

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 16, 2013

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Abbott, Binnie, Bregant, Kidd, Singer. MEMBERS ABSENT: Winship (Winship was present for the beginning of the meeting via telephone).

ALDERMANIC DISTRICT 1 COUNCILMEMBER. Applications for the vacant councilmember seat were received from five applicants. Applications were received from Craig Stauffer, Phil Frawley, Tiuu Gray-Fow, Ryan Tevis, and James Allen. Allen's application was filed after the due date. Allen was on vacation and was not back in time to apply. It was moved by Abbott and seconded by Bregant to exclude any late-arriving councilmember applications. AYES: Abbott, Binnie, Singer, Bregant, Kidd (with regrets). NOES: Winship. After short presentations from remaining applicants, a vote was taken to appoint the following candidates: FRAWLEY: Abbott, Gray-Fow, Singer. GRAY-FOW: Binnie, Bregant, Kidd. The vote resulted in a tie. It was determined that a runoff would be held between Frawley and Gray-Fow, who both made additional statements. Council President Singer indicated that retiring Councilmember Olsen was supportive of Frawley being appointed to fill the vacant spot. A second vote was taken and the candidates received the following votes: FRAWLEY: Abbott, Winship, Binnie, Singer, Bregant, Kidd. Phil Frawley was appointed to serve as representative for Councilmember for Aldermanic District 1.

OATH OF OFFICE FOR PHIL FRAWLEY. City Clerk Smith administered the Oath of Office to newly-appointed councilmember Phil Frawley.

MINUTE APPROVAL AND ACKNOWLEDGMENT OF RECEIPT AND FILING OF REPORTS AND MINUTES. It was moved by Frawley and seconded by Binnie to approve the Council minutes of 6/18/2013 and to acknowledge receipt and filing of the following: Irvin L. Young Memorial Library Board Minutes of 5/20/2013; Report of Manually-Issued Checks for June, 2013; Financial Reports for June, 2013; Police Department Consolidated Monthly Report for May, 2013; Parks and Recreation Board Minutes of 5/14/2013; and the Plan and Architectural Review Commission Minutes of 6/10/2013.

PAYMENT OF INVOICES. It was moved by Frawley and seconded by Binnie to approve payment of city invoices in the total sum of \$126,539.12. AYES: Abbott, Binnie, Bregant, Kidd, Singer, Frawley. NOES: None. ABSENT: Winship (telephone connection has now been broken).

STAFF REPORTS: A Proclamation recognizing Children's Vision Month was presented. He indicated that the DNR representatives who visited were impressed with the preemptive steps that the City has already taken.

CITIZEN COMMENTS: Streets Superintendent Chuck Nass gave an update on the status of the emerald ash borer, indicating that it has now been seen in Whitewater.

RESOLUTION AUTHORIZING STUDY OF WISCONSIN STREET INTERSECTION (RAILROAD TRACKS).

COMMON COUNCIL OF THE CITY OF WHITEWATER

PETITION TO DETERMINE THE ADEQUACY OF WARNING DEVICES

WHEREAS, Wisconsin Street, a public street in the City of Whitewater crosses the tracks of the Wisconsin & Southern Railroad at-grade, and

WHEREAS, the existing conditions at the rail-highway crossing may pose a threat to public safety as the crossing may have outdated signals and does not have gates.

WHEREAS, Wis. Stat. § 195.28 authorizes the Office of the Commissioner of Railroads to determine whether the existing warning devices are adequate to protect and promote public safety at any rail-highway crossing in the State of Wisconsin,

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Whitewater hereby directs city staff to take all necessary steps to petition the Office of the Commissioner of Railroads (OCR) for an investigation and order determining the adequacy of warning devices at the rail-highway crossing of Wisconsin Street crossing by the Wisconsin & Southern Railroad in the City of Whitewater, Walworth County, Wisconsin. **FURTHER, BE IT RESOLVED,** that city staff pursue funding for any ordered improvements through OCR's Safety Project Program or the Wisconsin Department of Transportation's Highway Safety Improvement Program (HSIP).

Resolution introduced by Councilmember Binnie who moved its adoption. Seconded by Councilmember Abbott. AYES: Abbott, Binnie, Bregant, Kidd, Singer, Frawley. NOES: None. ABSENT: Winship. ADOPTED: July 16, 2013.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE AMENDING LIBRARY BOARD TERM EXPIRATION DATES TO COINCIDE WITH EXPIRATION DATES OF OTHER CITY BOARDS AND COMMISSIONS.

**ORDINANCE AMENDING CHAPTER 2.56
LIBRARY BOARD**

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

Section 1: Whitewater Municipal Code, Chapter 2.56, subsection 2.56.010 is hereby amended to read as follows:

2.56.010 - Membership

The library board shall consist of seven members who shall be appointed pursuant to the terms of Whitewater Municipal Ordinance Chapter 2.12 and whose appointments shall be confirmed by the Common Council. Members shall be residents of the municipality, except that not more than two members may be residents of towns adjacent to the municipality. Upon their first appointment, the members shall be divided as follows: Three members shall serve for three years, two members shall serve for two years, and one to serve from one year from ~~July~~ May first in the year of their appointment. Each regular appointment shall be for a term of three years. The appointing authority shall appoint as one of the members a school district administrator, or his or her representative, to represent the public school district or districts in which the public library is located. Not more than one member of the municipal governing body shall be a member of the library board.

Ordinance introduced by Councilmember Frawley, who moved its adoption. Seconded by Councilmember Binnie.

AYES: Abbott, Binnie, Bregant, Kidd, Singer, Frawley. NOES: None. ABSENT: Winship.
FIRST READING APPROVED: July 16, 2013.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE AMENDING DOG LICENSING FEES.

ORDINANCE AMENDING CHAPTER 9.08 CONCERNING FEES FOR DOG LICENSES

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

Section 1. Whitewater Municipal Code Chapter 9.08, Section 9.08.020(d) is hereby amended to read as follows:

(d) Fees.

(1) A license shall be issued after payment of the applicable fee:

- (A) For each unneutered male dog, Twenty dollars;
- (B) For each neutered male dog, Fifteen dollars;
- (C) For each unspayed female dog, Twenty dollars;
- (D) For each spayed female dog, Fifteen dollars.

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

Ordinance introduced by Councilmember Frawley, who moved its adoption. Seconded by Councilmember Binnie.

AYES: Abbott, Binnie, Bregant, Kidd, Singer, Frawley. NOES: None. ABSENT: Winship.
 FIRST READING APPROVED: July 16, 2013.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ORDINANCE PROHIBITING PARKING ON PORTIONS OF E. MAIN STREET.

Ordinance No. 1857A– Final

ORDINANCE AMENDING CHAPTER 11.16.150 OF THE CITY OF WHITEWATER MUNICIPAL CODE ENTITLED “STREET INDEX OF PARKING RESTRICTIONS.

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

SECTION 1: Chapter 11.16.150 entitled “Street Index of Parking Restrictions” shall be amended as follows:

The following is hereby *deleted* from the Street Index of Parking Restrictions:

Main – E	South side; from a point 184 feet east of the east curb line of N Cherry, east to a point 132 feet east	11.16.080	No Parking
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The following is hereby *added* to the chart entitled Street Index of Parking Restrictions:

Main – E	Both sides, from the east curb line of N. Cherry to the west curb line of N. Wakely.	11.16.080	No Parking
Main – E	Both sides – from east curb line of N. Harris to the west curb line of N. and S. Newcomb.	11.16.080	No Parking
Main - E	South side, from east curb line of N. Fonda to the west curb line of N. Harris.	11.16.080	No Parking
Main – E	Both sides; from the east curb line of N. Wakely to the west curb line of N. Fonda.	11.16.080	No Parking

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

Ordinance introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Frawley. AYES: Abbott, Binnie, Bregant, Kidd, Singer, Frawley. NOES: None. ABSENT: Winship. ADOPTED: July 16, 2013.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

APPROVAL OF CLASS B BEER LICENSE AND CLASS C WINE LICENSE FOR TACO FRESCO. It was moved by Abbott and seconded by Binnie to approve a “Class B” Beer License and a “Class C” Wine License for Jesus Cortez, Taco Fresco restaurant at 175 W. Main Street, Whitewater. AYES: Abbott, Binnie, Bregant, Kidd, Singer, Frawley. NOES: None. ABSENT: Winship.

E. MAIN STREET ROAD CLOSURE (CONSISTENT WITH ROADWAY CHANGES THAT WILL OCCUR WITH EAST GATEWAY PROJECT). City Manager Clapper recommended that portions of E. Main Street be closed / diverted so that residents could get some sort of a feel for the changes that will be coming when the East Gateway project is in place. A lengthy discussion ensued, and it was decided that since the proposed rerouting would not give residents a true picture of the project, no preliminary changes would be made.

GREATER WHITEWATER COMMITTEE (DISCOVER WHITEWATER SERIES) REQUEST FOR STREET CLOSURE. The Greater Whitewater Committee is planning a ½ marathon and 5K event on September 22, and has requested closure and/or partial closure of numerous streets in the City. It was moved by Binnie and seconded by Frawley to approve the Street closures as submitted by the Greater Whitewater Committee with clarification that the Janesville Street closure will be from Walworth Street to the north.. AYES: Binnie, Bregant, Kidd, Singer, Frawley. NOES: None. ABSENT: Winship. ABSTAIN: Abbott.

ACTION ON PRELIMINARY DESIGN FOR EAST GATEWAY PROJECT. Neighborhood Services Director Birkeland presented preliminary plans for the East Gateway project, located at the intersection of E. Main Street and Wisconsin / E. Milwaukee Streets. The project includes in part, reconfiguration of Main St. / Whitewater St. traffic signals; elimination of parking stalls on the north side of Main near the bridge; construction of a raised median along the curve from Main to Wisconsin (prohibits eastbound traffic on E. Main, east of Wisconsin); “Squaring up” of intersections of E. Main / Wisconsin; and sidewalk/ bike path construction. Property owner Donna Henry stated the effect this project would have on her three properties which are located within the East Gateway project area. She expressed concern about the negative effects of traffic flow and how it would make it difficult for delivery people as well as customers. It was noted that removal of parking on Main Street by the bridge would be a huge detriment to the business building she owns in that area. It was recommended that the City consider adding some parking on the city-owned property just west of the Baker Building (owned by Donna Henry). It was moved by Binnie and seconded by Bregant to approve the preliminary design of the East Gateway project, with the direction given to pursue improvement of the parking lot east of the Brass Rail. AYES: Frawley, Abbott, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: Winship.

HIGHWAY 59 / MILWAUKEE STREET DESIGN ELEMENTS. The Wisconsin Department of Transportation (“WisDOT”) plans to reconstruct the Highway 59 – Milwaukee Street intersection in 2017. The area included in the project begins 200 feet east of Newcomb Street and continues east to the roundabout. A public information meeting regarding this project was held on May 15. A terrace width of 5.5’ on the south side of the street (including curb) is recommended by City staff. For the north side of the street commencing at the point 200’ east of Newcomb to Willard Street, a terrace width of 4’ is proposed. A pedestrian island at Taft Street and redesign of the Old Bluff Road intersection are also proposed. It was moved by Binnie and seconded by Abbott to approve the Highway 59 / Milwaukee Street design elements. AYES: Frawley, Abbott, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: Winship.

KILAR FIELD OF DREAMS BID AND PROJECT. Parks and Recreation Director Amundson reported that one bid (E & N Hughes) was received for the Field of Dreams project. Amundson indicated that there is a water service line buried in the area where the Field of Dreams will be constructed, and it is strongly recommended that the main be relocated. Amundson also indicated that after reviewing bids and having contacts with local contractors, it is his belief that by utilizing local contractors in a coordinated effort with E & N Hughes and Strand Associates, a modified quantity bid could be obtained and construction can move forward using the donated services. It was noted that permission from E & N Hughes would have to be obtained first. Amundson also indicated that the Community Foundation is willing to let the Field of Dreams group secure letters of commitment for donated services. It was noted that the City's Capital Improvement Plan ("CIP") allows for \$225,000 towards the parking lot and shared use path improvements. The City's portion of the project is currently estimated at \$307,482. Amundson and City Manager Clapper mentioned the possibility of borrowing or changing the scope of the project. Amundson stressed that engineering fees are an expense *over and above* those cited.

In response to Amundson's request for direction from the Council, it was agreed that the relocation of the water line was crucial. It was moved by Binnie and seconded by Abbott to authorize Amundson to pursue formal Letters of Intent from those willing to donate their services. AYES: Frawley, Abbott, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: Winship. Amundson was directed to bring detailed information about potential changes to scope of services and information regarding funding sources prior to a final decision being made. Amundson indicated that the information would be provided at the August 6th council meeting.

POLICY RELATING TO USE OF CITY RIGHT-OF-WAY FOR NON-CITY PURPOSES.

City Manager Clapper asked the Council to consider the establishment of an interim policy on the installation of fiber and/or conduit by private firms within the public right of way. The primary areas where requests have been made involve access to right of way adjacent to a public street, across or under a public street, and within public conduit. Ultimately the Council will need to adopt an ordinance addressing these issues. Clapper indicated that given the requests already received, he believed it would be appropriate to address the issues through an interim policy until the more comprehensive ordinance can be completed and brought to Council.

A lengthy discussion ensued, where application fees, procedural matters and forms of fee determination were discussed. In addition to application fees, Council discussed annual or recurring fees. Councilmember Kidd noted that the agreement does not address use by successor owners. Councilmember Abbott indicated that a specific agreement is scheduled for later on the agenda, and it would be unfair to change that particular agreement after the fact. Abbott expressed concern about adopting a policy hastily.

It was moved by Binnie and seconded by Bregant to approve the proposed Interim policy with the understanding that a \$150 non-refundable application fee will be charged; an annual usage fee of \$250 will be charged (amount of annual fee will continue to be reviewed); the Privileges on Streets Committee will be eliminated; appeals will be made to the Common Council; and language authorizing the benefits to transfer to heirs, successors and assigns will be added. AYES: Frawley, Binnie, Singer, Bregant, Kidd. NOES: Abbott. ABSENT: Winship.

AGREEMENT WITH DLK ENTERPRISES, INC., RELATING TO INSTALLATION OF FIBER OPTIC CABLE ON CITY-OWNED PROPERTY.

It was moved by Binnie and seconded by Kidd to approve an agreement with DLK Enterprises, Inc. to allow for installation of

fiber optic cable on city-owned property across Whiton and Cottage Streets (near their intersections with Main Street). AYES: Frawley, Binnie, Singer, Bregant, Kidd. NOES: None. ABSTAIN: Abbott. ABSENT: Winship.

WARHAWK COUNTRY LLC MEMORANDUM OF REDEVELOPMENT AGREEMENT AND AMENDMENT OF AGREEMENT. It was moved by Binnie and seconded by Abbott to approve an amendment to the Development Agreement with Warhawk Country LLC. It was noted that the Warhawk Country properties are selling, and the new owner will be taking responsibility for the development agreement. AYES: Frawley, Abbott, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: Winship.

SALE OF BUSINESS PARK PROPERTY TO COMMUNITY DEVELOPMENT AUTHORITY. A lengthy discussion ensued relating to the benefits of transferring ownership of city-owned property to the Community Development Authority, to allow that body to handle property sales. CDA Director Cannon indicated that City ownership delays development when authorization to sell land has to be obtained from both the CDA and the City Council. It was clarified that sales of public property must also go before the Plan Commission. CDA Director Cannon was not aware of that requirement. City Manager Clapper indicated that the proposed agreement was not a final document, and that much legal review must still be completed. Clapper indicated that he was looking for direction from the Council. Council indicated that they approved of the agreement in concept. Further information will be forthcoming after the CDA has reviewed and approved the agreement.

DENIAL OF BARBARA DEEGAN PERSONAL INJURY CLAIM. It was moved by Binnie and seconded by Abbott to deny the claim filed against the City by Barbara Deegan. The claim relates to a fall she experienced on W. Main Street. AYES: Abbott, Binnie, Bregant, Singer, Frawley. NOES: None. ABSENT: Winship. ABSTAIN: Kidd.

PURCHASE OF CHASSIS. It was moved by Frawley and seconded by Binnie to approve the purchase of a used chassis from Lakeside International of Janesville, Wisconsin at a cost of \$87,975. AYES: Frawley, Abbott, Binnie, Bregant, Kidd, Singer. NOES: None. ABSENT: Winship.

APPOINTMENT OF COUNCILMEMBER REPRESENTATIVES TO BOARDS AND COMMISSIONS. It was moved by Abbott and seconded by Binnie to appoint Patrick Singer as council representative to the Alcohol Licensing Committee and to appoint Phil Frawley as the alternate member to the Plan Commission. AYES: Frawley, Abbott, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: Winship.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS: None.

EXECUTIVE SESSION. It was moved by Singer and seconded by Binnie 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: Purchase of real estate on Ann Street. AYES: Frawley, Abbott, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: Winship. Being no further business to come before the open portion of the meeting, the meeting adjourned at 10:10 p.m.

Respectfully submitted,

Michele R. Smith,
City Clerk