

**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 6, 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, Allen. NOES: None. ABSENT: None. LEGAL COUNSEL PRESENT: Wallace McDonell.

It was moved by Goettl and seconded by Allen to approve the Council Minutes of 7/19/16; 8/2/16 and 8/16/16 and to acknowledge receipt and filing of the Landmarks Commission minutes of 7-7-16. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Allen. NOES: None. ABSENT: None.

PAYMENT OF INVOICES. It was moved by Goettl and seconded by Allen to approve payment of city invoices in the total sum of \$81,437.92. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Allen. NOES: None. ABSENT: None.

STAFF REPORTS: Asst. City Manager McDonell gave an update on the City's recent construction projects.

CITIZEN COMMENTS: None

EXEMPTION FROM COUNTY LIBRARY TAX.

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 2017, 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

Fiscal Note:

Estimated Municipal 2017 Library Appropriation \$497,068.

COUNTY CLERK

311 S. Center Ave, Room 109

Jefferson, WI 53549

Resolution introduced by Councilmember Goettl, who moved its adoption. Seconded by Councilmember Allen. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Allen. NOES: None. ABSENT: None. ADOPTED: September 6, 2016.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE AMENDING KEY LOCK BOX ORDINANCE. The Task Force created to review the Key Lock Box ordinance has recommended the purchase of a secure key system from the Knox Box Company. The system would provide for a secure box to be placed in each Police, Fire and Rescue vehicle. The box would be opened with a pass code that would be issued to each qualified member of each Department. Each member would have a unique and confidential pass code. The secure key system would provide an audit trail by recording the date, time and identity of the person opening the box, and would bring an added level of security for guarding against improper use of lock box master keys.

Per City correspondence provided in the packet, the previously proposed ordinance would have affected 102 buildings. Based on Task Force changes, the ordinance presented would now affect only 58 buildings. It was noted that one prime concern of the Task Force was making sure that all downtown area commercial structures were included, given the nature of the limited space between buildings.

A large audience was present. Numerous citizens and business owners opposed the adoption of the ordinance, and expressed concern over the cost to install the system. It was noted that contrary to what had been reported, the Lock Box with a cost of approximately \$300 does NOT provide insurance coverage as stated. Business owner and resident Jean Mills stated that a \$1000 box would have to be purchased in order to receive the insurance coverage. Councilmember Goettl questioned the number of property owners who would be required to install a lock box, as she noted that information provided in the council backup and the listing provided by the Fire Department did not match. Councilmember Goettl was not convinced that accurate information has been provided. Numerous residents spoke in opposition to the ordinance, with the main concerns being cost, concern regarding the lock boxes being broken into, and dissatisfaction with being required to install a box versus voluntary installation. Councilmember Goettl requested that city staff obtain documentation regarding insurance coverage on the boxes, including residential boxes; an accurate listing of which properties would be required to comply; and confirmation regarding the ability for properties to use the residential box (which is less expensive).

**AN ORDINANCE AMENDING THE CITY OF WHITEWATER KEY LOCK BOX
ORDINANCE**

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

SECTION 1. Whitewater Municipal Code Chapter 14.15 is hereby amended to read as follows:

14.15.010	Declaration of Purpose
14.15.020	Key Lock Box System
14.15.030	Installation
14.15.040	Maintenance
14.15.050	Contents of Lock Box
14.15.060	Security of Lock Box Access Keys
14.15.070	Exceptions to Requirement to Install a Key Lock Box System
14.15.080	Penalties
14.15.090	Invalid Provisions

14.15.010 Declaration of Purpose.

- a. **The City of Whitewater, Wisconsin Common Council hereby determines that the health, safety, and welfare of the citizens of the City of Whitewater, Wisconsin are promoted and safeguarded by requiring certain structures to have a key lock box installed on the exterior of the structure to aid the Whitewater Fire Department Inc. and City of Whitewater Police Department to gain access to the structure when the same is not occupied, when the occupants are unable to grant ingress and for other legal purposes. However, this ordinance shall not grant Whitewater Fire Department Inc. or the City of Whitewater Police Department a greater right to enter into any building than what would be legally allowed without this ordinance.**
- b. **The key lock box system will reduce the need for forced entry into structures and should avoid costly and time-consuming efforts in gaining access to locked structures during an emergency.**
- c. **This chapter will provide for a method for rapid response entry into and throughout locked buildings in emergency situations where time may be of the essence for protection of public health and property.**

14.15.020 Key Lock Box System.

- d. **The following structures shall be equipped with a key lock box at or near the main entrance or such other location as required by the Fire Chief.**
 - Schools, whether public or private.**
 - Any building: (a) with a fire detection or suppression system that will cause the City to be notified of an alarm; (b) a general or interconnected fire alarm system; or (c) that has an external audible fire alarm.**
 - Any commercial or industrial building that has a common wall(s) between units in the building or a common wall(s) with another building. Commercial and industrial buildings shall mean buildings where any industry, trade or business is carried on or where any process or operation, directly or indirectly related to any industry, trade or business, is carried on and where any person is employed by another for direct or indirect gain or profit.**
 - Multi-family residential structures comprised of three (3) or more units in which access to a common area or mechanical or electrical rooms within the building is denied through locked doors.**
 - Municipal buildings and locked gates leading to building(s) that are required to have a lock box installed.**

University buildings and locked gates leading to building(s) that are required to have a lock box installed.

[INTENTIONALLY LEFT BLANK]

Nursing homes, Community Based Residential Facilities, and Residential Care Apartment Complexes.

Business Park buildings.

Buildings with occupants required to prepare hazardous chemical inventory forms under the Superfund Amendments and Reauthorization Act (SARA).

All new commercial and industrial construction. Installation shall be completed prior to the issuance of an occupancy permit.

All commercial and industrial structures with structural remodeling building permits that were issued from _____ [INSERT ORDINANCE AMENDMENT DATE].

[INTENTIONALLY LEFT BLANK]

All commercial structures in the downtown area. For the purpose of this ordinance, the downtown area shall be defined as all areas included in the below description and shown on the attached map:

- East of Fourth Street (between Whitewater Street and Center Street) including the east side of Fourth Street
- South of Center Street (between Fourth Street and Fremont Street) including the south side of Center Street
- East of Fremont Street (between Center Street and North Street) including the east side of Fremont Street
- North of Whitewater Street (between Fourth Street and Main Street) including the north side of Whitewater Street
- South of Whitewater Street (between Second Street and Main Street) including the south side of Whitewater Street
- South of North Street (between Fremont Street and Whitewater Creek) including the south side of North Street
- West of Whitewater Creek between North Street and Main Street
- Main Street (between Whitewater Street and Whitewater Creek) including both sides of Main Street

All nonresidential buildings with cooking facilities.

All buildings where acetylene or similar torches are used.

All buildings that have occupants that hold a “Hot Work Permit.”

All buildings where welding takes place.

- e. **The Fire Chief shall designate the type of key lock box system to be implemented within the city.**

14.15.030 Installation.

- f. **All lock boxes shall be installed on the lock side of the main business door.**
- g. **All lock boxes shall be flush or surface mounted between five (5) and seven (7) feet from the ground to the center of the entry if possible.**
- h. **In the event that the rapid entry box system cannot be installed at the aforesaid location and/or height, the Fire Chief may designate in writing a different location and installation specifications.**
- i. **All realty and/or property with an electronic security gate shall have the lock box installed outside of the gate.**
- j. **The Fire Chief or his or her designee must approve any changes in the installation.**

14.15.040 Maintenance. The operator of the building shall immediately notify the Fire Chief whenever locks are changed so that new keys may be installed in the box.

14.15.050 Contents of Lock Box. Keys for the following shall be contained in the lock box:

- k. Locked points of ingress or egress, whether on the interior or exterior of such buildings.**
- l. A master key for any residences.**
- m. Mechanical rooms**
- n. Elevators and control rooms.**
- o. Fire alarm panels.**
- p. Any special keys to reset pull stations or other fire protective devices.**
- q. Any other areas as requested by the Fire Chief.**

14.15.060 Security of Lock Box Access Keys.

- r. No personnel shall carry a lock box key except while carrying out an authorized use.**
- s. All lock box access keys shall be secured in a lock box in City or Fire Department vehicles.**
- t. The Fire Department and the Police Department will maintain a record documenting all uses of lock boxes.**

14.15.070 Exceptions To Requirement To Install A Key Lock Box System. The following structures are encouraged to, but are exempt from the mandate to install a key lock box system:

- u. Structures not listed in 14.15.020 are not required to install a lock box unless ordered to do so by the Fire Chief.**
- v. Structures that have 24 hour, 365 day on-site security or other personnel.**
- w. Businesses that are open and staffed 24 hours, 365 days per year.**
- x. Rental storage facilities where there are locks on the separate storage units; however, locked entry security gates will require a lock box.**
- y. Residential complexes with multiple buildings will not be required to place key lock boxes on every building but may, at the owner's option, place key lock boxes that serve other buildings on centralized buildings that are within 100 feet of the other buildings.**
- z. The Fire Chief may make exceptions at his/her sole discretion.**

14.15.080 Penalties. Any person, entity, or corporation that has violated any provisions of this ordinance or who has failed to comply with any order issued by the Fire Chief, or his/her designee, shall, upon conviction before the proper judicial authority, pay a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) per day for each violation, together with the cost of prosecution. Each day a violation continues shall be considered a separate offense. These penalties shall not apply until January 1, 2017.

15.15.090 Invalid Provisions. If any sentence, clause or section or any part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections or parts of the same contained in this Ordinance. It is hereby declared as the intent of City of Whitewater, Wisconsin Common Council that this Ordinance would have been adopted even if such unconstitutionality, illegality or invalid sentence, clause or section or part thereof had not been included therein.

Ordinance introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Allen. AYES; Wellnitz, Grady, Binnie, Allen. NOES: Langnes, Goettl, Singer. ABSENT: None.
FIRST READING APPROVED: September 6, 2016.

TRANSFER OF CLASS “A” BEER LICENSE FROM ANNIE’S PANTRY TO PNOTE ENTERPRISES, LLC. Annie’s Pantry business is being sold to Pnote Enterprises, LLC, Bonnie Prince, Agent. It was moved by Goettl and seconded by Allen to approve the transfer of the license allowing sale of packaged beer goods (Class “A”) to Pnote Enterprises, LLC, Bonnie Prince, Agent – business location is 176 W. Main Street. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Allen. NOES: None. ABSENT: None.

PARKING LOT RESURFACING PROJECT AND RECENT ASPHALT RUN OFF FROM DOWNTOWN PARKING AREAS (INCLUDING CRAVATH LAKEFRONT LOT). City Manager Clapper indicated that environmental concerns resulting from stormwater run-off associated with rain that fell shortly after the first few lots were resurfaced on August 23 have triggered a clean up effort that has been ongoing since August 26. The City has contracted with SET Environmental, Inc. for professional clean up services. City staff have been in contact with representatives from Wisconsin Department of Natural Resources (“DNR”), as well as Jefferson County (who was hired to complete the parking lot project), and the County’s contractor, Meigs Asphalt and Paving. An overview of the events that transpired was given, as well as next steps in the process. Numerous citizens were in attendance, several who were concerned about the impact of the runoff that made its way into Cravath Lake. City Manager Clapper assured the citizenry that there was no contamination, and the ingredients used in the slurry-type covering were not harmful. Several citizens expressed disappointment over the manner in which the lots were resurfaced, and several noted that storm sewer catch basins were not all covered as they should have been.

APPROVAL OF AGREEMENT WITH DOWNTOWN WHITEWATER AND RICHARD TAYLOR, LLC. The City of Whitewater was asked to enter into an agreement with DTWW and Richard Taylor for creation of sculptures, to be completed by 6/1/17, and installed at a location to be determined. The concrete work will be completed by the City’s Department of Public Works. Downtown Whitewater will be responsible for the entire \$20,000 fee. It was moved by Goettl and seconded by Binnie to enter into an agreement between DTWW and Richard Taylor, LLC. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Allen. NOES: None. ABSENT: None.

PRIVATE PARTY POLICY. Consideration of creation of a subcommittee to assist in the creation of a Private Party policy was requested. A lengthy discussion ensued, where the recent “Spring Splash” event was discussed. Several council members expressed concern about limiting a private property owner’s right to host a part on their premises, and the potential need for someone holding a graduation party to obtain a permit. It was agreed that the policy is intended to apply to only large-scale parties. Councilmember Goettl stated that the proposal seems to be targeted at students. Councilmember Allen strongly disagreed. After further discussion, it was agreed that a subcommittee would not be formed, but rather City staff would come back with a proposal, and Council would discuss it further at that time.

PROPOSALS FOR ENGINEERING FIRMS. The City is currently under contract with Strand Associates of Madison for engineering services. City staff have been pleased with the work quality of Strand, however, assurance that the City is being charged a reasonable rate for services is desired. City staff members inquired whether Council wanted to obtain proposals from engineering firms, since the Strand contract will be expiring. Discussion ensued regarding the benefits of using an experienced firm in comparison with starting over with a new firm. Consensus was to have City staff negotiate fees with Strand Associates, and if agreeable terms are reached, the City will not seek proposals from other firms for engineering services.

FUTURE AGENDA ITEMS: None.

EXECUTIVE SESSION. It was moved by Singer and seconded by Allen to Adjourn to Closed Session, NOT TO RECONVENE, 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.” Item to be Discussed: Discussion of potential service agreement between the city of Whitewater and the Whitewater Fire Department, Inc. AYES: Wellnitz, Langnes, Grady, Binnie, Goettl, Singer, Allen. NOES: None. ABSENT: None. The meeting adjourned at 10:00 p.m.

Respectfully submitted,

Michele R. Smith, City Clerk