

**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 19, 2011

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Olsen, Butler, Binnie, Singer, Kienbaum, Stewart, Winship. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: Wallace McDonell.

It was moved by Olsen and seconded by Winship to approve the Council minutes of June 21, 2011 and to acknowledge receipt and filing of the following: CDA Minutes of 5/18/11, Park and Recreation Board Minutes of 6/20/11, and Technology Park Board Minutes of 6/15/11. AYES: Olsen, Butler, Binnie, Singer, Kienbaum, Stewart, Winship. NOES: None. ABSENT: None.

APPROVAL OF PAYMENT OF INVOICES. It was moved by Olsen and seconded by Binnie to approve payment of invoices in the total sum of \$290,785.05. AYES: Olsen, Butler, Binnie, Singer, Kienbaum, Stewart, Winship. NOES: None. ABSENT: None.

REPORTS. City Manager Brunner gave a **State budget update**; reported on the **Zoning Code Rewrite Project**; and stated that the former **Alpha Cast site** at the north end of Jefferson Street is in the process of being listed for sale by the CDA. Park and Recreation Director Amundson discussed the **Bicycle and Pedestrian Master Plan**.

CITIZEN COMMENTS: None.

AMENDMENT NO. 2 TO 2011 SALARY RESOLUTION. An increase in the wages of the former Neighborhood Services Officer position is proposed, to change the responsibilities and title of the position and to increase the salary to \$12.58 per hour. Also, the Resolution is amended to correct the number of Community Service Officers authorized to two CSOs.

**CITY OF WHITEWATER
2011 SALARY RESOLUTION
AMENDMENT #2**

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, sets forth the wage and salary schedule for employees for 2011, in which wages are established.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that the following amendments to the ranges and numbers of employees in Schedule VIII of the 2011 Wage and Salary Schedule as previously amended on June 7, 2011 are hereby adopted pursuant to Wisconsin Statutes; and

BE IT FURTHER RESOLVED that the contents of this resolution shall supersede such previously adopted schedules where the subject matter between the two shall be in conflict, and the changes contained herein shall be effective beginning July 1, 2011.

**SCHEDULE VIII
PART-TIME EMPLOYEES**

Position	# of Positions	Effective Date	Hourly Wage
Community Service Officer	2	01/01/2009	\$10.54
Neighborhood Services Officer	0	01/01/2009	\$10.54
Zoning/GIS Technician	1	07/01/2011	\$12.58

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. ADOPTED: July 19, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$633,078 SEWER SYSTEM REVENUE BONDS, SERIES 2011, AND PROVIDING FOR OTHER DETAILS AND COVENANTS WITH RESPECT THERETO, AND APPROVAL OF RELATED \$703,420 FINANCIAL ASSISTANCE AGREEMENT (CLEAN WATER FUND PROGRAM-WWTP BIOGAS TREATMENT & UTILIZATION EQUIPMENT).

The City has received a Clean Water Fund loan to finance the wastewater treatment plant biogas project. This resolution is required by the Clean Water Fund and will provide the necessary financing for this project. Construction of the project was awarded by the Council in May.

**RESOLUTION AUTHORIZING THE ISSUANCE AND
SALE OF UP TO \$633,078 SEWER SYSTEM REVENUE BONDS, SERIES 2011,
AND PROVIDING FOR OTHER DETAILS AND
COVENANTS WITH RESPECT THERETO**

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin (the "Municipality") owns and operates a sewer system (the "System") which is operated for a public purpose as a public utility by the Municipality; and

WHEREAS, pursuant to a resolution adopted on July 16, 1996 (the "1996 Resolution"), the Municipality has heretofore issued its Sewer System Revenue Bonds, Series 1996, dated July 24, 1996 (the "1996 Bonds"), which are payable from the income and revenues of the System; and

WHEREAS, pursuant to a resolution adopted on November 17, 2009 (the "2009 Resolution"), the Municipality has heretofore issued its Sewer System Revenue Bonds, Series 2009, dated December 9, 2009 (the "2009 Bonds"), which are payable from the income and revenues of the System; and

WHEREAS, pursuant to a resolution adopted on January 19, 2010 (the "2010 Resolution"), the Municipality has heretofore issued its Sewer System Revenue Refunding Bonds, Series 2010, dated February 9, 2010 (the "2010 Bonds"), which are payable from the income and revenues of the System; and

WHEREAS, the 1996 Bonds, the 2009 Bonds and the 2010 Bonds shall collectively be referred to as the "Prior Bonds"; and

WHEREAS, the 1996 Resolution, the 2009 Resolution and the 2010 Resolution shall collectively be referred to as the "Prior Resolutions"; and

WHEREAS, certain improvements to the System are necessary to meet the needs of the Municipality and the residents thereof, consisting of the construction of a project (the "Project") assigned Clean Water Fund Program Project No. 4558-04 by the Department of Natural Resources, and as described in the Department of Natural Resources approval letter for the plans and specifications of the Project, or portions thereof, issued under Section 281.41, Wisconsin Statutes, assigned No. S-2010-0811 and dated January 3, 2011 by the DNR; and

WHEREAS, under the provisions of Chapter 66, Wisconsin Statutes any municipality may, by action of its governing body, provide for purchasing, acquiring, constructing, extending, adding to, improving, operating and managing a public utility from the proceeds of bonds, which bonds are to be payable only from the revenues received from any source by such utility, including all rentals and fees; and

WHEREAS, the Municipality deems it to be necessary, desirable and in its best interest to authorize and sell sewer system revenue bonds of the Municipality payable solely from the revenues of the System, pursuant to the provisions of Section 66.0621, Wisconsin Statutes, to pay the cost of the Project; and

WHEREAS, the Prior Resolutions permit the issuance of additional bonds on a parity with the Prior Bonds upon certain conditions, and those conditions have been met; and

WHEREAS, other than the Prior Bonds, no bonds or obligations payable from the revenues of the System are now outstanding.

NOW, THEREFORE, be it resolved by the Governing Body of the Municipality that:

Section 1. Definitions. The following terms shall have the following meanings in this Resolution unless the text expressly or by implication requires otherwise:

- (a) "Act" means Section 66.0621, Wisconsin Statutes;
- (b) "Bond Registrar" means the Municipal Treasurer which shall act as Paying Agent for the Bonds;
- (c) "Bonds" means the \$633,078 Sewer System Revenue Bonds, Series 2011, of the Municipality dated their date of issuance, authorized to be issued by this Resolution;
- (d) "Bond Year" means the twelve-month period ending on each May 1;
- (e) "Current Expenses" means the reasonable and necessary costs of operating, maintaining, administering and repairing the System, including salaries, wages, costs of materials and supplies, insurance and audits, but shall exclude depreciation, debt service, tax equivalents and capital expenditures;
- (f) "Debt Service Fund" means the Sewer System Revenue Bond and Interest Special Redemption Fund of the Municipality, which shall be the "special redemption fund" as such term is defined in the Act;

(g) "Financial Assistance Agreement" means the Financial Assistance Agreement by and between the State of Wisconsin by the Department of Natural Resources and the Department of Administration and the Municipality pursuant to which the Bonds are to be issued and sold to the State, substantially in the form attached hereto and incorporated herein by this reference;

(h) "Fiscal Year" means the twelve-month period ending on each December 31;

(i) "Governing Body" means the City Council, or such other body as may hereafter be the chief legislative body of the Municipality;

(j) "Gross Earnings" means the gross earnings of the System, including earnings of the System derived from sewer charges imposed by the Municipality, all payments to the Municipality under any wastewater treatment service agreements between the Municipality and any contract users of the System, and any other monies received from any source including all rentals and fees and any special assessments levied and collected in connection with the Project;

(k) "Municipal Treasurer" means the Treasurer of the Municipality who shall act as Bond Registrar and Paying Agent;

(l) "Municipality" means the City of Whitewater, Walworth and Jefferson Counties, Wisconsin;

(m) "Net Revenues" means the Gross Earnings of the System after deduction of Current Expenses;

(n) "1996 Bonds" means the Municipality's Sewer System Revenue Bonds, Series 1996, dated July 24, 1996;

(o) "1996 Resolution" means a resolution adopted by the Governing Body on July 16, 1996 authorizing the issuance of the 1996 Bonds;

(p) "Parity Bonds" means bonds payable from the revenues of the System other than the Bonds but issued on a parity and equality with the Bonds pursuant to the restrictive provisions of Section 11 of this Resolution;

(q) "Prior Bonds" means the 1996 Bonds, 2009 Bonds and 2010 Bonds, collectively;

(r) "Prior Resolutions" means the 1996 Resolution, 2009 Resolution and 2010 Resolution, collectively;

(s) "Project" means the Project described in the preamble to this Resolution. All elements of the Project are to be owned and operated by the Municipality as part of the System as described in the preamble hereto;

(t) "Record Date" means the close of business on the fifteenth day of the calendar month next preceding any principal or interest payment date;

(u) "System" means the entire sewer system of the Municipality specifically including that portion of the Project owned by the Municipality and including all property of every nature now or hereafter owned by the Municipality for the collection, transmission, treatment and disposal of domestic and industrial sewerage and waste, including all improvements and extensions thereto made by the Municipality while any of the Bonds and Parity Bonds remain outstanding, including all real and personal property of every nature comprising part of or used or useful in

connection with such sewer system and including all appurtenances, contracts, leases, franchises, and other intangibles;

(v) "2009 Bonds" means the Municipality's Sewer System Revenue Bonds, Series 2009, dated December 9, 2009;

(w) "2009 Resolution" means a resolution adopted by the Governing Body on November 17, 2009 authorizing the issuance of the 2009 Bonds;

(x) "2010 Bonds" means the Municipality's Sewer System Revenue Refunding Bonds, Series 2010, dated February 9, 2010; and

(y) "2010 Resolution" means a resolution adopted by the Governing Body on January 19, 2010 authorizing the issuance of the 2010 Bonds.

Section 2. Authorization of the Bonds and the Financial Assistance Agreement. For the purpose of paying the cost of the Project (including legal, fiscal, engineering and other expenses), there shall be borrowed on the credit of the income and revenue of the System up to the sum of \$633,078; and fully registered revenue bonds of the Municipality are authorized to be issued in evidence thereof and sold to the State of Wisconsin Clean Water Fund Program in accordance with the terms and conditions of the Financial Assistance Agreement, which is incorporated herein by this reference and the City Manager and City Clerk of the Municipality are hereby authorized, by and on behalf of the Municipality, to execute the Financial Assistance Agreement.

Section 3. Terms of the Bonds. The Bonds shall be designated "Sewer System Revenue Bonds, Series 2011" (the "Bonds"); shall be dated their date of issuance; shall be numbered one and upward; shall bear interest at the rate of 2.400% per annum; shall be issued in denominations of \$0.01 or any integral multiple thereof; and shall mature on the dates and in the amounts as set forth in Exhibit B of the Financial Assistance Agreement and in the Bond form attached hereto as Exhibit A as it is from time to time adjusted by the State of Wisconsin based upon the actual draws made by the Municipality. Interest on the Bonds shall be payable commencing on November 1, 2011 and semiannually thereafter on May 1 and November 1 of each year. The Bonds shall not be subject to redemption prior to maturity except as provided in the Financial Assistance Agreement.

The schedule of maturities of the Bonds is found to be such that the amount of annual debt service payments is reasonable in accordance with prudent municipal utility practices.

Section 4. Form, Execution, Registration and Payment of the Bonds. The Bonds shall be issued as registered obligations in substantially the form attached hereto as Exhibit A and incorporated herein by this reference.

The Bonds shall be executed in the name of the Municipality by the manual signatures of the City Manager and City Clerk, and shall be sealed with its official or corporate seal, if any.

The principal of, premium, if any, and interest on the Bonds shall be paid by the Municipal Treasurer, who is hereby appointed as the Municipality's Bond Registrar.

Both the principal of and interest on the Bonds shall be payable in lawful money of the United States of America by the Bond Registrar. Payment of principal of the final maturity on the Bond will be payable upon presentation and surrender of the Bond to the Bond Registrar. Payment of

principal on the Bond (except the final maturity) and each installment of interest shall be made to the registered owner of each Bond who shall appear on the registration books of the Municipality, maintained by the Bond Registrar, on the Record Date and shall be paid by check or draft of the Municipality and mailed to such registered owner at his or its address as it appears on such registration books or at such other address may be furnished in writing by such registered owner to the Bond Registrar.

Section 5. Security for the Bonds. The Bonds, together with interest thereon, shall not constitute an indebtedness of the Municipality nor a charge against its general credit or taxing power. The Bonds, together with interest thereon, shall be payable only out of the Debt Service Fund hereinafter created and established, and shall be a valid claim of the registered owner or owners thereof only against such Debt Service Fund and the revenues of the System pledged to such fund, on a parity with the pledge granted to the holders of the Prior Bonds. Sufficient revenues are hereby pledged to said Debt Service Fund, and shall be used for no other purpose than to pay the principal of, premium, if any, and interest on the Prior Bonds, the Bonds and any Parity Bonds as the same becomes due.

Section 6. Funds and Accounts. In accordance with the Act, for the purpose of the application and proper allocation of the revenues of the System, and to secure the payment of the principal of and interest on the Prior Bonds, the Bonds and Parity Bonds, certain funds of the System which were created and established by a Resolution adopted November 20, 1990 are hereby continued and shall be used solely for the following respective purposes:

- (a) Sewer System Revenue Fund (the "Revenue Fund"), into which shall be deposited as received the Gross Earnings of the System, which money shall then be divided among the Operation and Maintenance Fund, the Debt Service Fund, the Depreciation Fund and the Surplus Fund in the amounts and in the manner set forth in Section 7 hereof and used for the purposes described below.
- (b) Sewer System Operation and Maintenance Fund (the "Operation and Maintenance Fund"), which shall be used for the payment of Current Expenses.
- (c) Sewer System Revenue Bond and Interest Special Redemption Fund (the "Debt Service Fund"), which shall be used for the payment of the principal of, premium, if any, and interest on the Prior Bonds, the Bonds and Parity Bonds as the same becomes due. The Reserve Account provided for by the 2010 Resolution within the Debt Service Fund is not pledged to the payment of principal of or interest on the 1996 Bonds, the 2009 Bonds or the Bonds, and moneys in the Reserve Account shall under no circumstances be used to pay principal of or interest on the 1996 Bonds, the 2009 Bonds or Bonds.
- (d) Depreciation Fund, which shall be used to provide a proper and adequate depreciation account for the System.
- (e) Surplus Fund, which shall first be used whenever necessary to meet requirements of the Operation and Maintenance Fund including the one month reserve, the Debt Service Fund including the Reserve Account, and the Depreciation Fund. Any money then remaining in the Surplus Fund at the end of any Fiscal Year may be used only as permitted and in the order specified in Section 66.0811(2), Wis.

Stats. Money thereafter remaining in the Surplus Fund may be transferred to any of the funds or accounts created by this section.

Section 7. Application of Revenues. After the delivery of the Bonds, the Gross Earnings of the System shall be deposited as collected in the Revenue Fund and shall be transferred monthly to the funds listed below in the following order of priority and in the manner set forth below:

- (a) to the Operation and Maintenance Fund, in an amount equal to the estimated Current Expenses for such month and, if not needed to remedy any deficiency in the Debt Service Fund, for the following month (after giving effect to available amounts in said Fund from prior deposits);
- (b) to the Debt Service Fund, an amount equal to one-sixth (1/6) of the next installment of interest coming due on the Prior Bonds, the Bonds and any Parity Bonds then outstanding and an amount equal to one-twelfth (1/12) of the installment of principal of the Prior Bonds, the Bonds and any Parity Bonds coming due during such Bond Year (after giving effect to available amounts in said Fund from accrued interest, any premium or any other source); and
- (c) to the Depreciation Fund, an amount determined by the Governing Body to be sufficient to provide a proper and adequate depreciation account for the System; and
- (d) to the Surplus Fund, any amount remaining in the Revenue Fund after the monthly transfers required above have been completed.

Transfers from the Revenue Fund to the Operation and Maintenance Fund, the Debt Service Fund, the Depreciation Fund and the Surplus Fund shall be made monthly not later than the tenth day of each month, and such transfer shall be applicable to monies on deposit in the Revenue Fund as of the last day of the month preceding. Any other transfers and deposits to any fund required or permitted by subsection (a) through (d) of this Section, except transfers or deposits which are required to be made immediately or annually, shall be made on or before the tenth day of the month. Any transfer or deposit required to be made at the end of any Fiscal Year shall be made within sixty (60) days after the close of such Fiscal Year. If the tenth day of any month shall fall on a day other than a business day, such transfer or deposit shall be made on the next succeeding business day.

It is the express intent and determination of the Governing Body that the amounts transferred from the Revenue Fund and deposited in the Debt Service Fund shall be sufficient in any event to pay the interest on the Prior Bonds, the Bonds and any Parity Bonds as the same accrues and the principal thereof as the same matures, and to meet reserve requirements.

Section 8. Deposits and Investments. The Debt Service Fund shall be kept apart from monies in the other funds and accounts of the Municipality and the same shall be used for no purpose other than the prompt payment of principal of and interest on the Prior Bonds, the Bonds and any Parity Bonds as the same becomes due and payable. All monies therein shall be deposited in special and segregated accounts in a public depository selected under Chapter 34, Wisconsin Statutes and may be temporarily invested until needed in legal investments subject to the provisions of Section 66.0603(1m), Wisconsin Statutes. The other funds herein created (except

the Sewer System CWFPP Project Fund) may be combined in a single account in a public depository selected in the manner set forth above and may be temporarily invested until needed in legal investments subject to the provisions of Section 66.0603(1m), Wisconsin Statutes.

Section 9. Service to the Municipality. The reasonable cost and value of services rendered to the Municipality by the System by furnishing sewer services for public purposes shall be charged against the Municipality and shall be paid in monthly installments as the service accrues, out of the current revenues of the Municipality collected or in the process of collection, exclusive of the revenues derived from the System; that is to say, out of the tax levy of the Municipality made by it to raise money to meet its necessary current expenses. The reasonable cost and value of such service to the Municipality in each year shall be equal to an amount which, together with other revenues of the System, will produce in each Fiscal Year Net Revenues equivalent to not less than the annual principal and interest requirements on the Prior Bonds, the Bonds, any Parity Bonds and any other obligations payable from the revenues of the System then outstanding, times the greater of (i) 110% or (ii) the highest debt service coverage ratio required with respect to any obligations payable from revenues of the System then outstanding. However, such payment out of the tax levy shall be subject to (a) approval of the Public Service Commission, or successors to its function, if applicable, (b) yearly appropriations therefor, and (c) applicable levy limitations, if any; and neither this Resolution nor such payment shall be construed as constituting an obligation of the Municipality to make any such appropriation over and above the reasonable cost and value of the services rendered to the Municipality and its inhabitants or to make any subsequent payment over and above such reasonable cost and value.

Section 10. Operation of System; Municipality Covenants. It is covenanted and agreed by the Municipality with the owner or owners of the Bonds, and each of them, that the Municipality will perform all of the obligations of the Municipality as set forth in the Financial Assistance Agreement.

Section 11. Additional Bonds. The Bonds are issued on a parity with the Prior Bonds as to the pledge of revenues of the System. No bonds or obligations payable out of the revenues of the System may be issued in such manner as to enjoy priority over the Bonds. Additional obligations may be issued if the lien and pledge is junior and subordinate to that of the Bonds. Parity Bonds may be issued only under the following circumstances:

(a) Additional Parity Bonds may be issued for the purpose of completing the Project and for the purpose of financing costs of the Project which are ineligible for payment under the State of Wisconsin Clean Water Fund Program. However, such additional Parity Bonds shall be in an aggregate amount not to exceed 20% of the face amount of the Bonds; or

(b) Additional Parity Bonds may also be issued if all of the following conditions are met:

(1) The Net Revenues of the System for the Fiscal Year immediately preceding the issuance of such additional bonds must have been in an amount at least equal to the maximum annual interest and principal requirements on all bonds outstanding payable from the revenues of the System, and on the bonds then to be issued, times the greater of (i) 1.10 or (ii) the highest debt service coverage ratio to be required with respect to the Additional Parity Bonds to be

issued or any other obligations payable from the revenues of the System then outstanding. Should an increase in permanent rates and charges, including those made to the Municipality, be properly ordered and made effective during the Fiscal Year immediately prior to the issuance of such additional bonds or during that part of the Fiscal Year of issuance prior to such issuance, then Net Revenues for purposes of such computation shall include such additional revenues as an independent certified public accountant, consulting professional engineer or the Wisconsin Public Service Commission may certify would have accrued during the prior Fiscal Year had the new rates been in effect during that entire immediately prior Fiscal Year.

(2) The payments required to be made into the funds enumerated in Section 6 of this Resolution must have been made in full.

(3) The additional bonds must have principal maturing on May 1 of each year and interest falling due on May 1 and November 1 of each year.

(4) The proceeds of the additional bonds must be used only for the purpose of providing extensions or improvements to the System, or to refund obligations issued for such purpose.

Section 12. Sale of Bonds. The sale of the Bonds to the State of Wisconsin Clean Water Fund Program for the purchase price of up to \$633,078 and at par, is ratified and confirmed; and the officers of the Municipality are authorized and directed to do any and all acts, including executing the Financial Assistance Agreement and the Bonds as hereinabove provided, necessary to conclude delivery of the Bonds to said purchaser, as soon after adoption of this Resolution as is convenient. The purchase price for the Bonds shall be paid upon requisition therefor as provided in the Financial Assistance Agreement, and the officers of the Municipality are authorized to prepare and submit to the State requisitions and disbursement requests in anticipation of the execution of the Financial Assistance Agreement and the issuance of the Bonds.

Section 13. Application of Bond Proceeds. The proceeds of the sale of the Bonds shall be deposited by the Municipality into a special fund designated as "Sewer System CWFP Project Fund." The Sewer System CWFP Project Fund shall be used solely for the purpose of paying the costs of the Project as more fully described in the preamble hereof and in the Financial Assistance Agreement. Moneys in the Sewer System CWFP Project Fund shall be disbursed within three (3) business days of their receipt from the State of Wisconsin and shall not be invested in any interest-bearing account.

Section 14. Amendment to Resolution. After the issuance of any of the Bonds, no change or alteration of any kind in the provisions of this Resolution may be made until all of the Bonds have been paid in full as to both principal and interest, or discharged as herein provided, except: (a) the Municipality may, from time to time, amend this Resolution without the consent of any of the owners of the Bonds, but only to cure any ambiguity, administrative conflict, formal defect, or omission or procedural inconsistency of this Resolution; and (b) this Resolution may be amended, in any respect, with a written consent of the owners of not less than two-thirds (2/3) of the principal amount of the Bonds then outstanding, exclusive of Bonds held by the

Municipality; provided, however, that no amendment shall permit any change in the pledge of revenues derived from the System or the maturity of any Bond issued hereunder, or a reduction in the rate of interest on any Bond, or in the amount of the principal obligation thereof, or in the amount of the redemption premium payable in the case of redemption thereof, or change the terms upon which the Bonds may be redeemed or make any other modification in the terms of the payment of such principal or interest without the written consent of the owner of each such Bond to which the change is applicable.

Section 15. Defeasance. When all Bonds have been discharged, all pledges, covenants and other rights granted to the owners thereof by this Resolution shall cease. The Municipality may discharge all Bonds due on any date by irrevocably depositing in escrow with a suitable bank or trust company a sum of cash and/or bonds or securities issued or guaranteed as to principal and interest of the U.S. Government, or of a commission, board or other instrumentality of the U.S. Government, maturing on the dates and bearing interest at the rates required to provide funds sufficient to pay when due the interest to accrue on each of said Bonds to its maturity or, at the Municipality's option, if said Bond is prepayable to any prior date upon which it may be called for redemption, and to pay and redeem the principal amount of each such Bond at maturity, or at the Municipality's option, if said Bond is prepayable, at its earliest redemption date, with the premium required for such redemption, if any, provided that notice of the redemption of all prepayable Bonds on such date has been duly given or provided for.

Section 16. Rebate Fund. Unless the Bonds are exempt from the rebate requirements of the Internal Revenue Code of 1986, as amended (the "Code"), the Municipality shall establish and maintain, so long as the Bonds and any Parity Bonds are outstanding, a separate account to be known as the "Rebate Fund." The sole purpose of the Rebate Fund is to provide for the payment of any rebate liability with respect to the Bonds under the relevant provisions of the Code and the Treasury Regulations promulgated thereunder (the "Regulations"). The Rebate Fund shall be maintained by the Municipality until all required rebate payments with respect to the Bonds have been made in accordance with the relevant provisions of the Code and the Regulations.

The Municipality hereby covenants and agrees that it shall pay to the United States from the Rebate Fund, at the times and in the amounts and manner required by the Code and the Regulations, the portion of the "rebate amount" (as defined in Section 1.148-3(b) of the Regulations) that is due as of each "computation date" (within the meaning of Section 1.148-3(e) of the Regulations). As of the date of this Resolution, the provisions of the Regulations specifying the required amounts of rebate installment payments and the time and manner of such payments are contained in Sections 1.148-3(f) and (g) of the Regulations, respectively. Amounts held in the Rebate Fund and the investment income therefrom are not pledged as security for the Bonds or any Parity Bonds and may only be used for the payment of any rebate liability with respect to the Bonds.

The Municipality may engage the services of accountants, attorneys or other consultants necessary to assist it in determining the rebate payments, if any, owed to the United States with respect to the Bonds. The Municipality shall maintain or cause to be maintained records of determinations of rebate liability with respect to the Bonds for each computation date until six (6) years after the retirement of the last of the Bonds. The Municipality shall make such records available to the State of Wisconsin upon reasonable request therefor.

Section 17. Resolution a Contract. The provisions of this Resolution shall constitute a contract between the Municipality and the owner or owners of the Bonds, and after issuance of any of the Bonds no change or alteration of any kind in the provisions of this Resolution may be made, except as provided in Section 14, until all of the Bonds have been paid in full as to both principal and interest. The owner or owners of any of the Bonds shall have the right in addition to all other rights, by mandamus or other suit or action in any court of competent jurisdiction, to enforce such owner's or owners' rights against the Municipality, the Governing Body thereof, and any and all officers and agents thereof including, but without limitation, the right to require the Municipality, its Governing Body and any other authorized body, to fix and collect rates and charges fully adequate to carry out all of the provisions and agreements contained in this Resolution.

Section 18. Continuing Disclosure. The officers of the Municipality are hereby authorized and directed, if requested by the State of Wisconsin, to provide to the State of Wisconsin Clean Water Fund Program and to such other persons or entities as directed by the State of Wisconsin such ongoing disclosure regarding the Municipality's financial condition and other matters, at such times and in such manner as the Clean Water Fund Program may require, in order that securities issued by the Municipality and the State of Wisconsin satisfy rules and regulations promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended and as it may be amended from time to time, imposed on brokers and dealers of municipal securities before the brokers and dealers may buy, sell, or recommend the purchase of such securities.

Section 19. Conflicting Resolutions. All ordinances, resolutions (other than the Prior Resolutions), or orders, or parts thereof heretofore enacted, adopted or entered, in conflict with the provisions of this Resolution, are hereby repealed and this Resolution shall be in effect from and after its passage. In case of any conflict between this Resolution and the Prior Resolutions, the Prior Resolutions shall control as long as any of the respective Prior Bonds are outstanding.

Passed: July 19, 2011

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. ADOPTED: July 19, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE AMENDING ELECTION WARD BOUNDARIES PER 2010 CENSUS.

After each federal census, ward boundaries must be redrawn, incorporating population changes. City Clerk Smith presented a plan designating 12 wards in the City of Whitewater. For cities of Whitewater's size, wards have populations ranging from 600 – 2100 people, and are then combined to form other governmental district boundaries.

ORDINANCE NO. 1822

FIRST READING OF AN ORDINANCE AMENDING CHAPTER 1.08 OF THE CITY OF WHITEWATER MUNICIPAL CODE ENTITLED "WARDS"

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

Chapter 1.08 of the Whitewater Municipal Code is hereby amended as follows:

SECTION 1

1.08.010 Ward Boundaries. The City of Whitewater shall be divided into twelve wards as follows in this chapter.

SECTION 2.

Section 1.08/020 Ward 1, is amended to read as follows: Commencing at the intersection of Newcomb St. and the Walworth/Jefferson County line; thence south on Newcomb St. to its intersection with E. Main St.; thence east on E. Main St. to its intersection with Whitewater Creek; thence southwesterly along the banks of Cravath Lake to the Spring Brook; thence westerly along the Spring Brook to its intersection with S. Franklin St.; thence south on S. Franklin St. to its intersection with the City of Whitewater Municipal boundary line in effect as of 07/19/2011; thence westerly to the intersection of Hwy. 12 and State Road 89; thence continue northwesterly along Hwy. 12 to its intersection with Janesville St.; thence southwesterly on Janesville St. to the City of Whitewater Municipal boundary line; thence generally easterly along the City of Whitewater Municipal boundary line to its south eastern most point; thence generally northerly along the City of Whitewater Municipal boundary line to its intersection with the Walworth/Jefferson County boundary line; thence westerly along the Walworth/Jefferson County boundary line (point of beginning).

SECTION 3.

Section 1.080.030 Ward 2, is amended to read as follows: Commencing at the Walworth/Jefferson County line intersection with N. Newcomb St. ; thence west along the Walworth/Jefferson County boundary line to its intersection with N. Fremont St.; thence south along N. Fremont St. to its intersection with W. North St.; thence east along North St. to its intersection with N. Jefferson St.; thence south along N. Jefferson St. to its intersection with E. Main St.; thence east along E. Main St. to its intersection with N. Newcomb St.; thence north along N. Newcomb St. to the point of beginning. (Walworth /Jefferson County boundary line and N. Newcomb Street)

SECTION 4

Section 1.080.040 Ward 3, is amended to read as follows: Commencing at the Walworth/Jefferson County boundary line intersection with N. Fremont St.; thence south on N. Fremont St. to its intersection with W. North St.; thence westerly along W. North St. to its intersection with W. Main St.; thence west on W. Main St. to its intersection with N. Prairie St.; thence north along N. Prairie St. to its intersection with the Walworth/Jefferson County boundary line; thence east on the Walworth/Jefferson County boundary line to the point of beginning (Walworth/Jefferson County boundary line and N. Fremont St.)

SECTION 5.

Section 1.08/050 Ward 4, is amended to read as follows: Commencing at the intersection of W. Main St. and S. Prairie St.; thence south along S. Prairie St. to its intersection with Peck St.; thence southeasterly on Peck St. to its intersection with S. Janesville St.; thence southwestly on Janesville St. to its intersection with U.S. Hwy 12; thence southeasterly on U.S. Hwy. 12 to its intersection with State Road 89; thence easterly to S. Franklin St.; thence northerly on S. Franklin St. to the Spring Brook; thence easterly and northerly along the west shore line of Cravath Lake to Whitewater Creek; thence easterly on E. Main St. to its intersection with N. Jefferson St.; thence northerly on N. Jefferson St. to its intersection with E. North St.; thence westerly on W. North St. to its intersection with W. Main St.; thence westerly on W. Main St. to its intersection with S. Prairie St.(point of beginning).

SECTION 6.

Section 1.08.060 Ward 5, is amended to read as follows: Commencing at the intersection of S. Prairie St. and W. Main St.; thence south along S. Prairie St. to its intersection with Peck St.; thence southeasterly along Peck St. to its intersection with Janesville St.; thence southwestly along Janesville St. to its intersection with W. South St. ; thence westerly on W. South St. to its intersection with S. Prince St.; thence northerly along S. Prince St. to its intersection with W. Main St.; thence east on W. Main St. to the point of beginning (S. Prairie St. and W. Main St.)

SECTION 7.

Section 1.080.070 Ward 6, is amended to read as follows: Commencing at the intersection of S. Prince St. and W. Main St.; thence south on S. Prince St. to its intersection with W. South St.; thence east on W. South St. to its intersection with S. Janesville St.; thence southwestly on S. Janesville St./Hwy. 59 to the City limit boundary in effect as of 7/19/2011; thence northwesterly, southwestly, northerly, northwesterly, westerly, northwesterly, northerly, and easterly, along the City of Whitewater boundary line, to its intersection with W. Main St.; thence southeasterly and easterly along W. Main St. to its intersection with S. Prince St. (to the point of beginning).

SECTION 8.

Section 1.080.070 Ward 7, is amended to read as follows: Commencing at the intersection of the Walworth/Jefferson County boundary line and its intersection with N. Prairie St.; thence south on N. Prairie St. to its intersection with W. Starin Rd.; thence west along Starin Rd to its intersection with N. Tratt St.; thence northwesterly along N. Tratt St. to the Walworth/Jefferson County boundary line; thence east along the Walworth/Jefferson County boundary line to the intersection of N. Prairie St. and the Walworth/Jefferson County boundary line (point of beginning).

SECTION 9.

Section 1.080.080 Ward 8, is amended to read as follows: Commencing at the intersection of the Walworth/Jefferson County boundary line and N. Tratt St./Hwy. N; thence westerly along the Walworth/Jefferson County boundary line to the City of Whitewater Municipal City limits as of 7/19/2011; thence southerly, easterly, northerly, northeasterly and southeasterly along the City of Whitewater municipal boundary line, to its intersection with Hwy. 12 / W. Main St.; thence southeasterly and easterly along W. Main St. to its intersection with Twelfth Place; thence north along Twelfth Place to its intersection with Salisbury Lane; thence easterly along Salisbury Lane to its intersection with N. Hyer Lane; thence northerly along N. Hyer Lane to its intersection with Florence St.; thence easterly along Florence St. to its intersection with Fraternity Lane; thence northerly along Fraternity Lane to its intersection with Carriage Dr.; thence easterly along Carriage Dr. to its intersection with N. Tratt St.; thence north along N. Tratt St. to its intersection with Starin Road; thence northwesterly along Tratt St. to its intersection with Walworth/Jefferson County boundary line;(point of beginning)

Section 10.

Section 1.080.090 Ward 9, is amended to read as follows: Commencing at the intersection of Starin Rd. and N. Prairie St.; thence southeasterly to the intersection of N. Prairie St. and W. Main St.; thence westerly on W. Main St. to its intersection with N. Twelfth Place; thence northerly on N. Twelfth Place to its intersection with Salisbury Lane; thence east on Salisbury Lane to its intersection with N. Hyer Lane; thence north on N. Hyer Lane to its intersection with W. Florence St.; thence east on W. Florence St. to its intersection with Fraternity Lane; thence north on N. Fraternity Lane to its intersection with W. Carriage Dr.; thence easterly on W. Carriage Dr. to its intersection with N. Tratt St.; thence north on N. Tratt St. to its intersection with W. Starin Rd.; thence east on W. Starin Rd. to its intersection with N. Prairie St. (point of beginning).

SECTION 11.

Section 1.080.100 Ward 10, is amended to read as follows: Commencing at the intersection of N. Tratt St. and Blooming Field Dr.; thence northeasterly along N. Tratt St. to its intersection with the City of Whitewater Municipal boundary line in effect as of 07/19/2011; thence west along the City of Whitewater Municipal boundary line to its western most point; thence south along the City of Whitewater Municipal boundary line to its intersection with the Walworth/Jefferson County line boundary line; thence generally easterly, northerly and southerly along the City of Whitewater Municipal boundary line to its intersection with Walton Dr./Hill Crest Dr.; thence generally northerly to the intersection with Walton Dr. and Blooming Field Dr.; thence southwesterly on Blooming Field Dr. to its intersection with N. Tratt St. (to the point of beginning).

SECTION 12.

Section 1.080.110 Ward 11, is amended to read as follows: Commencing at the intersection of the Walworth/Jefferson County boundary line and N. Tratt St.; thence northwesterly on Tratt St. to its intersection with Walton Dr.; thence generally northerly along Walton Dr. to its intersection with Blooming Field Dr.; thence southwesterly along Blooming Field Dr. to its intersection with N. Tratt St.; thence northerly along the City of Whitewater Municipal boundary

line in effect as of 07/19/2011; thence easterly, northerly, easterly and southeasterly along the City of Whitewater Boundary line to its intersection with Fremont Rd.; thence northerly along Fremont Rd. to its intersection with the City of Whitewater Municipal boundary line; thence easterly and northerly along the City of Whitewater Municipal boundary line to its intersection with County Road U; thence easterly along County Road U to its intersection with the City of Whitewater Municipal boundary line; thence northerly and easterly along the City of Whitewater Municipal boundary line to its intersection with County Road D; thence southerly along County Road D to its intersection with the City of Whitewater Municipal boundary line; thence generally southerly along the City of Whitewater Municipal boundary line to its intersection with the Walworth/Jefferson County boundary line.

AND

Commencing at the intersection of the City of Whitewater boundary line and the Walworth/Jefferson County boundary line (slightly east of N. Newcomb St./Hwy. 59); thence generally northerly, easterly, and generally southerly along the City of Whitewater boundary line to its intersection with Howard Rd.; thence westerly along the Walworth/Jefferson County boundary line to the point of beginning.

SECTION 13.

Section 1.080.120 Ward 12, is amended to read as follows: Commencing at the intersection of the Walworth/Jefferson County boundary line and Warhawk Dr.; thence north, crossing Stadium Dr., to the northeastern most tip of the Warhawk Dr. semi-circle; thence directly east to its intersection with Fremont Rd.; thence south along Fremont Rd. to its intersection with the Walworth/Jefferson County boundary line; thence westerly along the Walworth/Jefferson County boundary line to the intersection of Warhawk Dr. and the Walworth/Jefferson County line (point of beginning).

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Butler. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. FIRST READING APPROVED: July 19, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE AMENDING ELECTION ALDERMANIC DISTRICT BOUNDARIES PER 2010 CENSUS. Once wards are established, they are then combined to form aldermanic districts.

ORDINANCE NO. 1823

AN ORDINANCE AMENDING CHAPTER 1.06 OF THE CITY OF WHITEWATER MUNICIPAL CODE ENTITLED "ALDERMANIC DISTRICTS"

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

Chapter 1.06 of the Whitewater Municipal Code is amended as follows:

SECTION 1:

Section 1.06.020, First District, shall be amended to read as follows: The First Aldermanic District shall consist of Wards 1 and 2.

SECTION 2:

Section 1.06.030, Second District, shall be amended to read as follows: The Second Aldermanic District shall consist of Wards 7 and 8.

SECTION 3:

Section 1.06.040, Third District, shall be amended to read as follows: The Third Aldermanic District shall consist of Wards 3, 4 and 9.

SECTION 4:

Section 1.06.050, Fourth District, shall be amended to read as follows: The Fourth Aldermanic District shall consist of Wards 5 and 6.

SECTION 5:

Section 1.06.060, Fifth District, shall be amended to read as follows: The Fifth Aldermanic District shall consist of Wards 10, 11 and 12.

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Butler. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. FIRST READING APPROVED: July 19, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE AMENDING CH. 1.21.010, SCHEDULE OF DEPOSITS, RELATING TO ANIMAL CONTROL VIOLATIONS. City Attorney McDonell presented an ordinance amending the schedule of deposits (fines) for animal control violations, increasing charges for multiple offenses.

**ORDINANCE NO. 1824
AN ORDINANCE AMENDING SECTION 1.21.010
SCHEDULE OF DEPOSITS**

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

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

<u>CHAPTER OR SECTION NUMBER</u>	<u>OFFENSE</u>	<u>DEPOSITS AND COSTS</u>
Chapter 9.08	Animal control Violations	1 st offense - \$75.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment 2 nd offense within 1 year - \$150.00 plus statutory penalty assessment, jail assessment, courts costs and crime lab assessment 3 rd and subsequent offenses within 1 year - \$300.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment

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

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. FIRST READING APPROVED: July 19, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

DISCUSSION AND POSSIBLE DIRECTION REGARDING FINANCING OF NORTH STREET BRIDGES PROJECT. City Manager Brunner reported that the City has been awarded a \$419,500 Community Development Block Grant from Wisconsin Economic Development Corp. The total estimated cost of the project submitted by E & N Hughes of Monroe, Wisconsin is \$1,503,056, with the cost to be distributed between the Capital Improvement Fund (\$1,103,041); the Water Utility Fund (\$182,914); the Sanitary Sewer Fund (\$75,850) and the Storm Sewer Fund (\$141,251). Borrowing for the Capital Improvement Fund and Storm Sewer Fund portions is necessary. It was moved by Winship and seconded by Olsen to direct the Finance Director to solicit bids from local lenders in the amount of \$700,000 for the Capital Improvement Plan portion of the project, and \$227,000 for the storm water portion of the project [this amount includes an additional \$85,000 in anticipated property acquisition costs for a future stormwater facility on Ann Street], and to continue to work with City financial advisors, Robert W. Baird and Company, on structuring the CIP debt such that an annual ceiling of

\$550,000 of principal and interest payments be established. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

AWARD OF BID FOR NORTH STREET BRIDGES RECONSTRUCTION PROJECT.

Two bids for the North Street bridge replacements were received. It was moved by Olsen and seconded by Binnie to award the bid for bridge replacements to E & N Hughes of Monroe, Wisconsin, in the sum of \$1,252,419.54. It was noted by DPW Director Fischer that the bridges would be completed this year, but that the section of North Street due to be repaired may have to consist of a gravel base during winter 2011-12. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None.

DISCUSSION AND POSSIBLE DIRECTION REGARDING CARRY AND CONCEAL LAW AND ITS AFFECT ON CITY PROPERTY AND BUILDINGS.

Park and Recreation Director Amundson requested direction on how city buildings should be posted in light of the adoption of the new Conceal and Carry Gun Laws in the State of Wisconsin. Proposed was an action that would prohibit carrying of weapons in the Whitewater Municipal Building; Irvin L. Young Memorial Library; White Building; Downtown Armory; Starin Park Community Building; Cravath Lakefront Community Center; and the Whitewater Train Depot building. Discussion ensued, and it was agreed that before any action would be taken, further information would be forthcoming, including information relating to policies adopted by other communities.

APPROVAL OF REQUEST FROM WHITEWATER FIRE DEPARTMENT TO CLOSE WHITEWATER STREET (FROM FOURTH STREET TO FREMONT STREET) FOR TWO HOURS ON JULY 23, 2011.

It was moved by Olsen and seconded by Binnie to approve the Whitewater Fire Department's request to close Whitewater Street, from the intersection of Fourth Street to Fremont Street, on July 23, 2011, from 11:30 a.m. – 1:30 p.m. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

DISCUSSION AND POSSIBLE DIRECTION REGARDING CITY FINES AND PENALTIES.

Councilmember Kienbaum believes that fines and forfeitures charged by the City are excessive. It was noted that the Municipal Judge has some discretion in the amount of certain fines. City Manager Brunner noted that the City had done a comparison about four years ago, and the research indicated that Whitewater was not generally higher than other communities. Further information will be forthcoming.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS. Councilmember Kienbaum requested that discussion regarding fines and penalties be continued at a future meeting.

ADJOURN TO EXECUTIVE SESSION: It was moved by Singer and seconded by Olsen to Adjourn to Executive Session, **not to reconvene**, per Wisconsin Statutes 19.85(1)(e)

“Deliberating or negotiating the purchasing 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: 1) Discussing strategy for negotiations with Walworth County concerning Elkhorn Road Venture LLC Payment in Lieu of Taxes Payment / Special Charge Settlement. AYES: Olsen, Butler, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. Being no further business, the regular portion of the meeting adjourned at 7:15 p.m.

Respectfully submitted,

Michele R. Smith, City Clerk