

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

August 20, 2013

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council Vice President Binnie. MEMBERS PRESENT: Frawley, Abbott, Winship, Binnie, Bregant, Kidd. MEMBERS ABSENT: Singer. LEGAL COUNSEL PRESENT: McDonell.

It was moved by Winship and seconded by Abbott to approve the Council minutes of 7/25/13 and 8/6/13 and to acknowledge receipt and filing of the following: Landmarks Commission minutes of 6/6/13, Financial Reports for July, 2013, Report of Manually Issued Checks for July, 2013, and CDA Minutes for the following dates: 6/6/12; 8/13/12; 9/27/12; 10/25/12; 11/14/12; 11/29/12; 12/27/12; 2/25/13; 3/14/13; 4/11/13; 5/23/13; 6/5/13; 6/26/13; 7/5/13. (Councilmember Binnie expressed concern about the CDA minutes not being in compliance with the ordinance – City Manager Clapper indicated that this oversight occurred during transition in the Department and will be corrected in the future). AYES: Frawley, Abbott, Winship, Binnie, Bregant, Kidd. NOES: None. ABSENT: Singer.

It was moved by Winship and seconded by Abbott to approve payment of city invoices in the total sum of \$111,788.85. AYES: Frawley, Abbott, Winship, Binnie, Bregant, Kidd. NOES: None. ABSENT: Singer.

**STAFF REPORT:** City Manager Clapper provided updated calendar information on the **Zoning Rewrite project** and Tami Brodnicki, Director of Downtown Whitewater, Inc., gave her quarterly report on the organization's activities.

**RESOLUTION ESTABLISHING A FUND TO BE USED FOR INDEMNIFICATION OF WALWORTH COUNTY CONCERNING ELKHORN ROAD VENTURE, LLC SETTLEMENT PAYMENTS.**

**RESOLUTION ESTABLISHING A FUND TO BE USED FOR INDEMNIFICATION TO WALWORTH COUNTY IF NECESSARY CONCERNING THE ELKHORN ROAD VENTURE, LLC, SETTLEMENT PAYMENTS**

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, hereinafter referred to as the "City", entered into an Intergovernmental Agreement with Walworth County, hereinafter at times referred to as the "County", concerning treatment of special charges related to the Elkhorn Road Venture, LLC, hereinafter at times referred to as "ERV", and

WHEREAS, the Agreement provides that the County will settle with the City (pay the City) for any pilot payments that ERV fails to pay, that are added to the tax roll as special charges, pursuant to a Developer's Agreement between the City and ERV, and

WHEREAS, the Agreement provides that the City will indemnify the County against any financial loss the County may incur, due to the settlement payments paid to the City by the County, for the ERV special charges, and

WHEREAS, it is appropriate for the City to establish an account, funded by said settlement monies, to be used to indemnify the County for any financial loss suffered by the County, due to the ERV settlement payments or, if no indemnity payment is required to be made to the County, the funds in the account will be paid to the City of Whitewater Tax Incremental District No. 4.

Now, therefore, BE IT RESOLVED as follows:

1. The City of Whitewater hereby establishes an account, to be funded with monies paid (both in the past and in the future) by the County, to the City, to settle special charges on the tax roll, that are the result of the Development Agreement between the City and ERV. The account shall be used to hold monies paid (both in the past and in the future), by the County to the City, to settle with the City, for special charges put on the tax roll related to ERV.

2. The monies in the fund established herein shall be used to indemnify the County, in the event the County suffers financial loss, concerning the ERV special charge settlement payments, as described in the Intergovernmental Agreement entered into between the City and County. Any funds not used to indemnify the County for financial loss, shall be paid to the City of Whitewater Tax Incremental District No. 4.

Resolution introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Abbott. AYES: Frawley, Abbott, Winship, Binnie, Bregant, Kidd. NOES: None. ABSENT: Singer. ADOPTED: August 20, 2013.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**RESOLUTION TRANSFERRING FROM TID 4, TO A SEPARATE ACCOUNT,  
MONIES PAID TO THE CITY OF WHITEWATER FOR SETTLEMENT OF SPECIAL  
CHARGES RELATED TO THE ELKHORN ROAD VENTURE LLC.**

**RESOLUTION TRANSFERRING FROM TID 4 TO A SEPARATE ACCOUNT  
MONIES PAID TO THE CITY OF WHITEWATER FOR SETTLEMENT OF  
SPECIAL CHARGES RELATED TO THE ELKHORN ROAD VENTURE, LLC.**

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, at times hereinafter referred to as the "City", and Elkhorn Road Venture, LLC, hereinafter at times referred to as "ERV", entered into a Development Agreement, wherein ERV guaranteed a tax increment for its development, which is located in City of Whitewater Tax Incremental District No. 4. The Agreement further provided that, if the tax increment was not paid by real estate taxes, ERV would pay the deficiency to the City as a pilot payment and, if the pilot payments were not timely paid, the unpaid amounts

would become a special charge against the property owned by ERV, to be placed on the tax roll by Walworth County, hereinafter at times referred to as the “County”, and

WHEREAS, ERV failed to pay certain pilot payments, and the payments were placed on the tax roll as special charges, and the County settled with the City for the special charges, and

WHEREAS, the City accounted for the ERV pilot payment special charges settlement payments, paid by the County to the City, as revenue in TID 4, and

WHEREAS, the City had no legal obligation to account for the pilot payment special charge settlements as revenue in TID 4, and

WHEREAS, the City has established an account, to be used to pay the County, if the City is required to indemnify the County, for financial loss the County may incur due to settlements, paid to the City, for special charges related to ERV, and

WHEREAS, any transfer from TID 4, to the account established by the City to indemnify the County, of special charge settlement money received by the City, and paid to TID 4, will result in no net expenditure by TID 4, but rather a reduction in revenue in TID 4.

Now, therefore, BE IT RESOLVED as follows:

1. The City shall transfer, from TID 4, the ERV special charge settlement funds it has received from the County, in the past and future, to the account established, by the City, to indemnify the County, if the County suffers any financial loss, due to its settlement payments made to the City, concerning the ERV special charge settlement payments.

Resolution introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Bregant. AYES: Frawley, Abbott, Winship, Binnie, Bregant, Kidd. NOES: None. ABSENT: Singer. ADOPTED: August 20, 2013.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**FIRST READING OF ORDINANCE AUTHORIZING STOP SIGN TO BE PLACED AT ELIZABETH AND WALWORTH STREETS AND WAIVER OF SECOND READING OF ORDINANCE.**

**AN ORDINANCE AMENDING CHAPTER 11.12.011 OF THE MUNICIPAL CODES, ENTITLED “STOP SIGNS.”**

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

**SECTION 1.** Whitewater Municipal Code Section 11.12.011, Stop Signs, is hereby amended to read as follows:

The following is hereby amended to add the following to the Street Index of Stop Signs:

WALWORTH AVE.	Eastbound at Elizabeth Street.
WALWORTH AVE.	Westbound at Elizabeth Street.

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

Ordinance introduced by Councilmember Kidd, who moved its adoption.

Seconded by Councilmember Winship. *It was also moved by Kidd and seconded by Winship to waive the requirement for a second reading of the ordinance.*

AYES: Frawley, Abbott, Winship, Binnie, Bregant, Kidd. NOES: None. ABSENT: Singer. ADOPTED: August 20, 2013.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**SEAN MAINLAND APPEAL OF THE DENIAL OF BEVERAGE OPERATOR'S LICENSE.** The Alcohol Licensing Committee ("ALC") met and heard Sean Mainland's request to have denial of his beverage operator's license appealed. The ALC recommended that the denial be upheld. It was moved by Abbott and seconded by Bregant to uphold the denial of the Beverage Operator's License for Sean Mainland. AYES: Frawley, Abbott, Winship, Binnie, Bregant, Kidd. NOES: None. ABSENT: Singer.

**MILWAUKEE STREET CONTRACT CHANGE ORDER, TO ALLOW FOR RECONSTRUCTION OF RIDGE STREET.** It was moved by Winship and seconded by Frawley to authorize a change order with E & N Hughes, for a sum not to exceed \$20,259, to allow for reconstruction of the north portion of Ridge Street as part of the E. Milwaukee Street reconstruction project. AYES: Frawley, Abbott, Winship, Binnie, Bregant, Kidd. NOES: None. ABSENT: Singer.

**REPORT ON WASTEWATER SYSTEM.** As previously requested by Council, Wastewater Treatment Plant Superintendent Tim Reel gave a presentation on the City's wastewater system. Reel indicated that during very heavy volumes of rain, sometimes "clear water" (not needing treatment), enters into the sanitary collection system in volumes that overwhelm the piping and pumping systems that are in place. Reel reported

that these events have caused violations and have brought into question our ability to continually meet WDNR permit limits. When questioned about storm water issues, Reel explained that storm water matters are handled by the Streets Superintendent. Further reports on storm water issues will be coming.

**COUNCIL / MANAGEMENT STAFF RETREAT.** After a short discussion, it was agreed that the council/staff retreat would be held on August 27, 2013 at 7:00 p.m.

**FUTURE AGENDA ITEMS.** Councilmember Binnie requested that the possibility of having an engineering study completed to review storm water flooding issues be discussed at the next meeting.

**EXECUTIVE SESSION.** It was moved by Abbott and seconded by Frawley to Adjourn to Executive Session, NOT TO RECONVENE, pursuant to Section 19.85(1)(c) "Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility" and 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: Deputy Clerk Salary. AYES: Frawley, Abbott, Winship, Binnie, Bregant, Kidd. NOES: None. ABSENT: Singer. Being no further business to come before the meeting, the regular portion of the meeting adjourned at 7:30 p.m.

Respectfully submitted,

Michele R. Smith, City Clerk