

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

September 6, 2011.

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

It was moved by Olsen and seconded by Binnie to approve the Council minutes of August 16, 2011 and to acknowledge receipt and filing of the: following: Library Board Minutes of June 13, 2011; Financial Reports for July, 2011; Landmark Minutes of June 1, 2011 and July 6, 2011; Report of Manually-Issued Checks for July, 2011 and Police Department Consolidated Monthly Report for July, 2011. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. 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 \$200,777.06. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None.

**REPORTS.** City Manager Brunner reported on the **Budget Update; City Engineering Service Selection Process** and the **New Police Chief Contract/Oath of Office**. Downtown Director Brodnicki gave the **quarterly report from Downtown Whitewater** and **Downtown Parking Survey**. DPW Director Fischer reported on **Main/Whiton Street intersection improvements and re-use of equipment**.

**CITIZEN COMMENTS.** There were no citizen comments.

**AUTHORIZING JEFFERSON COUNTY TAX EXEMPTION FOR LIBRARY SERVICES.**

**RESOLUTION REQUESTING EXEMPTION FROM COUNTY LIBRARY TAX**

WHEREAS the Jefferson County Board has established a county library service and levies a county library tax as authorized under Section 43.57 (3) of the Wisconsin Statutes and

WHEREAS section 43.64 (2) (b) of the Wisconsin Statutes provides that a village or city is exempt from the county library tax if it levies a tax for public library service and appropriates and expends for a library fund as defined by s. 43.52 (1) during the year for which the county tax levy is made a sum at least equal to the county library tax rate in the prior year multiplied by the equalized valuation of the property in the city or village for the current year, and

WHEREAS the City of Whitewater will, in 2012, appropriate and expend an amount in excess of that calculated above,

NOW THEREFORE BE IT RESOLVED that the City of Whitewater hereby requests of the Jefferson County Board of Supervisors that the City of Whitewater be exempted from the payment of any tax for the support of the County Library Service as provided in Section 43.64 (2).

BE IT FURTHER RESOLVED that copies of this resolution be forwarded by the city clerk to the following parties:

ADMINISTRATOR  
Jefferson County Library Council  
Dwight Foster Public Library  
102 E. Milwaukee Ave.  
Fort Atkinson, WI 53538

COUNTY CLERK  
320 S. Main Street, Room 109  
Jefferson, WI 53549

Fiscal Note:

Estimated Municipal 2012 Library Appropriation \$469,482.

Resolution introduced by Councilmember Olsen who moved its adoption. Seconded by Councilmember Binnie. AYES: Winship, Olsen, Kienbaum, Stewart, Singer, Binnie, Butler. NOES: None. ABSENT: None. ADOPTED: September 6, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**APPROVAL OF WALWORTH COUNTY PROFESSIONAL SERVICES AGREEMENT.**

It was moved by Olsen and seconded by Binnie to approve the Walworth County Professional Services Agreement for GIS Services. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None.

**ADOPTION OF WHITEWATER URBAN FORESTRY MANAGEMENT PLAN.**

It was moved by Olsen and seconded by Binnie to table this item until the next Council meeting on September 27<sup>th</sup>. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None.

**APPROVAL OF CATCON LLC DEVELOPMENT AGREEMENT.**

**RESOLUTION APPROVING THE DEVELOPMENT AGREEMENT  
BETWEEN CATCON WHITEWATER, LLC AND  
THE CITY OF WHITEWATER FOR THE  
PRINCE STREET DEVELOPMENT**

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, supports orderly development of the community in accordance with adopted City plans and policies and the efficient provision of municipal services to serve such development, and

WHEREAS, Catcon Whitewater, LLC has proposed a residential development which is in conformance with adopted City plans, policies, and Titles 18 and 19 of the City Code of Ordinances of the City of Whitewater, and

WHEREAS, the City Plan and Architectural Review Commission has recommended approval of the development, subject to a number of conditions, and

WHEREAS, Title 18 and 19 include standards for public improvements and fees applicable to developments within the City of Whitewater, including but not limited to public parks, street grading, street surfacing, curb and gutter, sidewalks, sanitary sewerage systems, stormwater drainage facilities, public water supply facilities, street lights, street trees, and street signs, and

WHEREAS, the City of Whitewater and Catcon Whitewater, LLC have negotiated a development agreement to establish the responsibilities and timetables for the development, and

WHEREAS, the Common Council finds that the attached development agreement is in the City of Whitewater's best interests,

Now, therefore, BE IT RESOLVED, that the Common Council of the City of Whitewater approves the attached development agreement, with conditions, as imposed by the City of Whitewater Plan Commission, and authorizes the City Manager and City Clerk to execute the agreements.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Binnie. AYES; Binnie, Singer, Kienbaum, Stewart, Olsen, Butler, Winship. NOES: None. ABSENT: None. ADOPTED: September 6, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**AWARD OF \$927,000 GENERAL OBLIGATION PROMISSORY NOTES FOR NORTH STREET BRIDGES AND STORMWATER PROJECTS.**

**RESOLUTION AUTHORIZING THE BORROWING OF \$927,000.00 AS A GENERAL OBLIGATION OF THE CITY OF WHITEWATER FOR NORTH STREET BRIDGE CONSTRUCTION AND STORM WATER IMPROVEMENTS, AND PROPERTY ACQUISITION FOR STORM WATER MANAGEMENT PURPOSES IN THE CITY OF WHITEWATER**

WHEREAS, the Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, has determined that property acquisition and certain improvements are necessary in the City of Whitewater and are in the City and general public's best interest, and

WHEREAS, said improvements include property acquisition for storm water improvements and the North Street Bridge construction and storm water improvements, and

**WHEREAS**, it is not practical for the City to pay all of the costs of said improvements immediately, and

**WHEREAS**, the City staff has determined that the City will receive the most favorable interest rate if it borrows funds for said improvements as a general obligation of the City.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Whitewater, Walworth and Jefferson Counties, that:

**SECTION 1: Authorization to borrow.** The City shall borrow \$927,000.00 as a general obligation of the City from the Commercial Bank of Whitewater at the rate of .72% for a term of two (2) years, amortized over two (2) years.

**SECTION 2: Repayment.** The payment on said \$927,000.00 obligation shall be made by the City of Whitewater and shall be a general obligation of the City.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Binnie. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None. ADOPTED: September 6, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**FIRST READING AMENDING CHAPTER 7.63.020 OF THE MUNICIPAL CODE TO MAKE A TECHNICAL CHANGE TO PENALTIES FOR ALCOHOL VIOLATIONS.**

**ORDINANCE NO. 1825 - Preliminary**

**AN ORDINANCE AMENDING CHAPTER 7.63**

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

Section 7.63.020 Penalty of Chapter 7.63 of the Whitewater Ordinances is hereby amended as follows:

**7.63.020 Penalty.**

The provisions of Section 125.07(4) of the Wisconsin Statutes, exclusive of any criminal jail penalties, and also all acts amendatory thereof and supplementary thereto relating to penalties are adopted as a portion of this chapter so far as applicable.

Ordinance introduced by Councilmember Butler, who moved its adoption. Seconded by Councilmember Winship. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None. First Reading approved: September 6, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**FIRST READING AMENDING CHAPTER 5.20.160 OF THE MUNICIPAL CODE TO MAKE A TECHNICAL CHANGE TO PENALTIES FOR ALCOHOL VIOLATIONS.**

**ORDINANCE NO. 1826 - Preliminary**

**AN ORDINANCE AMENDING CHAPTER 5.20**

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

Section 5.20.160 Penalty of Chapter 5.20 of the Whitewater Ordinances is hereby amended to read as follows:

**5.20.160 Penalty.** The provisions of Chapter 125 of the Wisconsin Statutes, exclusive of any criminal jail penalties, and also all acts amendatory thereof and supplementary thereto relating to penalties are adopted as a portion of this chapter so far as applicable. Any person who violates any provision of this chapter for which a specific penalty is not provided, shall be subject to a forfeiture of:

- (a) Not more than five hundred dollars if the person has not committed a previous violation within twelve months of the violation:
- (b) Not less than two hundred dollars nor more than five hundred dollars if the person has previously committed a violation within twelve months of the violation:
- (c) Not less than five hundred dollars nor more than one thousand dollars if the person committed two previous violations within twelve months of the violation; and
- (d) Not less than one thousand dollars nor more than five thousand dollars for the fourth and subsequent offenses within one year.

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Binnie. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None. First Reading approved: September 6, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**FIRST READING CREATING CHAPTER 1.25 OF THE MUNICIPAL CODE TO PROHIBIT ENTRY OR PRESENCE IN PUBLIC BUILDINGS IN CITY WHILE CARRYING FIREARM.**

Brunner indicated that the Library Board and Parks and Recreation Board agree with the creation of this ordinance which would apply to the library and facilities maintained by the Department of Parks and Recreation. City staff is recommending that all other municipal buildings be included, without exception. Other communities vary widely on what they will allow at this time. McDonnell stated that there is a general penalty provision in the

Municipal Code that will cover violations. Olsen suggested that information on penalties be brought to the second reading of the ordinance.

**ORDINANCE NO. 1827 - Preliminary**

**ORDINANCE TO PROHIBIT ENTRY OR PRESENCE IN  
PUBLIC BUILDINGS IN CITY OF WHITEWATER  
WHILE CARRYING FIREARMS**

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

**Section 1.** Chapter 1.25 of the City of Whitewater Municipal Code is hereby created to read as follows:

1.25.010. Title.

This Chapter shall be known as, referred to or cited as The Public Buildings Firearms Ordinance of the City of Whitewater.

1.25.020. Authority.

The regulations adopted hereunder are adopted under the authority granted in Wisconsin Statute 943.13 (1m)(c)4.

1.25.030. Purpose.

The purpose of this Chapter is to promote the health, safety and general welfare of this community.

1.25.040. Severability and Non-liability.

A. If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.

B. If any application of this Chapter to any particular structure is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure not specifically included in said judgment.

C. The City does not guarantee, warrant or represent that no firearms will be carried in public buildings and hereby asserts that there is no liability on the part of the City of Whitewater, the Common Council, its officers or employees for any damages that may occur as a result of reliance upon this Chapter.

1.25.050. General Provisions.

A. The City Manager shall cause signs to be erected at all entrances to all buildings owned, occupied or under the control of the City of Whitewater providing notice that no person is to enter or remain in any such building while carrying a firearm. Such signs shall be five inches by seven inches or larger.

B. Nothing in the subsection shall be construed to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police to possess a firearm in any public building.

C. Nothing in this subsection shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Wis. Stats. §§ 941.23 or 941.235.

**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: Singer, Kienbaum, Stewart, Olsen, Winship, Binnie. NOES: Butler. ABSENT: None. First Reading approved: September 6, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**APPROVAL OF EXPANSION OF “CLASS A” (BEER AND LIQUOR) LICENSED PREMISES FOR WALMART STORE.** It was moved by Binnie and seconded by Olsen to approve the expansion of “Class A” licensed premises for Walmart Store, to waive the Alcohol Licensing Committee review of this change and to limit beer and liquor sales to the part of the store that sells groceries. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None.

**APPROVAL OF CLASS B BEER AND CLASS C WINE LICENSE FOR FINE FOODS LLC, 206-210 WHITEWATER STREET.** It was moved by Binnie and seconded by Olsen to approve a Class B Beer and Class C Wine License for Fine Foods, LLC., 206-210 Whitewater Street contingent on an improved description of the premises provided to the satisfaction of the City Clerk. This license will be for a new eating establishment owned by Tyler Salisbury at the site previously occupied by Dan’s Meat Market. The Alcohol Licensing Committee recommended approval of this license contingent on improved description of the premises. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None.

**APPROVAL OF CLASS B BEER AND LIQUOR LICENSE FOR HAWK’S NEST BAR AND GRILL, 214 WHITEWATER STREET.** It was moved by Binnie and seconded by Olsen to approve a Class B Beer and Liquor License for Hawk’s Nest Bar and Grill, 214 Whitewater Street contingent on an improved description of the premises provided to the satisfaction of the City Clerk and a stipulation for clarification on “Question 5” which relates to the Beverage Operator training course. The Alcohol Licensing Committee recommended approval of this license contingent on improved description of the premises and clarification on

“Question 5”. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None.

**APPROVAL OF AGREEMENT WITH WISCONSIN ECONOMIC DEVELOPMENT PROGRAM AND SUBLICENSING AGREEMENT.**

It was moved by Binnie and seconded by Stewart to approve an agreement with the Wisconsin Economic Development Program and sublicensing agreement as requested by the Downtown Whitewater, Inc. Board. Brunner stated that this agreement is similar to what has been agreed to in the past except that this agreement is for five years as opposed to previous agreements that were for 1-2 years. There is no requirement for the amount of City funding but a full time director for the Wisconsin Main Street Program is required. AYES: Butler, Winship, Binnie, Singer, Stewart. NOES: Kienbaum, Olsen. ABSENT: None.

**APPROVAL OF CONTRACT FOR MILWAUKEE STREET RECONSTRUCTION ENGINEERING SERVICES.**

It was moved by Olsen and seconded by Binnie to approve the contract for Milwaukee Street Reconstruction Engineering Services. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None.

**CONSIDERATION OF CHANGE OF COUNCIL MEETING FROM SEPTEMBER 20<sup>TH</sup> TO SEPTEMBER 27<sup>TH</sup>.**

It was moved by Olsen and seconded by Stewart to change the next Council meeting date from September 20<sup>th</sup> to September 27<sup>th</sup>, 2011. Winship stated that he would not be able to attend. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None.

**APPROVAL OF WINTER ROAD SALT PURCHASE FROM MORTON SALT, CHICAGO, IL FOR \$61.28/TON DELIVERED.**

It was moved by Olsen and seconded by Binnie to approve the winter road salt purchase form Morton Salt. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None.

**APPROVAL OF EMERGENCY REPAIRS TO WELL NO. 6.**

It was moved by Olsen and seconded by Binnie to approve emergency repairs to Well No. 6. AYES: Butler, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None.

**COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS.**

Stewart suggested that items listed on the consent agenda include brief comments as to why they are on the consent agenda or possibly that items put on the consent agenda at the meeting be commented on as to why they are being placed there.

**ADJOURNMENT.**

It was moved by Olsen and seconded by Winship to adjourn the meeting. AYES: Butler, Binnie, Singer, Kienbaum, Winship, Stewart, Olsen. NOES: None. ABSENT: None. The meeting adjourned at 7:15 p.m.

Respectfully submitted,

Cameron Clapper, Deputy City Clerk