

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

April 20, 2010

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

**SWEARING IN OF COUNCILMEMBERS.** City Clerk Michele Smith swore in Councilmember-at-Large member James Stewart; Aldermanic District 2 Councilmember Maxwell Taylor; and Aldermanic District 4 Councilmember Lynn Binnie.

**ELECTION OF COUNCIL PRESIDENT.** Councilmember Winship nominated Patrick Singer for Council President. Councilmember Kienbaum nominated Max Taylor for Council President. Taylor respectfully declined. Winship moved and Binnie seconded a motion to appoint Singer as Council President. Motion carried by unanimous vote.

**ELECTION OF COUNCIL PRESIDENT PRO TEM.** Winship nominated Max Taylor for Council President Pro Tem. Binnie seconded. Max Taylor was elected Council President Pro Tem by unanimous vote.

**COUNCILMEMBER APPOINTMENTS TO BOARDS AND COMMISSIONS.**

Councilmembers expressed their interests on which Boards and Commissions they would be willing to serve on and they were assembled on a spreadsheet. Several councilmembers expressed interest in being the representative to the Police and Fire Commission. Both Councilmembers Olsen and Taylor indicated that was their first choice appointment. With regard to Plan Commission, both Binnie and Kienbaum chose the regular position as their first choice. Police and Fire Commission: Councilmember Olsen had sent message through the City Clerk indicating that he would be willing to step down from being appointed to the Police and Fire Commission as long as he was appointed as Council representative to the Whitewater Aquatic Center ("WAC") Committee. Max Taylor was appointed to Police and Fire Commission by unanimous vote. Plan Commission: Both Binnie and Kienbaum wanted to serve as regular member of the Plan Commission. Binnie had served as regular the previous year, and Kienbaum had served as alternate. A vote was taken on who would be appointed to the Plan Commission as regular member. It was agreed that the Councilmember who did not receive the regular position would receive the alternate position. KIENBAUM: Taylor, Kienbaum. BINNIE: Winship, Binnie, Singer, Stewart. Councilmember Binnie was appointed as regular member of Plan Commission and Councilmember Kienbaum was appointed as alternate member. Library Board. Both Councilmembers Winship and Kienbaum were nominated for Library Board. KIENBAUM: Taylor. WINSHIP: Winship, Binnie, Singer, Stewart. Councilmember Winship was appointed to the Library Board. Other appointments were as follows: **Alcohol Licensing Committee** – Olsen, Singer and Binnie; **Birge Fountain Committee** – Kienbaum; **Cable T.V. Committee** – Winship; **Community Development Authority** – Singer and Stewart; **Landmarks Commission** – Kienbaum; **Library Board** –

Winship; **Park and Recreation Board** – Taylor; **Plan and Architectural Review Commission** – Binnie as regular and Kienbaum as alternate member; **Police and Fire Commission** – Taylor; and **Technology Park Board** – Stewart. It was moved by Binnie and seconded by Winship to approve appointment of councilmembers as listed above to the Board or Commission listed. AYES: Winship, Binnie, Kienbaum, Singer, Stewart, Taylor. NOES: None. ABSENT: Olsen.

Whitewater Aquatic Center (“WAC”) Board. City Manager Kevin Brunner stated the Aquatic Board has by-laws which require two city representatives to WAC. Brunner stated that Park and Recreation Director Amundson would be one appointee and one councilmember would be appointed. Councilmember Olsen expressed interest in serving on the WAC board as a council representative instead of a citizen member. Amundson explained Olsen is currently serving on the WAC Board as a citizen and not a council representative. It was moved by Binnie and seconded by Winship to approve Olsen as council representative to the WAC Board. AYES: Winship, Binnie, Kienbaum, Singer, Stewart, Taylor. NOES: None. ABSENT: Olsen.

It was moved by Binnie and seconded by Taylor to acknowledge receipt and filing of : the CDA Minutes of February 22, 2010; Park and Recreation Minutes of March 1, 2010; Financial Reports for March, 2010; Report of Manually Produced checks for March, 2010; Public Safety Report/Annual Review and Update; Plan and Architectural Review Commission Minutes of April 12, 2010, AYES: Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Olsen.

**APPROVAL OF PAYMENT OF INVOICES.** It was moved by Binnie and seconded by Taylor to approve payment of city invoices processed through April 15, 2010 in the total sum of \$161,500.75. AYES: Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Olsen.

**REPORTS.** City Manager Kevin Brunner introduced **Cameron Clapper, Assistant to the City Manager.** He will start on Tuesday, April 27<sup>th</sup>. Brunner announced the **Open House for the proposed Walmart** expansion phase will be held at City Hall Wednesday, April 21<sup>st</sup> from 5 – 7 p.m. Brunner reported on the **Technology Park/Innovation Center update.** Ground breaking for this project will be on Tuesday, April 27<sup>th</sup> at 4 p.m. Wednesday, April 28<sup>th</sup> will be the **annual tour for councilmembers.** They will be touring various city facilities regarding projects and updates that are going on. **Downtown Whitewater awards** took place a month ago and the city received awards for the Best Public Improvement Project for the Whitewater St. enhancement. Another award was given for the Best Public/Private Partnership. (shared dumpster project in lot off of North Street). City Manager Brunner presented Proclamations in honor of The Crop Walk. CDA Coordinator Nimm presented information on CDA activities for the first quarter of 2010.

**CITIZEN COMMENTS.** None.

**COMMON COUNCIL ANNOUNCEMENTS.** None.

**RELOCATING POLLING PLACE FOR WARD 10 TO DOWNTOWN ARMORY.** City Clerk Michele Smith stated that new voting machines will not be purchased for Jefferson County polling places in 2010. Jefferson County has elected to purchase machines through Elections

Systems and Software. Unfortunately, the machines have not yet been certified through the Governmental Accountability Board, and therefore cannot be used. County Clerk Barb Frank has indicated that she is not intending to purchase the machines in 2010. Unless Council chooses to purchase the older version of the voting machines and have them replaced next year, it will be necessary to delay placing the polling place for Ward 10 at the Hamilton Room for at least 2010.

Councilmember Singer stated that the County approved the purchase of these machines two budget years ago. Councilmember Stewart suggested that in the Fall, when the Student Government members return, amendment of the existing Memorandum of Understanding for Aldermanic District 2 be revisited. Stewart was receptive to considering holding only Presidential and Gubernatorial elections on campus. Councilmember Singer agreed, and suggested that the Memorandum of Understanding be negotiated relating to both districts.

Councilmember Taylor indicated he was upset with the move being held up. Singer suggested asking the Jefferson County Clerk to attend a council meeting to explain the status. City Clerk Smith indicated that the issues are between the GAB and the company manufacturing the machines. Smith indicated that it is out of the County Clerk's control.

**RESOLUTION RELOCATING THE POLLING PLACE FOR WARD 10 OF DISTRICT NO. 5 TO THE WHITEWATER DOWNTOWN ARMORY FOR THE ELECTIONS TO BE HELD ON SEPTEMBER 14, 2010, AND NOVEMBER 2, 2010**

**WHEREAS**, on the 16th day of February, 2010, the City of Whitewater adopted a resolution relocating the polling place for Ward 10 of District No. 5 to the Hamilton Room on the University of Wisconsin-Whitewater campus; and

**WHEREAS**, said resolution reserved the right to move the location of the polling place for Ward 10 of District No. 5 to the City of Whitewater Downtown Armory; and

**WHEREAS**, the equipment which is planned to be purchased for the polling place for Ward 10 of District No. 5 will not be approved for use in time for the September 14, 2010, and November 2, 2010, elections; and

**WHEREAS**, it is in the public's best interests to have the polling place for Ward 10 of District No. 5 located at the City of Whitewater Downtown Armory for the elections to be held on September 14, 2010, and November 2, 2010.

Now, therefore, **BE IT RESOLVED** that the polling place for Ward 10 of District No. 5 for the elections to be held on September 14, 2010, and November 2, 2010, shall be the City of Whitewater Downtown Armory.

Resolution introduced by Councilmember Singer, who moved its adoption. Seconded by Councilmember Winship. AYES: Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Olsen ADOPTED: April 20, 2010.

The City Clerk and City Manager were also directed to renegotiate an amendment to the MOU for Aldermanic District 2 and Ward 10 to include the campus polling place for the Presidential, Gubernatorial, and Presidential Primary elections, with remaining elections to be held at the Downtown Armory.

**REQUIRING THAT BOARD AND COMMISSION MEETINGS BE VIDEOTAPED AND TELEVISED AT LEAST ONCE PER YEAR.**

Councilmember Taylor feels it's important that the community knows what Boards and Commissions do. He indicated that televising more meetings would help the citizenry become better informed and possibly encourage them to become more involved. Councilmember Binnie noted that the Cable Coordinator indicated he would support the proposal if the meetings were held in the City Hall Community Room. Luckett did note a few exceptions, such as Library Board.

**RESOLUTION REQUIRING THE TELEVISION BROADCAST OF AT LEAST ONE MEETING PER YEAR OF CERTAIN BOARDS, COMMITTEES, AND COMMISSIONS**

**WHEREAS**, the City of Whitewater, Walworth and Jefferson Counties, recognizes that it is in the public's best interest to have an opportunity to view certain board, committee and commission meetings at least one time per year to increase the public's awareness of the functions and actions of those boards, committees and commissions.

Now, therefore, **BE IT RESOLVED**, that the following board, committee and commission meetings shall be televised at least one time per year:

- Alcohol License Review Committee
- Birge Fountain Committee
- Cable TV Committee
- Community Development Authority
- Landmarks Commission
- Library Board
- Park and Recreation Board
- Plan and Architectural Review Commission
- Police and Fire Commission
- University Technology Park Board of Trustees
- Urban Forestry Commission

Resolution introduced by Councilmember Taylor, who moved its adoption. Seconded by Councilmember Kienbaum. AYES: Taylor, Winship, Binnie, Kienbaum, Singer, Stewart. NOES: None. ABSENT: Olsen. ADOPTED: April 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING 2010 SALARY RESOLUTION.** An updated salary resolution was presented for the purpose of eliminating the Human Resources / Special Projects Coordinator position and adding the Assistant to the City Manager position.

**CITY OF WHITEWATER  
2010 SALARY RESOLUTION  
AMENDMENT #1**

**WHEREAS**, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, sets forth the wage and salary schedule for employees for 2010, in which wages are established.

**NOW THEREFORE, BE IT RESOLVED** by the Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that the following ranges and numbers of employees in the 2010 Wage and Salary Schedule are hereby adopted pursuant to Wisconsin Statutes; and

**BE IT FURTHER RESOLVED** that the contents of this resolution shall supersede such previously adopted schedules where the subject matter between the two shall be in conflict, and the changes contained herein shall be effective beginning April 20, 2010.

**SCHEDULE I  
ADMINISTRATIVE POSITIONS**

Position	# of Positions	Effective	Salary
City Manager	1	01/01/2008	95,781.56
		12/31/2010	98,176.10
Chief of Police	1	01/01/2009	86,805.42
		12/31/2010	88,975.56
Municipal Judge	1	05/01/2009	19,099.28
City Attorney	1	01/01/2009	50,000.00
		12/31/2010	51,250.00

**SCHEDULE II  
PROFESSIONAL AND TECHNICAL EMPLOYEE PAY PLAN**

Pay Grade	# of Positions	Classification Titles	Pay Grade	# of Positions	Classification Titles
A*	3/4	Senior Coordinator (Part-time)	F	1	Assistant Finance Director - City Treasurer
	2	Administrative Assistant II - Records Technician		1	City Clerk
	2	Administrative Assistant II - General Administrative Offices	G		
			H	1	Water Superintendent
	1/2	Administrative Assistant II - Utilities (Part-time)	<b>I</b>	<b>1</b>	<b>Assistant to City Manager</b>
B*	1	Accounting Technician II - Payroll & Accounts Payable	J	1	Chief Information Officer
	1	Accounting Technician II - Utilities		1	Streets, Parks & Forestry Superintendent
	1	Administrative Assistant I - Neighborhood Services		1	Neighborhood Services Director
	1	Clerk of Courts		1	Parks & Recreation Director
C			1	Wastewater Treatment Plant Superintendent	
D	1	Support Services Manager	K	1	Lieutenant - Administrative Services
E	1	Community TV/Media Services Manager		1	Lieutenant - Field Services
		1	CDA Coordinator	L	1

	1	Recreation & Community Events Programmer	1	Public Works Director
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\*Non-Exempt Positions

**SCHEDULE II  
PROFESSIONAL AND TECHNICAL EMPLOYEE PAY PLAN**

Pay Grade		1	2	3	4	5
A*	Hourly Wage 2080 Hours	14.57 30,295.72	15.02 31,233.80	15.66 32,576.96	16.32 33,941.44	16.96 35,284.60
B*	Hourly Wage 2080 Hours	15.61 32,470.36	16.32 33,941.44	17.03 35,412.52	17.73 36,883.60	18.44 38,354.68
C	Salary	34,418.15	35,981.87	37,545.82	39,111.17	40,675.12
	<i>effective 12/31/2010</i>	35,278.60	36,881.42	38,484.47	40,088.95	41,692.00
D	Salary	37,170.00	38,860.09	40,547.80	42,237.65	43,929.16
	<i>effective 12/31/2010</i>	38,099.25	39,831.59	41,561.50	43,293.59	45,027.39
E	Salary	40,793.95	42,647.83	44,501.45	46,356.50	48,211.29
	<i>effective 12/31/2010</i>	41,813.80	43,714.03	45,613.99	47,515.41	49,416.57
F	Salary	43,982.57	45,981.62	47,979.74	49,980.21	51,978.10
	<i>effective 12/31/2010</i>	45,082.13	47,131.16	49,179.23	51,229.72	53,277.55
G	Salary	47,170.94	49,315.67	51,459.21	53,601.34	55,746.06
	<i>effective 12/31/2010</i>	48,350.21	50,548.56	52,745.69	54,941.37	57,139.71
H	Salary	50,359.54	52,647.35	54,937.50	57,223.89	59,515.45
	<i>effective 12/31/2010</i>	51,618.53	53,963.53	56,310.94	58,654.49	61,003.34
I	Salary	53,546.98	55,981.39	58,414.38	60,847.84	63,282.24
	<i>effective 12/31/2010</i>	54,885.66	57,380.92	59,874.74	62,369.04	64,864.30
J	Salary	56,734.18	59,312.84	61,892.91	64,470.39	67,050.22
	<i>effective 12/31/2010</i>	58,152.54	60,795.66	63,440.23	66,082.15	68,726.48
K	Salary	59,923.97	62,646.87	65,371.20	68,092.93	70,817.24
	<i>effective 12/31/2010</i>	61,422.07	64,213.04	67,005.48	69,795.25	72,587.67
L	Salary	63,111.41	65,979.74	68,849.48	71,716.88	74,587.57
	<i>effective 12/31/2010</i>	64,689.20	67,629.23	70,570.72	73,509.80	76,452.26

\*Non-Exempt Positions

**SCHEDULE III  
LIBRARY POSITIONS**

Pay Grade	# of Positions	Classification Titles	Step				
			1	2	3	4	5
A1	3	Library Aide*	11.62	12.14	12.68	12.68	12.68
A2	5	Library Assistants*	12.63	13.20	13.79	14.35	14.92
A3	3	Library Technical Assistants*	14.35	15.02	15.66	16.32	16.96
	3	Library Associates*					
A4	1	Youth Service Librarian	34,418.15	35,982.10	37,545.82	39,111.17	40,675.12
		effective 12/31/2010	35,278.60	36,881.65	38,484.47	40,088.95	41,692.00
A5	1	Assistant Library Director	43,982.57	45,981.62	47,979.74	49,975.69	51,978.10
		effective 12/31/2010	45,082.13	47,131.16	49,179.23	51,225.08	53,277.55
A6	1	Library Director	56,734.18	59,312.84	61,892.91	64,470.39	67,050.22
		effective 12/31/2010	58,152.54	60,795.66	63,440.23	66,082.15	68,726.48

\*Non-Exempt Positions

**SCHEDULE IV  
WHITEWATER POLICE DISPATCH UNION**

Position	# of Positions	Effective Date	Step			
			1	2	3	4
Records Communications Coordinator	1	01/01/2010	18.01	18.96	19.95	20.18
<i>Per 2,080 Hours</i>			37,460.80	39,436.80	41,496.00	41,974.40
		07/01/2010	18.19	19.15	20.15	20.38
<i>Per 2,080 Hours</i>			37,835.41	39,831.17	41,910.96	42,394.14
Dispatch / Records Communications Aide	7	01/01/2010	16.20	17.04	17.94	18.12

6 @ Per 1947 Hours			31,541.4 0	33,176.8 8	34,929.1 8	35,279.64
1 @ Per 976 Hours			15,811.2 0	16,631.0 4	17,509.4 4	17,685.12
		07/01/20 10	16.36	17.21	18.12	18.30
6 @ Per 1947 Hours			31,856.8 1	33,508.6 5	35,278.4 7	35,632.44
1 @ Per 976 Hours			15,969.3 1	16,797.3 5	17,684.5 3	17,861.97
Parking/Community Support	1	01/01/20 10	14.70	15.48	16.30	16.46
Per 1872 Hours			27,518.4 0	28,978.5 6	30,513.6 0	30,813.12
		07/01/20 10	14.85	15.63	16.46	16.62
Per 1872 Hours			27793.5 84	29268.3 46	30818.7 36	31121.25 12

**SCHEDULE V  
AFSCME UNION**

Pay Grade	Classification Title	Step					
		1 0-11 mos.	2 12-23 mos.	3 24-35 mos.	4 36-47 mos.	5 48-59 mos.	6 60+ mos.
A	Chemist Assistant	12.27	12.87	13.48	13.48	13.48	13.48
B	Custodian/Groundskeeper  Per 2,080 Hours	14.60 30,359. 68	15.15 31,510.9 6	15.70 32,662.2 4	16.24 33,770.8 8	16.78 34,900.8 4	17.32 36,030.8 0
C	Laborer II  Per 2,080 Hours	17.06 35,476. 48	17.61 36,627.7 6	18.15 37,757.7 2	18.70 38,887.6 8	19.25 40,038.9 6	19.78 41,147.6 0
D	Building Maintenance  Per 2,080 Hours	19.10 39,719. 16	19.65 40,870.4 4	20.17 41,957.7 6	20.75 43,151.6 8	21.28 44,260.3 2	21.83 45,411.6 0
E	Engineering Technician Laborer I Laborer I - Mechanic Code Enforcement/Building Maintenance Water Operator - no	21.36	21.84	22.31	22.80	23.27	23.76



certification (1) Wastewater Operator - no certification (1) Wastewater Operator - Lab Technician no certification (1) <i>Per 2,080 Hours</i>	44,430. 88	45,432.9 2	46,413.6 4	47,415.6 8	48,396.4 0	49,419.7 6
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(1) Additional twenty cents (\$.20) per hour upon completion and receipt of Grade I certification and one (1) subgrade

**Grade**

**F:** Successful completion of Grade II and all Grade II subgrades required by Wisconsin Administrative Code for the City of Whitewater Wastewater Utility.

Wastewater Operator \$24.51 2 50,976.1

**Grade**

**G:** Successful completion of Grade IV and all Grade IV subgrades required by Wisconsin Administrative Code for the City of Whitewater Wastewater Utility.

Wastewater Operator \$24.76 2 51,509.1

**SCHEDULE VI  
WHITEWATER PROFESSIONAL POLICE ASSOCIATION UNION**

Position	# of Positions	Effective Date	Hourly Wage	<i>Per 2,080 Hours *Patrol (2,008 Hours)</i>
Sergeant*	4	01/01/2010	29.08	58,392.64
		07/01/2010	29.37	58,976.57
Detective Sergeant	1	01/01/2010	29.08	60,486.40
		07/01/2010	29.37	61,091.26
Detective	2	01/01/2010	27.80	57,824.00
		07/01/2010	28.08	58,402.24
Juvenile Officer	1	01/01/2010	27.80	57,824.00
		07/01/2010	28.08	58,402.24
Patrol Officer I*	13	01/01/2010	26.60	53,412.80
		07/01/2010	26.87	53,946.93
Patrol Officer II*		01/01/2010	24.11	48,412.88

	07/01/2010	24.35	48,897.01
Patrol Officer III*	01/01/2010	22.74	45,661.92
	07/01/2010	22.97	46,118.54

**SCHEDULE VII  
FIRE-RESCUE**

<b>Position</b>	<b># of Positions (Part-time)</b>	<b>Wage</b>
Fire-Inspector	6	\$11.00 per hour
Volunteer Fire	48	\$8.00 per call
Rescue Squad Captain	1	\$10.00 per call
Rescue Squad Lieutenant	4	\$9.00 per call
Rescue Squad Maintenance	1	\$100.00 per month
EMT Driver		\$15.00 1st hour + \$4 each addl. 15 minutes
EMT Basic		\$17.50 1st hour + \$4 each addl. 15 minutes
EMT Intermediate		\$20.00 1st hour + \$4.25 each addl. 15 minutes
EMT On-Call Pay		\$2.00 per hour
Fire Chief	1	\$15.00 per call
1st Asst. Fire Chief	1	\$13.00 per call
2nd Asst. Fire Chief	1	\$11.00 per call
Fire Vehicle Maintenance	5	\$50.00 per month

**SCHEDULE VIII  
PART-TIME EMPLOYEES**

<b>Position</b>	<b># of Positions</b>	<b>Effective Date</b>	<b>Hourly Wage</b>
Community Service Officer	2	01/01/2009	\$10.54
Neighborhood Services Officer	1	01/01/2009	\$10.54

**SCHEDULE IX  
PART-TIME SEASONAL EMPLOYEES**

<b>Position</b>	<b>Step</b>				
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
Election Officials	8.00	8.00	8.00	8.00	8.00
Crossing Guards	10.96	10.96	10.96	10.96	10.96
Cable TV Camera Operator	7.25	7.50	8.00	8.75	9.75
Adult Sport Officials	10.00	11.00	12.00	13.00	15.00
Activity Leaders	9.25	9.50	10.00	10.50	11.50
Program Attendants	7.25	7.50	7.75	8.00	8.25
Certified Instructors	10.00	11.00	12.00	13.00	15.00
Activity Instructors	7.75	8.00	8.25	8.50	8.75
Youth Sport Officials	20.00	21.00	22.00	24.00	25.00
Seasonal Labor	7.25	7.50	8.00	8.75	9.75

Resolution introduced by Councilmember Stewart. Seconded by Councilmember Taylor. AYES: Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Olsen. ADOPTED: April 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**2010 BUDGET TRANSFER RESOLUTION.**

2010 BUDGET TRANSFER RESOLUTION

WHEREAS, the Common Council of the City of Whitewater adopted the Budget Resolution for 2010 on November 17, 2009, setting forth the detailed estimates of revenues and expenditures required for the various purposes performed by the City,

AND WHEREAS, certain accounts have demonstrated a need for additional funds to adequately perform the service,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater that the following budget changes are authorized:

1) EXPENDITURES:

*Increase*

General Fund #100

General Administration	100.51400.xxx	\$ 5,582.00
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*Decrease*

Contingencies	100.51100.910	\$ <5,582.00>
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EXPENDITURES:

Water Utility Fund #610	610.xxxxx.xxx	\$ 744.00
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REVENUES

Retained Earnings	610.47493.61	\$ <744.00>
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EXPENDITURES:

Wastewater Utility Fund #620	620.xxxxx.xxx	\$ 744.00
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REVENUES:

Retained Earnings	620.48930.62	\$ <744.00>
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EXPENDITURES:

Stormwater Utility Fund #630	630.xxxxx.xxx	\$ 372.00
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REVENUES:

Retained Earnings	630.49930.63	\$ <372.00>
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To adjust for the following:

- a) Hiring of an Assistant to the City Manager starting April 26<sup>th</sup>.
- b) Elimination of Human Resources position as of April 2<sup>nd</sup>.

The budget amendment adjusts for the differences in salary and benefits between the two positions for 2010. The allocation is 75% general fund; 10% water utility; 10% sewer utility; 5% stormwater utility.

2) EXPENDITURES:

*Increase*

General Fund #100

General Administration	100.51400.xxx	\$ 3,623.00
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<i>Decrease</i>		
Contingencies	100.51100.910	\$ <3,623.00>
EXPENDITURES:		
Water Utility Fund #610	610.xxxxx.xxx	\$ 483.00
REVENUES:		
Retained Earnings	610.47493.61	\$ <483.00>
EXPENDITURES:		
Wastewater Utility Fund #620	620.xxxxx.xxx	\$ 483.00
REVENUES:		
Retained Earnings	620.49930.62	\$ <483.00>
EXPENDITURES:		
Stormwater Utility #630	630.xxxxx.xxx	\$ 242.00
REVENUES:		
Retained Earnings	630.49930.63	\$ <242.00>

To adjust for the payout of accumulated vacation and associated payroll taxes for the Human Resources position as of April 2, 2010.

IT IS FURTHER RESOLVED that no changes are made to the tax levy as originally made, and these changes represent shifts in income or expenditures actually experienced or anticipated.

Resolution introduced by Councilmember Stewart who moved its adoption. Seconded by Taylor. AYES: Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Olsen ADOPTED: April 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**AUTHORIZING OFFICIAL DEPOSITORIES.** The annual Resolution authorizing official depositories was presented.

**RESOLUTION AUTHORIZING OFFICIAL DEPOSITORIES**

WHEREAS, it is deemed necessary and expedient to designate official depositories for the City of Whitewater, Walworth and Jefferson Counties, Wisconsin.

NOW THEREFORE, it is hereby resolved by the Common Council of the City of Whitewater that the Commercial Bank, the First Citizens State Bank, Associated Bank, all in said City, be and the same hereby are, designated the official depositories for the City, as well as the State of Wisconsin-Local Government Investment Pool, and Wisconsin Class - LGIP. Additional depositories for investment purposes may include U.S. Bank of Milwaukee (formerly known as Firstar Bank), and Marshall & Isley Bank of Milwaukee

Resolution introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Taylor. AYES: Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Olsen. ADOPTED: April 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**AUTHORIZING OFFICIAL NEWSPAPER.** Councilmember Binnie had requested that approval of the annual Resolution authorizing the official newspaper be removed from the consent agenda. Binnie wanted to clarify that the State Law regarding official newspapers has been researched, and that the Law ties the Council's hands and gives the Council no choice except to use The Whitewater Register as the official newspaper. Binnie stated that in his opinion, the Whitewater Register does not serve the community well. Binnie indicated that he was voting to approve the official newspaper under protest.

**RESOLUTION ADOPTING WHITEWATER REGISTER AS OFFICIAL NEWSPAPER**

WHEREAS, it is deemed necessary and expedient to designate an official newspaper for the City of Whitewater, Walworth and Jefferson Counties, Wisconsin.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that The Whitewater Register be, and the same hereby is, designated the official newspaper of said City.

Resolution introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Winship. AYES: Winship, Binnie (under protest), Stewart, Kienbaum, Singer. NOES: Taylor. ABSENT: Olsen. ADOPTED: April 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING CHAPTER 2 ORDINANCE 2.04 ADMINISTRATIVE ORGANIZATION.**

Binnie noted that the ordinance indicates that the Department of Public Works shall be under the Director of Public Works who shall be the city manager or his designee. Binnie questioned whether it is being contemplated that the City Manager will also serve as Director of Public Works? City Attorney Wally McDonell explained if there is a vacancy in that position, the Ordinance puts the City Manager in charge. McDonell stated that is a fairly common practice. Binnie expressed concern about the manner in which it was written, believing it infers the possibility of being a long-term situation. City Manager Brunner feels the ordinance should be consistent with State Statutes. .

**AN ORDINANCE AMENDING CHAPTER 2.04  
ADMINISTRATIVE ORGANIZATION**

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

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

**2.04.010 Organization of City--Administrative Departments.**

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

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

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

(2) Department of Public Works. The Department of Public Works shall be under the supervision of the Director of Public Works who shall be appointed by the City Manager, and it shall be composed of the following divisions: Division of Streets and Sewers, and Division of Water.

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

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

(5) Department of Neighborhood Services. The Department of Neighborhood Services shall be under the supervision of the City Manager and shall be composed of the following divisions: Code Enforcement, Public Buildings, Zoning and Planning.

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

Ordinance introduced by Councilmember Binnie, who moved its adoption with the following amendments. The Director of Public Works who shall be appointed by the City Manager and on paragraph four, two paragraphs under two, the "of" should be taken out to read Police Department. Seconded by Councilmember Winship. AYES: Taylor, Stewart, Binnie, Winship, Kienbaum, Singer. NOES: None. ABSENT: Olsen DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING CHAPTER 2 ORDINANCE 2.08 CITY COUNCIL.** Councilmember Taylor was interested in changing the deadline for putting subjects on the Council Agenda. City Clerk Smith indicated that the deadline was based on the newspaper deadline, but could be changed as long as proper legal notice was given. City Attorney McDonell indicated that the deadline was

set quite some time ago to eliminate the option of items being added at the last minute. Councilmember Taylor also requested change to Section 2.08.060 of the ordinance “or in case of a tie, any member voting in the affirmative”. Councilmember Binnie stated that the proposed language is pretty standard, and a tie could occur if just one councilmember were absent. Binnie feels it is appropriate to have the opportunity to reconsider a subject. Taylor indicated that he is “irked” at the possibility of a 3-3 vote, and only a member voting in the affirmative can have it reconsidered. City Attorney McDonell stated that he believes if someone from the *prevailing* side decides to change their vote, later on they can do so by bringing it back to the next meeting. Binnie suggested bringing this back for the second reading after some research and if any more changes are needed, they can be changed at that time. Councilmember Binnie also recommended that the section relating to Council meetings on election weeks indicate that the meeting “may” be moved to a Thursday instead of indicating it will always be on a Thursday.

## **AN ORDINANCE AMENDING CHAPTER 2.08 CITY COUNCIL**

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

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

### **2.08.005 Councilmembers.**

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

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

### **2.08.010 Meetings.**

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

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

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

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

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

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

(A) Common council president reads the agenda title;

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

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

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

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



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

(B) The public hearing guidelines for the public input portion of the hearing shall include a five-minute time limit. There shall be a request of speakers not to make redundant comments unless the speaker is declaring his or her support of a prior speaker's comments. As much as possible, speakers shall be called upon to make comments first in support of and then in opposition to the public hearing proposal in alternating order. The president shall have the authority to give time extensions to a speaker, if in the judgment of the president the speaker needs more time to clarify his/her position.

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

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

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

#### **2.08.020 Presiding officer.**

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

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

#### **2.08.030 Roll call—Quorum.**

(a) Roll Call—Procedure When Quorum Not in Attendance. As soon as the council is called to order, the clerk shall proceed to call the names of the members in order of aldermanic district, noting who are present and who are absent and record the same in the proceedings of the council. If it shall appear that there is not a quorum present, the fact shall be entered in the

minutes and the council may adjourn, or the presiding officer or, in case of his absence, the president pro tem, and in his or her absence, the clerk may issue a request to appear in writing, to be delivered by a police officer or other city employee, requesting the immediate presence of any absent councilmember.

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

### **2.08.050 Conduct of deliberations.**

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

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

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

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

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

(5) A roll call shall be necessary on:

(A) All votes on resolutions and ordinances;

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

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

(D) When required by the statutes of Wisconsin;

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

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

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

**2.08.060 Reconsideration of questions.**

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

**2.08.080 Disturbances and disorderly conduct.**

Whenever any disturbance or disorderly conduct shall occur in any of the meetings of the common council, the president shall have power to cause the room to be cleared of all persons guilty of such disorderly conduct except councilmembers. In case any councilmember shall be guilty of disorderly conduct, the president or presiding officer shall have power to request that the police issue him or her a disorderly conduct citation.

**2.08.090 Appropriations and accounts.**

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

**2.08.100 Publication, construction and effect of ordinances.**

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

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

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

(d) The copies of ordinances, as printed and contained in this code shall be admitted in all

courts and on all other occasions in the state as evidence according to and as provided by Section 327.04 of the Wisconsin Statutes.

**2.08.110 Amendment of rules.**

Amendments of Chapter 2.08 shall require a two-thirds vote of all of the members of the council.

**2.08.120 Suspension of rules.**

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

Ordinance introduced by Binnie, seconded by Stewart, to change the word in paragraph 2.08.010 Meetings, second sentence to change the word from shall to may in regards to meetings being held on Thursdays. AYES: Stewart, Singer, Kienbaum, Taylor, Binnie, Winship. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING CHAPTER 2 ORDINANCE 2.12 CITY MANAGER.** Stewart requested that the Council receive copies of all applications for Board and Commission applicants, as well as a summary statement indicating why certain individuals were selected.

**AN ORDINANCE AMENDING CHAPTER 2.12  
CITY MANAGER**

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

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

**2.12.010 Executive and administrative powers.**

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

**2.12.011 Appointment of Board, Commission and Committee Members.**

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

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

**2.12.020 Authority to make purchases.**

The city manager shall have authority to make purchases and contract for services and supplies for up to Ten thousand Dollars (\$10,000) without the necessity of first securing approval from the common council. This authority is granted only on specifically budgeted items. This spending authority does not apply to the city's contingency account.

**2.12.030 Administrative referral of properly filed rezoning petitions.**

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

Ordinance introduced by Councilmember Stewart, who moved its adoption, to include a summary of all applicants along with a copy of their application. Seconded by Councilmember Binnie. AYES: Stewart, Binnie, Winship, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING CHAPTER 2 ORDINANCE 2.16 DEPARTMENT OF ADMINISTRATION.**

**AN ORDINANCE AMENDING CHAPTER 2.16  
DEPARTMENT OF ADMINISTRATION**

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

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

**2.16.010 Office of City Assessor.**

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

### **2.16.020 Finance Division.**

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

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

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

(d) A certified public accountant, duly licensed as such by the state of Wisconsin, shall be retained and hired by the city to make a full and complete examination and audit of the treasurer's accounts and books within six months after the close of the accounts and books at the end of each fiscal year. The accountant shall attach to the accounts and books a report to the Common Council as to their correctness.

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

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

### **2.16.030 Office of City Clerk.**

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

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

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

**2.16.040 Office of City Attorney.**

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

**2.16.050 Office of Chief Information Officer.**

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

**2.16.060 Office of Community TV and Media Services.**

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor. AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING CHAPTER 2 ORDINANCE 2.20 DEPARTMENT OF PUBLIC WORKS.**

**AN ORDINANCE AMENDING CHAPTER 2.20  
DEPARTMENT OF PUBLIC WORKS**

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

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

**2.20.010 Director of Public Works.**

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

**2.20.030 Director of Parks and Recreation.**

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

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

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

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**CREATE CHAPTER 2 ORDINANCE 2.22 NEIGHBORHOOD SERVICES DEPARTMENT.**

**ORDINANCE CREATING**  
**CHAPTER 2.22 NEIGHBORHOOD SERVICES DEPARTMENT**

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

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



## **2.22 Neighborhood Services Department.**

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

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

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING CHAPTER 2 ORDINANCE 2.24 FIRE DEPARTMENT.** Binnie stated that the sentence in Section 2.24.030, the second sentence, it would make sense to him to delete the rest of that sentence and leave it that “the fire chief has full control and command of all fire companies and apparatus at fires and whenever on duty or in use”. Also, under ambulance services, 2.24.095, c and d makes reference that the fire department is going to provide ambulance drivers to serve on call. To him, it sounds so non-skilled. Perhaps the term EMT, paramedics, or ambulance staff would be more appropriate. Councilmember Taylor expressed concern that the ordinance did not designate the Fire Department as “volunteer.” City Manager Brunner indicated that they do get paid per call, and technically Brunner would like to leave it as is as the situation could change at some time in the future.

### **AN ORDINANCE AMENDING CHAPTER 2.24 FIRE DEPARTMENT**

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

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

## **ARTICLE 1. FIRE DEPARTMENT.**

### **2.24.010 Generally.**

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

### **2.24.020 Fire department Officers.**

The Fire Department shall consist of the chief, a first assistant chief, a second assistant chief and one captain and one lieutenant for each hose company and for each hook and ladder company. The Fire Chief shall be the Chief Fire Warden and there shall be one Fire Warden at Large for the City.

### **2.24.030 Fire chief--Duties.**

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

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

### **2.24.040 Assistant chief--Duties.**

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

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

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

### **2.24.060 Fire department--Duties of company stewards.**

The company stewards shall be custodians of all apparatus, implements and property of the fire department and shall keep a list and record of the same and the disposition thereof; keep

the same in repair and ready for use; and account for the same. They shall report to the chief and be under his direction. They shall make a true inventory of all property of the department on hand on the first of January each year and report the same to the annual meeting of the members and shall file the same with the city clerk.

#### **2.24.070 Fire Inspector Duties**

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

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

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

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

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

#### **2.24.080 Fire apparatus outside city--Contracts authorized.**

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

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

#### **2.24.090 Fire apparatus outside city--Contract approved.**

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

(b) Inasmuch as the fire truck and equipment to be used in the fighting of rural fires is to be purchased by the fire department and paid for by it, all income and revenue derived from such contracts shall be paid to the Whitewater volunteer fire department.

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

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

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

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

#### **2.24.095 Ambulance services.**

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

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

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

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

Ordinance introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Stewart to change the second sentence of section 2.24.030 to read that the fire chief has full control and command of all fire companies and apparatus at fires and whenever on duty or in use and under ambulance services, section 2.24.095, to change the wording of ambulance drivers to serve on call to ambulance staff to serve on call. AYES: Winship, Kienbaum, Singer, Binnie, Stewart, Taylor. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**CREATE CHAPTER 2 ORDINANCE 2.24.096 AUTHORIZING VEHICLE ACCIDENT SITE RESPONSE CHARGES.**

**ORDINANCE CREATING SECTION 2.24.096 AUTHORIZING VEHICLE ACCIDENT SITE RESPONSE CHARGES**

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

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

2.24.096

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

(b) Charges Authorized. The City of Whitewater Fire Department is hereby authorized to charge fees to the owner and/or operator of a motor vehicle

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**CREATE CHAPTER 2 ORDINANCE 2.25 POLICE DEPARTMENT.**

**ORDINANCE CREATING  
CHAPTER 2.25 POLICE DEPARTMENT**

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

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

**2.25.100 Police chief--Powers and duties.**

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

**2.25.110 Police department--Membership.**

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

**2.25.111 Community service officer.**

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

**2.25.120 State law enforcement standards adopted.**

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor. AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**CREATE CHAPTER 2 ORDINANCE 2.26 HUMANE OFFICER.**

**ORDINANCE CREATING  
CHAPTER 2.26 HUMANE OFFICER**

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

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

**2.26.010 Humane officer--Duties.**

The Humane Officer shall be the police chief or his/her designee. He or she shall be responsible for the acceptance and pickup of lost, stray or injured pets, imposing charges and fines, and enforcement of regulations governing animals as provided by this code.

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor. AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING CHAPTER 2 ORDINANCE 2.28 FIRE AND POLICE COMMISSION.**

Councilmember Taylor indicated that the ordinance does not clarify the relationship between the Fire and Police Departments. Councilmember Taylor questioned why the word "Fire" was in the title of the Commission when the Commission does not oversee Fire Department in any way.

**AN ORDINANCE AMENDING CHAPTER 2.28  
FIRE AND POLICE COMMISSION**

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

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

**2.28.010 Created--Membership.**

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

**2.28.020 Appointment--Terms.**

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

**2.28.030 State statutes applicable.**

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

**2.28.040 Power and authority limited.**

The power and authority of the fire and police commission hereby created shall not extend any control whatsoever over the Whitewater volunteer fire department. This chapter shall not affect the organization of the Whitewater volunteer fire department as it existed heretofore, and the department is authorized to continue to operate on the same relationship with the city as it has prior to the adoption of the ordinance codified in this chapter.

Ordinance introduced by Councilmember Taylor, who moved its adoption. Seconded by Councilmember Winship. AYES: Winship, Binnie Kienbaum, Singer, Stewart, Taylor. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**REPEAL CHAPTER 2 ORDINANCE 2.32 DEPARTMENT OF PUBLIC HEALTH.**

**AN ORDINANCE REPEALING CHAPTER 2.32  
DEPARTMENT OF PUBLIC HEALTH**

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

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



**2.32 IS SET FORTH BELOW FOR INFORMATION PURPOSES ONLY.**

**2.32.010 Membership--General duties of health officer.**

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

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

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

**2.32.020 Health officer and city nurse--Appointment.**

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

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

**2.32.030 Health officer--Duties.**

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

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor. AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**NO PROPOSED CHANGES TO CHAPTER 2 ORDINANCE 2.36 MUNICIPAL COURT.**

Although reviewed as a part of the complete Chapter 2 review, no changes were requested for the existing Municipal Court ordinance.

**CHAPTER 2.36  
MUNICIPAL COURT**

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

**2.36.010 Court established.**

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

**2.36.020 Municipal judge--Office created.**

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

**2.36.030 Judge--Election--Term.**

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

**2.36.040 Judge--Salary.**

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

**2.36.050 Judge--Bond--Oath.**

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

**2.36.060 Judge--Jurisdiction.**

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

**2.36.070 Court--When open.**

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

**2.36.080 Court--Procedure.**

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

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

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

**2.36.100 Judge--Contempt power.**

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

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

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

**2.36.110 Contempt--Penalty.**

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

**2.36.120 Contempt--Accused to be heard.**

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**NO PROPOSED CHANGES TO CHAPTER 2 ORDINANCE 2.40 EMERGENCY MANAGEMENT.** The Committee reviewing the Chapter 2 ordinances reviewed the Emergency Management ordinance, and agreed that no changes were necessary.

**CHAPTER 2.40  
EMERGENCY MANAGEMENT**

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

**2.40.010 Declaration of policy.**

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

**2.40.020 Definitions.**

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

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

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

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

**2.40.030 Emergency management committee.**

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

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

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

#### **2.40.040 Coordinator of emergency management services.**

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

##### (1) Powers and Duties.

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

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

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

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

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

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

##### (2) Appointment and Term.

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

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

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

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

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

**2.40.050 Sharing of costs.**

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

**2.40.060 Utilization of existing services and facilities.**

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

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

**2.40.070 Penalties and enforcement.**

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

Ordinance introduced by Councilmember Winship, who moved its adoption.  
Seconded by Councilmember Taylor. AYES: Winship, Binnie, Stewart, Taylor,  
Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING CHAPTER 2 ORDINANCE 2.42 EMERGENCY JOINT ACTION FOR COUNTY AND CITY.**

**AN ORDINANCE AMENDING CHAPTER 2.42  
EMERGENCY JOINT ACTION FOR COUNTY AND CITY**

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

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

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

**2.42.010 Ordinance adopted.**

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

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor. AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**CHAPTER 2 ORDINANCE 2.44 EQUAL OPPORTUNITIES COMMISSION.**

Councilmember Binnie stated that this ordinance has never been utilized. He suspects that when the original ordinance was drafted, there probably wasn't the current extent of state and federal laws. Binnie indicated that the federal and state agencies deal with employment and housing issues daily and that the City is not equipped to deal with these complaints. He suggested either eliminating the Equal Opportunities Commission or merge it into Chapter 2.46, Disability Rights Commission, and address concerns over other types of discrimination. Councilmember Winship said combination of the Committees would be complicated, but he believes it can be done. Winship believes the Committee was set up in case someone had a complaint with the City. Winship believes that Council could set up the Committee once a complaint was received. Winship would like to see a revised Committee. Council President Singer suggested that City Attorney McDonell, Councilmember Winship and Councilmember Binnie get together to review the ordinance. No action was taken on the proposed ordinance.

**AMENDING CHAPTER 2 ORDINANCE 2.46 HANDICAPPED DISCRIMINATION COMMISSION RENAMING IT THE DISABILITY RIGHTS COMMISSION.**

No action was taken on this ordinance. Councilmembers Binnie and Winship, as well as City Attorney McDonell, will meet to review this ordinance, then bring back a revised proposal to the Council.

**AMENDING CHAPTER 2 ORDINANCE 2.52 PARK AND RECREATION BOARD.**

Taylor noted an error in Section 2.52.030(1), which states there are three citizens and he believes it should be four. It was also noted that item number 3 under b goes into great detail about the University representatives. Amundson noted that there is currently a representative from the Health, Sports and Recreation Department. He noted that past representatives have come from the Career Development Department, but the language could be changed to indicate the Chancellor or his designee. Councilmember Taylor requested that alternates on this Commission be utilized more.

**AN ORDINANCE AMENDING CHAPTER 2.52  
PARK AND RECREATION BOARD**

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

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

**2.52.010 Established.**

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

**2.52.020 Purpose.**

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

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

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

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



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

(2) Common council member;

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

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

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

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

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

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

#### **2.52.040 Organization.**

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

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

#### **2.52.050 Powers.**

The board shall have control and jurisdiction over all playgrounds, recreation centers and other places which have previously, or may in the future, be dedicated for the purpose of public recreation and given over to their control. The board shall furthermore have all powers listed at Section 27.08 of the 1967 Wisconsin Statutes and any amendment thereto as though specifically set forth herein. The board shall adopt rules and regulations which may be necessary to exercise said powers. All rules and regulations shall be subject to final approval by the common council. The board shall have the authority to enlarge the duties of the director of parks and recreation listed in Section 2.20.030(b) of this title, and to determine general policies of the program and the level of leadership employed.

**2.52.060 Selection of parks and recreation director.**

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

**2.52.070 Finances.**

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

**2.52.080 Reports.**

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

Ordinance introduced by Councilmember Taylor, who moved its adoption. Seconded by Councilmember Winship to change number 1 to read “District Administrator of the Whitewater Unified School District or his/her designated representative” and number 3 to read “University of Wisconsin – Whitewater Chancellor or his/her designee” along with letter c to take out the last part of the sentence to read “ The board shall also consist of four citizens who shall be appointed by the city manager appointment process pursuant to 2.12. AYES: Winship, Binnie, Stewart, Singer, Taylor, Kienbaum. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**NO PROPOSED CHANGES TO CHAPTER 2 ORDINANCE 2.53 BIRGE FOUNTAIN COMMITTEE.** The Chapter 2 Task Force reviewed the Birge Fountain Committee ordinance and feels it is accurate as is.

**CHAPTER 2.53  
BIRGE FOUNTAIN COMMITTEE**

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

**2.53.010 Established.**

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

**2.53.020 Purpose.**

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

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

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

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

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

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

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

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

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

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

#### **2.53.040 Organization.**

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

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

#### **2.53.050 Powers and duties.**

The committee shall have the following powers and duties:

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

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

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

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

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

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

### **2.53.060 Reports.**

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

## **AMENDING CHAPTER 2 ORDINANCE 2.56 LIBRARY BOARD.**

### **AN ORDINANCE AMENDING CHAPTER 2.56 LIBRARY BOARD**

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

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

#### **2.56.010 Membership.**

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**NO PROPOSED CHANGES TO CHAPTER 2 ORDINANCE 2.60 BOARD OF REVIEW.**

The Chapter 2 Task Force reviewed the Board of Review ordinance and finds no reason to make any changes.

**CHAPTER 2.60  
BOARD OF REVIEW**

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

**2.60.010 Membership.**

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

**2.60.020 Sessions.**

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

**2.60.030 Board of review information.**

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

(b) Confidential Information. Whenever the assessor, in the performance of the assessor's duties, requests or obtains income and expense information pursuant to Section 70.47(7)(af), Wis. Stats., or any successor statute thereto, then, such income and expense information that is

provided to the assessor shall be held by the assessor on a confidential basis, except, however, that the information may be revealed to and used by persons: in the discharging of duties imposed by law; in the discharge of duties imposed by office (including, but not limited to, use by the assessor in performance of official duties of the assessor's office and use by the board of review in performance of its official duties), or pursuant to order of a court. Income and expense information provided to the assessor under Section 70.47(7)(af), unless a court determines that it is inaccurate, is, per Section 70.47(7)(af), not subject to the right of inspection and copying under Section 19.35(1), Wis. Stats.

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor. AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**NO PROPOSED CHANGES TO CHAPTER 2 ORDINANCE 2.66 PUBLIC RECORDS.**

The Chapter 2 Task Force did not recommend any change to the Public Records ordinance.

**CHAPTER 2.66  
PUBLIC RECORDS**

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

**2.66.010 Definitions.**

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

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

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

the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

#### **2.66.020 Duty to maintain records.**

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

(b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefore to the officer or employee, who shall file the receipt with the city clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

#### **2.66.030 Legal custodian(s).**

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

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

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

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

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

#### **2.66.040 Public access to records.**

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



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

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

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

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

(1) The cost of photocopying each page shall be set by the city clerk and set forth on a schedule which shall be kept in the clerk's office. Any increase as determined by the clerk shall be subject to the approval of the common council. The cost will be calculated not to exceed the actual, necessary and direct cost of reproduction.

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

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

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

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

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

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

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

(f) Pursuant to Wisconsin Statutes Section 19.34, and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods

whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and costs thereof.

### **2.66.050 Access procedures.**

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

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

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

### **2.66.060 Limitations on right to access.**

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

- (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
- (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;
- (3) Computer programs, although the material used as input for a computer

program or the material produced as a product of the computer program is subject to inspection; and

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

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

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

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

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

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

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

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

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

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

(d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the city attorney prior to releasing any such record and shall follow the guidance of the city attorney when separating out the exempt material. If, in the

judgment of the custodian and the city attorney, there is no feasible way to separate the exempt material from the non-exempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

#### **2.66.070 Destruction of public records.**

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

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

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

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

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

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

#### **2.66.080 Preservation through microfilm.**

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING CHAPTER 2 ORDINANCE 2.70 PERSONNEL AND COMPENSATION RENAMING IT HUMAN RESOURCES AND COMPENSATION.**

**AN ORDINANCE AMENDING CHAPTER 2.70 PERSONNEL AND COMPENSATION RENAMING IT HUMAN RESOURCES AND COMPENSATION**

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

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

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**NO PROPOSED CHANGES TO CHAPTER 2 ORDINANCE 2.72 SPECIAL PROVISIONS – SALARIED EMPLOYEES.** No changes were requested in the Salaried Employees Section of Chapter 2.

**CHAPTER 2.72  
SPECIAL PROVISIONS – SALARIED EMPLOYEES**

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

**2.72.010 Existing conditions.**

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

### **2.72.020 Uniform allowance--Lieutenants.**

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

### **2.72.030 Worker's compensation--Lieutenants.**

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

### **2.72.040 Safety glasses--Superintendents.**

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Taylor. AYES: Winship, Binnie, Stewart, Taylor, Kienbaum, Singer. NOES: None. ABSENT: Olsen. DATED: April 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDMENT TO CHAPTER 5, SIDEWALK CAFÉ PERMITS.** A meeting between City Manager Brunner, Downtown Whitewater Director Brodnicki, DTWW President Geoff Hale, City Atty. McDonell, and Neighborhood Services Director Parker was held to update the Sidewalk Café ordinance. The group attempted to make the Ordinance as user friendly as possible. City Attorney McDonell stated that there have been a number of changes. It was acknowledged that some City staff members have reservation about the ordinance, particularly as it deals with alcohol beverages. However, it was agreed to try the proposed ordinance and see how it goes. City Attorney McDonell gave highlights of the changes, which eliminated the restriction for a Sidewalk Café to be limited to a restaurant; no documentation such as photos of furniture are required; outside food preparation is allowed subject to the approval of the Neighborhood Services Director; a barrier is not required unless alcohol is served (if alcohol is served, some barrier will be necessary). It is acceptable to order an alcohol beverage and walk outside with it as long as it is within the licensed area; it's also acceptable to have a temporary bar set up outside. McDonell's understanding was that Council wanted the ordinance to be lenient. Councilmember Binnie hopes that businesses will now proceed with implementing the sidewalk café, and that they prove themselves to be responsible. Councilmember Winship

agreed that by year end, when more experience is gained, additional information should be available. Councilmember Stewart felt the ordinance was too lenient. He felt that the requirement to sell food should remain in. He believes it is too casual. Councilmember Winship stated that a business must have a liquor license in order to have alcohol outside. Downtown Whitewater President Hale thanked City manager Brunner and City Attorney McDonell for their assistance. He reminded Council that this is on a six-month trial period. Hale stated that most businesses will be lucky to be able to fit two tables outside. Councilmember Binnie stated that the 10:00 p.m. ending time is significant, as the younger crowd is not frequenting taverns before that hour.

Ordinance introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Winship. AYES: Singer, Kienbaum, Taylor, Winship, Binnie. NOES: Stewart. ABSENT: Olsen. APPROVED: April 20, 2010.

Singer moved and Taylor second to expedite the Sidewalk Café Ordinance and **waive the second reading**. Stewart felt the ordinance merits a second reading to allow more time for the public to be apprised of the changes. AYES: Kienbaum, Taylor, Singer, Binnie, Winship. NOES: Stewart. ABSENT: Olsen. SECOND READING HAS BEEN SUSPENDED.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**CHANGING THE NAME OF INDIAN MOUND PARK TO WHITEWATER MOUNDS ARCHEOLOGICAL PRESERVE.** Councilmember Kienbaum said that several people have stated they are not in support of the name change. Park and Recreation Director Amundson indicated that the Statutes protect the mounds no matter what they are named. He noted it is a federal offense to disturb the ground in the park. Amundson stated that they were encouraged by the state archeologist to classify the park as an archeological site. Both the Ho-Chunk archeologist and the Wisconsin State archeologist have been involved with the group efforts. They have reviewed many things along with the name change with positive comments. Amundson stated through this process, there was a 30 day time period where people could make comments regarding this project and they heard only one comment. Amundson believes adequate time has been spent on the subject, which was started last October. He indicated there were several meetings held that were open to the public.

Landmarks Chair Mariann Scott stated that the Landmarks Commission has the responsibility to educate people on the Landmarks and to preserve Landmarks in the City. Scott stated that they want to add “preserve” because it’s a special area and we are lucky to have this as a part of our City. She said that the name is a special for a special site that deserves special attention.

Councilmember Binnie supports “preserve” as being part of the name, but isn’t as sure about the word “archeological.” Binnie felt we would be losing something if we took the word “Indian” out of the name. Binnie suggested “Whitewater Indian Mound Preserve.”

It was moved by Binnie and seconded by Winship to refer discussion on this subject to the Park and Recreation Board to allow them opportunity for additional discussion. AYES: Binnie, Singer, Stewart, Winship, Kienbaum, Taylor. NOES: None. ABSENT: Olsen.

**SECOND READING OF ORDINANCE TO CHANGE PARK HOURS FOR INDIAN MOUND PARK TO BE OPEN FROM SUNRISE TO SUNSET.**

**SECOND READING OF AN ORDINANCE AMENDING CHAPTER 7.38  
PROVIDING THAT WHITEWATER INDIAN MOUNDS PARK SHALL BE CLOSED  
FROM SUNSET UNTIL SUNRISE**

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

**SECTION 1:** Whitewater Municipal Code Chapter 7.38 Subsection 7.38.010 (a) is hereby amended to read as follows:

7.38.010(a) Closing of Parks. All city parks shall be closed from 12:00 a.m. to 6:00 a.m., except that Brewery Hill Park shall close at dusk, and Whitewater Indian Mound Park shall be closed from sunset until sunrise. A permit may be issued for use of the city parks at times other than that set forth herein. Said permit may be issued by the city clerk.

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

Ordinance introduced by Councilmember Stewart, who moved its adoption. Seconded by Councilmember Taylor. AYES: Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Olsen. ADOPTED: April 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**ORDINANCE AMENDING STANDARDS FOR REVIEWING ALCOHOL LICENSE APPLICATIONS.**

**SECOND READING OF AN ORDINANCE AMENDING SUBSECTION 5.20.027(A)  
STANDARDS FOR REVIEWING ALCOHOL LICENSE APPLICATIONS.**

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

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

**5.20.027 Licensing Standards for Considering New Alcohol License Applications.**



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

Ordinance introduced by Councilmember Stewart, who moved its adoption. Seconded by Councilmember Taylor. AYES: Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Olsen. ADOPTED: April 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**APPOINTMENT OF COUNCILMEMBER TO WAC STUDY BOARD.** City Manager Brunner received a request from the Whitewater Aquatic Center Board (“WAC”) to appoint two members of the Common Council to serve on a Committee to study the organization of WAC and to look at some long term financing options. Councilmember Taylor nominated Councilmembers Olsen and Winship as the Council representatives to the WAC Board. Councilmember Binnie seconded the nomination. AYES: Stewart, Singer, Kienbaum, Taylor, Winship, Binnie. NOES: None. ABSENT: Olsen.

**AWARD OF CONSTRUCTION BIDS FOR WHITEWATER INNOVATION CENTER.** City Manager Kevin Brunner stated the CDA and the Tech Park Board have met and have unanimously recommended award of the five prime bids of the Whitewater Innovation Center project. Dan Swanson, Executive Vice President of JP Cullen, was present to answer questions. Dan Swanson, JP Cullen and Sons, distributed more refined numbers from what the council already had. Construction management fees of \$285,436.000 have been agreed to through the original contract that was negotiated. Swanson explained specific bids as outlined in his hand out. City Manager Brunner recommended that an additional \$98,000 be reserved over and above the bids. Brunner noted that the bids were substantially under the amount budgeted. Brunner indicated that there are contractors involved from Janesville, Burlington, DeForest and Germantown. It was moved by Stewart and seconded by Binnie to award the contract for construction of the Innovation Center to JP Cullen of Janesville, along with their recommended subcontractors. AYES: Binnie, Winship, Kienbaum, Taylor, Stewart, Singer. NOES: None. ABSENT: Olsen.

**APPROVAL OF DELINQUENT ACCOUNT COLLECTION SERVICE AGREEMENT WITH WAUKESHA COUNTY.** Finance Director Doug Saubert requested approval to direct “new” delinquent collection accounts to the Waukesha County collection services. Saubert

indicated that 31 other counties in the State use Waukesha County for collection services. Saubert explained that this is primarily for delinquent ambulance bills and personal property taxes. Saubert indicated that the City will continue to use Margraf for accounts already assigned to them. Margraf of Fort Atkinson charges a 35% fee for their services while Waukesha County charges only 28%. Saubert confirmed that the City already utilizes the Tax Refund Interceptor Program prior to turning anything over to a Collection Agency. It was moved by Binnie and seconded by Stewart to approve the contract with Waukesha County for collection services, with the understanding the clarification of the last sentence of item 1b be provided. AYES: Singer, Binnie, Winship, Taylor, Stewart. NOES: Kienbaum. ABSENT: Olsen.

**DISCUSSION REGARDING ALDERMANIC DISTRICT 2 CAMPUS POLLING LOCATION AND POSSIBLE DIRECTION REGARDING SAME.** Councilmember Taylor commented on the low turnout at the 4/6/10 election in Aldermanic District 2. He is questioning how important this campus polling location is for his constituents. He noted that students fought hard to have this campus polling location established. Taylor noted that while there were over 1,600 voters in the November 2008 Presidential election, there were only 26 voters at the 4/6/2010 election. Taylor questioned whether all polling places should be moved back to the Downtown Armory or suggested that the elections be advertised better.

Councilmember Singer commented he has spoken with a few of the poll workers. It seems the general consensus is to have the Presidential and Governor elections held at the campus. This would be every two years and possibly starting this in November of 2012. We would have to re-negotiate the Memorandum of Understanding with the University. Singer indicated that Aldermanic District 2 would still be on campus for the Gubernatorial election in November. Singer is supportive of this move for both Aldermanic District 2 and Ward 10. Councilmember Winship stated that since moving Aldermanic District 2 to the campus, there was a 25% increase in the amount of Aldermanic District 2 vote for the Presidential election. Winship requested keeping the Presidential Primary on campus. Councilmember Stewart acknowledged that there is a continuous learning process involved since students are here for only a few years. Stewart suggested that the Student Government have an information program for all elections. Stewart reminded Council that the Student Government committed \$10,000 to movement of Aldermanic District 2 to the UWW campus. Stewart stressed that the Student Government must be involved in making the additional polling place successful. Councilmember Taylor agreed, but stated that when the plan was first implemented in 2007, student government officers were different. Councilmember Stewart also commented that the walking distance from Wells Hall to the Hamilton Room is about the same distance as the walk from Wells Hall to the Armory. It was moved by Singer and seconded by Winship to direct City staff (Clerk and Manager) to renegotiate an amendment to the Memoranda of Understanding between the City and the University, to hold elections on campus for only Presidential, Gubernatorial and Presidential Primaries. A request to bring the changes back to Council for approval was made. AYES: Singer, Binnie, Winship, Taylor, Kienbaum, Stewart. NOES: None. ABSENT: Olsen.

**COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS.** Winship would like the council to revisit the issue of sidewalks or bike trails on Tratt St. from the trailer park. Brunner stated this will be part of the Capital Improvement Plan that is coming up. Stewart suggested looking at a couple of ordinances to review them and amend if necessary. Taylor

would like to hear a report from the City Manager how each board and commission have alternates, and how we go about calling them as needed. He also had a downtown business owner talk to him regarding the size of a sign and what is allowed outside of a window. Taylor also mentioned a friend who was involved in an accident where his friend was not at fault, yet the City sent a bill to his friend. He would like to discuss this policy. Binnie stated the council just discussed and passed this ordinance not too long ago. Kienbaum would like to know what the Finance Director does.

**ADJOURN.** Being no further business to come before the meeting, it was moved by Stewart and seconded by Winship to adjourn the meeting. AYES: Taylor, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Olsen. The meeting adjourned at 9:30 p.m.

Respectfully Submitted,

Michele R. Smith  
City Clerk