

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

June 2, 2009

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE. The meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. MEMBERS ABSENT: Taylor. LEGAL COUNSEL PRESENT: Wallace McDonell.

It was moved by Winship and seconded by Olsen to approve the Common Council minutes of May 5, 2009 and to acknowledge receipt and filing of the following: CDA minutes of 4/27/09 and 5/11/09; Police and Fire Commission minutes of 2/18/09; Plan Commission Minutes of 4/20/09; Whitewater Police Department Consolidated Monthly Report for April, 2009; and Seniors in the Park minutes of 5/4/09. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor.

APPROVAL OF PAYMENT OF INVOICES. It was moved by Olsen and seconded by Taylor to approve payment of invoices processed through May 28, 2009 in the amount of \$118,588.22. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor.

STAFF REPORTS: City Manager Brunner reported on the State Budget status concerning levy limits. He also reported on the closures of Highways 12 and 59 to the east of Whitewater and Whitewater's petition for signage in various places which would feature "Where's Whitewater?" signs with design help from the University. These signs would indicate more direct routes than the official State route to the City.

CITIZEN COMMENTS: None.

COMMON COUNCIL ANNOUNCEMENTS. None.

RESOLUTION TERMINATING TIF 3. Saubert stated that the City is closing out the TIF district one year early. An audit will be commissioned by the end of October. Remaining funds of approximately \$140,000 would be split between City, County, School District and Technical School District general funds.

RESOLUTION DISSOLVING/TERMINATING TIF DISTRICT No. 3 AND AUTHORIZING CITY TREASURER TO DISTRIBUTE EXCESS INCREMENT TO OVERLYING TAXING DISTRICTS

WHEREAS, The City of Whitewater passed a creation resolution creating Tax Incremental District No. 3 on August 18, 1987, and adopted a project plan that year; and

WHEREAS, all TIF District No. 3 projects were completed in the prescribed allowed time; and

WHEREAS, sufficient increment has been collected as of the 2008 tax roll, payable 2009, to cover TIF District No. 3 projects costs, and to escrow funds to cover the District's remaining outstanding debt;

NOW BE IT HEREBY RESOLVED, that the City Common Council does dissolve TIF District No. 3; and

BE IT FURTHER RESOLVED, that the City Clerk shall notify the Wisconsin Department of Revenue, within 60 days of this resolution, or prior to the deadline of May 15, 2009, whichever comes first, that the District has been terminated; and

BE IT FURTHER RESOLVED, that the City Clerk shall sign the required Wisconsin Department of Revenue final accounting form agreeing on a date by which the City shall send final audited information to the Wisconsin Department of Revenue; and

BE IT FURTHER RESOLVED, that the City Treasurer shall distribute any excess increment collected after providing for ongoing expenses of the District, to the affected taxing districts with proportionate shares to be determined by the final audit by the City's Auditors, Johnson Block.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Stewart. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor. ADOPTED: June 2, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AUTHORIZING SUBMISSION OF STEWARDSHIP GRANT APPLICATION. Park and Recreation Director Amundson stated that land on E. Clay Street was purchased by the City in 2008. The 50% match stewardship grant will be retroactively applied to this purchase if it is awarded. Council approval of the Resolution authorizing submission of the application is required by the conditions of the grant.

RESOLUTION FOR OUTDOOR RECREATION AIDS
(PARK LAND ON E. CLAY STREET)

WHEREAS, the City of Whitewater is interested in developing lands for public outdoor recreation purposes as described in the application; and

WHEREAS, financial aid is required to carry out the project.

NOW THEREFORE, BE IT RESOLVED, that the City of Whitewater has budgeted a sum sufficient to complete the project and hereby authorizes Kevin Brunner, City Manager, to act on behalf of the City of Whitewater to:

- *Submit an application to the State of Wisconsin DNR for any financial aid that may be available;
- *Submit reimbursement claim along with necessary supporting documentation within six months of project completion date;
- *Sign documents; and

Take necessary action to undertake, direct and complete the approved project.

BE IT FURTHER RESOLVED, that the City of Whitewater will comply with State or Federal rules for the programs to the general public during reasonable hours consistent with the type of facility and will obtain from the State of Wisconsin DNR or the National Park Service, approval in writing before any change is made in the use of the project site.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor. ADOPTED: June 2, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

RESOLUTION DENOUNCING RACISM. City Manager Brunner stated that the proposed resolution is in response to an incident at the High School the previous week. The School District Board adopted a similar resolution last week. Mary Sue Reutebuch (164 N Franklin Street) recommended a possible task force to study the racist incident and support the school district. Winship indicated that there is much the city needs to do to make this a more welcoming community. Winship moved to delete part of a sentence in the fourth paragraph of the resolution. ...”by providing training and education for its staff and members of the general community”. Binnie seconded the motion.

City of Whitewater Resolution Against Racism in the Community

WHEREAS, the City of Whitewater wishes to join the Whitewater Unified School District in strongly condemning discrimination in our community;

WHEREAS, the City of Whitewater does not condone any type of racist threat or discrimination and as clearly stated in its adopted community vision statement wishes to be a welcoming, safe and dynamic community that embraces the cultural and educational opportunities that the presence of a thriving University and an increasingly diverse population offers;

WHEREAS, the City of Whitewater supports working with other governmental entities, including the Whitewater Unified School District and the University of Wisconsin-Whitewater, to raise awareness of the need to address racism in our local community by creating an active dialog which we believe will make our community an even more welcoming place in the future;

WHEREAS, the City of Whitewater will continue to denounce racism in all forms and will continue to seek proactive steps to prevent racist behavior.

THEREFORE, BE IT RESOLVED, that the Whitewater Common Council joins with the Whitewater Unified School District in deeply regretting the recent incident at Whitewater High School and the sorrow and fear that this racist behavior has brought to the affected students and their families.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor. ADOPTED: June 2, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

RECONSIDERATION OF ORDINANCE CREATING CH. 7.42, REGULATIONS CONCERNING NEIGHBORHOOD PRESERVATION (POLICE RELATED). City Attorney McDonell explained the City rules from Chapter 2 of the Municipal Code, for reconsideration of an ordinance. **It was moved by Stewart and seconded by Winship to reconsider an ordinance creating Chapter 7.42, regulations concerning neighborhood preservation.** AYES: Winship, Binnie, Singer, Stewart. NOES: Olsen, Kienbaum. ABSENT: Taylor. Ordinance to be reconsidered.

Kienbaum and Olsen stated that they felt the proposed ordinance is duplication of existing State Statutes and City ordinances. Matt Kuehl of Lake Geneva supported the ordinance and felt that the ordinance seems to be one that everyone can live with. Jean Truesdale (175 N Esterly) feels that this ordinance reinforces current regulations for residents.

**ORDINANCE CREATING CHAPTER 7.42
REGULATIONS CONCERNING NEIGHBORHOOD PRESERVATION
(POLICE RELATED NUISANCE ACTIVITIES)**

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

SECTION 1. Chapter 7.42, Regulations Concerning Neighborhood Preservation (Police Related Nuisance Violations), is hereby created to read as follows:

Sections:

7.42.010 Definitions.

- 7.42.020 Notice.
- 7.42.030 Abatement Plan
- 7.42.040 Additional Police Related Nuisance Activity
- 7.42.050 Appeal
- 7.42.060 Violations – Penalties – Remedies – Injunctive
and other relief.

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

- A. **Chief.** The Chief of Police or his or her designee.
- B. **Enforcement Action.** Arrest, the issuance of a citation, the issuance of a written warning, the issuance of an order to correct.
- C. **WWMC.** Whitewater Municipal Code.
- D. **Police Related Nuisance 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. POLICE RELATED NUISANCE ACTIVITY

- a. An act of Harassment, as defined in §947.013, Wis. Stats.
- b. Disorderly Conduct, as defined in §947.01, Wis. Stats.
- c. Battery, Substantial Battery, or Aggravated Battery, as defined in §940.19, Wis. Stats.
- d. Lewd and Lascivious Behavior, as defined in §944.20, Wis. Stats. and Sexual Assault as defined in §940.225, Wis. Stats.
- e. Prostitution, as defined in §944.30, Wis. Stats.
- f. Theft, as defined in §943.20, Wis. Stats.
- g. Receiving Stolen Property, as defined in §943.34, Wis. Stats.
- h. Arson, as defined in §943.02, Wis. Stats.
- i. Possession, Manufacture, or Delivery of a Controlled Substance or related offenses, as defined in Ch. 961, Wis. Stats.
- j. Gambling, as defined in §945.02, Wis. Stats.
- k. Obstructing or resisting an officer, set forth in WWMC 7.02.
- l. Failure to obey a police officer, set forth in WWMC 7.03.
- m. Possession of marijuana, set forth in WWMC 7.26.

- n. Disturbance of the peace, set forth in WWMC 7.36.
- o. Underage alcohol violation, set forth in WWMC 7.63.
- p. Furnishing alcohol to underage persons, set forth in WWMC 7.66.
- q. Fireworks violation, set forth in WWMC 5.08.
- s. Noise violation as set forth in WWMC 19.58.
- t. Parking and other vehicle violations under WWMC Title 11 which tend to cause a nuisance.
- u. Any other activity similar to the above violations and any activity enforced by the Whitewater Police Department which is in violation of Whitewater ordinances or state statutes and tends to cause a nuisance.

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

F. **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.

7.42.020 Notice.

A. Whenever the Chief determines that three (3) or more Police Related Nuisance Activities resulting in enforcement action have occurred at a premises on separate days during a 12-month period the Chief, or his/her designee, may notify the premises owner and tenant, if appropriate, in writing, of the violations. In reaching this determination, the Chief shall not include police related nuisance activities resulting in enforcement actions that were reported by the owner of the premises. Only the Chief may initiate and implement the procedure and enforcement for Police Related Nuisance 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 nuisance 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 Chief'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 Chief 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 Police Chief 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 Police Chief 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 Police Chief 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 Police Chief 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 Police Chief 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 Police Chief shall consider any recommendation made by the Board.

7.42.030 Abatement plan.

Any owner (or the owner's representative) receiving such notice shall personally meet with the Police Chief, or with his or her City designee, within seven (7) days of receipt of such notice. The Chief 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 Chief or his or her designee, a detailed written abatement plan designed to forthwith and effectively end all the police related nuisance 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 police, fire, or inspection activities and/or contact.

7.42.040 Additional police related nuisance activity.

Whenever the Chief determines that:

1. Additional police related nuisance 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 police related nuisance 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 police related nuisance activity;

Then, for the next 24 months, the Chief may calculate all of the cost, fees and expenses arising from and/or pertaining to any and all such police and related 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 nuisance activities and enforcement actions upon, for and/or pertaining to the premises. The Chief 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.

7.42.050 Appeal.

A. Appeal by Affected Property Owner. An affected owner of the premises may appeal the Police Chief's determination and invoiced special charges arising from and imposed for the police 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 Chief of Police 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 Chief of Police 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 7.42.020 shall be stayed until the Common Council rules on any timely appeal filed under this section.

7.42.060 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 police related nuisance activity under section 7.42.040 takes place at a premises within a period of two years after a notice under 7.42.020 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 Binnie, who moved its adoption. Seconded by Councilmember Winship. AYES: Winship, Binnie, Singer, Stewart. NOES: Olsen, Kienbaum. ABSENT: Taylor. FIRST READING APPROVED: June 2, 2009.

AMENDING CH. 1.21.010, SCHEDULE OF DEPOSITS. The Common Council of the City of Whitewater, Walworth and Jefferson Counties, does hereby ordain as follows:

SECTION 1: Whitewater Municipal Code Section 1.21.010 is hereby amended to add the following:

<u>CHAPTER OR SECTION NUMBER</u>	<u>OFFENSE</u>	<u>DEPOSITS AND COSTS</u>
7.41	Violation of Neighborhood Preservation Ordinance (Property Condition)	1 st offense - \$100 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment 2 nd offense - \$200 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment 3 rd & subsequent offenses - \$250 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment
7.42	Violation of Neighborhood Preservation Ordinance (Police Related)	1 st offense - \$100 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment 2 nd offense - \$200 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment 3 rd and subsequent offenses - \$250 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment

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, Winship, Binnie, Singer, Stewart. NOES: Kienbaum. ABSENT: Taylor. FIRST READING APPROVED: June 2, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

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

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 Councilmember Winship, who moved its adoption. Seconded by Councilmember Olsen. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor. FIRST READING APPROVED: June 2, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ORDINANCE AMENDING CHAPTER 17, LANDMARKS COMMISSION, AS IT RELATES TO CITY-OWNED HISTORICALLY SIGNIFICANT PERSONAL PROPERTY.

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 . 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, 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 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, 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 Winship, who moved its adoption. Seconded by Councilmember Olsen. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor. ADOPTED: June 2, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ORDINANCE REPEALING REQUIREMENT FOR BOARD MEMBERS TO TAKE OATH OF OFFICE.

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 Winship, who moved its adoption. Seconded by Councilmember Olsen. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor. ADOPTED: June 2, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ORDINANCE AMENDING CH. 11 TO CREATE A 15 MINUTE PARKING STALL ON WHITEWATER STREET.

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 Winship, who moved its adoption. Seconded by Councilmember Olsen. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor. ADOPTED: June 2, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ORDINANCE CREATING CHAPTER 7.41, REGULATIONS CONCERNING NEIGHBORHOOD PRESERVATION (PROPERTY CONDITION NUISANCE RELATED).

**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:

2. 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 Stewart. AYES: Olsen, Winship, Binnie, Singer, Stewart. NOES: Kienbaum. ABSENT: Taylor. ADOPTED: June 2, 2009.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

APPROVAL OF RENEWAL ALCOHOL LICENSES FOR LICENSING YEAR 2009-2010. City Clerk Smith presented alcohol license renewals for approval. Councilmember Olsen questioned the Mad Boar Pub renewal on the grounds that there have been two violations in a six month period. Action will be delayed to the next meeting on renewal of the Mad Boar Pub license. City Staff will provide additional information to Councilmembers relating to the recent violations in this establishment.

Class A Beer: Campus Quick Shop – Jason McArdle; Frawley Oil Co. – Michael Frawley; C.A. Pope Inc. – Craig Pope; Wish Enterprises, LLC – Pankaj Kalra; SBL Petro Inc. – Amar Nath; Wal-Mart – Joseph Marx. **Class A Beer and Liquor:** Hartmann’s Acorn Beverage, Inc. – Richard Hartmann; Daniels of Whitewater, LLC – Dennis Riley; RK Liquors, LLC – Richard D. Vultaggio; Frawley Oil Co. – Michael Frawley. **Class B Beer:** Cordio Inc. – John Cordio; Gus’ Pizza Palace – George Christon; LaPreferida – Luis Islas Martinez; P H Green Bay, LLC – Ronald J. Klimeck; TRH Whitewater Restaurant Inc. – Kenneth Dahnert; San Jose Mexican Restaurant Inc. – Jose J. Barajas. **Class B Beer and Liquor:** R & B Brass Rail Corp. – David Bergman; College Pub, LLC – Kirk Rasmussen; Coyote Grill LLC. – Dennis Salverson; Cozumel – Miguel Lopez; Denny K’s – Dennis Knopp; Downstairs Sports Bar and Grill – Robert Sweet; JM Hawkes LLC – Jeff Hawkes; Hammer’s Hometown Tap – Barbara Hamilton; DLK Enterprises, Inc. – Michael Kachel; Hawks Nest Bar & Grill – Luis Sanchez; Karina’s Mexican Restaurant – Clara Rocha; GAC Enterprises, LLC – Greg Condos; Novak’s Restaurant – George Christon; Fun Hunters LLC. – Kristina Cruse; Rick’s Eastside Pub and Grill – Richard Hartmann; MBCK LLC – Victoria M. Fiedler; LLP, LLC – Lacey Reichwald; Tokyo – Zheng En; Lakeside Banquet – Linda Troemel. **Wholesale Beer:** Randy’s Fun Hunters Brewery – Randolph Cruse.

It was moved by Olsen and seconded by Binnie to approve renewal of alcohol licenses for licensing year 2009-2010 with exception for Mad Boar Pub. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor.

APPROVAL OF 2009-2010 SIDEWALK REPLACEMENT PROGRAM CONTRACT WITH VENSKE CONSTRUCTION. Neighborhood Services Director Parker presented a two-year contract for sidewalk replacement. It was moved by Winship and seconded by Olsen to approve the 2009-2010 sidewalk replacement program contract with Venske Construction. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor.

APPROVAL OF CONTRACT NO. 3-09 FOR FIRST AND NORTH STREET RECONSTRUCTION PROJECT. At the request of DPW Director Fischer, this item was pulled from the Council agenda.

ACTION ON GENERAC REQUEST FOR WAIVER OF SEWER DISCHARGE LIMITS. DPW Director Fischer indicated that GENERAC has been working furiously to meet the 1980 ordinance concerning total dissolved solids, and in the process their phosphorus discharge tends to increase. The ordinance will be changed in conjunction with the facilities planning going on currently. The city is in the first year of the next five year discharge permit. It was moved by Olsen and seconded by Kienbaum to approve Generac's request for waiver of sewer discharge limits. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Taylor.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS. None.

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

Respectfully Submitted,

Michele R. Smith
City Clerk