

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

November 16, 2010

The regular meeting was called to order at 6:30 p.m. by Council President Patrick Singer. MEMBERS PRESENT: Olsen, Butler, Winship, Binnie, Singer, Kienbaum. MEMBERS ABSENT: Stewart. LEGAL COUNSEL PRESENT: McDonell.

It was moved by Olsen and seconded by Winship to approve the Council Minutes of 10/19/10 and 10/26/2010; and to acknowledge receipt and filing of the following: CDA Minutes of 10/27/10; Landmarks Commission Minutes of 10/20/10; Whitewater Technology Park Board minutes of 9/8/10 and 10/13/10; Financial Reports for October, 2010; Report of Manually-Produced Checks for October, 2010; Irvin L. Young Memorial Library Board Minutes of 10/11/10; Park & Recreation Board Minutes of 10/4/10; Whitewater Effigy Mounds Preserve Task Force Minutes of 8/2/10. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart.

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 \$176,607.81. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart.

REPORTS: City Manager Brunner gave a lengthy report on pending capital improvements in the City. The UW-W AMA Association was recognized for their donation towards the Innovation Center.

CITIZEN COMMENTS: None.

PUBLIC HEARING ON 2011 CITY OF WHITEWATER BUDGETS. City Manager Brunner summarized the 2011 City budget of \$9,264,199. (2010 City Budget was \$9,318,019). It was noted that revenues from fines, forfeitures and penalties are down \$93,100 and Licenses and Permits are down \$22,400. Interest earnings are down over \$100,000 from 2008. Transfer of \$75,000 from the General Fund Balance to fund the 2011 budget was proposed, resulting in a 22.54% fund balance. Property Tax rates for the Walworth County portion of the City are proposed to increase from \$5.03 per thousand in 2010, to \$5.23 per thousand in 2011. The rate for the Jefferson County portion of the City will increase from \$4.40 per thousand to \$5.32 per thousand. The percentage of the change in property tax levies by other taxing jurisdictions was presented: State of Wisconsin decreased by .26%; Jefferson County increased by 13.15%; Walworth County increased by 5.61%; MATC increased by 19.08%; Gateway Technical Institute increased by 7.43%; Whitewater School district increased by 10.96% and the City of Whitewater presented a budget with a 3.77% property tax levy increase. Several members of the public offered comments that supported the adoption of the budget as proposed, in lieu of any further cutback in services. It was moved by Singer and seconded by Butler to amend the proposed 2011 budget to eliminate the purchase of Adobe software at a cost of \$731. AYES: Butler, Singer, Kienbaum. NOES: Olsen, Winship, Binnie. Motion fails. It was then moved by Singer and seconded by Butler to amend the proposed 2011 budget to eliminate the hand held computer units to be used by the Common Council, Plan Commission and CDA for their Agenda packets. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart. It was then moved by Singer and seconded by Butler to reduce the contribution to Tourism by \$3,600, and subsequently apply that amount to the Chamber of Commerce. AYES:

Butler, Singer, Kienbaum. NOES: Olsen, Winship, Binnie. ABSENT: Stewart. Motion fails. It was then moved by Butler to eliminate purchase of capital equipment for the Cable Company. Motion died for lack of a second. It was moved by Singer to eliminate the expenditure for a Summer intern for the City Manager. Motion died for lack of a second. It was moved by Singer and seconded by Olsen to table indefinitely any action on deletion of a Patrol Officer/Detective position. AYES: Olsen, Winship, Binnie, Singer. NOES: Butler, Kienbaum.

RESOLUTION ADOPTING 2011 CITY OF WHITEWATER BUDGETS AND MUNICIPAL LEVY.

It was moved by Singer and seconded by Butler to apply \$53,592 of the fund balance to the tax levy, to allow for a zero percent increase in 2011. AYES: Butler, Singer, Kienbaum. NOES: Olsen, Winship, Binnie. Motion fails. It was then moved to take the \$4,500 eliminated from the Technology budget and add that sum to the Fourth of July Committee contribution for 2011. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart.

RESOLUTION

WHEREAS, the Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, has considered the detailed estimates of the money which will be required for the ensuing year for local, county, and state purposes; and

WHEREAS, the Common Council considered said estimates and those estimates have been submitted to a Public Hearing to be held on November 16, 2010, as required by § 65.90 of the Wisconsin Statutes; and

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that there is hereby levied upon all taxable property in said City, the following amounts for the ensuing year:

FOR THE PURPOSES, WALWORTH AND JEFFERSON COUNTIES, WISCONSIN:

\$2,856,656

BE IT FURTHER RESOLVED by the Common Council of the City of Whitewater that there is hereby appropriated out of the receipts of the City of Whitewater for 2011, including monies received from the general property tax levy, to the various purposes set forth in the budget for the purposes stated herein, the following amounts:

EXPENDITURES-	General Fund	REVENUES-	General Fund
General Government	\$1,634,669	General Revenues	\$6,332,543
Public Safety	3,945,411	Unrestricted Revenue	75,000
Public Works	991,593	Property Tax	<u>2,856,656</u>
Culture/Recreation	1,193,336	TOTAL	<u>9,264,199</u>
Conserv/Development	96,718		
Debt Service	454,398		
Sinking Funds	361,586		
Community Development	61,803		
Solid Waste/Recycling	300,000		
Capital Projects	178,085		

Contingencies	46,600
TOTAL	<u>9,264,199</u>

BE IT FURTHER RESOLVED that the following *Utility Budgets* were authorized for 2011:

Wastewater Utility	\$3,135,140
Water Utility	\$2,035,762
Stormwater Utility	\$551,243

BE IT FURTHER RESOLVED that the *2011 tax increments* have been calculated to be as follows:

TID #4	1,647,916
TID #5	1,015
TID #6	20,120
TID #7	0
TID #8	0
TID #9	390
TOTAL	<u>\$1,669,441</u>

BE IT FURTHER RESOLVED, that the tax levy increases for tax increment districts as calculated are added to the various tax levies for all taxing jurisdictions, except 'State', as follows:

	<u>Walworth County</u>	<u>Jefferson County</u>	<u>Total</u>
County	320,594.28	100,436.08	421,030.36
City	273,505.93	126,596.61	400,102.54
Unified School	572,376.72	264,933.76	837,310.48
Technical College	74,462.04	36,534.50	110,996.54
TOTAL	<u>1,240,938.97</u>	<u>528,500.95</u>	<u>1,769,439.92</u>

BE IT FURTHER RESOLVED, the expenditures for marketing expenses, land purchase, construction costs, professional services, and debt service have also been calculated to total the following for the 2011 budget:

TID #4	5,015,992
TID #5	438
TID #6	155,932
TID #7	160
TID #8	150
TID #9	184
TOTAL	<u>\$5,172,856</u>

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater that the Finance Director and City Treasurer are authorized to transfer sufficient funds from the City General Fund, if necessary, to the TID accounts to cover the expenditures not covered by the tax increments, and that an interest rate shall be added to the amount due the General Fund at the rate of four percent (4%) per annum for all funds owed the General Fund.

Resolution introduced by Councilmember Winship who moved its adoption. Seconded by Councilmember Kienbaum. AYES: Olsen, Winship, Binnie, Singer, Kienbaum. NOES: Butler ABSENT: Stewart
ADOPTED: November 16, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

RESOLUTION ENDORSING THE PRINCIPLE OF FAIR HOUSING AND OF ADHERENCE TO THE FAIR HOUSING LAW.

**RESOLUTION ENDORSING THE PRINCIPLE
OF FAIR HOUSING AND ADHERENCE TO FAIR HOUSING LAWS**

WHEREAS, the City of Whitewater supports the policy of fair housing without regard to race, color, creed, national origin, sex, familial status, and disability, and encourages fair housing opportunities for all citizens; and

WHEREAS, the City of Whitewater is committed to addressing discrimination in our community; and

WHEREAS, the City of Whitewater rejects discrimination on the basis of race, religion, color, sex, national origin, disability, and/or familial status in the sale, rental or provision of other housing services; and

WHEREAS, the City of Whitewater desires that all its citizens be afforded the opportunity to attain a decent, safe, and sound living environment.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Whitewater does hereby endorse the principle of fair housing and the adherence by all persons and entities to fair housing laws.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Butler. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart. ADOPTED: November 16, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE CREATING NATURAL LANDSCAPE YARD ORDINANCE.

**ORDINANCE NO. 1809 - ORDINANCE CREATING TITLE 13
NATURAL LANDSCAPE YARD ORDINANCE**

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

SECTION 1: Whitewater Municipal Code Title 13 is hereby created to read as follows:

NATURAL LANDSCAPE YARD ORDINANCE

16.10.010 Purpose

The purpose of this Natural Landscape Yard Ordinance is to address concerns regarding landscaping in the City of Whitewater. Natural Landscape Gardens are viable alternatives to lawn development as they can be economical, low-maintenance, effective in soil and water conservation, and may reduce the use of pesticides, herbicides, and fertilizers. This ordinance is consistent with the goals of the Whitewater Comprehensive Plan referenced in Chapter (4), Natural Resources pp 35, 38-44. Because the State of Wisconsin has prohibited yard waste in any solid waste disposal facility; has increased percentage regulations on storm water run-off and has laws that protect the chemical invasion of lakes, streams and wetlands by lawn products, this legislation should enable the City to progress in achieving compliance with said State regulation. It is hereby noted that these landscape alternatives are no more or less appropriate than turf grass yard choices in regard to the visual appeal of individual properties. It is also important to note that the intent of this ordinance is not to allow vegetated areas to be unmanaged. Control of noxious, invasive weeds shall be required in all landscape plans.

16.10.020 Natural Landscape Gardens Allowed

(a) A Natural Heritage Garden, Ornamental Garden, Rain Garden and/or Sustenance Garden may be planted if it is in compliance with the following provisions:

- (1) The garden does not violate any other City of Whitewater ordinance.
- (2) The garden is authorized by the owner or occupier with written permission as verified by owner.
- (3) The garden, or any portion thereof, does not encroach on any property ownership line or public right of way.
- (4) The owner or occupier complies with the notice provisions of 19.56.030 below:

16.10.030 Notice of Natural Landscape Garden

(a) If any Natural Heritage Garden, Ornamental Garden, Rain Garden, Sustenance Garden, or combination thereof, exceeds fifty percent (50%) of the surface area of the property, not otherwise occupied by buildings, structures, or improvements, the owner shall file a notice with the Neighborhood Services Director. This notice shall contain:

- (1) A drawing or sketch depicting the area of the garden relative to the property ownership lines, public right of way, buildings, and structures and improvements located on the property. The drawing need not be done to scale or prepared by professionals;
- (2) Information indicating the general vegetation to be used within the plan and their approximate locations;

(b) The landscape garden plan shall be submitted to the Neighborhood Services Director for review. If the plantings might suggest a negative impact on drainage, visibility or drainage easements the plan shall be changed or submitted to the Garden Landscape Review Board for further review;

(c) Information on planning an alternative landscape yard can be secured from the Neighborhood Services Director. A review of the costs and labor involved in the planting and maintenance of these yard alternatives may be discussed at that time.

(d) No fees shall be assessed for this review.

(e) If the garden(s) do not exceed fifty percent (50%) of the surface area as set forth above, the garden(s) shall be allowed without filing a notice, but shall still adhere to the other sections of this ordinance.

16.10.040 Garden Landscape Review Board

(a) A Garden Landscape Review Board shall be appointed by the City Council for a three-year term. The Board shall consist of the City Forester, the Park and Recreation Board Urban Forestry Commission representative, a City Council member, and two citizens at large. The Board shall meet as needed.

16.10.050 Noxious Weeds

(a) The following noxious weeds are prohibited in natural landscape gardens:

(1) Buckthorn (Common glossy) (*Rhamnus cathartica*)

(2) Burdock (*Arctium*)

(3) Dame's Rocket (*Hesperis matronalis*)

(4) Garlic Mustard (*Allaria petiolata*)

(5) Wild Honeysuckles -Japanese (*Lonicera japonica*); EurAsian bush (Amur, *Lonicera maackii*); and Morrow's (*L. morrowii*)

(6) Purple Loosestrife (*Lythrium solitaria*)

(7) Reed Canary Grass (*Phalaris arundinacea*)

(8) Thistles- Purple, Bull (*Cirsium vulgare*); Musk (*Carduus nutans*); Plumeless (*Carduus arvensis*); Yellow star (*Centaurea solstitialis*); and Canada (*Cirsium arvense*)

(b) Other invasives that may become problematic in Whitewater, as defined by the Wisconsin DNR listing and pictured in the publication "A Field Guide to Terrestrial Invasive Plants in Wisconsin", Wisconsin DNR 2010, may be referred to the Garden Landscape Review Board upon request for review, and said board may recommend that the Council add the plant(s) to the above list.

16.10.060 City Controls

(a) The City staff may not damage, remove, burn, or cut vegetation in any privately owned residential yard that has a notice required by 19.56.030 on file with the City, for which the City does not have management responsibilities, except the City may take such actions following a hearing in front of the Garden Landscape Review Board at which it is found:

(1) That noxious invasives specifically named in City ordinances exist in that landscape,
or

(2) That a condition(s) creating a clear and present hazard to public health, safety or city maintenance issues exists or

(3) That property management responsibilities have not been met by the property owner

(b) This hearing must occur within thirty (30) days following notification.

(c) This section shall not in any manner restrict the City's right to maintain trees and vegetation in City right-of-ways.

16.10.070 Pre-existing Legal Use Exemption

(a) Properties with Natural Landscape Gardens in place in compliance with the above regulations at the time of the enactment of this ordinance, which would be required to file a notice pursuant to 19.56.030, shall be exempt from the Section 19.56.030 notice requirement.. In order to assist in the enforcement of this ordinance, any owner claiming exempt status regarding the natural garden notice provisions called for herein shall register with the City Clerk, on a form provided by the City Clerk, within one hundred eighty (180) days of the passage of this ordinance by the Common Council. The information required on the registration form shall include the address of the property in question as well as a description of the gardens contained thereon. Any property not registered within one hundred eighty (180) days of the enactment shall not receive exempt status. Any property granted exempt status must continue to adhere to all of the provisions of this ordinance except for the notice requirement.

16.10.080 Natural Landscape Yard Ordinance Definitions

(a) **Cottage Garden:** A mixed garden of perennials, annuals, herbs and sometimes vegetables that visually enhance the yard area around a home.

(b) **Exotic Plants:** Plants that have been brought into the state from elsewhere such as (a) Exotic EurAsian plants native to Europe and Asia and (b) Exotic American plants natural to the Americas but not to southeastern Wisconsin and (c) Exotic "cultivated varieties" propagated by the horticultural industry.

(c) **Green Sustainability:** The process of encouraging the maintaining of an environmental base in the City in order to meet human needs while preserving the environment.

(d) **Herb Garden:** A type of garden established for the planting and/or harvesting of herbs.

(e) **Natural Heritage Garden:** An area that is managed with the intention of simulating a natural community of plants native to the State of Wisconsin (e.g. prairie, meadow or woodland which may include grasses (short and tall) and forbs (flowers), usually perennial in nature.

(f) **Natural Landscape:** Plantings of grasses (short and tall), forbs (flowers), shrubs, woodlands and other gardens as defined that are often native but are sometimes mixed with non-natives, and are usually perennial in nature.

(g) **Natural Lawn:** Turf lawn that is organic in nature but does not practice the use of chemicals in the form of pesticides, insecticides and herbicides and is kept no longer than 7 inches.

(h) **Noxious Invasives:** Weeds considered offensive and invasive to landscape gardens specifically named in this and other City ordinances.

(i) **Organic Lawn Care:** Necessary inputs that are “natural” as opposed to “synthetic” as used in traditional lawns (the goal being to have the least toxic management for pest control).

(j) **Ornamental Garden:** An area that is managed for the visual display of a variety of plants, including, but not limited to, trees, shrubs, ferns, flowers, grasses, ground cover, mosses, and that does not contain any plant defined as a noxious weed or one that constitutes a nuisance to the community.

(k) **Rain Garden:** A garden that effectively uses stormwater run-off to grow and nurture a specifically designed garden bed.

(l) **Sustenance Garden:** A garden that is vegetable, fruit or herbal in nature that is usually planted and maintained for household food production.

(m) **Traditional Lawn:** Turf lawn that is often managed chemically, mowed regularly to be kept at a height no more than 7 inches.

The above definitions include terms not yet referred to in this ordinance, but are provided for reference in case of ordinance amendments.

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 Binnie. AYES: Olsen, Binnie, Singer, Kienbaum. NOES: Butler. ABSENT: Stewart, Winship (absent for a few minutes). FIRST READING APPROVED: November 16, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE AMENDING CHAPTER 5 RELATING TO TRANSIENT MERCHANT LICENSE HOURS OF OPERATION IN DOWNTOWN AREA.

**ORDINANCE NO. 1810
ORDINANCE AMENDING SUBSECTION 5.28.035
OF THE TRANSIENT MERCHANTS & PEDDLERS ORDINANCE
11/09/10**

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

Section 1. Whitewater Municipal Code Chapter 5.28, Section 5.28.035 (b) is hereby amended to read as follows:

5.28.035(b) Food sales may not begin until nine a.m. and shall conclude by three a.m.

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

Ordinance introduced by Council member Butler, who moved its adoption. Seconded by Council member Singer. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart. FIRST READING APPROVED: November 16, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ORDINANCE AMENDING CHAPTER 5 RELATING TO TRANSIENT MERCHANT LICENSES IN THE DOWNTOWN B-2 ZONING DISTRICT.

**ORDINANCE NO. 1807A – FINAL
ORDINANCE AMENDING SUBSECTION 5.28.035
OF THE TRANSIENT MERCHANTS & PEDDLERS ORDINANCE**

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

Section 1. Whitewater Municipal code Chapter 5.28, Section 5.28.035(c)3. is hereby created to read as follows:

5.28.035(c)3. On private property (if permission is received from the owner).

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, Butler, Winship, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart. ADOPTED: November 16, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ORDINANCE AMENDING CH. 2, PARK AND RECREATION VOTING REQUIREMENTS.

ORDINANCE NO. 1808A – FINAL
SECOND READING OF AN ORDINANCE AMENDING CHAPTER 2.52
PARK AND RECREATION BOARD VOTING 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 2.52, Section 2.52.040(b) is hereby amended to read as follows:

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

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart. ADOPTED: November 16, 2010.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

APPROVAL OF CONTRACT FOR RESTORATION PLAN FOR WHITEWATER EFFIGY MOUNDS PRESERVE. Proposals for the creation of a restoration plan for the Whitewater Effigy Mounds Preserve were reviewed by the Effigy Mounds Task Force. Funding for the development of the Plan will come from Forestry and Park Development funds; however, grants will be sought to offset costs. It was moved by Olsen and seconded by Winship to approve a contract with Jennings and Associates of Waukesha, Wisconsin for development of the plan. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum. Noes: None. ABSENT: Stewart.

FUTURE AGENDA ITEMS. Councilmember Singer requested that the building permit freeze information be brought to Council. City Manager Brunner stated that the Social Media policy will be brought to Council at the next meeting. Councilmember Kienbaum requested information on how issues with abandoned homes are handled when in violation of Codes.

EXECUTIVE SESSION. It was moved by Singer and seconded by Olsen to adjourn to 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.” Item to be Discussed: Consideration of Acquisition of right-of-way for Five Points Intersection Improvement Project. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart. The regular portion of the meeting adjourned at 9:00 p.m.

Respectfully submitted,

Michele R. Smith,
Clerk