

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

September 8, 2009.

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

APPROVAL OF CONTRACT 4-2009 WASTEWATER TREATMENT PLANT EQUIPMENT REPLACEMENT PROJECT. Bids for improvements to the Wastewater Treatment Plant were received and KBK Services, Inc. of Ashland, Wisconsin was the low bidder with a bid of \$4,490,000. DPW Director Fischer stated that the base bid and alternatives 2 & 3 total \$4,519,660, which is within budget for this project. It was moved by Olsen and seconded by Winship to approve a contract with KBK Services, Inc. of Ashland Wisconsin, in the sum of \$4,519,660, for wastewater treatment plant equipment replacement (contingent upon being awarded the grant for the project). Seconded by Councilmember Winship. AYES: Olsen, Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

APPROVAL OF AMENDMENT #2 TO STRAND ASSOCIATES AGREEMENT FOR PLANNING AND DESIGN SERVICES FOR WASTEWATER TREATMENT PLANT EQUIPMENT AND REPLACEMENT PROJECT. DPW Director Fischer presented Amendment No. 2 to the Strand Associates contract, which was originally dated 4/30/09. The contract will cover construction services for the Wastewater Treatment Equipment Replacement project. Fischer explained that the construction services cannot be provided by city staff as they involve mechanical and structural expertise that must be provided by professionally-trained consultants. It was moved by Olsen and seconded by Binnie to approve an amendment to the Strand Associates contract, in a sum not to exceed \$440,200, to cover fees for planning and design services for the Wastewater Treatment Plant equipment and replacement project. AYES: Olsen, Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

PRESENTATION BY LEAGUE OF WISCONSIN MUNICIPALITIES LIABILITY INSURANCE CARRIER CEO REGARDING SANITARY SEWER BACK UP FOR LT. CULL. City Manager Brunner introduced Dennis Tweedale of the League of Municipalities. Tweedale was invited by Brunner to explain how sewer back up insurance claims are handled. Tweedale explained that the existing policy covers sewer back ups if, and only if, the City did not correct a known problem. It was stated that city residents experiencing this problem do not normally receive financial reimbursement through the City. The City of Whitewater has not purchased the rider (at an annual cost of around \$18,000) that would provide no-fault sewer back up coverage for residents. Tweedale indicated that Cities purchasing this rider have sometimes still received citizen complaints, as claims are paid on a depreciated rather than a replacement cost basis. Tweedale also stated that residents do have the option of purchasing a rider to cover sewer back ups through their homeowner's insurance policy. City Attorney McDonell stated that the incident that has been at issue is nobody's fault, and that the sewer was jetted out 10 months prior to the backup. An accumulation of grease in the main was the cause of the sewer backup at

the Cull residence. McDonell explained that potentially someone might have poured excess grease into the system, but if that was done, it would be impossible to identify where the grease came from. Numerous citizens encouraged Council to consider paying Lt. Cull for the damages. Robert Webster Sr., Representative of Support our Troops for Walworth County, asked the City to resubmit the insurance claim for reconsideration. Nick Vento, friend of Lt. Cull, indicated he has had contact with Lt. Cull, that the damages are \$13,329.97, and that he has a copy of the breakdown of expenses. Peggy O'Donnell of DeForest, Wisconsin questioned how citizens are to know that they need to purchase a specific insurance rider on their home insurance to cover sewer backups. Dale Konesk of the Town of Genesee asked Whitewater to reconsider the denial of the claim and encouraged the Council to ask for a "second opinion" from the insurance company. Adam Olton of Oconomowoc told Council that he previously served in the Marines with Cpl, now Lt. Cull. He recited a memory of when the troops were being sent out, Cull requested to be placed in a more dangerous assignment because "it was the right thing to do." Olton requested that the Council now "do the right thing" as well. Dennis Tweedale indicated that unless some new information comes to light, insurance companies do not "reconsider" claims. Calvin Johnson, Kent Breese and Don Campbell also encouraged the Council to provide financial reimbursement to Cull. It was noted that approximately \$10,000 of the damages are related to structural damage. City Manager Brunner indicated that sewer backups do not generally cause structural damage to a building. Discussion regarding upcoming fundraisers and possible financial commitments from local service organizations ensued. Concern about precedent setting was expressed. Wendy Stewart of Janesville asked the Council to consider making a donation from the City to the American Legion to help Lt. Cull with expenses. City Manager Brunner indicated that the possibility of a donation was exactly what he had put in his memo to Council. Brunner did not support the City paying for foundation repairs, but suggested donating an amount equal to the damages that were not related to foundation repair. Brunner suggested that groups in the community could raise the remainder. City Attorney McDonell indicated that the requirement for any expenditure is that it must be for public purposes, but the definition is not clear cut. It was moved by Taylor and seconded by Olsen to have the City make a donation to Lt. Cull through the American Legion fundraising efforts to assist him with expenses related to the sewer back up he experienced. AYES: Olsen, Taylor, Winship, Singer, Kienbaum, Stewart. NOES: Binnie. ABSENT: None.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS: None.

ADJOURNMENT. It was moved by Olsen and seconded by Winship to adjourn the meeting. AYES: Olsen, Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. The meeting adjourned at 7:57 p.m.

Respectfully submitted,

Michele R. Smith, Clerk