

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

February 18, 2016

The regular meeting of the Common Council was called to order at 6:30 p.m by Council President Singer. MEMBERS PRESENT: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Kidd. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: McDonell.

It was moved by Binnie and seconded by Goettl to approve the Council minutes of 1/19/2016 and to acknowledge receipt and filing of the following: Financials for January, 2016, Report of Manually-Issued Checks for January, 2016, and the Zoning Code Rewrite Committee Minutes of 1/21/16. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Kidd. NOES: None. ABSENT: None.

**STAFF REPORTS.** Parks and Recreation Director Amundson reported on the concession stand / restroom construction scheduled to take place in Starin Park Spring / Summer of 2016.

**ANN STREET BASIN RESOLUTION.**

**RESOLUTION  
CONCERNING THE ANN STREET BASIN PROJECT**

A Resolution and Relocation Order for the Laying Out, Improving, Extending and Acquiring Rights-Of-Way for the Ann Street Basin Project.

**WHEREAS**, the City of Whitewater has determined that it is necessary to undertake a public improvement project consisting of laying out, improving, extending and acquiring property and easements for the Ann Street Basin Project, and

**WHEREAS**, the City of Whitewater Common Council now wants to proceed with this project by adopting a relocation order in accordance with Wisconsin Statutes, section 32.05 (1) (a) and approving the plans for this project in accordance with Wisconsin Statutes.

**NOW, THEREFORE BE IT RESOLVED** by the Common Council of the City of Whitewater that approval is hereby granted for the undertaking of the public improvement project consisting of improving, extending and acquiring property and easements for the Ann Street Basin Project and this project is deemed to be necessary, and

**BE IT FURTHER RESOLVED** that this Resolution is:

A Resolution of necessity in accordance with Wisconsin Statutes, section 32.07(2);

A Relocation Order in accordance with Wisconsin Statutes, section 32.05 (1) (a);

**BE IT FURTHER RESOLVED** that approval is hereby granted for the design of this project as set forth in the plans, a copy of which is annexed to this Resolution, and

**BE IT FURTHER RESOLVED** that it will be necessary for the City to acquire interests in real estate owned by: Aracel Partida, with the legal description of the easements to be acquired set forth in attached Exhibit A; Thayer Coburn and Anne E. Fleming-Coburn, with the legal description of the easements to be acquired set forth in attached Exhibit B; and Donald L. Wargowsky and Joann Wargowsky, with the legal description of the easements to be acquired set forth in attached Exhibit C; in order to carry out this project and the City staff and the City

Attorney are hereby authorized and directed to undertake title acquisition procedures for the acquisition of the real estate needed for this project, including condemnation, if necessary, in accordance with the procedures set forth in Wisconsin Statutes, section 32.05 and such real estate shall be acquired in the name of the City of Whitewater, and

**BE IT FURTHER RESOLVED** that this Resolution shall be effective immediately upon its passage and publication.

Resolution introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Goettl. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Kidd. NOES: None. ABSENT: None. ADOPTED: February 18, 2016.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**ORDINANCE ADOPTING STANDARDS FOR BEEKEEPING.**

Ordinance introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Goettl. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Kidd. NOES: None. ABSENT: None.

It was then moved by Goettl and seconded by Binnie to waive the requirement for a second reading of the ordinance. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Kidd. NOES: None. ABSENT: None. Adopted: February 18, 2016.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**SECOND READING OF ORDINANCE CHANGING STRUCTURE OF PARKS AND RECREATION BOARD.**

**SECOND READING OF AN ORDINANCE AMENDING CHAPTER 2.51  
PARKS AND RECREATION BOARD  
CONCERNING ADDING ADDITIONAL MEMBERS**

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

**2.52.010 - Established.**

| There is hereby established a parks and recreation board for the city, which shall have in addition to the powers granted herein, all of the powers now or hereafter granted under Wis. Stats. § 27.08.

**2.52.020 - Purpose.**

The establishment of this board shall be for the purpose of acquiring, improving, developing, maintaining, and operating public parks, recreation facilities, equipment, and activities. This

board shall provide a parks and recreation program for the citizens of Whitewater, coordinating and correlating all recreation activities for the maximum benefit of the community and operating with other public or private organizations to more efficiently utilize the city's resources. The board shall interpret any and all programs which they may promulgate.

### **2.52.030 – Membership – Terms – Vacancies - Officers.**

The board shall consist of ~~seven-nine~~ members including three ex officio members and six citizen members. ~~Each of the four~~ All six of the citizen members shall be a resident of the city or a resident of the Whitewater Unified School District and three of the six citizen members shall be residents of the City of Whitewater. The three ex officio members shall not have a specified residency requirement. The board shall serve without compensation.

The board shall consist of three ex officio members who will serve permanently or as long as they are holding office in or are representatives of the following organizations or departments:

- a. **District administrator of the Whitewater Unified School District or his/her designated representative;**
- b. **Common council member;**
- c. **University of Wisconsin - Whitewater, chancellor or his or her designee.**

The board shall also consist of ~~three-five~~ citizens who shall be appointed by the city ~~manager upon advisement of the recreation board and approval of the common council~~ under the procedure set out in Section 2.12.011. Three of the five appointees shall be residents of the City of Whitewater. The final citizen member of the board shall be a member of the Whitewater Unified School District Board and shall be appointed by the School District Board.

There shall be one alternate member appointed to serve. In the event one of the seven regular members is unable to attend then the alternate member shall be called upon to attend and shall have full power to act and vote.

Each citizen member shall serve for a term of three years beginning on the first of January, except that when the first board is appointed, one member shall be appointed for one year, another for two years, and the third for three years. Citizen members shall be limited to three consecutive terms and cannot be reappointed as a board member until one three-year term has elapsed.

Vacancies to finish unexpired terms only will be filled in the same manner as the original appointments ~~upon advisement of the recreation board and approval of the common council~~.

Officers. A chairman and vice chairman shall be elected by the board members. The election of officers will take place at the first meeting in May and those elected will serve for the term of one year. The parks and recreation director will automatically serve as secretary.

### **2.52.040 - Organization.**

The board shall organize and adopt rules for its own government in accordance with the provisions of this chapter. Meetings shall be held monthly or at the call of the chairman,

and shall be open to the public. Minutes shall be kept showing all actions taken and a copy shall be filed with the city clerk and the parcs and recreation director as a public record.

A quorum shall be four members, but all actions shall require the approval of the majority of the voting members.

#### **2.52.050 - Powers.**

The board shall have control and jurisdiction over all playgrounds, recreation centers and other places which have previously, or may in the future, be dedicated for the purpose of public recreation and given over to their control. The board shall furthermore have all powers listed at Section 27.08 of the 1967 Wisconsin Statutes and any amendment thereto as though specifically set forth herein. The board shall adopt rules and regulations which may be necessary to exercise said powers. All rules and regulations shall be subject to final approval by the common council. The board shall have the authority to enlarge the duties of the director of parks and recreation listed in subsection 2.20.030(b) of this title, and to determine general policies of the program and the level of leadership employed.

#### **2.52.060 - Selection of parks and recreation director.**

The board shall participate in the interview and selection process for the hiring of a parks and recreation director. It shall be the sole responsibility of the city manager to appoint the director.

#### **2.52.070 - Finances.**

The board shall submit to the city manager by October first of each year a proposed program and budget for the ensuing year. The board shall not contract any liability in excess of the budget appropriated unless specifically authorized by the city manager and approved by the common council. All moneys received for the purpose of the board, whether from the general fund or from charges~~s~~ for activities, facilities, or services shall be deposited in the general fund of the city and segregated on the books of the city. The city treasurer shall act as treasurer of the board without additional compensation. All expenditures shall be made in accord with the appropriations by the city council only upon the approval of the board and city manager and~~y~~ by the issuance of an order for the expenditure by the city clerk.

#### **2.52.080 - Reports.**

The board shall issue an annual written report of its finances and activities and an inventory of all its public parks, recreational lands, facilities, and equipment, for the previous year to the common council by April first of each year.

#### **2.52.090 - Urban forestry commission.**

**Creation and Membership. The urban forestry commission is hereby established as a permanent committee of the parks and recreation board. There shall be seven members on the Whitewater Urban Forestry Commission. Membership shall be as follows:**

**Five citizen members shall be appointed under the procedures set forth in Whitewater Municipal Code, Chapter 2.12, each serving three-year terms, staggered annually.**

**One member of the plan and architectural review commission shall be appointed to the Whitewater Urban Forestry Commission.**

**One member of the parks and recreation board shall be appointed to the urban forestry commission.**

**The city forester or his/her designee shall serve as the nonvoting staff liaison to the Whitewater Urban Forestry Commission.**

**Powers and Duties. The urban forestry commission shall:**

**Make recommendations to the city forester and parks and recreation board concerning the care of all trees and shrubs planted in the rights-of-way of all streets or highways, or in any park or other public areas of the city;**

**Prepare, and recommend for adoption by the parks and recreation board and the city council, an urban forestry management plan, which shall include provisions for the planting, maintenance and protection of all public trees and shrubs, and make recommendations for amendments thereto as the urban forestry commission shall determine appropriate from time to time. The urban forestry management plan may contain any or all of the following elements:**

Street Tree and Shrub Planting Plan. A proposed plan for the orderly and systematic planting of new or replacement trees and shrubs in the terraces or boulevards along city streets in a manner which minimizes conflicts between trees and shrubs and other public use of streets, facilitates care of the trees and shrubs, and enhances the aesthetics of the city streetscapes. The plan shall designate the appropriate species of tree(s) and shrub(s) for each street segment and shall take into consideration the mature size and requirements of the species, the width of the terrace or boulevard, depth of building setbacks, location of street lights, safety signals and signs, the location of overhead or underground public utility facilities, the location of existing desirable trees and any other relevant site factors.

Tree and Shrub Maintenance. Plans for the maintenance of trees and shrubs located in public places to preserve the function or beauty of such public places in accordance with the applicable city maintenance standards. The plan shall provide plans for the trimming, removal, pruning, spraying, fertilizing or other treatment of any tree or shrub on any public place when necessary or appropriate to promote the general welfare, improve the city's appearance or alleviate any unsafe condition.

**Serve in an advisory capacity to the city council on all issues relating to trees and shrubs located within street right-of-ways, parks, and other public places in the city; and to any other matter involving trees and shrubs that affect, or may affect, public areas;**

**Prepare and maintain an inventory of trees and shrubs located in public areas within the city and an inventory of areas along streets where street trees cannot be planted due to site limiting factors;**

Prepare and recommend for adoption by the parks and recreation board and the city council rules and regulations for the protection and maintenance of trees and shrubs located on public property, and to protect the public health, safety and welfare against dangers resulting from any trees and shrubs, including any regulations deemed necessary to protect against injury or damage caused by the spread of disease, insects or fungus;

Identify and maintain a list of tree and shrub species deemed to be nuisances due to their propensity to harbor pests or transmit diseases which endanger other trees or shrubs or the public health, safety and welfare;

Subject to the approval of the city manager, apply for county, state, federal and private grant funds for the city's urban forestry program;

Recommend such persons or firms who are qualified in urban forestry to assist with the city's urban forestry program;

Provide a forum for and encourage public comments on city tree and shrub projects and the urban forestry program;

Encourage public participation in urban forestry practices and projects within the city and the surrounding extraterritorial area;

Conduct an Arbor Day observance each year;

Inform and educate city residents about the care of natural areas in their neighborhoods;

Undertake programs for education of the public with regard to the benefits of urban trees, the proper selection, planting and care of urban trees and other matters relating to urban forestry as it deems appropriate;

Maintain the "Tree City USA" status of the city;

Provide, upon request, on such terms and conditions as determined by the requesting body, plan review and technical assistance to the planning and zoning commission and any other board, committee or commission of the city and provide technical advice and assistance with respect to matters affecting the urban forest to the public;

Provide at each parks and recreation board meeting a report of the commission's activities since its last report to the board;

The parks and recreation board shall receive and review all reports, whether written or oral, provided to them by the urban forestry commission.

#### **Limitation on powers.**

The urban forestry commission shall not have any power to direct or manage any city employee, officer, or agent in their day-to-day work activities.

### **CONSIDERATION OF AMENDMENTS TO CHAPTER 19.**

Ordinance introduced by Councilmember Goettl, who moved its adoption. Seconded by Councilmember Binnie. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Kidd. NOES: None. ABSENT: None. ADOPTED: February 18, 2016.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**SANITARY SEWER BACKUP INSURANCE COVERAGE.** Based on prior direction from the Common Council, City Staff conducted a survey of Wisconsin municipalities regarding no-fault sewer backup coverage. Per Assistant City Manager McDonell, backup coverage is available, but not from the insurance carrier Whitewater currently insures with. Much discussion regarding whether to provide coverage for something the City is not liable for, limits on payment if coverage is made available, adjustor fees, and the responsibility of the homeowner to purchase backup insurance was discussed. Councilmember Binnie provided detailed information he had obtained from Des Moines regarding their backup coverage. After discussion regarding the pros and cons of the City providing some coverage, it was moved by Binnie and seconded by Grady to initiate a task force of councilmembers and City staff members to explore the possibility of a no-fault reimbursement program. AYES: Grady, Binnie, Singer, Kidd. NOES: Wellnitz, Langnes, Goettl.

**DENIAL OF SEWER BACKUP CLAIM FILED BY VICTOR LEFAIVE, 351 SUMMIT STREET.** Victor LeFaive, tenant of 351 Summit Street had filed a claim for damages suffered as a result of a sewer backup in his basement. Council had discussed this claim at length at their January 19, 2016 meeting. Councilmembers acknowledged that the potential denial of any sewer backup claim was one of the hardest things they have to do. It was moved by Binnie and seconded by Grady to authorize payment to the claimants, with the understanding the City is not acknowledging any liability, in the sum of \$3,000, contingent upon claimants signing a release of claim with the City. AYES: Grady, Binnie, Kidd. NOES: Wellnitz, Langnes, Goettl, Singer. It was then moved by Goettl and seconded by Wellnitz to deny the claim filed by tenants of 351 Summit Street for sewer backup damage. AYES: Wellnitz, Langnes, Grady, Goettl, Singer. NOES: Binnie, Kidd.

**LANDMARKS COMMISSION – COUNCIL REPRESENTATIVE APPOINTMENT.** Due to schedule issues, Councilmember Langnes resigned as council representative to the Landmarks Commission. It was moved by Langnes and seconded by Goettl to appoint Councilmember Singer as council representative to Landmarks Commission. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Kidd. NOES: None. ABSENT: None.

**CENTER STREET/ BOONE STREET / SUMMIT STREET RECONSTRUCTION PROJECT.** It was moved by Goettl and seconded by Binnie to approve a contract with Forrest Landscaping in the sum of \$1,419,417. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Kidd. NOES: None. ABSENT: None.

**PRESENTATION REGARDING DEVELOPMENT OF A SPORTS PLEX, A HOTEL, AND SENIOR RESIDENTIAL UNITS NEAR THE ROUNDABOUT AT THE CORNERS**

**OF BLUFF ROAD AND E. MILWAUKEE STREET / HWY. 12.** Developers Rick Ehler and Greg Stec were present to discuss their offer to purchase the land formerly known as Elkhorn Road Ventures property, near the roundabout at Bluff and E. Milwaukee. The developers have proposed a multi-use property, including an indoor sports plex, a hotel and senior residential units. The developers have worked with City staff for a number of months and would like to move forward with their development.

**EXECUTIVE SESSION.** It was moved by Singer and seconded by Goettl to adjourn to Closed Session, TO RECONVENE IN APPROXIMATELY 15 MINUTES FROM TIME ENTERING CLOSED SESSION, pursuant to Chapter 19.81(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: Receipt of Offer to Purchase on property formerly owned by Elkhorn Road Ventures, near roundabout located at intersection of Milwaukee and Bluff Streets. Ayes: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Kidd. NOES: None. ABSENT: None. The Council went into closed session at 9:20 p.m.

**RECONVENE INTO OPEN SESSION.** At 9:52 p.m. the Council reconvened into open session.

**OFFER TO PURCHASE RECEIVED BY CITY WITH REGARD TO REAL ESTATE FORMRLY OWNED BY ELKHORN ROAD VENTURES, NEAR INTERSECTION OF MILWAUKEE STREET AND BLUFF ROAD.** It was moved by Goettl and seconded by Langnes to reject the offer to purchase submitted by developers with regard to real estate near the roundabout, at the intersection of Milwaukee Street and Bluff Road. AYES: Wellnitz, Langnes, Grady, Goettl, Singer, Kidd. NOES: None. ABSENT: None. ABSTAIN: Binnie.

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

Respectfully submitted,

Michele R. Smith, Clerk