

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

March 19, 2013

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Olsen, Abbott, Winship, Singer, Kidd, Crone. MEMBERS ABSENT: Binnie. LEGAL COUNSEL PRESENT: No.

It was moved by Olsen and seconded by Winship to approve the Council Minutes of 2/21/13 and to acknowledge receipt and filing of the following: Irvin L. Young Memorial Library Board Minutes of 1/14/2013; Police Department Consolidated Monthly Report for January, 2013; Landmarks Commission Minutes of 02/07/2013; Financial Report for February, 2013; Report of Manually-Issued Checks for February, 2013, and Plan Commission Minutes of February 11, 2013. AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie.

It was moved by Olsen and seconded by Winship to approve payment of city invoices in the total sum of \$130,737.30. AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie.

STAFF REPORTS: City Manager Clapper provided information on the proposed State of Wisconsin budget. Parks and Recreation Director Amundson updated Council on the Bicycle and Pedestrian Plan, and Streets/Parks Superintendent Nass gave an update on Emerald Ash Borer treatment plans in residential areas.

HEARING OF CITIZEN COMMENTS. None.

RESOLUTION AUTHORIZING SALE OF BUSINESS PARK REAL ESTATE TO TROSTEL. It was moved by Olsen and seconded by Winship to discuss the proposed Resolution authorizing sale of land even though it had not been on the council agenda for the 72-hour minimum required by the Transparency Ordinance. AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie.

RESOLUTION AUTHORIZING SALE OF REAL ESTATE TO TROSTEL

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin is the owner of certain land located in the County of Jefferson, described as follows, to-wit:

A lot line adjustment of Part of Lot 1 of Certified Survey Map No. 3497, as recorded in Volume 15 of Jefferson County Certified Survey Maps, Pages 286-287, Document No. 978560, located in the SW ¼ of the SW ¼ of Section 34, Town 5 North, Range 15 East, City of Whitewater, Jefferson County, Wisconsin, described as follows: commence at the Southwest corner of said Section 34; thence N 88° 59'23" E 262.62 feet along the South line of said Section 34 to the Easterly right of way of STH 59 (also called Newcomb Street) to the point of beginning; thence along a curve to the left having a radius of 1,928.34 feet, a delta of 01° 57'40", an arc curve length of 66

feet, and a chord which bears N 01° 27'24" W having a chord distance of 66 feet; thence N 88° 59'23" E 415 feet; thence N 03° 12'28" E 50.16 feet; thence N 88°59'23" E 136.73 feet; thence S 01°00'37" E 116.03 feet to the South line of said section 34; thence S 88° 59'23" W along said South line 554.91 feet to the point of beginning, and

WHEREAS, the City of Whitewater has agreed, subject to the Common Council approval, to sell a lot line adjustment parcel to TROSTEL, INC. of Whitewater, Wisconsin, at a price of \$35,000, and

WHEREAS, the said sale has been referred to the City of Whitewater Plan and Architectural Review Commission for consideration and recommendation, and that said Plan and Architectural Review Commission has recommended the conveyance of said land as being in the best interest of the City of Whitewater.

NOW THEREFORE, BE IT RESOLVED, that the City Manager and the City Clerk of the City of Whitewater are hereby authorized to sign the documents and deeds necessary to convey the land described above by motion of the City of Whitewater Common Council.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie. ADOPTED: March 19, 2013.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ORDINANCE AMENDING SIDEWALK CAFÉ ORDINANCE.

**AN ORDINANCE AMENDING CHAPTER 5.19
SIDEWALK CAFÉ PERMITS**

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

Section 1. Whitewater Municipal Code Section 5.19.020 is hereby amended to read as follows:

5.19.020 - Definitions.

"Sidewalk café" shall mean an expansion of a restaurant creating an outdoor dining facility on part of the public right-of-way that immediately adjoins the licensed premises for the purpose of consuming food or beverages prepared at the restaurant adjacent thereto. "Restaurant" shall mean an establishment holding a State of Wisconsin restaurant license.

Section 2. Whitewater Municipal Code Section 5.19.030 is amended as follows:

5.19.030 Permit Required.

Subsection 3. is deleted.

New subsection 3 shall read as follows:

3. The permit issued may be transferred to a new owner only for the location and area listed in the permit. If the site plan will change, a new plan must be filed and approved prior to the use under the new site plan. A new certificate of insurance must be filed with the city before the permit transfer.

Subsection 5. shall remain the same but shall be renumbered to subsection 4.

Section 3. Whitewater Municipal Code Section 5.19.040(a) – New Permit Application is amended to read as follows:

5.19.040(a) – New Permit Application.

Application for a permit to operate a sidewalk café shall be submitted to the Department of Neighborhood Services and shall include at least the following information:

1. Completed city application form.
2. Copy of a valid restaurant license issued by the State of Wisconsin.
3. Copy of a current certificate of commercial liability insurance in the amount of at least \$100,000.00 per occurrence.
4. A layout, drawn to scale, which accurately depicts the dimensions of the existing sidewalk area and adjacent private property, the proposed location of the sidewalk cafe, size and number of tables, chairs, steps, planters and umbrellas, location of doorways, trees, parking meters, sidewalk benches, trash receptacles, light poles, patio heaters and any other sidewalk obstructions, either existing or proposed, within the pedestrian area. This layout shall be submitted on eight and one-half-inch by eleven-inch paper, suitable for reproduction.
5. Photographs, drawings, or manufacturer’s brochures fully describing the appearance and dimensions of all proposed tables, chairs, umbrellas, barriers or other objects related to the sidewalk café.

Section 3. Whitewater Municipal Code Section 5.19.040(b) is hereby amended to read as follows:

5.19.040(b) –Annual Insurance Requirement.

The establishment shall provide a current certificate of commercial liability insurance in the amount of at least \$100,000.00 per occurrence by April 1st each year.

Section 4. Whitewater Municipal Code Section 5.19.060 is hereby amended by adding subsection 2.f., to read as follows:

5.19.060 2. f. Shall be commercial grade furniture.

Section 5. Whitewater Municipal Code Section 5.19.060, subsection 12. shall be amended to read as follows:

5.19.060 12. Sidewalk cafés shall not operate after 11:00 p.m. or before 7:00 a.m.

Section 6. Whitewater Municipal Code Section 5.19.060, subsection 16. is hereby created to read as follows:

5.19.060 16. Patio heaters shall not be located within 5 ft (1.5m) of exits from an assembly occupancy (NFPA 1 56:6.20.2.3). All patio heaters shall be located a minimum distance of 5 ft. from any building with combustible siding (wood or vinyl siding). Patio heaters shall not have an unprotected, open flame. Patio heaters are subject to the approval from the Fire Department. Patio heaters may only be located within a barrier enclosure as described in section 5.19.060 14.

Section 7. Whitewater Municipal Code Section 5.19.070 2. j. is hereby amended to read as follows:

5.19.070 2. j. At times of closing or during times when consumption of alcohol beverages is prohibited, permittee shall remove from the sidewalk café area all containers used for or containing alcohol beverages. No container of alcohol beverages shall be present in the sidewalk café between 11:00 p.m. and 7:00 a.m.

Section 8. Whitewater Municipal Code Section 5.19.090 is hereby amended to read as follows:

5.19.090 – Revocation or suspension.

The approval of a sidewalk café permit is conditional at all times. A sidewalk café permit may be revoked or suspended by the neighborhood services director or designee if a permittee has been found in violation of this chapter on three separate occasions documented by a written warning, or where necessary based on a violation of this ordinance, to protect the public health, safety, or welfare, to prevent a nuisance from developing or continuing, emergency situations, or to comply with the city code of ordinances, or to comply with applicable state or federal law.

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie. ADOPTED: March 19, 2013.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

WHITEWATER AQUATIC CENTER (“WAC”) REPORT. WAC representatives Steve Ryan and Paula Malone provided Council with an update on the aquatic center budget and operations. In a few short years, Paula Malone’s efforts, as well as the energy savings improvements that have been made, have turned the profit/loss figure from a \$108,122.62 loss in 2009 to a \$2,539.15 loss in 2012. Paula was given a round of applause in recognition of her efforts toward improving the finances of the operation. Steve Ryan indicated that much of the equipment is aging, and that improvements will be needed in the near future.

CONTRACT WITH STRAND FOR ENGINEERING SERVICES FOR KILAR FIELD OF DREAMS. It was moved by Olsen and seconded by Winship to approve a contract with Strand Associates for engineering services for the Treyton Kilar Field of Dreams, at a cost not to exceed

\$26,000. AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie.

CONTRACT FOR ENGINEERING SERVICES FOR CONCESSION – RESTROOM FACILITY. This item was removed from the agenda at the request of Parks and Recreation Director Amundson.

MILWAUKEE STREET RECONSTRUCTION. It was moved by Olsen and seconded by Winship to approve additional costs to cover the use of concrete (vs. asphalt) for the East Milwaukee Street reconstruction project. (from intersection with Newcomb, then east to the roundabout). AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie.

STRAND CONTRACT FOR EAST MAIN STREET CONSTRUCTION PROJECT . It was moved by Olsen and seconded by Winship to approve a contract with Strand Associates, at a cost not to exceed \$65,000, for design of the E. Main Street project, from Newcomb Street to Fonda Street. It was understood that a borrowing from the State Trust Fund would be forthcoming. AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie.

BUILDING PERMIT FEES. The proposed building permit schedule will reduce base fees for permits; will remove “add on” fees, and will increase costs from \$2 per thousand to \$5 per thousand of construction. (After \$5,000,000 cost, fees will reduce to \$3 per thousand of cost). Overall, with the elimination of add on fees, most building permit costs will go down. It was moved by Olsen and seconded by Kidd to approve the new building permit fee schedule as presented by City Building Inspector Greg Noll / Neighborhood Services Manager Latisha Birkeland. AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie.

ANNUAL STORMWATER REPORT. Streets and Parks Superintendent Nass provided Council with a copy of the annual Stormwater Report required to be submitted to the State. It was moved by Olsen and seconded by Abbott to acknowledge receipt of the Stormwater Application Report. AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie.

AMENDING PERSONNEL MANUAL TO REMOVE REQUIREMENT THAT EMPLOYEES IN CERTAIN CITY POSITIONS LIVE WITHIN CITY LIMITS. Under the personnel policy, certain employee positions are required to reside within the City limits (CDA Director, Chief of Police, Public Works Director, Finance Director, Parks and Recreation Director, Neighborhood Services Director, City Clerk, City Attorney, Media Services Director, Streets, Parks and Forestry Superintendent, Water Superintendent, Wastewater Superintendent, Chief Information Officer and City Treasurer). It was moved by Olsen and seconded by Abbott to amend the manual to require *Whitewater Unified School District* residency for people in these positions (instead of City limit residency). AYES: Olsen, Abbott, Winship, Singer, Crone. NOES: Kidd. ABSENT: Binnie.

AMENDING POLICE CHIEF CONTRACT. An amendment to the Chief of Police Contract was presented. The change deletes the requirement that the Chief reside within the city limits, and changes the residency requirement to be within the Whitewater Unified School District versus the City Limits. AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie.

WHITEWATER CRIME STATISTICS. Police Chief Otterbacher gave a report comparing Whitewater’s crime statistics over the last two years.

FUTURE AGENDA ITEMS: Councilmember Winship requested that increase of fines for vandalism be discussed.

EXECUTIVE SESSION. It was moved by Singer and seconded by Olsen to Adjourn to Closed Session, not to reconvene, pursuant to 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: Acquisition of real estate adjacent to Starin Park. AYES: Olsen, Abbott, Winship, Singer, Crone, Kidd. NOES: None. ABSENT: Binnie. The meeting adjourned at 8:15 p.m.

Respectfully submitted,

Michele R. Smith, City Clerk