

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

July 20, 2010

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

It was moved by Olsen and seconded by Winship to approve the Council minutes of 5/18/10, 6/1/10, and 6/15/10; and to acknowledge receipt and filing of the following: CDA Minutes of May 24, 2010; Irvin L. Young Memorial Library Board Minutes of May 10, 2010 and June 14, 2010; Plan and Architectural Commission Minutes of May 10, 2010 and June 14, 2010; Financial Reports for June, 2010; Whitewater Landmarks Commission Minutes of May 5, 2010; Police Department Consolidated Monthly Report for May, 2010; Park and Recreation Minutes of June 7, 2010; University Technology Park Board Minutes of 3/2/10; 3/12/10; and 6/7/10. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**APPROVAL OF PAYMENT OF INVOICES:** It was moved by Olsen and seconded by Winship to approve payment of city invoices in the total sum of \$224,173.70. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**STAFF REPORTS:** City Manager Brunner introduced Suzanne Wade, who presented a WaterStar award. It was noted that the award is given to municipalities that have met certain criteria, and is a difficult award to receive. The award was presented to Water Superintendent Rick Lien and City of Whitewater. Park and Recreation Director Amundson gave an update on the Department of Transportation trail expansion.

**CITIZEN COMMENTS:** Resident Fred Kraege expressed concerns about poorly planned development in the Gault and Caine Street areas.

**COMMON COUNCIL ANNOUNCEMENTS:** None

**RESOLUTION ACCEPTING DONATION OF LAND FROM JEAN TROST FOR PARKLAND PURPOSES.**

**RESOLUTION ACCEPTING THE DONATION OF  
PARKLAND FROM JEAN TROST**

**WHEREAS,** Jean Trost has generously offered land to the City of Whitewater to be dedicated as a park named in honor of Raymond Trost, and

**WHEREAS,** the dedication of this land as a park would add a desirable area for the public's use and enjoyment, and

**WHEREAS,** the conditions of the gift are reasonable, and

**WHEREAS,** the Park and Recreation Board has recommended that the City Council accept the gift. Now, therefore, **BE IT RESOLVED** as follows:

1. The City of Whitewater, subject to the approval of the City of Whitewater Plan and Architectural Review Commission, hereby accepts the offer of Jean Trost to dedicate parkland to the City of Whitewater with the conditions set forth in her offer letter attached hereto.
2. The City of Whitewater hereby waives the park naming policy for this park.

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

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**RESOLUTION EXPANDING LICENSED PREMISES (CLASS B BEER AND LIQUOR) FOR RICK'S EAST SIDE PUB FOR ONE-DAY POLKA PARTY EVENT.**

**RESOLUTION GRANTING PERMISSION FOR AN EVENT TO BE HELD AT RICK'S EASTSIDE PUB, 561 E. MILWAUKEE STREET, WHITEWATER, WISCONSIN.**

WHEREAS, Rick's Eastside Pub is currently licensed and zoned to allow the service of alcohol within its building located at 561 E. Milwaukee Street, Whitewater, Wisconsin; and

WHEREAS, Rick's Eastside Pub plans to hold a unique event on its premises, which includes the use of portions of its outdoor property for the service of alcohol beverages,; and

WHEREAS, the event will offer a unique entertainment opportunity for the City of Whitewater and will likely attract persons from outside of the City and State to attend the event.

NOW THEREFORE, be it resolved as follows:

1. Rick's Eastside Pub is hereby granted permission to serve alcohol beverages outdoors at an event to take place on August 1, 2010, at its premises located at 561 E. Milwaukee Street during the hours of 12:-00 noon until 7:00 p.m.
2. The area where alcohol is served shall be enclosed by a double fence, unless both the Chief of Police and the Neighborhood Services Director approve in writing some other type of enclosure. Outdoor alcohol service shall be limited to a 30 X 50 foot area on the east side of the building and a 20 X 20 foot area on the south side of the building, unless a different area is approved in writing by the Chief of Police and the Neighborhood Services Director.
3. Also, the Chief of Police and the Neighborhood Services Director may impose additional conditions to promote the health and safety of the event.

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

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**REZONING OF PROPERTIES ON ESTERLY AVENUE, NORTH FRANKLIN STREET, PARK STREET AND STARIN ROAD.**

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

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

**SECTION 1:** The Non-Family Residential Overlay District (Chapter 19.25) is hereby imposed upon the following described properties:

122 – 280 N. Esterly Ave.  
115 – 282 N. Franklin St.

451 – 633 W. Starin Rd.  
105 – 281 N. Park St.

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

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

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Binnie. AYES: Singer, Stewart, Binnie, Winship, Olsen. NOES: Kienbaum. ABSENT: None. FIRST READING APPROVED: July 20, 2010. **It was then moved by Winship and seconded by Binnie to waive the requirement for a second reading of this ordinance.** AYES: Singer, Stewart, Binnie, Winship, Olsen. NOES: Kienbaum. ABSENT: None. ADOPTED: July 20, 2010.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

**ORDINANCE CREATING CH. 19.485, LARGE RETAIL AND COMMERCIAL DEVELOPMENT STANDARDS.**

**ORDINANCE CREATING CHAPTER 19.485  
LARGE RETAIL AND COMMERCIAL SERVICE DEVELOPMENT STANDARDS**

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

Section 1: Whitewater Municipal Code, Chapter 19.27.030(P) [B-1 district conditional uses], is hereby repealed and recreated to read as follows:

- P. Large Retail and Commercial Service Developments, as described and regulated in Chapter 19.485.

Section 2: Whitewater Municipal Code, Chapter 19.33.030(P) [B-3 district conditional uses], is hereby repealed and recreated to read as follows:

- P. Large Retail and Commercial Service Developments, as described and regulated in Chapter 19.485.

Section 3: Whitewater Municipal Code, Chapter 19.485, Large Retail and Commercial Service Development Standards is hereby created to read as follows:

**19.485.010 Title**

This section shall be known, cited, and referred to as the Large Retail and Commercial Service Development ordinance.

**19.485.020 Description**

A Large Retail and Commercial Service Development is a development comprised of one or more contiguous parcels or building sites for a single retail or commercial service enterprise or for multiple such enterprises within which the total combined floor and surface area of all indoor retail and/or commercial activities, associated enclosed or outdoor storage, and associated outdoor display exceeds 20,000 square feet. The requirements of Chapter 19.485 are applicable to any new, altered or expanded establishment or group of establishments that meet or exceed the above floor and surface area threshold, where a complete application for conditional use permit or PCD zoning is filed after the effective date of this ordinance. The vacant building provisions set forth in 19.485.040 F. 18. shall also apply to Large Retail and Commercial Service Developments that were constructed prior to the effective date of this ordinance.

### **19.485.30 Conditional Use Permit or PCD Approval Required.**

- A. Aside from where allowed under an approved PCD district, Large Retail and Commercial Service Developments shall require a conditional use permit within any district in which they are allowed per other chapters in this Title. All additions to structures, parking, or storage areas that are part of an approved Large Retail and Commercial Service Development shall require an amendment to the conditional use permit or the previously approved PCD plans, per the associated requirements for such amendments in this Title.
- B. Subsequent changes to individual land uses listed as permitted uses within the applicable zoning district (for example, a new tenant in a pre-existing retail space) are permitted without amendment to the associated Large Retail and Commercial Development conditional use permit or PCD specific implementation plan, unless said conditional use permit or PCD plan placed restrictions on such change of use.
- C. Subsequent individual land uses following initial approval of the development allowed only by conditional use permit in the zoning district or approved PCD specific implementation plan may be allowed only under a subsequent conditional use permit for the specific use, regardless of whether said use entails modifications to the building and/or site layout.

### **19.485.040 Regulations.**

In addition to applicable zoning district standards and other applicable standards of this Title, each Large Retail and Commercial Service Development shall meet the following additional standards, as may be applicable given the size of each such Development:

- A. **Large Retail and Commercial Service Development Questionnaire.** A Large Retail and Commercial Service Development questionnaire shall be fully completed when a development reaches or exceeds the defined threshold for such a questionnaire established in Figure 19.485(2). The completed Large Retail and Commercial Service Development questionnaire shall specifically address compatibility with the City's comprehensive plan and detailed neighborhood, recreation, and other applicable plans, and follow the format included as Figure 19.485(3), subject to amendments by the Zoning Administrator as appropriate, and with attachments included as the Administrator determines necessary.
- B. **Traffic Impact Analysis.** A traffic impact analysis is required when a development reaches or exceeds the defined threshold for such an analysis outlined in Figure 19.485(2), and may be required by the City Director of Public Works for projects below that threshold if there is initial evidence to suggest that existing roads in the area may not be adequate to accommodate additional traffic demands. The traffic impact analysis shall be completed in accordance with standards approved by the City Director of Public Works, or where he/she does not approve a particular standard, with the most current revision of the Traffic Impact Analysis Guidelines published by the State of Wisconsin Department of Transportation. Where the Traffic Impact Analysis indicates that the proposed development may cause off-site public roads, intersections, or interchanges to function below level of service (LOS) D, then the City may deny the application, may require a size reduction in the proposed development, and/or may require the developer to construct and/or pay for required off-site improvements to achieve LOS D for a planning horizon of a minimum of ten years following full build-out of the Development. All such Developments shall have direct access to an arterial or collector street. Vehicle access shall be designed to accommodate peak on-site traffic volumes without disrupting traffic on public streets or impairing pedestrian safety. This shall be accomplished through adequate parking lot design and capacity; access drive entry throat length, width, design, location, and number; traffic control devices; and/or sidewalks. The site design shall provide direct transportation connections to adjacent land uses and sites if required by the City.
- C. **Economic and Fiscal Impact Analysis.** An economic and fiscal impact analysis is required when a Development reaches or exceeds the defined threshold for such an analysis outlined in Figure 19.485(2). The economic and fiscal impact analysis shall include all of the items identified in Figure 19.485(4) and

meet the following requirements:

1. The analysis shall identify and assess the economic and fiscal impacts on the City.
2. The analysis shall propose measures to mitigate adverse impacts and/or maximize positive impacts, including provision of infrastructure or public service improvements sufficient to support the Development. Any adverse impacts that cannot be mitigated shall be identified. Mitigation measures to be implemented by the applicant shall be identified.
3. If required by the Zoning Administrator, the applicant shall provide the necessary funding to the City to hire a consultant of the City's choice, with appropriate experience to complete and present an objective economic and fiscal impact analysis to the City.

D. **Detailed Neighborhood Plan.** A detailed neighborhood plan is required when a Development reaches or exceeds the defined threshold for such a plan outlined in Figure 19.485(2). Such neighborhood plan shall cover any undeveloped areas within a 1,500 foot radius from the boundaries of the Development site (except where a lesser radius is approved by the Zoning Administrator) and be prepared to a recognized scale. The detailed neighborhood plan must be completed by the City or applicant prior to the application for conditional use permit or rezoning, and submitted or referenced with such application. The detailed neighborhood plan shall include a map of sufficient detail to establish the potential future mix and development of land uses based on the City's comprehensive plan and the relationship of surrounding lands to the Large Retail and Commercial Service Development with regard to provision of streets, driveways, bicycle/pedestrian routes, utilities, stormwater management, landscape transitions, setbacks, and community design and character, and general layout, all in a manner that is consistent with the City's comprehensive plan.

E. **Facilities and Associated Features.** The following requirements are applicable when a Large Retail and Commercial Service Development reaches or exceeds the defined threshold for such facilities and associated features outlined in Figure 19.485(2):

1. **Building Location.**

Wherever practical, as determined by the Plan and Architectural Review Commission based on the particular setting, the primary building within the Development shall be located close to the public street, including parking to the side or rear of that building. Where such primary building is proposed to be distant from the public street, the Commission may require that the overall development design include smaller buildings on pads or outlots closer to the street. All buildings on outlots shall have an orientation and architectural quality that relates to the primary building. Placement and orientation of all buildings must facilitate appropriate land use transitions and appropriate traffic flow to adjoining roads and to neighboring commercial areas, commercial sites, and neighborhoods, and must forward community character objectives described in the City's comprehensive plan. Also see Section 19.485.040 E.7. below for requirements associated with the location of parking lots.

2. **Building Materials.**

Exterior building materials shall be of comparable aesthetic quality on all sides. Building materials such as glass, brick, stone, tinted and decorative concrete block are preferred, with wood, stucco, and exterior insulation and finish systems (EIFS) also permitted, as determined appropriate by the Plan and Architectural Review Commission. Decorative architectural metal with concealed fasteners or decorative tilt-up concrete panels may be approved only if integral to the overall design of the building. Windows shall be prominently incorporated into the building design for both aesthetic and daylighting effect.

3. **Building Design.**

The building exterior shall complement other buildings in the vicinity (except those buildings identified for redevelopment), and shall meet the following:

- a. The building shall employ varying façade setbacks, heights, roof treatments, doorways, window openings, and other structural or decorative elements to reduce apparent size and scale of the building and to add architectural interest.
- b. A minimum of 20 percent of the building's facades that are visible from a public street shall employ actual façade protrusions or recesses with a depth of at least six feet. No uninterrupted façade without protrusions or recesses shall extend more than 100 feet in length.
- c. A minimum of 20 percent of all of the combined linear roof eave or parapet lines of the structure shall employ differences in height, with such differences being six feet or more as measured eave to eave or parapet to parapet.
- d. Roofs with particular slopes may be required to complement existing buildings in the vicinity or otherwise establish a particular aesthetic objective.
- e. Ground floor facades that face public streets shall have some combination of arcades (a series of outdoor spaces located under a roof or overhang and supported by columns or arches), display windows, entry areas, awnings, or other such features along no less than 50 percent of the horizontal length of such façades.
- f. The integration of windows into building design is required. Windows shall be transparent glass wherever the Plan and Architectural Review Commission determines it practical. The use of blinds, spandrel (reflecting) glass, or display windows shall be acceptable where there is a determination that opacity is required. Backlighting of such windows may be required in such instances.
- g. Building facades that are visible to the public shall include a repeating pattern that includes no less than three of the following elements: (i) color change, (ii) texture change, (iii) material modular change, (iv) expression of architectural or structural bay through a change in plane no less than 24 inches in width, such as an offset, reveal or projecting rib. At least one of these elements shall repeat horizontally.

#### 4. Building Entrances.

Public building entrances shall be clearly defined and highly visible on the building's exterior design, and shall be emphasized by, and be the focal point for, on-site traffic flow patterns. Two or more of the following design features shall be incorporated into all public building entrances: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, or outdoor patios.

#### 5. Building Colors.

Building facade colors shall be non-reflective, subtle, neutral, or earth tone. The use of high intensity colors, metallic colors, fluorescent colors or black on facades shall be prohibited. Building trim and architectural accent elements may feature bright colors or black, but such colors shall be muted, not metallic, not fluorescent, and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on signage, unless such corporate colors meet the preceding building façade color standards.

#### 6. Screening.

- a. All ground-mounted and wall-mounted mechanical equipment, refuse containers and any permitted outdoor storage shall be fully concealed from on-site and off-site ground level views, with materials identical to those used on the building exterior facades.

- b. All rooftop mechanical equipment shall be screened by parapets, upper stories, and/or strategic placement relative to exterior walls or roofs, so as to not be visible from public streets adjacent or within 1,000 feet of the subject property.
  - c. Loading docks shall be completely screened from surrounding public streets and properties. Said screening may be accomplished through loading areas internal to buildings, screen walls which match the building exterior in materials and design, fully opaque landscaping at time of planting, or combinations.
  - d. Gates and fencing may be used for security and access, but not for screening, and they shall be of high aesthetic quality. Decorative metal picket fencing and screening is acceptable. Chain link, wire mesh, or wood fencing is unacceptable, except that decorative, heavy-duty wood gates may be used.
7. Parking.
- a. All parking lots shall be designed in accordance with Chapter 19.51 of this Title.
  - b. Parking lots in which the number of spaces significantly exceeds the minimum number of parking spaces required for the specific use or uses in Section 19.51.130 shall be allowed only with specific and reasonable justification provided by the applicant within the application.
  - c. Parking lots shall be designed to create distinct parking areas of not more than 120 parking stalls each through use of landscaped and curbed medians and islands, a minimum of ten feet in width from back-of-curb to back-of-curb. Each landscaped island shall be a minimum of 360 square feet in landscaped area; and landscaped islands shall be spaced at intervals no greater than one island per every 20 spaces in that aisle. Each landscaped island shall be planted with a minimum of one deciduous tree.
  - d. Wherever site conditions allow, the Plan and Architectural Review Commission may require some or all parking to be oriented to the side and/or rear of the primary building within the Development, allowing the building to be located closer to the public street. Applicants proposing to locate the majority of parking between the primary building and the public street shall submit information along with their application identifying the reasons why more or all parking may not be located to the side or rear of the principal building, either through a change in parking location, change in building location, or both.
8. Bicycle and Pedestrian Facilities.
- a. The entire Development shall provide for safe pedestrian and bicycle access to all uses within the Development, connections to existing and planned public sidewalks and other pedestrian and bicycle facilities, and connections to adjacent properties.
  - b. Pedestrian walkways shall be provided from all building entrances to existing or planned public sidewalks or other pedestrian and bicycle facilities. The minimum width for sidewalks adjacent to buildings shall be eight feet; and the minimum width for sidewalks elsewhere in the Development shall be five feet.
  - c. Sidewalks internal to the Development shall have adjoining landscaping along at least 50 percent of their length, and may be required to be provided with pedestrian-scale lighting.
  - d. Crosswalks within parking and driveway areas shall be distinguished from driving surfaces to enhance pedestrian safety by using different pavement materials, color, and/or texture in combination with signage.

- e. The Development shall provide secure, attractive, integrated bicycle parking. For Developments with fewer than 100 motor vehicle parking stalls, the minimum number of bicycle parking spaces shall not be less than 10 percent of the number vehicle parking stalls. For Developments with 100 or more motor vehicle parking stalls, the minimum number of bicycle parking spaces shall not be less than 5 percent of the number of motor vehicle parking stalls. The inverted-U type bike rack is the preferred design, except where the City or applicant is attempting to advance a particular design theme for the area. Each inverted-U may count as two bicycle parking spaces.
- f. All bicycle parking racks shall be located within 50 feet of the main building entrance (except where secondary bicycle parking areas are located close to a separate employee entrance) and placed in a visible, well-lit, hard-surfaced, and accessible location at least 30 inches from the nearest building wall. At least one-half of all bicycle parking spaces shall be covered by a building canopy, arcade, or other shelter.
- g. The Development shall provide exterior pedestrian furniture in appropriate locations at a minimum rate of one seat for every 20,000 square feet of floor area (per the measurement method in Section 19.485.020). In addition, a minimum of four seats shall be located within the store, with a clear view through exit doors to a passenger pick-up or drop-off area.

9. Central Areas and Features.

Each Development exceeding 80,000 square feet in floor area (per the measurement method in Section 19.485.020) shall provide central area(s) or feature(s) such as a patio/seating area, pedestrian plaza with benches, outdoor playground area, water feature, and/or another such deliberately designated outdoor area or focal point that adequately enhance the Development or community. Such area shall be openly accessible to the public, connected to the public and private sidewalk system, designed with materials compatible with the primary building and remainder of the site, and maintained over the life of the Development.

10. Cart Returns.

A minimum of one 200-square foot cart return area (corral) shall be provided for every 100 parking spaces. Cart corrals shall be of durable, non-rusting, all season construction, and shall be designed and colored to be compatible with the building and parking lot light standards. There shall be no exterior cart return or cart storage areas located within 25 feet of any building.

11. Outdoor Display Areas.

Exterior sales and display areas—whether permanent or seasonal—shall be permitted only where clearly depicted on the approved site plan associated with the Development. All exterior display areas shall be separated from motor vehicle routes by a physical barrier visible to drivers and pedestrians, and by a minimum of ten feet. Display areas on sidewalks directly in front of buildings building must maintain a minimum walkway width of eight feet between the display items and any vehicle drives.

12. Outdoor Storage Uses and Areas.

Exterior storage structures or uses, including the parking or storage of service vehicles, trailers, equipment, containers, crates, pallets, merchandise, materials, fork lifts, trash, recyclables, and all other items shall be permitted only where clearly depicted and labeled on the approved site plan. Such outdoor storage uses and areas shall be appropriately screened as required by Title 19.

13. Landscaping.

On-site landscaping shall be provided at time of building occupancy (except as allowed under Section 19.66.060), shall meet all applicable landscaping guidelines approved by the City Council or Plan and

Architectural Review Commission, and shall be maintained per the requirements of such guidelines and Title 19 over the life of the Development.

14. Lighting.

On-site exterior lighting shall meet all the standards of Title 19. In addition, the color and design of pole lighting standards shall be compatible with the primary building in the development and the public lighting in the area, and shall be uniform throughout the entire Development site.

15. Signage.

In addition to meeting the applicable requirements of Title 19, a signage plan for all exterior signage shall provide for coordinated and complementary exterior sign locations, configurations, and colors throughout the Development. Combined signs for multiple users may be required instead of multiple individual signs. The City may require the use of muted corporate colors on signage if proposed colors are not compatible with the City's design objectives for the area.

16. Environmental Sustainability, Natural Resources Protection, and Stormwater Management.

Natural Resources shall be protected in accordance with Title 19. In general, existing natural features shall be integrated into the site design as a site and community amenity. Each project shall meet the erosion control and stormwater management standards found in Title 16 of the Municipal Code and other applicable City ordinances.

Each Development shall intentionally incorporate into site and building design elements that contribute to the long-term environmental sustainability of the Development and the City, as such terms are described in the City's comprehensive plan. Each Development shall provide at least one-half of the following sustainability features:

- a. Reuse an existing, previously developed building and/or site.
- b. Utilize one or more rain gardens or bioswales, as described in the City of Whitewater Landscaping Guidelines, to capture and manage stormwater.
- c. Install a green roof or roof-top garden.
- d. Incorporate stormwater management facilities that are designed to both serve their primary function and appear as natural features that can serve as attractive focal points for the Development.
- e. Install native/naturalized landscaping that minimizes requirements for irrigation/watering and provides natural habitat.
- f. Install systems that allow for the capture and later use of rainwater to water landscaping and for other permitted functions.
- g. Deliberately design/retrofit the primary building with energy efficient systems, such as lighting, refrigeration, and HVAC systems.
- h. Integrate solar, geothermal, wind, or other on-site energy generation into the site and/or building design.
- i. Utilize paving and/or roof materials with a solar reflectance index of at least 29 for a minimum of 50% of the combined pavement and roof area on the site.
- j. Purchase a minimum of 50% of the Development's energy from renewable sources, such as wind or solar.
- k. Recycle of a minimum of 75% of the waste generated during building/site construction.
- l. Utilize a minimum of 25% recycled materials for building construction.
- m. Utilize a minimum of 50% regional materials for building construction (extracted, harvested, or recovered, and manufacturing from within 500 miles of the development site).
- n. No more than two additional sustainability features not listed above but approved by the Plan and Architectural Review Commission to meet the City's sustainability objectives, not including any feature already required by another section of this Chapter.

17. Vacation of Existing Buildings in Large Retail and Commercial Service Developments.

- a. Where any Large Retail or Commercial Service Development that has 50,000 or more square feet of floor area is vacated because the commercial use (sale of goods or merchandise at the building) conducted thereon is being relocated to a different building, the party shall be subject to the following provisions:
  - i. The party that vacated the site shall not impose limits on the type of reuse of the vacated site through conditions of sale or lease.
  - ii. The development agreement for the new Development at the new site shall include provisions therein whereby the developer of the new site commits to the requirements contained herein.
  
- b. In addition to the above, any building within Large Retail or Commercial Service Development that has 20,000 or more square feet of floor area and is vacated for any reason shall be subject to the following provisions:
  - i. The owner must file with the City a written statement as to the names, phone numbers, and addresses for all persons who are in control of the property and building.
  - ii. The owner shall be required to meet the requirements defined in Figure 19.485(1). based on the amount of time the building remains vacant:

**Figure 19.485(1): Steps for Addressing Building Vacancy**

<b>Period of Time Building is Vacant</b>	<b>Requirement</b>
Within 1 Year of Vacancy	Install a fire department Knox Box for annual fire inspection.
Within 3 Years of Vacancy	City may require owner to paint the building a neutral color.
Within 5 Years of Vacancy	City may require the removal of all hard surfaces, with the exception of the main driveway and fire lane around the building, restore the former hard surfaced areas with black dirt and grass, or any combination of the above.

- iii. Within the first quarter of each year of vacancy, the owner shall provide the Zoning Administrator with a statement as to the condition of the building and prospects for removal or re-occupancy of the building(s).
  - iv. At any time following vacancy, the City may utilize other enforcement options available to it to ensure property maintenance and upkeep of the building and site.
  - v. Temporary occupancy of the building(s) and/or the exterior grounds for period of 365 consecutive days or less shall not be considered to remove the vacancy status of the building under this section.
18. Development Agreement. The developer shall enter into a development agreement with the City which shall include the payment of all utilities including but not limited to stormwater, sanitary sewer, and street infrastructure. Off-site improvements may also be required as part of the development agreement.
19. Exceptions. In the event the applicant desires a deviation or exception from the requirements of this Section, the applicant shall present justification for such deviation or exception, including but not limited to preexisting conditions on a redevelopment site, which may be approved or denied by the Plan and Architectural Review Commission.

**Figure 19.485(2): Thresholds for Large Retail and Commercial Service Development Requirements**

<b>Requirement</b>	<b>Large Scale Retail and Commercial Development Threshold (per measurement method in Section 19.485.020)</b>

Complete Compatibility Report (fits City's comprehensive plan and/or other adopted plans?)	>20,000 sq. ft.
Complete questionnaire	>20,000 sq. ft.
Provide required Facilities and Associated Features (materials, landscape, etc)	>20,000 sq. ft.
3rd party Traffic Impact Analysis required	>50,000 sq. ft.
3rd party Economic and Fiscal Impact Analysis required	>80,000 sq. ft.
Detailed Neighborhood Plan required	>80,000 sq. ft.

**Figure 19.485(3): Large Retail and Commercial Service Development Questionnaire**

Person filling out this form		
Address		
Phone Number		
Date		
<b>I. Project Contacts</b>		
Property Owner		
Property Owner Representative		
Developer		
Developer Representative		
Prime Contractor Representative		
Civil Engineering Representative		
Architectural Representative		
Land Planner Representative		
Landscape Architect Representative		
Exterior Lighting Representative		
<b>II. Existing Site Conditions</b>		
A. Total Site Area (inclusive of all areas within parcel boundary):	_____ acres	_____ sf.
B. Environmental Corridor Components:	_____ acres	_____ sf.
Surface Water	_____ acres	_____ sf.
Wetlands	_____ acres	_____ sf.
100-Year Floodplain	_____ acres	_____ sf.
Steep Slopes (equal to or greater than 12%)	_____ acres	_____ sf.

<b>III. Relationship to Adopted Plans and Policies.</b> Describe how the proposed development is compatible with the following:	
A. City of Whitewater Comprehensive Plan:	
Future Land Use Map	
Future Transportation Plan Map	
Future Community Facilities Plan Map	
Applicable Goals, Policies and Objectives	
Agricultural, Natural, and Cultural Resources Chapter	
Economic Development Chapter	
Sustainability Provisions	
Other Applicable Provisions of Comprehensive Plan	
B. City Park and Open Space Plan	
C. Detailed Neighborhood Plan Covering Area	
D. Intergovernmental Agreements	
E. Wisconsin DOT Plans and Policies	
F. Wisconsin DNR Plans and Policies	
G. Other Pertinent Plans and Policies as Indicated by City	

<b>IV. Proposed Development Characteristics</b>			
A. General Description of Proposed Development and Land Use Mix:			
B. Proposed Modifications to Existing Site Conditions:			
TOTAL SITE	Acres to be Converted	Acres Not to be Converted	Total
Surface Water Areas			
Wetland Areas			
Floodplain Areas			
Steep Slopes (12%+)			
Woodland Areas			
Total Environmental Corridor			
Crop & Livestock Operation Areas			
Other Open Areas			
Total Existing Development Area			
Existing Building Coverage Area			
Existing Paved Area			
Existing Lawn & Landscaped Area			
C. Proposed Development Areas:			
Total Site Area		_____ sq. ft.	_____ acres
Area of Building Footprint		_____ sq. ft.	_____ acres
Area of Total Paving		_____ sq. ft.	_____ acres
Area of Pervious Paving		_____ sq. ft.	_____ acres
Area of Lawn & Landscaping (not storm)		_____ sq. ft.	_____ acres
Area of Stormwater Management		_____ sq. ft.	_____ acres
Area of Impervious Surface		_____ sq. ft.	_____ acres
Area of Semi-Pervious Surface		_____ sq. ft.	_____ acres
Area of Pervious Surface		_____ sq. ft.	_____ acres
Total Building Floor Area		_____ sq. ft.	
First Floor Building Area		_____ sq. ft.	
Upper Floor Building Area		_____ sq. ft.	
Useable Basement Area		_____ sq. ft.	

**Figure 19.485(4): Economic and Fiscal Impact Analysis Requirements**

1. For the project, estimate the following:
a. Types of jobs created.
b. Number of full-time (40 hrs/wk) and part time (less than 40 hrs/wk) jobs created.
c. The impact of the project on the overall local job market at year one and year five.
2. Estimate the amount of City and Walworth/Jefferson County labor to be used in the construction of the project and in permanent employment.
3. Include an analysis indicating the market proposed for the project and the area from which patrons will be attracted.
4. Evaluate the impact of the proposed project on commercial and/or retail vacancy rates in the proposed market area.
5. Estimate to what extent, if any, the proposed project would increase or reduce the proposed market area's economic base by eliminating existing businesses, creating new ones, or allowing existing ones to expand.
6. Compare and evaluate the projected costs and benefits to the community resulting from the project including:
a. Projected costs arising from increased demand for and required improvements to public services and infrastructure.
b. Value of improvements to public services and infrastructure to be provided by the project.
c. Projected property tax revenues to be generated by the project in the first year, after five years, and at build-out.
d. Projected impact of the project in the first five years on land values (both residential and commercial) and potential direct and indirect increase or loss in property tax revenues.
7. Projected lifespan of building(s) and reuse opportunities should the proposed use(s) vacate the building(s) in the future.

Ordinance introduced by Councilmember Olsen. Seconded by Councilmember Winship. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. FIRST READING APPROVED: July 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING CH. 5.19, SIDEWALK CAFES.**

**ORDINANCE AMENDING CHAPTER 5.19, SECTION 5.19.060.14 CONCERNING SIDEWALK CAFES**

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

SECTION 1: Whitewater Municipal Code Chapter 5.19, Section 5.19.060 14 is hereby amended to read as follows:

If alcohol is served in the sidewalk café on any date or at any time, the area encompassing the sidewalk café shall be roped off or otherwise enclosed by a freestanding barrier on all dates and at all times while in use, even when alcohol is not being served. The barrier shall be at least three feet high. The barrier can include, but is not limited to, attractive fence segments, flowers/plants, artwork and decorative menu boards. The neighborhood services director shall approve the barrier to assure that it is safe and visually appealing.

Ordinance introduced by Councilmember Stewart, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. FIRST READING APPROVED: July 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**AMENDING CH. 5.19.030, SIDEWALK CAFÉ PERMIT.**

**ORDINANCE AMENDING SECTION 5.19.030(5)**  
**SIDEWALK CAFÉ PERMIT**  
**CONCERNING CONDITIONAL USE PERMIT REQUIREMENTS**

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

SECTION 1: Whitewater Municipal Code Chapter 5.19, Section 5.19.030(5), is hereby amended to read as follows:

If the City Council expands the description of the licensed premises in the applicant's alcohol license to include a sidewalk café area, the applicant's current conditional use permit, that allows sale of alcoholic beverages by the drink, shall be deemed to allow the serving of alcohol in the sidewalk café area, and the applicant will not be required to obtain an amended conditional use permit for the sidewalk café area. Notice of the Council meeting at which the alcohol license premises expansion will be considered shall be sent in writing to all Plan Commission members personally and to all owners of record (and to the address of the property if different than the owner's) of properties abutting and within 300 feet of the property that is involved in the application. Unintentional failure to accomplish these notifications shall not invalidate the procedures. A full copy of the alcohol licensee's sidewalk café permit application shall accompany any request by an applicant to the City Council to include a sidewalk café in its described alcohol licensed premises.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Binnie. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. FIRST READING APPROVED: July 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**CREATING CH. 5.18 OUTDOOR CAFÉ PERMIT.** It was noted that businesses wanting to have café areas outside of their business on private property must go through a conditional use hearing at the Plan Commission level prior to receiving their permit, while those who have areas on public property do not have that requirement.

**ORDINANCE CREATING CHAPTER 5.18**  
**OUTDOOR CAFÉ PERMIT**

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

SECTION 1: Chapter 5.18 OUTDOOR CAFÉ PERMIT, is hereby created to read as follows:

**Chapter 5.18 OUTDOOR CAFÉ PERMIT.**

(This Chapter applies to private outdoor cafes, does not regulate sidewalk cafes.)

[5.18.010 Purpose.](#)

[5.18.020 Definitions.](#)

[5.18.030 Permit required.](#)

[5.18.040 Permit application.](#)

[5.18.050. Permit fees.](#)

[5.18.060. Outdoor café standards.](#)

[5.18.070. Alcohol licensing and service of alcohol beverages.](#)

[5.18.080. Liability and insurance.](#)

[5.18.090. Revocation or suspension.](#)

[5.18.100. Appeal.](#)

[5.18.110. Penalty.](#)

5.18.010 Purpose.

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

1. That there exists a need for outdoor eating facilities in certain areas of the city to provide a unique environment for relaxation, social interaction, and food and beverage consumption.
2. That outdoor cafés will permit enhanced use of the private property for outdoor food and beverage consumption, and will promote economic activity in the area.
3. That the existence of outdoor cafés encourages additional outdoor food and beverage consumption. Therefore, a need exists for regulations and standards for the existence and operation of outdoor cafés to ensure a safe environment.
4. That the establishment of permit conditions and safety standards for outdoor cafés is necessary to protect and promote public health, safety, and welfare.

5.18.020 Definitions.

"Outdoor cafe" shall mean creating an outdoor facility on part of a premises used for the purpose of consuming food or beverages.

5.18.030 Permit required.

1. An applicant may apply to the neighborhood services director or his or her designee for a permit to allow an establishment to operate an outdoor café. The neighborhood services director or designee may approve, approve with conditions or restrictions, or deny a permit where necessary to protect the public health, safety or welfare; to prevent a nuisance from developing or continuing, or due to violation of this section, the city code of ordinances, or applicable state or federal law.
2. Before a permit may be issued, the application and site plan shall be reviewed for approval by the City Fire Department and City Building Inspector.
3. Each permit shall be effective for one year from July 1 until June 30.
4. The permit issued may be transferred to a new owner only for the location and area listed in the permit. The transferred permit shall be valid only for the remainder of the period for which it was originally issued. A new certificate of insurance must be filed with the City before the permit transfer.
5. A property shall be exempt from the requirements of this Chapter if its outdoor café has an existing outdoor café approved by a City of Whitewater zoning permit.
6. If the City Council expands the description of the alcohol licensed premises in the applicant's alcohol license to include an outdoor café area, the applicant's current conditional use permit, that allows sale of alcohol beverages by the drink, shall be deemed to allow the serving of alcohol in the outdoor café area, and the applicant will not be required to obtain an amended conditional use permit for the outdoor café area. Any request by an applicant to the City Council to amend the described premises under its alcohol license shall include a copy of its application for an outdoor café permit. The City staff shall send a notice of the council meeting, at which the request will be acted on, to all plan commission members; to the owners of record according to the tax bills (and to the address of the property, if different than the owner's) of premises within 300 feet of the licensed establishment. Unintentional failure to accomplish these notifications shall not invalidate the procedures.

5.18.040 Permit application.

Application for a permit to operate an outdoor café shall be submitted to the department of public works and shall include at least the following information:

1. Completed city application form.

2. Copy of a current certificate of commercial liability insurance in the amount of at least \$100,000.00 per occurrence.
3. A general layout drawing which accurately depicts the dimensions of the existing premises site, the proposed location of the outdoor café, size and number of tables, chairs, steps, planters, and umbrellas, location of doorways, trees, light poles and any other obstructions, either existing or proposed, within the outdoor cafe area. This layout shall be submitted on eight and one-half-inch by eleven-inch paper, suitable for reproduction.

#### 5.18.050. Permit fees.

There shall be no application fee or renewal of permit fee for outdoor café permits.

#### 5.18.060. Outdoor café standards.

The following standards, criteria, conditions, and restrictions shall apply to all outdoor cafés, provided, however, that the neighborhood services director or designee may impose additional conditions and restrictions to protect and promote the public health, safety, or welfare, to prevent a nuisance from developing or continuing, and to comply with this section, the City of Whitewater code of ordinances, and all applicable state and federal laws.

1. Outdoor cafés are restricted to the property to which the permit is issued.
2. Tables, chairs, umbrellas or other fixtures in the outdoor café:
  - a. Shall not be placed within five feet of fire hydrants, alleys, or bike racks. Shall not be placed within five feet of a pedestrian crosswalk or corner curb cut.
  - b. Shall not block designated ingress, egress, or fire exits from or to the establishment, or any other structures.
  - c. Shall be maintained in a clean, sanitary and safe manner.
3. Outdoor cafés shall be located in such a manner that a distance of not less than four feet is maintained at all times as a clear pedestrian path in and out of the outdoor café area (occasional reduction to 36 inches may be allowed by the Neighborhood Services Director to accommodate trees, light poles, street signs or other permanent structures.) For the purpose of the minimum clear path, trees, light poles and all similar obstacles shall be considered obstructions.
4. The outdoor café, along with any sidewalk or roadway immediately adjacent to it, shall be maintained in a neat and orderly manner at all times. Debris shall be removed as required during the day and again at the close of each business day.
5. Plant tubs may be located in the outdoor café with the approval of the neighborhood services director or designee. Plant tubs shall be maintained in a safe, neat, clean, and presentable manner.
6. Umbrellas and other decorative material shall be made of treated wood, canvas, cloth, or similar material that is manufactured to be fire-resistant. No portion of an umbrella shall be less than six feet eight inches above the ground.
7. Signs to be used in the outdoor café shall be in accordance with chapter 19.54 of the city code of ordinances. However, the neighborhood services director may allow temporary easel signs.
8. No food preparation, food or beverage storage, refrigeration apparatus, or equipment shall be allowed in the outdoor café unless authorized by the neighborhood services director.
9. No amplified entertainment shall be allowed in the outdoor café unless authorized by the neighborhood services director as part of a special event.
10. A copy of the site plan, as approved in conjunction with the current outdoor café permit, shall be maintained on the permittee's premise and shall be available for inspection by city personnel at all times.
11. The outdoor café permit covers only the outdoor café area described in the permit. Indoor operations will be governed by other applicable regulations.
12. Outdoor cafés shall not operate after 10:00 p.m. or before 7:00 a.m.
13. The City Manager, Chief of Police, the Neighborhood Services Director or their designees may temporarily order the termination of the outdoor café for public health and safety reasons.
14. If alcohol is served in the outdoor café on any date or at any time, the area encompassing the outdoor café shall be roped off or otherwise enclosed by a freestanding barrier on all dates and times while in use. The barrier shall be at least three feet high. The barrier can include, but is not limited to, attractive fence segments, flowers/plants, artwork and decorative menu boards. The neighborhood services director shall approve the barrier to assure that it is safe and visually appealing.
15. The city, its officers and employees, shall not be responsible for outdoor café fixtures that are relocated or damaged.

5.18.070. Alcohol licensing and service of alcohol beverages.

1. A permittee may sell and serve alcohol beverages in an outdoor café only if the permittee complies with all the requirements for obtaining an alcohol beverage license, and the outdoor café area is listed on the alcohol beverage license application as being an part of the licensed premises.
2. Alcohol may be served at outdoor cafés under the following conditions:
  - a. The permittee has a valid and appropriate retail alcohol beverage license for the principal premises.
  - b. The retail alcohol beverage license premises description includes the outdoor café in the description of the licensed premises as an extended area.
  - c. The retail alcohol beverage license permits the sale of the type of alcohol beverages to be served in the outdoor café.
  - d. The alcohol beverages are sold by the licensee or licensee's employees.
  - e. Alcohol beverages are served by the licensee or the licensee's employees in compliance with alcohol beverage laws, ordinances and regulations.
  - f. The permittee shall be responsible for policing the outdoor café area to prevent underage persons from entering or remaining in the outdoor café, except when underage persons are allowed to be present on the licensed premises under applicable laws.
  - g. The permittee shall not allow patrons of the outdoor café to bring alcohol beverages into the outdoor café from another location, other than the licensed premises, nor to carry open containers of alcohol beverages, served in the outdoor café, outside the outdoor café area.
  - h. At times of closing or during times when consumption of alcohol beverages is prohibited, permittee shall remove from the outdoor café area all containers used for or containing alcohol beverages. No container of alcohol beverages shall be present in the outdoor café between 10:00 p.m. and 7:00 a.m.

5.18.080. Revocation or suspension.

The approval of an outdoor café permit is conditional at all times. An outdoor café permit may be revoked or suspended by the neighborhood services director or designee where necessary based on a violation of this ordinance or to protect the public health, safety, or welfare, to prevent a nuisance from developing or continuing, in emergency situations, or due to noncompliance with this section, the city code of ordinances, or applicable state or federal law.

5.18.090. Appeal.

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

5.18.100. Penalty.

The penalty for violation of this section shall be a forfeiture of not less than \$50.00 or more than \$200.00 per day for each violation, together with the costs of prosecution.

It was moved by Olsen and seconded by Winship to 1) Refer the Ordinance to the Plan Commission for their review and comment at their August 3<sup>rd</sup> special meeting and 2) to approve the first reading of the ordinance. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. FIRST READING APPROVED: July 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**REPEALING CH. 7.72.030 CARRYING DANGEROUS WEAPONS.** City Attorney McDonell stated that the proposed ordinance is in response to recent Supreme Court decisions and a Wisconsin Attorney General opinion indicating it is unconstitutional to enforce ordinances prohibiting open carrying of firearms.

**ORDINANCE REPEALING WHITEWATER MUNICIPAL CODE SECTION 7.72.030 – CARRYING DANGEROUS WEAPON.**

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

**SECTION 1.** Due to recent Supreme Court decisions and a Wisconsin Attorney General opinion that indicate that Whitewater Municipal Code Section 7.72.030 is unenforceable, Whitewater Municipal Code Section 7.72.030, Carrying Dangerous Weapon, is hereby repealed.

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Binnie. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. FIRST READING APPROVED: July 20, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**ORDINANCE AMENDING CH. 9.08 ENTITLED “ANIMAL CONTROLS AND REGULATIONS – LICENSING.”**

**SECOND READING OF ORDINANCE AMENDING CHAPTER 9.08 “ANIMAL CONTROLS AND REGULATIONS – LICENSING.”**

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

**Section 1.** Whitewater Municipal Code Chapter 9.08, Section 9.08.020(e)(2) is hereby amended to read as follows:

(2) Term. All licenses shall be issued for a term of one year, commencing with the first day of January of each year, and terminating as of midnight on the last day of the licensing year. Application for licenses must be made from January 1<sup>st</sup> to the last day of March of each year without penalty. Any license issued after April 1<sup>st</sup> of each year shall pay an additional five dollars, unless the owner can conclusively illustrate that the animal has been acquired by him/her within the last thirty days prior to application for a license, or that applicant has established city residency within the last thirty days prior to application.

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

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

**BEER AND LIQUOR LICENSE FOR CAPN’S OF WHITEWATER LLC.** Randy Schopen, owner of Capn’s of Whitewater LLC, is in the process of opening a restaurant catering business with Friday Fish Fries at the American Legion Building, 292 Wisconsin Street. It was moved by Olsen and seconded by Winship to approve the transfer of the Class B Beer and Liquor license from Troemel’s Lakeside Banquets to Capn’s of Whitewater LLC, Randall Schopen, Agent, contingent upon closing of the transaction between the parties. AYES: Olsen, Winship, Binnie, Kienbaum, Stewart, Singer. NOES: None. ABSENT: None.

**APPROVAL OF TRANSFER OF BEER AND LIQUOR LICENSE FROM BARBARA HAMILTON TO FIRE STATION 1, LLC.** It was moved by Olsen and seconded by Winship to approve the transfer of the Class B Beer and Liquor License from Barbara Hamilton to Fire Station 1, LLC, Patrick Wellnitz Agent, contingent upon consummation of the sale. AYES: Olsen, Winship, Binnie, Kienbaum, Stewart, Singer. NOES: None. ABSENT: None.

**RICK'S EASTSIDE PUB REQUEST FOR AMENDMENT OF LICENSED PREMISES.** With the Wisconsin Smoking Ban now in effect, Hartmann and other tavern owners are seeking ways to allow their customers to take their drink outside when they leave to smoke. Lengthy discussion ensued regarding outdoor cafes and sidewalk cafes. This request will be taken up at the next Council meeting, after action on the outdoor café ordinance and Plan Commission review of the proposed Outdoor Café ordinance have taken place.

**DONATION OF BIKES TO WHITEWATER HIGH SCHOOL PHYSICAL EDUCATION.** The Whitewater High School Physical Education Department has asked the Police Department to donate 15 bicycles from their recovered, but unclaimed bikes. It was moved by Olsen and seconded by Winship to authorize the donation. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**AGREEMENT WITH CESA 2.** It was moved by Olsen and seconded by Winship to approve a Memorandum of Understanding between the City and CESA 2 relating to construction of leased space in Whitewater Innovation Center. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**AGREEMENT WITH WISCONSIN MAIN STREET COMMUNITIES.** It was moved by Olsen and seconded by Winship to approve the extension agreement with the Wisconsin Main Street Program. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**RENAMING OF INDIAN MOUNDS PARK.** It was moved by Binnie and seconded by Winship to rename Indian Mounds Park to *Whitewater Effigy Mounds Preserve*. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**ORDINANCES RELATED TO GRASS, WEEDS AND NATURAL LAWNS.** Councilmember Olsen requested that this item be brought before the Council. Olsen and Neighborhood Services Director Bruce Parker viewed several properties in the City and photographed several where there is difference of opinion as to whether the landscaping is in compliance with local codes. It was noted that the Urban Forestry Committee is currently working on a Landscaping Policy, including defining a “natural lawn.” Photographs of local properties and terraces were shown. It was noted that ordinances to take care of most of the problems are in place, but Code Enforcement Director Bruce Parker indicated that the previous City Council had instructed Parker not to enforce the ordinances relating to weeds and natural lawns. Concern was raised over the fact that it has been so long since the ordinances have been enforced, that it could be difficult to convince the property owners there is a problem. City staff was directed to bring a Resolution forth that would direct the Neighborhood Services Director to enforce the ordinance.

**CHANGE ORDER #3 FOR WASTEWATER EQUIPMENT PROJECT CONTRACT 4-2009.** It was moved by Olsen and seconded by Winship to approve Change Order No. 3 in the total sum of \$29,333.24, to cover costs of items needing attention at this time but that were not included in the original contract. In particular, a leaking 24” buried valve needs replacement, as well as correction of an issue with the RBC building roof top. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**CHANGE ORDERS #3, 4, 5 & 6 FOR WHITEWATER INNOVATION CENTER PROJECT.** It was moved by Olsen and seconded by Winship to approve Change Orders 3, 4, 5 & 6 for the Innovation Center projects. Change orders relate to direct owner purchases from prime contracts, the addition of a photovoltaic (solar system), Geothermal well depth, and additional bedrock costs for foundations. Total change orders to date equal \$148,794. Brunner is optimistic that now that the building is out of the ground that the project will stay well within the project contingency. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**AMENDMENT TO STRAND CONTRACT PLANNING, DESIGN AND CONSTRUCTION SERVICES.** It was moved by Olsen and seconded by Winship to approve an amendment to the Strand Contract, in the total sum of \$10,900, to cover unanticipated costs for deficiencies that have been brought to light during construction project at the Wastewater Treatment Plant. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**CONTRACT FOR PROJECT 2-2010, WHITEWATER UNIVERSITY TECHNOLOGY PARK.** It was moved by Olsen and seconded by Winship to approve a contract with Iverson Construction, LLC, Cottage Grove, Wisconsin (including the three alternate bids) in the sum of \$2,201,383.17, for work in the Whitewater University Technology Park

(contingent upon EDA approval). AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**CONTRACT FOR PROJECT 3-2010, STARIN ROAD EXTENSION.** It was moved by Olsen and seconded by Winship to approve a contract with Mann Brothers in the sum of \$1,778,508.51 for the Starin Road extension project. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**VACANT ALDERMANIC DISTRICT 2 POSITION.** Due to Councilmember Taylor's resignation, the Councilmember seat for Aldermanic District 2 is open. Options were discussed. Christopher Nonn, resident of Aldermanic District 2, presented a letter of interest to the Clerk and introduced himself to the Councilmembers. Councilmembers directed the City Clerk to advertise for the vacant position, asking for interested parties to respond to the Clerk by August 6, 2010, with Council action on the open position to be scheduled at the August 17 council meeting. Councilmembers requested that the Clerk pursue the possibility of sending a campus-wide e-mail announcing the vacancy. Councilmember Winship also directed the Clerk to look into using other social media options.

**ELECTION OF COUNCIL PRESIDENT PRO TEM.** Councilmember Taylor served as Council President Pro Tem., so a replacement is needed. Councilmember Winship nominated, and Councilmember Olsen seconded the appointment of Lynn Binnie to this position. No other nominations were made. Appointment was made by unanimous voice vote.

**APPOINTMENT OF COUNCILMEMBER REPRESENTATIVE TO POLICE COMMISSION AND PARK AND RECREATION BOARD.** Due to Taylor's resignation, Councilmember representative seats are open on the Police Commission and Park and Recreation Board. It was moved by Stewart and seconded by Kienbaum to appoint Councilmember Olsen to both the Police Commission and the Park and Recreation Board. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**PRESENTATION OF CAPITAL IMPROVEMENT PLAN.** City Manager Brunner, DPW Director Fischer, and Finance Director Saubert presented a detailed schedule for proposed city projects for 2011-2013. City Manager Brunner also presented financing plans for the projects. Brunner stated that it is inevitable that some new general obligation debt will need to be issued in order to adequately maintain streets and municipal facilities. He noted that the replacement of the Municipal Building's Safety Building roof, as well as the Library Roof, cannot be delayed any longer. Those projects alone will cost \$351,000. Brunner reminded Council that purchase of a Fire Pumper was approved earlier and a borrowing will need to occur to pay for the acquisition, as well as for the installation of a vehicle ventilation system for the Fire Department. Although the Fire Department was successful in obtaining \$225,000 worth of grant funds, there are not sufficient funds in the capital equipment fund to cover the local share. In 2011, reconstruction of Clay Street from Dann to Esterly is scheduled. Brunner noted that beyond year 2011, the biggest challenge the City will face is financing the Milwaukee Street Improvement project (estimated at almost \$3 million). Financing will be necessary. Prince Street is also scheduled for reconstruction, and completion of Clay Street to the roundabout is planned. An estimated \$5.377 million in sanitary sewer utility work is planned over the next three years. Brunner also stated that the request for approval of the Automatic Meter Reading project will be brought to Council soon. Also proposed are the extension of the multi-use trail west to Franklin Street and the construction of a shelter with restrooms in Moraine View Park. Several councilmembers expressed concern over the fact that the repair of North Street, and particularly the bridges, is not scheduled until 2014. It was expressed that the project cannot wait that long. Brunner stated that he is projecting that \$850,000 will be needed to complete the remaining projects in TIF 4 before the statutory deadline for spending within this district occurs. Further information will be forthcoming.

**CONTRACT FOR HVAC WORK FOR WHITE BUILDING, WHITEWATER MUNICIPAL BUILDING, AND IRVIN L. YOUNG MEMORIAL LIBRARY.** Bids for replacement of HVAC systems were obtained. It was moved by Olsen and seconded by Winship to approve a contract with Vorpapel Service, Inc. of Burlington, Wisconsin, in the total sum of \$188,480 for HVAC systems for the City Hall/Safety Building, the White Memorial Building, and the Library. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**AGREEMENT WITH VANDEWALLE FOR ECONOMIC POSITIONING SERVICES.** It was moved by Binnie and seconded by Olsen to approve a contract with Vandewalle Associates to perform work directed by the

Department of Commerce, relating to the Wisconsin E-RIC Strategy Development. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS:** None.

**EXECUTIVE SESSION.** It was moved by Singer and seconded by Olsen to “Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session AND 19.85(1) (g) “Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.” Items to be Discussed: 1) Possible acquisition of Real Estate for Expansion of Starin Park; and 2) Possible action on Resolution relating to Claim filed by Whitewater Court LLP concerning 2009 real estate assessment.

**RECONVENE INTO OPEN SESSION at 9:30 p.m.**

**AUTHORIZING PURCHASE OF FREMONT STREET REAL ESTATE FOR STARIN PARK EXPANSION PURPOSES.** No open session action was taken on this matter.

**AGREEMENT WITH WHITEWATER COURT LLP RELATING TO 2009 REAL ESTATE TAXES.** A settlement agreement has been reached with Whitewater Court, LLP relating to the claim they filed relating to their overpayment of 2009 real estate taxes. It was moved by Olsen and seconded by Winship to approve the agreement with Whitewater Court LLP, wherein taxes charged in error are to be returned to the property owner. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

**ADJOURNMENT.** It was moved by Olsen and seconded by Winship to adjourn the meeting. AYES: Olsen, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. The meeting adjourned at 9:34 p.m.

Respectfully submitted,

Michele R. Smith, Clerk