

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

June 21, 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. MEMBERS ABSENT: Stewart, Winship. LEGAL COUNSEL PRESENT: Wallace McDonell.

It was moved by Olsen and seconded by Binnie to approve the Council minutes of June 7, 2011 and to acknowledge receipt and filing of the: following: Report of Manually-Produced Checks for May, 2011; Financial Reports for May, 2011; Irvin L. Young Memorial Library Board Minutes of May 9, 2011; Technology Park Board Minutes of May 11, 2011; and Plan Commission Minutes of May 9, 2011. AYES: Olsen, Butler, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart, Winship.

APPROVAL OF PAYMENT OF INVOICES. It was moved by Olsen and seconded by Binnie to approve payment of invoices in the total sum of \$279,328.14. AYES: Olsen, Butler, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart, Winship.

REPORTS. City Manager Brunner gave a **state budget update**. Brunner presented a **Proclamation designating “Bruce Parker Day”** in recognition of Bruce’s 37 years of employment with the City of Whitewater. Park and Recreation Director Amundson presented the **“Golden Shoe”** award to the City – city employees competed with the School District and University employees and won the walking contest award. Amundson also updated Council on the status of **the Treyton Kilar Field of Dreams**.

CITIZEN COMMENTS: None.

**APPROVAL OF COMPLIANCE MAINTENANCE ANNUAL REPORT FOR THE
WASTEWATER UTILITY.**

**CITY OF WHITEWATER
Wisconsin Department of Natural Resources Compliance Maintenance Annual Report
Resolution 2010**

WHEREAS, it is a requirement under a Wisconsin Pollutant Discharge Elimination System (WPDES) permit issued by the Wisconsin Department of Natural Resources to file a Compliance Maintenance Annual Report (CMAR) for its wastewater facilities under Wisconsin Administrative Code NR 208;

WHEREAS, it is necessary to acknowledge that the governing body has reviewed the CMAR;

WHEREAS, it is necessary to provide recommendations or an action plan for all CMAR section grades of “C” or less and/or an overall grade point average <3.00;

BE IT RESOLVED, the city council in the City of Whitewater informs the Department of Natural Resources that the 2010 CMAR was reviewed and this resolution was voted on as follows:

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Binnie. AYES: Kienbaum, Singer, Olsen, Binnie, Butler. NOES: None. ABSENT: Stewart, Winship. ADOPTED: June 21, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AUTHORIZING DISCONTINUANCE OF PORTION OF MORAINÉ VIEW PARK PARKWAY. A Public Hearing was held on the discontinuance of a portion of Moraine View Park Parkway. No one from the public spoke either for or against the discontinuance.

RESOLUTION DISCONTINUING A PORTION OF MORAINÉ VIEW PARKWAY

WHEREAS, the City of Whitewater has recently constructed an Innovation Center in the City of Whitewater, and

WHEREAS, there is currently a platted street stub for Moraine View Parkway that is located near said Innovation Center, and

WHEREAS, the Moraine View Parkway stub is not needed for current development plans for the area and may be an impediment to the development of the City of Whitewater Technology Park, and

WHEREAS, the public interest requires it.

Now, therefore, **BE IT RESOLVED** as follows:

1. Moraine View Parkway from its intersection with Innovation Drive southerly to the point described on the attached legal description, and shown on the attached and map, is hereby discontinued.
2. The official map of the City of Whitewater is hereby amended to show the discontinuance of this portion of Moraine View Parkway.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Butler.

AYES: Olsen, Butler, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart, Winship. ADOPTED: June 21, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

**LEGAL DESCRIPTION OF PORTION OF MORAINE VIEW PARKWAY TO BE
DISCONTINUED:**

Vacating Moraine View Parkway as dedicated on C.S.M. 3050, being a part of the SE ¼ and SW ¼ of the NE ¼ of Section 3, Town 4 North, Range 15 East, City of Whitewater, Walworth County, Wisconsin:

Commencing at the East ¼ corner of said Section 3;
Thence North 0° 14' 18" West a distance of 1,248.84 feet along the East line of the NE ¼ of said Section 3;
Thence South 88° 40' 08" West a distance of 33.01 feet to the intersection the Westerly right-of-way line of Howard Road and the Southerly right-of-way line of Corporate Drive;
Thence South 88° 40' 08" West a distance of 1,177.73 feet along said Southerly right-of-way line to the point of beginning;

Thence South 83° 41' 51" West a distance of 94.54 feet;
Thence South 0° 14' 18" East a distance of 122.47 feet;
Thence South 89° 45' 42" West a distance of 70.00 feet;
Thence North 0° 14' 18" West a distance of 34.01 feet;
Thence North 16° 25' 34" West a distance of 98.71 feet to the Southerly right-of-way line of Corporate Drive;
Thence North 88° 40' 11" East a distance of 191.56 feet to the P.O. B.

Containing 0.25 acres, more or less.

AUTHORIZING DISCONTINUANCE OF PORTION OF SUMMIT STREET. A Public Hearing was held on the discontinuance of a portion of Summit Street. No one from the public spoke either for or against the discontinuance.

RESOLUTION DISCONTINUING A PORTION OF SUMMIT STREET

WHEREAS, the City of Whitewater has realigned Summit Street in the City of Whitewater at its intersection with Janesville Street, and

WHEREAS, after the realignment of Summit Street, portions of the Summit Street right-of-way are no longer needed for street purposes, and

WHEREAS, the public interest requires it.

Now, therefore, **BE IT RESOLVED** that:

1. The portion of Summit Street described on the attached legal description and shown on the attached map is hereby discontinued.
2. A public sidewalk easement for the purpose of the public use and for the purpose of installing, laying, repairing, and maintaining sidewalks or pedestrian pathways is retained by the City of Whitewater on and over said property.
3. The official map of the City of Whitewater is hereby amended to show the discontinuance of this portion of the street.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Butler. AYES: Olsen, Butler, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Winship, Stewart. ADOPTED: June 21, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF AN ORDINANCE CREATING CHAPTER 7.27; POSSESSION, SALE AND USE OF SYNTHETIC CANNABINOID SUBSTANCES PROHIBITED (ASSIGNS PENALTIES FOR VIOLATION OF THE SYNTHETIC CANNABINOID ORDINANCE).

**ORDINANCE NO. 1820A - AN ORDINANCE CREATING CHAPTER 7.27
POSSESSION, SALE AND USE OF SYNTHETIC
CANNABINOID SUBSTANCES PROHIBITED**

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

SECTION I. Whitewater Municipal Code Chapter 7.27 is hereby created to read as follows:

Chapter 7.27

Possession, Sale, and Use of Synthetic Cannabinoid Substances Prohibited

Sections:

7.27.010	Introduction, Purpose and Findings
7.27.020	Definitions
7.27.030	Synthetic Chemical Cannabinoid Possession, Use and Sale Prohibited
7.27.040	Exceptions
7.27.050	Penalties

7.27.010 Introduction, Purpose and Findings.

A. The Common Council of the City of Whitewater has determined that herbal preparations powdered or sprayed with a synthetic chemical cannabinoid or other similar substances that claim to or do produce intoxicating effects similar to THC are or may become available for sale within the City of Whitewater; and

B. Synthetic cannabinoid substances are often marketed as incense or benign and legal alternatives to marijuana; and

C. Cannabinoid substances are potentially dangerous to users and have been reported to produce severe adverse health conditions such as heart palpitations, hallucinations, paranoia, seizures, panic attacks, increased agitation, vomiting;

D. Some states have already included one or more of these synthetic cannabinoid substances on their schedule of controlled substances, but none of the chemicals are currently listed on the State of Wisconsin's schedule of controlled substances;

E. Many municipalities have taken action to prohibit these substances due to the negative health conditions that may be caused by using these substances; and

F. Although the long term health effects of using synthetic cannabinoid substances are not yet known, the Common Council of the City of Whitewater has determined to address the growing threat of synthetic cannabinoids to the health, safety and welfare of its citizens.

7.27.020 Definitions.

A. "Deliver" has the same meaning given in Section 961.01(6) Wis. Stats. with respect to a controlled substance or controlled substance analog.

B. "Distribute" has the same meaning given in Section 961.01(9) Wis. Stats. with respect to a controlled substance or controlled substance analog.

7.27.030 Synthetic Chemical Cannabinoid Possession, Use and Sale Prohibited.

A. It shall be illegal for any person to possess, sell, publicly display for sale or attempt to sell, give, deliver, distribute, or barter any one or more of the following chemicals whether under the common street or trade names of "Spice", "K2", "Genie", "Yucatan Fire", "Blaze", "Red X Dawn", "Zohia", "Spike Diamond", "Route 69", "Smoke XXXX", "Citron", "XXX", "Purple Magic", "Lazy Cakes", "fake", or "new" marijuana, or by any other name, label or description:

1. (6aR, 1 OaR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol- some trade or other names: HU-210;

2. 1-Pentyl-3-(1-naphthoyl) indole - some trade or other names: JWH-018\spice

3. 1-Butyl-3-(1naphthoyl) indole - some trade or other names: JWH-073;

4. 1-(3 {trifluoromethylphenyl}) piperazine - some trade or other names: TFMPP;

5. 2-(3-hydroxycyclohexyl)-5-(2-methyloctan-2-yl)phenol- some trade or other names:

CP 47, 497;

6. 1-(2-(4-(morpholinyl)ethyl))-3-(1-naphthoyl) indole - some trade or other names: JWH-200;
7. 1-hexyl-3-(1-naphthoyl)indole - some trade or other names: JWH-019;
8. 1-pentyl-3-(2-methoxyphenylacetyl)indole - some trade or other names: JWH-250;
9. 1-pentyl-3-(4-chloro-1-naphthoyl)indole - some trade or other names: JWH-398;
10. (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone - or some trade or other names: JWH -015;
11. Dexanabinol, (6aS, 1 OaS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol- or some trade or other names: HU-211;
12. or any similar structural analogs.

7.27.040 Exception.

The prohibitions set forth herein do not apply to any person who commits an act described in this ordinance pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act.

7.27.045 Presumption

- A. It shall be presumed that any product labeled with a trade name listed in 7.27.030 is a product prohibited by 7.27.030.
- B. It shall be presumed that any product stating on its label or packaging that it contains the chemical compounds listed in 7.27.030 is a product that is prohibited by 7.27.030.

7.27.050 Penalties.

- A. Any person who shall sell, publicly display for sale or attempt to sell, give, deliver, distribute, or barter any one or more of the chemicals as prohibited in Section 7.27.030 above shall upon conviction be subject to a forfeiture of not less than five hundred dollars (\$500.00) and not more than nine hundred dollars (\$900.00) together with the cost of prosecution, including but not limited to the testing of a substance or a person, experts, witness fees and reports, etc. for each violation. Each day a violation continues shall constitute a separate offense. The City may also seek equitable relief to gain compliance.
- B. Any person who shall possess any one or more of the chemicals as prohibited in Section 7.27.030 above shall upon conviction be subject to a forfeiture of not less than three hundred (\$300.00) and not more than seven hundred dollars (\$700.00) together with the cost of prosecution, including but not limited to the testing of a substance or a person, experts, witness

fees and reports, etc. for each violation.

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Binnie. AYES: Olsen, Binnie, Singer, Kienbaum. NOES: Butler. ABSENT: Winship, Stewart. ADOPTED: June 21, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

SECOND READING OF AN ORDINANCE AMENDING CH. 1.21.010, SCHEDULE OF DEPOSITS.

ORDINANCE NO. 1821A - AN ORDINANCE AMENDING SECTION 1.21.010
SCHEDULE OF DEPOSITS

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

SECTION 1. Whitewater Municipal Code Section 1.21.010 is hereby amended by adding the following:

<u>CHAPTER OR SECTION NUMBER</u>	<u>OFFENSE</u>	<u>DEPOSITS AND COSTS</u>
7.27.030 A. assessment,	Violation of synthetic cannabinoid ordinance - sale or delivery	1 st offense - \$700 plus statutory penalty assessment, jail court costs and crime lab assessment 2 nd offense or more – \$800, plus statutory penalty assessment, jail assessment, court costs and crime lab assessment
7.27.030 B.	Violation of synthetic cannabinoid ordinance - possession or use	1 st offense - \$400 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment 2 nd offense or more- \$500, plus plus statutory penalty assessment, jail assessment, court costs and crime lab

assessment

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Binnie. AYES: Olsen, Binnie, Singer, Kienbaum. NOES: Butler. ABSENT: Winship, Stewart. ADOPTED: June 21, 2011.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AUTHORIZATION TO CLOSE PORTIONS OF WHITEWATER STREET AND CERTAIN PARKING LOTS FOR 4TH OF JULY CELEBRATION. The 4th of July Committee presented their annual request to close various parking lots and Whitewater Street for various dates and times during the 4th of July celebration. AYES: Olsen, Butler, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart, Winship.

APPROVAL OF RENEWAL OF CLASS B BEER LICENSE FOR ROARING FORK (ODOBA) AND JESSICA'S (INCLUDES NEWLY-EXPANDED RESTURANT AREA) AND RANDY'S FUN HUNTERS BREWERY WHOLESALE BEER LICENSE. It was moved by Olsen and seconded by Binnie to approve the renewal of the Class "B" Beer License for Qdoba (Roaring Ford LLC), Jessica's Family Restaurant and the Wholesale Beer License for Randy's Brewery. AYES: Olsen, Butler, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart, Winship.

AUTHORIZATION TO PURCHASE JET MACHINE FROM SEWER EQUIPMENT OF AMERICA, WATERLOO, WISCONSIN, IN THE AMOUNT OF \$154,893. It was moved by Olsen and seconded by Binnie to authorize purchase of a Model 800-HPRTV jet machine body from Sewer Equipment of America of Glenview, Illinois, in the sum of \$154,893. AYES: Olsen, Butler, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart, Winship.

APPROVAL OF CERTIFIED SURVEY MAP FOR CATCON WHITEWATER, LLC ("THE ELEMENT" PROJECT LOCATED NEAR PRINCE STREET AND FLORENCE STREET INTERSECTION). City Manager Brunner reported that Plan Commission has recommended the approval of the certified survey map for Catcon Whitewater LLC with certain conditions. It was moved by Binnie and seconded by Butler to approve the certified survey map for Catcon, on the terms and conditions recommended by Plan Commission. AYES: Olsen, Butler, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart, Winship.

AWARD OF BID FOR INNOVATION CENTER LAB SHELL AND LAB BUILD OUT GENERAL CONSTRUCTION IN THE AMOUNT OF \$99,500 TO MAGILL CONSTRUCTION AND APPROVAL OF CHANGE ORDERS FOR HVAC, ELECTRICAL, PLUMBING AND FIRE PROTECTION IN THE AMOUNT OF \$254,921 FOR INNOVATION CENTER LAB SHELL AND LAB BUILD OUT. It was moved by Olsen and seconded by Binnie to award a bid to Magill Construction of Elkhorn, Wisconsin, in the sum of \$99,500 for the general construction component of the Innovation Center Lab Shell. Also approved are change orders to North American Mechanical in the amount of \$182,995 (HVAC work); Rewald Electric in the sum of \$38,338 (electrical work) and DeGarmo Plumbing

in the sum of \$29,838 (plumbing work) and Freedom Fire in the sum of \$3,750 (fire protection). AYES: Olsen, Butler, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Winship, Stewart.

REVIEW PROPOSED NEIGHBORHOOD SERVICES REORGANIZATION. With the recent retirement of the Neighborhood Services Director and the Building Inspector, City Manager Brunner presented a reorganization plan for the Neighborhood Services Department. Brunner plans to reassign the responsibility for city facility management to Park & Recreation Director Amundson, who will supervise facilities maintenance employees. The part-time maintenance position will be increased from 20 hours per week to 30 hours per week. Amundson will not receive additional compensation for the responsibilities. Planning services will still be handled by the city's contract planner. It is proposed that Building Inspection services be contracted with Municipal Zoning and Inspection Services. Part-time code enforcement employee Scott Weberpahl's hours will be increased from 10 hours per week to 20 hours per week. Current CDA Coordinator Mary Nimm will oversee the Zoning / Code Enforcement Department as well as the Geographic Information System. This new position of Neighborhood Services Manager would be proposed to be designated at pay grade G, and Nimm would be placed at step 2 (\$51,812). A formal proposal to increase the part-time Code Enforcement employee's wages from \$10.54 to \$12.58 per hour will be forthcoming. Brunner stated that the reorganization will save approximately \$60,000 per year for the City. Councilmember Olsen expressed dissatisfaction with the plan, stating that it appears it was thrown together. Councilmember Singer also expressed some concerns over the reorganization plan. Councilmember Binnie stated that he thought this was a creative proposal that warrants consideration. Councilmember Kienbaum expressed displeasure with "outsourcing" positions. It was also noted that a major question in the reorganization would be how the CDA should now be staffed since Mary Nimm would be moving over to Neighborhood Services. It was noted that further discussion on the reorganization will occur.

APPROVAL OF CONTRACT FOR BUILDING INSPECTION SERVICES WITH KAHUBE LLC. It was moved by Olsen and seconded by Binnie to approve a building inspection service contract with KAHUBE, LLC d/b/a Municipal Zoning and Inspection Services ("MZIS") for the remainder of calendar year 2011 (with the understanding the contract can be renewed) at a monthly cost of \$1,000 plus \$55 per inspection performed. MZIS will provide six office hours per week. Councilmember Kienbaum indicated she would not be supportive of the contract as she feels work should not be "outsourced." AYES: Olsen, Butler, Binnie, Singer. NOES: Kienbaum. ABSENT: Stewart, Winship.

DISCUSSION AND POSSIBLY DIRECTION TO HOLD JOINT COUNCIL/CDA MEETING. It was agreed to hold a joint special Council Meeting / CDA meeting on July 11th.

ACTION ON POSSIBLE CANCELLATION OF JULY 5, 2011 COUNCIL MEETING. City Manager Brunner stated that there is business to be taken care of in early July, and we will not be in a position to cancel the July 5th council meeting.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS. None.

ADJOURNMENT. It was moved by Olsen and seconded by Butler to adjourn the meeting. AYES: Olsen, Butler, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Winship, Stewart.

THE MEETING ADJOURNED AT 7:10 p.m.

Respectfully submitted,

Michele R. Smith, City Clerk