

**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 16, 2014

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: McDonell.

It was moved by Winship and seconded by Abbott to approve the Council Minutes of 7/15/14, 8/5/14 and 8/19/14, and to acknowledge receipt and filing of the following: Financial Reports for August, 2014 and Report of Manually-Issued Checks for August, 2014. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None.

PAYMENT OF INVOICES. It was moved by Winship and seconded by Abbott to approve payment of city invoices in the total sum of \$91,878.56. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None.

STAFF REPORTS: The Common Council recognized the **UWW Baseball Champions** and presented them with a plaque. City Manager Clapper presented the **CROP Walk** volunteers with a proclamation, and City Manager Clapper also presented a **Proclamation Honoring Seniors**. Parks and Recreation Director Amundson gave an update on the **Field of Dreams project** and announced the Grand Opening of the Field on October 4, 2014. Senior Coordinator Deb Weberpal updated Council on changes that have occurred in the **Seniors in the Park** program in recent months and also noted new opportunities that are being made available to the Seniors.

CITIZEN COMMENTS: None.

RESOLUTION AUTHORIZING EXEMPTION FROM JEFFERSON COUNTY LIBRARY TAX.
Presented for approval was the annual Resolution requesting exemption from paying County Library tax to Jefferson County.

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 2015, 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/village clerk to the following parties:

ADMINISTRATOR

Jefferson County Library Council
Dwight Foster Public Library
209 Merchants Avenue
Fort Atkinson, WI 53538

COUNTY CLERK

311 S. Center Ave, Room 109
Jefferson, WI 53549

Fiscal Note:

Estimated Municipal 2015 Library Appropriation \$575,104.

Date Passed: 9/18/2014

Vote: AYES: Frawley, Abbott, Winship, Binnie, Bregant, Singer, Kidd. NOES: None.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

RESOLUTION DECLARING INTENT TO REIMBURSE EXPENDITURES FROM BORROWING PROCEEDS.

RESOLUTION DECLARING OFFICIAL INTENT
TO REIMBURSE EXPENDITURES
FROM PROCEEDS OF BORROWING

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin (the "Municipality") plans to undertake Wastewater Treatment Plant Improvements (the "Project"); and

WHEREAS, the Municipality expects to finance the Project on a long-term basis by issuing tax-exempt bonds or promissory notes (the "Bonds"); and

WHEREAS, because the Bonds will not be issued prior to July 2015, the Municipality must provide interim financing to cover costs of the Project incurred prior to receipt of the proceeds of the Bonds; and

WHEREAS, it is necessary, desirable, and in the best interests of the Municipality to advance moneys from its funds on hand on an interim basis to pay the costs of the Project until the Bonds are issued.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the Municipality, that:

Section 1. Expenditure of Funds. The Municipality shall make expenditures as needed from its funds on hand to pay the costs of the Project until Bond proceeds become available.

Section 2. Declaration of Official Intent. The Municipality hereby officially declares its intent under Treas. Regs. Section 1.150-2 to reimburse said expenditures with proceeds of the Bonds, the principal amount of which is not expected to exceed \$18.6 million.

Section 3. Unavailability of Long-Term Funds. No funds for payment of the Project from sources other than the Bonds are, or are reasonably expected to be, reserved, allocated on a long term basis, or otherwise set aside by the Municipality pursuant to its budget or financial policies.

Section 4. Public Availability of Official Intent Resolution. This Resolution shall be made available for public inspection at the City Clerk's office within 30 days after its approval in compliance with applicable State law governing the availability of records of official acts including Subchapter II of Chapter 19, and shall remain available for public inspection until the Bonds are issued.

Section 5. Effective Date. This Resolution shall be effective upon its adoption and approval.

Resolution introduced by Councilmember Binnie, who moved its adoption. Seconded by Abbott. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None. ADOPTED: September 16, 2014.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

RESOLUTION AUTHORIZING REPRESENTATIVE TO FILE APPLICATION FOR FINANCIAL ASSISTANCE FROM STATE OF WISCONSIN ENVIRONMENTAL IMPROVEMENT FUND.

AUTHORIZED REPRESENTATIVE RESOLUTION

By: City of Whitewater

AUTHORIZED REPRESENTATIVE TO FILE APPLICATIONS
FOR FINANCIAL ASSISTANCE FROM
STATE OF WISCONSIN ENVIRONMENTAL IMPROVEMENT FUND

WHEREAS, it is the desire of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, a municipal corporation, to file several applications for state financial assistance for its wastewater facilities under the Wisconsin Environmental Improvement Fund (ss. 281.58, 281.59, 281.60, and 281.61, Wis. Stats.);

WHEREAS, it is necessary to designate a representative for filing said applications;

BE IT THEREFORE RESOLVED by the City Council of the City of Whitewater that the City Manager is hereby appointed as the authorized representative for the City of Whitewater for the purpose of filing these applications, and that the representative is further authorized and empowered to do all things necessary in connection with said applications.

Resolution introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Abbott. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None. ADOPTED: September 16, 2014.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE REZONING PROPERTY LOCATED AT 250 – 252 S. FOURTH ST. TO R-2A, ZONING OVERLAY. (RANDALL ASCHEBRENNER, OWNER)

**AN ORDINANCE IMPOSING THE R-2A
RESIDENTIAL OCCUPANCY OVERLAY DISTRICT
ZONING CLASSIFICATION FOR CERTAIN PROPERTY
IN THE CITY OF WHITEWATER**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, do, pursuant to Municipal Code Section 19.69, hereby impose the R-2A Residential Occupancy Overlay District Zoning classification (19.19) on the below property:

Section 1: The R-2A Residential Occupancy Overlay District Zoning classification is hereby imposed upon:

Address
250-252 S. Fourth Street

Tax ID#
/OT 00175

Aschebrenner

Section 2: The official zoning map of the City of Whitewater is hereby amended to show the above action.

Section 3: This ordinance shall take effect upon passage and publication as provided by law.

Ordinance introduced by Councilmember Abbott, who moved its adoption. Seconded by Councilmember Bregant. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None. FIRST READING APPROVED: September 16, 2014.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE REZONING PROPERTY LOCATED AT 255 S. PRAIRIE ST. TO R-2A, ZONING OVERLAY. (MARK MAAS, OWNER)

**AN ORDINANCE IMPOSING THE R-2A
RESIDENTIAL OCCUPANCY OVERLAY DISTRICT
ZONING CLASSIFICATION FOR CERTAIN PROPERTY
IN THE CITY OF WHITEWATER**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, do, pursuant to Municipal Code Section 19.69, hereby impose the R-2A Residential Occupancy Overlay District Zoning classification (19.19) on the below property:

Section 1: The R-2A Residential Occupancy Overlay District Zoning classification is hereby imposed upon:

Address
255 S. Prairie Street

Tax ID#
/CL 00051

Maas

Section 2: The official zoning map of the City of Whitewater is hereby amended to show the above action.

Section 3: This ordinance shall take effect upon passage and publication as provided by law.

Ordinance introduced by Councilmember Abbott, who moved its adoption. Seconded by Councilmember Bregant. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None. FIRST READING APPROVED: September 16, 2014.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

APPOINTMENT OF CITIZEN MEMBERS TO BOARD AND COMMISSION POSITIONS.

Upon recommendation of the City Manager and Council President, it was moved by Binnie and seconded by Bregant to make the following appointments to Board and Commission vacancies: **Cable TV Commission:** Wayne Williams and Tom Hapka; **Disability Rights Commission:** Joe Kluber; **Landmarks Commission:** Patricia Blackmer; **Plan and Architectural Review Commission:** appoint Sherry Stanek as regular member (which vacates her alternate seat) and appoint Tom Hinspater to the alternate position on Plan Commission. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None.

LANDMARKS COMMISSION REQUEST TO EXPEND \$3,000 TO PURCHASE TILES TO BE PLACED ON LOCAL LANDMARKS.

The Landmarks Commission has been working with a UWW student to create custom tiles for locally-designated Landmark properties. It was noted that if the property owner does not want the tile placed on their home, the Landmarks Commission will store the tile until such time as a successor owner of the property does wish to display it. Councilmember Abbott questioned what she believed to be a fairly large stipend to be paid for the art work. It was explained that each tile will be designed separately, incorporating the architectural style of the home into the design. It was moved by Binnie and seconded by Bregant to authorize an expenditure of \$3,280, to be funded from the Contingency account, to have tiles created for homes designated as historic landmarks. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None.

BLACKTHORNE SCRIBE REQUEST FOR EXTENSION OF TIME TO ACTIVATE PREVIOUSLY APPROVED, BUT NOT ISSUED “CLASS B” BEER AND LIQUOR LICENSE FOR ESTABLISHMENT TO BE LOCATED AT 108 W. MAIN.

Sara Amiri, project manager for the Irish Pub proposed to be located at 108 W. Main Street, requested an extension of time to activate the approved, but not issued license. Amiri indicated that the majority of delays have been due to Department of Natural Resources (“DNR”) requirements, but that the group has received verbal confirmation that approvals will be forthcoming very soon. Owners of Fratelli’s restaurant spoke in opposition to the extension, noting that they also applied for the license currently “on hold” for Blackthorne, Fratelli’s is still interested in obtaining the license, and they could begin use immediately. Brian Vedzuski also indicated that Blackthorne (and another establishment with a license currently “on hold”) have not kept their commitment about being open by the deadline dates each applicant agreed to. Lengthy discussion ensued, and confusion was expressed over ownership of the property at 108 W. Main, where the Pub is proposed to be located. Sara Amiri confirmed that Blackthorne has not yet closed on the property, but they wanted to be sure all permits would be approved prior to finalizing the transaction. Councilmembers did express a desire to see a more detailed plan for the business. Concerns were also expressed over the long period of time this license has been “held” for an applicant. It was moved by Kidd and seconded by Bregant to extend the period of time the City will “hold” the license for Blackthorne Scribe to 5/1/15, **contingent upon** Blackthorne having acquired title to the real estate for the property at 108 W. Main Street by 11/18/14, and if the property is not owned by Blackthorne by that date, the extension of time to open the establishment terminates and the Council will move forward with a decision on disposition of the “held” license. AYES; Frawley, Binnie, Bregant, Kidd. NOES: Abbott, Winship, Singer.

FINANCIAL TREND ANALYSIS. The City Manager provided the Common Council with the annual financial trend analysis document. Due to time constraints, the document was not discussed. Council was advised to contact the City Manager if they had any questions or concern about the analysis.

AGREEMENT WITH TASER INTERNATIONAL. It was moved by Winship and seconded by Binnie to enter into an agreement with Taser International of Illinois, for electronic storage of on-officer Axon camera system data. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None.

GENERAC WAIVER FOR FLOURIDE DISCHARGE INTO SANITARY SEWER SYSTEM. It was moved by Winship and seconded by Abbott to approve Generac's request for a waiver allowing discharge of fluoride in excess of current limits written into ordinance 16.14.575. The City retains the ability to modify requirements if treatment quality is impacted due to fluoride. (Flouride concentrations up to 75 mg/L will be discharged into the City of Whitewater sanitary sewer system). AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None.

FOREST LANDSCAPING CHANGE ORDER FOR EAST GATE PROJECT / WHITEWATER STREET. Asst. City Manager McDonell reported that when existing storm sewer on Whitewater St. was excavated, it was found to be deeper than expected and therefore not compatible with the new system recently installed. In addition, the existing pipe was found to be clay, not concrete as expected. Alternatives on amendment to the project were presented. It was moved by Binnie and seconded by Abbott to approve Alternative 3, which states: All utilities that have been installed at the Whitewater/Main St. intersection would remain and the new storm sewer would be installed as originally designed. The sewer along the Brass Rail (130 W. Main) would be abandoned as planned. New storm sewer would be installed along the west curb line of Whitewater Street from the intersection with Main Street, south to the existing storm sewer on the south side of Center St. The existing clay pipe storm sewer would be replaced with concrete pipe. The current blind connection (no manhole) on the north side of Center would be replaced with a manhole. All disturbed concrete pavement and sidewalk would be replaced. This would require a section of We-Energies gas main to be relocated prior to the storm sewer installation near Center St. There is also the potential to impact the AT&T ducts at the intersection. It was moved by Binnie and seconded by Abbott to approve a change order with Forest Landscaping, for a sum not to exceed \$40,000, for additional storm sewer work as described in Alternative 3. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS. It was requested that the Enbridge Resolution be brought before the Council, as well as an update on the Parking Summit.

EXECUTIVE SESSION. It was moved by Singer and seconded by Abbott to adjourn to Closed Session **to reconvene approximately 30 minutes after adjournment to closed session** per 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" and 19.85(1)(g) "Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved."

Items to be Discussed:

Strategy and settlement discussions related to the case of Amy Bleile v. City of Whitewater [19.85(1)(g) and 19.85(1)(e)].

AND

Elkhorn Road Ventures LLC property foreclosure at the roundabout near Milwaukee St. / Elkhorn Rd. and Bluff Road. [19.85(1)(e)]. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None. The regular portion of the meeting adjourned at 9:00 p.m.

Reconvene into Open Session. At 9:50 p.m., It was moved by Singer and seconded by Winship to reconvene in Open Session.

SETTLEMENT AGREEMENT RELATING TO BLEILE ADA LAWSUIT. It was moved by Abbott and seconded by Winship to approve the settlement agreement negotiated by the Attorneys involved with regard to the Amy Bleile lawsuit against the City. AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None.

ELKHORN ROAD VENTURES. It was moved by Binnie and seconded by Abbott to enter into an Agreement Concerning Indemnification of Walworth County and Purchase of Tax Foreclosed Real Estate (relating to Elkhorn Road Ventures property located adjacent to roundabout at Clay Street, Elkhorn Rd. and Bluff Roads). The County has paid the City of Whitewater \$383,798.37 to settle with the City for the unpaid special charges that were not paid by Elkhorn Road Ventures. The City now agrees to indemnify Walworth County in the sum of \$587,804.92 (special charges plus penalties and interest). In addition, Elkhorn Road Ventures owes delinquent real estate taxes of \$105,123.95, plus interest and penalties of \$35,370.76. After their September 18, 2014 meeting, Walworth County will set a minimum bid price on the properties of \$815,964 for the purchase of said properties. If a bid of \$815,964 or more is received by the County by 10/16/14, the properties shall be sold to the high bidder, and the City shall have no financial obligation to the County on this matter. If the County does not receive a bid of \$815,964 by 10/16/14, the City shall purchase the properties from the County for \$587,804.92, and will be responsible for the 2014 real estate taxes (approximately \$38,000). Funding for the purchase will come from the City's special account (where funds from the special charges paid to the City by the County were held) plus an additional \$204,006.55 out of City funds (not TIF FUNDS). AYES: Frawley, Abbott, Winship, Binnie, Singer, Bregant, Kidd. NOES: None. ABSENT: None.

ADJOURNMENT. It was moved by Abbott and seconded by Bregant to adjourn the meeting. Motion carried by unanimous voice vote. The meeting adjourned at 9:55 p.m.

Respectfully submitted,

Michele R. Smith, Clerk