CH. 11 TO CREATE A 15 MINUTE PARKING STALL IN FRONT OF 147 W WHITEWATER STREET. Councilmember Olsen indicated there is a need for short-term parking in front of the M.E. and my Pets Store at 147 W. Whitewater Street. There is only one parking stall at this location.

ORDINANCE AMENDING SECTION 11.16.150 ENTITLED STREET INDEX OF PARKING RESTRICTIONS

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

Section 1. Whitewater Municipal Code, Chapter 11.16, Section 11.16.150, entitled Street Index of Parking Restrictions is hereby amended by adding the following:

There shall be a 15 minute parking limitation on the south side of Whitewater Street from a point 132 feet east from the curb line of Second Street for a distance of 20 feet to the east.

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Stewart. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Binnie. FIRST READING APPROVED: May 19, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE PROHIBITING JAY WALKING. Councilmember Olsen indicated that it was necessary to prohibit jaywalking for safety reasons. He cited experiences of driving down Main Street, which is already dark, and almost hitting people jaywalking. It was moved by Olsen to adopt an ordinance prohibiting jaywalking. The motion died for lack of a second. No further action was taken.

SECOND READING OF ORDINANCE CREATING CHAPTER 7.41 – REGULATIONS CONCERNING NEIGHBORHOOD PRESERVATION (PROPERTY CONDITION NUISANCE RELATED). City Attorney McDonell indicated that members of the landlord association and residents of the city as part of a cooperative group have presented input to improve the ordinance. A number of citizens contributed to the discussion, primarily in favor of a Neighborhood Preservation Board to mediate issues before legal action is required under this ordinance. There was discussion of how the group would be appointed and constituted. It was moved by Winship and seconded by Taylor to include 7.41.020D in the ordinance. Attorney Mitch Simon and Attorney Terry Race spoke against various provisions of the ordinance. Race did not believe reinspection fees were a viable solution. Councilmember Kienbaum indicated that the ordinance is a repetition of laws already in existence.

It was moved by Stewart and seconded by Singer to remove Sections C and E of 7.41.060 concerning licensing and violations from the ordinance. C concerns separate offense penalties for each day a violation continues. E addresses renewal of licenses and permits. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Binnie.

It was moved by Winship and seconded by Taylor to add to 7.41.020 A by adding: “A copy of the written notice shall be delivered to the occupants of the premises by first class mail”. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Binnie.

ORDINANCE CREATING CHAPTER 7.41

REGULATIONS CONCERNING NEIGHBORHOOD PRESERVATION

(PROPERTY CONDITION NUISANCE RELATED)

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

SECTION 1. Chapter 7.41, Regulations Concerning Neighborhood Preservation (Property Condition Nuisance Related), is hereby created to read as follows:

Sections:

7.41.010	Definitions.
7.41.020	Notice.
7.41.030	Abatement Plan
7.41.040	Additional Property Condition Nuisance Activity
7.41.050	Appeal
7.41.060	Violations – Penalties – Remedies – Injunctive and other relief.

7.41.010 **Definitions.** The following terms shall be defined as follows in this chapter:

- A. **Enforcement Action.** Arrest, the issuance of a citation, the issuance of a written warning, the issuance of an order to correct.

- B. **WWMC.** Whitewater Municipal Code.

- C. **Property Condition Nuisance Related Activity.** Any of the following activities, behaviors or conduct occurring upon a premises or arising out of the use of a premises (unless the owner or occupant of the property is the victim of the crime or act by a non-occupant):

1. PROPERTY CONDITION NUISANCE RELATED ACTIVITY

- a. Weeds and grass violation, set forth in WWMC 7.22.
- b. Storing junk on property, set forth in WWMC 7.48.
- c. Junked automobiles, set forth in WWMC 5.56.
- d. Health and sanitation violations under WWMC Title 8.
- e. Rubbish violation, set forth in WWMC 8.24.

- f. Building and construction violations, set forth in WWMC Title 14.
- g. Zoning, parking and other violations under WWMC Chapter 19 tending to cause a nuisance.
- h. Any other activity similar to the above violations and any activity, enforced by the Neighborhood Services Director's office, which is in violation of Whitewater ordinances or state statutes and tends to cause a nuisance.

F. **Owner.** The owner of the premises and his or her agents.

G. **Premises.** An individual dwelling unit used for residential purposes whether or not owner occupied; an individual business or commercial property; and associated common areas thereof.

7.41.020 Notice.

A. Whenever the Neighborhood Services Director determines that four (4) or more Property Condition Nuisance Related Activities resulting in enforcement action have occurred at a premises on separate days during a 12-month period, the Neighborhood Services Director, or his/her designee, may notify the premises owner and, if appropriate, tenant, in writing. In reaching this determination, the Neighborhood Services Director shall not include nuisance activities resulting in enforcement actions that were reported by the owner of the premises. Only the Neighborhood Services Director may initiate and implement the procedure and enforcement for Property Condition Nuisance Related Activities under this Section. A copy of the notice shall be delivered to the occupant of the premises by regular mail.

B. The notice shall contain the street address including unit number if applicable or legal description sufficient to identify the premises, a description of the property condition nuisance related activities and enforcement actions that have occurred at the premises; a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner.

C. The Neighborhood Services Director's written notice shall be delivered to the owner of the premises by one of the following methods: personal service, certified mail, first class mail, posting and/or publication, such other means as provided by law for service of process in a civil action, as the Neighborhood Services Director, as applicable, may determine appropriate under the particular facts and circumstances.

D. In an effort to foster early and fair resolutions to nuisance related concerns; and to avoid actions being brought under this chapter, and to encourage the full and fair reporting of nuisance activities in the City of Whitewater, the City Council authorizes the following procedure:

The City Manager shall have the power to designate a Neighborhood Preservation Board which will act as a mediator concerning nuisance matters that may lead to actions under this chapter. The Board shall also inform and assist residents who are aggrieved by nuisance activities in the City of Whitewater. The Board shall be formed upon its own initiative, and its members shall not be appointed by the City of

Whitewater. The makeup of the Board shall be determined by the Board, and the Board will not be an official Board of the City of Whitewater.

Each neighborhood shall submit a number of potential members for inclusion in the Board roster. The landlords will submit their roster of representatives. Two appropriate neighborhood representatives and two appropriate landlord representatives will hear each case. The Board roster shall be re-formed bi-annually, and must be approved by the City Manager. After formation of a Board roster, the Board shall request that the City recognize it as the Neighborhood Preservation Board to act under this chapter. The City Manager shall only designate a Board as the Neighborhood Preservation Board if its makeup and organization fairly represents the best interests of the City of Whitewater.

This Board may be invoked by referral from the Neighborhood Services Director after the second violation of the ordinances and/or codes contained within the chronic nuisance statutes. It is acknowledged that there will be occasions when the nature and timing of two incidents do not present an appropriate circumstance for a referral to the Board. Therefore, the Neighborhood Services Director shall have the discretion to make the decision as to whether or not to refer matters to the Board.

The primary functions of the Board shall be the following:

1. Regarding the pattern of offenses which invoked the ordinance, the Board will:
 - a. serve as a forum to discuss, educate, encourage negotiations, and mentor the parties on the issues involved;
 - b. identify neighborhood and property owner's concerns,
 - c. attempt to achieve resolution of the complaint(s) and the underlying issue(s) involved so as to potentially resolve the current complaint and to prevent further violations of the ordinances and codes contained within the chronic nuisance statutes,
 - d. to provide property owners with a forum to express their position regarding administration and enforcement of the ordinance as it relates to the complaint, and
 - e. offer recommendations to the Neighborhood Services Director as well as the individuals directly affected by the complaint.

If the Board's actions do not resolve the conflict, the Board shall provide an advisory recommendation to the Neighborhood Services Director regarding the matter. If the Board cannot come to a majority recommendation on the issue in question, the procedures set forth in the ordinance shall continue as if there were no Board. The Board must meet and make recommendations in a timely fashion. The Board must convene within a month of the referral from the city and provide a recommendation within two weeks of the meeting. Failure to meet in said timely fashion will result in the ordinance procedures progressing as if there were no Board. The Neighborhood Services Director shall have the full discretion to decide if the action under this chapter shall continue, be modified, or be dismissed. In making his or her decision, the Neighborhood Services Director shall consider any recommendation made by the Board.

7.41.030 Abatement plan.

Any owner (or the owner's representative) receiving such notice shall personally meet with the Neighborhood Services Director, or with his or her City designee, within seven (7) days of receipt of such notice. The Neighborhood Services Director and owner shall review the problems occurring upon the premises and/or property. Within ten (10) days of this meeting, the owner shall submit to the Neighborhood Services Director, or his or her designee, a detailed written abatement plan designed to forthwith and effectively end all the property condition nuisance related activity upon the premises. The plan shall also specify a name, address, and telephone number of a person living within sixty (60) miles of the premises who can be contacted in the event of further inspection activities and/or contact.

7.41.040 Additional property condition nuisance related activity.

Whenever the Neighborhood Services Director determines that:

1. Additional property condition nuisance related activity and/or enforcement action has/have occurred upon a premises for which written notice has been issued under this Chapter; and
2. This additional property condition nuisance related activity and/or enforcement action has/have occurred more than seventeen (17) days after written notice was served; and
3. Reasonable effort has not been made by the owner of the premises to abate the property condition nuisance related activity;

Then, for the next 24 months, the Neighborhood Services Director may calculate all of the cost, fees and expenses arising from and/or pertaining to any and all such City responses and enforcement including, but not limited to, actual burdened labor, overtime, materials, vehicle use, and related administrative time and efforts for this and any subsequent property condition nuisance related activities and enforcement actions upon, for and/or pertaining to the premises. The Neighborhood Services Director shall then cause all such costs, fees and expenses to be charged against the owner of the premises and the premises itself, and if unpaid in 30 days, charged, assessed, levied and collected by the City as a special charge against the premises/property.

7.41.050 Appeal.

A. Appeal by Affected Property Owner. An affected owner of the premises may appeal the Neighborhood Services Director's determination and invoiced special charges arising from and imposed for the city staff and related costs, fees and expenses set forth in this Ordinance in the manner set forth in this subsection.

B. The appeal shall be in writing, filed with the City Clerk, stating with specificity the grounds for the appeal and the relief requested. The appeal must be filed within thirty (30) days of the invoice from the City Clerk.

C. The appeal shall be considered only if filed within 30 days of the date of the invoice from the Clerk and prior to the time that any unpaid special charges imposed against the premises/property under this chapter are turned over by the Treasurer to be placed on the tax roll.

D. Chapter 68 of the Wisconsin Statutes shall not apply to such an appeal nor shall any other provision of state law or city ordinance to the contrary. The appellate procedure set forth herein shall govern and be exclusive.

E. Upon receipt of the written appeal, the Clerk shall set the matter for a hearing for a meeting of the Common Council not less than thirty (30) days nor more than sixty (60) days after the filing of the written appeal.

F. The Clerk shall provide written notice to the appellant and to the Neighborhood Services Director of such hearing date, time and place.

G. The parties may agree to continuances and stipulations as to procedure and substance.

H. The hearing shall be open to the public, recorded by a sound recording device and the recording preserved for seven (7) years by the City Clerk. A party may have a court reporter record the hearing but the requesting party shall pay all costs of the court reporter in advance regardless of the determination of the appeal.

I. The appellant and the Neighborhood Services Director may each present witnesses who testify upon oath after being duly sworn in by the City Clerk, the Deputy City Clerk, or any other person authorized by law to administer oaths.

J. After the hearing, the Common Council in open session shall deliberate and then make a determination by recorded motion, second and vote. A majority of Council Members voting shall decide the matter.

K. The City Clerk and Treasurer shall adjust all invoices, tax and related City records in accord with the Council's determination.

L. The procedures initiated by notice under Section 7.41.020 shall be stayed until the Common Council rules on any timely appeal filed under this section.

7.41.060 Violations – Penalties – Remedies – Injunctive and other relief.

In addition to the special charges authorized and described above, the following penalties and remedies are cumulative and not exclusive; may be jointly and severally sought and/or employed by the City, and may be ordered and/or imposed, as applicable, by the courts:

A. First Offense. Any individual, corporation or party who shall violate any provision of this chapter or any regulation, rule, or order made hereunder shall forfeit and pay to the City not less than \$100 nor more than \$1,000, together with the costs of prosecution. It shall be considered a violation of this chapter by the property owner if additional property condition nuisance related activity under section 7.41.040 takes place at a premises within a period of two years after a notice under 7.41.020 is given concerning a premises.

B. Subsequent Offenses. Any individual, corporation, or party who shall violate any provision of this chapter or any regulation, rule, or order made hereunder within twenty-four (24) months

after committing a previous violation shall forfeit and pay to the City not less than \$200 nor more than \$2,000, together with the costs of prosecution.

C. The City, in addition to the above monetary penalty(ies) and special charges may from time to time seek and obtain, and the court may order, temporary and/or permanent injunctive relief, abatement, and such other legal and/or equitable relief, remedies, judgments, and/or orders of the court against any person(s) and/or property(ies) as the court may, from time to time, deem necessary, appropriate and/or desirable to effectuate the intent of this chapter and the public good, peace, order, welfare, and/or safety.

D. It shall be the responsibility of the convicted person(s) to immediately abate each and every violation upon the premises property as expeditiously as possible, unless otherwise directed by the City or the court.

E. This chapter is cumulative in its legal affect and is not in lieu of any and all other legal and equitable remedies under City ordinances, state statutes, state administrative codes, and common law, including, but not limited to, forfeiture of the property to the City under the applicable state statutes.

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Olsen. AYES: Olsen, Taylor, Winship, Singer, Stewart. NOES: Kienbaum. ABSENT: Binnie. ADOPTED: May 19, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ORDINANCE CREATING CHAPTER 7.42 – REGULATIONS CONCERNING NEIGHBORHOOD PRESERVATION (POLICE RELATED ACTIVITIES).

Presented for approval was an ordinance that addressed nuisance violations relating to police matters. It was moved by Winship and seconded by Olson to approve the ordinance creating Chapter 7.42 with the same amendments as the ordinance creating Chapter 7.41. AYES: Winship, Singer, Stewart. NOES: Olsen, Taylor, Kienbaum. ABSENT: Binnie. MOTION FAILED AND ORDINANCE DOES NOT PASS.

FIRST READING OF ORDINANCE AMENDING CHAPTER 1.29 REGARDING REINSPECTION FEE & ABATEMENT PLAN.

ORDINANCE AMENDING CHAPTER 1.29 OF THE WHITEWATER MUNICIPAL CODE.

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

Section 1. Subsection 1.29.020(c) of Chapter 1.29 of the Whitewater Municipal Code is hereby created to read as follows:

Section 1.29.02(c) Any property owner or lessor receiving a fourth offense reinspection fee, for the same violation, may have the payment of the fee waived if the party or his or her representative personally meets with the Neighborhood Services Director, or with his or her City designee, within seven (7) days of receipt of the notice of the fee imposition. At the meeting the Neighborhood Services Director and owner shall review the problems occurring at the property. Within ten (10) days of this meeting, the owner shall

submit to the Neighborhood Services director, or his or her designee, a detailed written abatement plan designed to forthwith and effectively correct the offense that caused the imposition of the fee. If the plan meets the Neighborhood Services Director's approval, the fee shall be waived upon successful completion of the plan. The Neighborhood Services Director shall notify the party that receives a fourth offense reinspection fee of the availability of this abatement process.

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Stewart. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Binnie. FIRST READING APPROVED: May 19, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING TO APPROVE AMENDING SECTION 2.60.010 OF THE MUNICIPAL CODE REGARDING "BOARD OF REVIEW". Singer noted that other communities use citizen members for Board of Review instead of having Council appointees and the City Manager as members. The citizens take the mandated training needed. He proposes having a board composed of five members with two alternates with three year staggered terms. Stewart and Olsen felt that the current system with Councilmembers serving on the Board is appropriate. Ordinance to amend the membership of the Board of Review was introduced by Councilmember Singer, who moved its adoption. Seconded by Councilmember Taylor. AYES: Singer. NOES: Olson, Taylor, Winship, Kienbaum, Stewart. ABSENT: Binnie. MOTION TO ADOPT ORDINANCE FAILS.

FIRST READING TO APPROVE AMENDING SECTION 1.21.010, SCHEDULE OF DEPOSITS (ASSIGNING PENALTIES TO VIOLATIONS OF NEIGHBORHOOD PRESERVATION ORDINANCE). It was agreed to postpone this item until the next meeting as this item relates to both Chapters 7.41 and 7.42.

2008 AUDIT PRESENTATION BY CITY AUDITORS, JOHNSON BLOCK. Kevin Krusinski and Doug Saubert (City finance director) gave an overview of the financial audit. It was unanimously agreed to approve the audit results presented by Johnson Block.

PRESENTATION ON FINANCIAL TRENDS ANALYSIS AND 2010-2014 BUDGET PROJECTIONS. Brunner introduced Kayla Chadwick as the City's current city management intern. She prepared and presented the financial trends analysis.

APPOINTMENT OF CITIZEN MEMBER TO WHITEWATER COMMUNITY FOUNDATION BOARD. It was moved by Taylor and seconded by Winship to appoint Cheryl Lee as citizen representative to the Whitewater Community Foundation Board. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Binnie.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS. Kienbaum inquired whether Parks Superintendent Chuck Nass could come to a Council meeting to discuss additional crosswalks for Main Street. Councilmember Taylor asked that all councilmember requests for future agenda items the last three months be presented at the next meeting.

ADJOURNMENT. A motion was made by Taylor and seconded by Olsen to adjourn the meeting. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Binnie. The meeting adjourned at 9:40 p.m.

Respectfully Submitted,

Michele R. Smith, Clerk