

**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 1, 2022

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Lynn Binnie. The meeting was held virtually and in person. MEMBERS PRESENT: Schreiber, McCormick, Brown, Binnie, Majkrzak, Smith, Allen. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: City Attorney Wallace McDonell.

**STAFF REPORTS:** None. (Lake dredging subject was removed from the Agenda).

**CITY MANAGER UPDATE:** City Manager Clapper provided his bi-weekly update of city events to the Council.

**CITIZEN COMMENTS:** Jeff Knight of 405 Panther Court addressed Council action taken related to the Arch Development Hughes-Coyle project. Knight reviewed Development Agreements and numerous other documents, and has confirmed that the City has not paid for any past developers' projects. Knight did acknowledge that the City has paid for oversizing of water utility at some times. He confirmed that developers have paid for their own projects. One development even paid for their own connections as well as the entire looping. Knight noted that information obtained through his open records request indicated that the City's consultants, Vandewalle Associates and Strand Associates, both advised the City to develop a full road on the Arch Development project and also recommended that the City enter into a Developer's Agreement with Arch. Knight is not aware of a Development Agreement being created. Knight referred to the Municipal Code, which outlines the responsibilities of a developer. Knight recommended that the City management, Council, and affected board and commissioners assemble a staff retreat and complete a group training session on development. Knight indicated that mistakes were made, and expressed hope that the City will proceed with more efficiency in the future. Knight also reminded all that the TIF consultant, Ehlers, cautioned the City about using tax increment financing funds for affordable housing costs. Ehlers indicated that historically this use does not pay for the increment. Knight invited anyone interested to contact him to review the open records he obtained.

Larry Kachel of 457 Buckingham encouraged city staff members to seek improvements on their transparency. Kachel indicated that with both Common Council and CDA meetings, it has been difficult to figure out exactly what is being discussed. Kachel cited the most recent CDA meeting, where the description listed on the agenda led several people to believe a totally different development was being discussed than what was intended. Kachel also discouraged the chronic amendments of agendas, particularly as they relate to the addition of last minute items.

Kachel asked City Manager Clapper whether the City has made an agreement with the Elkhorn Charter School to build another house. Kachel indicated that the Charter School is under the impression they have an agreement with the City. City Manager Clapper indicated that the City has not entered into an agreement with Youth Build, but the CDA perhaps had some discussion about something. Kachel, also a member of the Whitewater School Board, stressed that he was speaking as an individual, and not as a member of the School Board. He explained that Youth Build is a charter school located in Elkhorn, but they work with only those students that attend their Charter School. Kachel expressed concern about a breakdown in communication between the City and the Whitewater School District. He noted that Youth Build does not allow Whitewater students to be part of their building program. As a result, to be a part of their building program, a student would have to change schools. Kachel explained that the loss of a student results in loss of funding for the Whitewater Unified School District. Kachel indicated that the Whitewater School District has been in negotiations to create a similar program, and Kachel encouraged the City to communicate with the Whitewater Unified School District further on this matter. Kachel asked that groups not meet in "boxes," and encouraged more transparency. He opined that lack of communication between the parties was bad for the school district, the students, and the community.

**APPROVAL OF MINUTES.** It was moved by Smith and seconded by Allen to approve the Council minutes of 12/7/21 and 12/21/21, and to acknowledge receipt and filing of the following: Public Works Committee minutes of 10/12/21; Plan and Architectural Review Commission minutes of 12/13/21; Irvin L. Young Memorial Library Board minutes of 11/15/21; Landmarks Commission minutes of 12/2/2021; and Finance Committee Minutes from 10/7/21, 10/12/21 and 10/14/21. AYES: Schreiber, McCormick, Brown, Binnie, Majkrzak, Smith, Allen. NOES: None. ABSENT: None.

**RESOLUTIONS AUTHORIZING \$5,195,000 GENERAL OBLIGATION CORPORATE PURPOSE BONDS.** City Manager Clapper stated that the sale of the

general obligation corporate purpose bonds was part of the capital improvement plan for the adopted 2022-2023 budget. Ehlers & Associates representative Greg Johnson explained that the purpose of the issuance was to fund new capital projects. Johnson explained that borrowing is limited to five percent (5%) of the total equalized value of the city. The outstanding debt after this borrowing will be \$23.3 million, about 58.8% of the City's borrowing capacity. That leaves \$16.8 million available for future borrowings. The bonds are set to be sold on March 15 and presented to the Common Council that evening. It was noted that the City maintains a formal policy that limits the City's borrowing to a maximum of 70% of their borrowing ability.

**INITIAL RESOLUTION AUTHORIZING \$1,080,000 GENERAL OBLIGATION BONDS FOR EQUIPMENT OF THE FIRE DEPARTMENT.**

Resolution No. 2022-1

**INITIAL RESOLUTION AUTHORIZING \$1,080,000 GENERAL OBLIGATION BONDS FOR EQUIPMENT OF THE FIRE DEPARTMENT**

BE IT RESOLVED by the City Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that there shall be issued, pursuant to Chapter 67, Wisconsin Statutes, general obligation bonds in an amount not to exceed \$1,080,000 for the public purpose of paying the cost of equipment of the fire department.

Resolution introduced by Councilmember Schreiber, who moved its adoption. Seconded by Councilmember Smith. AYES: Schreiber, McCormick, Brown, Binnie, Majkrzak, Smith, Allen. NOES: None. ABSENT: None. ADOPTED: February 1,2022.

Cameron L.Clapper, City Manager

Michele R. Smith, City Clerk

**INITIAL RESOLUTION AUTHORIZING \$1,575,000 GENERAL OBLIGATION BONDS FOR STREET IMPROVEMENT PROJECTS.**

Resolution No. 2022-2

**INITIAL RESOLUTION AUTHORIZING \$1,575,000 GENERAL OBLIGATION BONDS FOR STREET IMPROVEMENT PROJECTS**

BE IT RESOLVED by the City Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that there shall be issued, pursuant to Chapter 67, Wisconsin Statutes, general obligation bonds in an amount not to exceed \$1,575,000 for the public purpose of paying the cost of street improvement projects.

Resolution introduced by Councilmember Allen, who moved its adoption. Seconded by Councilmember Schreiber. AYES: Schreiber, McCormick, Brown, Binnie, Majkrzak, Smith, Allen. NOES: None. ABSENT: None. ADOPTED: February 1,2022.

Cameron L.Clapper, City Manager

Michele R. Smith, City Clerk

**INITIAL RESOLUTION AUTHORIZING \$1,365,000 GENERAL OBLIGATION BONDS FOR PARKS AND PUBLIC GROUNDS PROJECTS**

Resolution No. 2022-3

**INITIAL RESOLUTION AUTHORIZING \$1,365,000 GENERAL OBLIGATION BONDS FOR PARKS AND PUBLIC GROUNDS PROJECTS**

BE IT RESOLVED by the City Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that there shall be issued, pursuant to Chapter 67, Wisconsin Statutes, general obligation bonds in an amount not to exceed \$1,365,000 for the public purpose of paying the cost of parks and public grounds projects.

Resolution introduced by Councilmember Smith, who moved its adoption. Seconded by Councilmember Schreiber. AYES: Schreiber, McCormick, Brown, Binnie, Majkrzak, Smith, Allen. NOES: None. ABSENT: None. ADOPTED: February 1,2022.

Cameron L.Clapper, City Manager

Michele R. Smith, City Clerk

**INITIAL RESOLUTION AUTHORIZING \$970,000 GENERAL OBLIGATION BONDS FOR SEWERAGE PROJECTS.**

Resolution No. 2022-4

**INITIAL RESOLUTION AUTHORIZING \$970,000 GENERAL OBLIGATION BONDS FOR SEWERAGE PROJECTS**

BE IT RESOLVED by the City Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that there shall be issued, pursuant to Chapter 67, Wisconsin Statutes, general obligation bonds in an amount not to exceed \$970,000 for the public purpose of paying the cost of sewerage projects, consisting of storm water projects.

Resolution introduced by Councilmember Smith, who moved its adoption. Seconded by Councilmember Schreiber. AYES: Schreiber, McCormick, Brown, Binnie, Majkrzak, Smith, Allen. NOES: None. ABSENT: None. ADOPTED: February 1,2022.

Cameron L.Clapper, City Manager

Michele R. Smith, City Clerk

**INITIAL RESOLUTION AUTHORIZING \$205,000 GENERAL OBLIGATION BONDS FOR COMMUNITY DEVELOPMENT PROJECTS IN TAX INCREMENTAL DISTRICT NO. 12.**

Resolution No. 2022-5

**INITIAL RESOLUTION AUTHORIZING \$205,000 GENERAL OBLIGATION BONDS FOR COMMUNITY DEVELOPMENT PROJECTS IN TAX INCREMENTAL DISTRICT NO. 12**

BE IT RESOLVED by the City Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that there shall be issued, pursuant to Chapter 67, Wisconsin Statutes, general obligation bonds in an amount not to exceed \$205,000 for the public purpose of providing financial assistance to community development projects under Section 66.1105, Wisconsin Statutes, by paying project costs included in the project plan for Tax Incremental District No. 12.

Resolution introduced by Councilmember Schreiber, who moved its adoption. Seconded by Councilmember McCormick. AYES: Schreiber, McCormick, Brown, Binnie, Majkrzak, Smith, Allen. NOES: None. ABSENT: None. ADOPTED: February 1,2022.

Cameron L.Clapper, City Manager

Michele R. Smith, City Clerk

**RESOLUTION DIRECTING PUBLICATION OF NOTICE TO ELECTORS  
RELATING TO BOND ISSUES.**

**CITY OF WHITEWATER**

**NOTICE TO ELECTORS RELATING TO BOND ISSUES**

NOTICE IS HEREBY GIVEN, that on February 1, 2022, at a meeting of the City Council of the City of Whitewater, the following resolutions were adopted and recorded pursuant to Section 67.05(1), Wisconsin Statutes:

**INITIAL RESOLUTION AUTHORIZING \$1,080,000 GENERAL OBLIGATION  
BONDS FOR EQUIPMENT OF THE FIRE DEPARTMENT**

BE IT RESOLVED by the City Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that there shall be issued, pursuant to Chapter 67, Wisconsin Statutes, general obligation bonds in an amount not to exceed \$1,080,000 for the public purpose of paying the cost of equipment of the fire department.

**INITIAL RESOLUTION AUTHORIZING \$1,575,000 GENERAL OBLIGATION  
BONDS FOR STREET IMPROVEMENT PROJECTS**

BE IT RESOLVED by the City Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that there shall be issued, pursuant to Chapter 67, Wisconsin Statutes, general obligation bonds in an amount not to exceed \$1,575,000 for the public purpose of paying the cost of street improvement projects.

**INITIAL RESOLUTION AUTHORIZING \$1,365,000 GENERAL OBLIGATION  
BONDS FOR PARKS AND PUBLIC GROUNDS PROJECTS**

BE IT RESOLVED by the City Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that there shall be issued, pursuant to Chapter 67, Wisconsin Statutes, general obligation bonds in an amount not to exceed \$1,365,000 for the public purpose of paying the cost of parks and public grounds projects.

**INITIAL RESOLUTION AUTHORIZING \$970,000 GENERAL OBLIGATION BONDS  
FOR SEWERAGE PROJECTS**

BE IT RESOLVED by the City Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that there shall be issued, pursuant to Chapter 67,

Wisconsin Statutes, general obligation bonds in an amount not to exceed \$970,000 for the public purpose of paying the cost of sewerage projects, consisting of storm water projects.

INITIAL RESOLUTION AUTHORIZING \$205,000 GENERAL OBLIGATION BONDS  
FOR COMMUNITY DEVELOPMENT PROJECTS IN TAX INCREMENTAL  
DISTRICT NO. 12

BE IT RESOLVED by the City Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that there shall be issued, pursuant to Chapter 67, Wisconsin Statutes, general obligation bonds in an amount not to exceed \$205,000 for the public purpose of providing financial assistance to community development projects under Section 66.1105, Wisconsin Statutes, by paying project costs included in the project plan for Tax Incremental District No. 12.

The Wisconsin Statutes (s. 67.05(7)(b)) provide that initial resolutions need not be submitted to the electors unless within 30 days after adoption of the initial resolutions a petition is filed in the City Clerk's office requesting a referendum. This petition must be signed by electors numbering at least 10% of the votes cast for governor in the City at the last general election. A petition may be filed with respect to any one or more of the initial resolutions.

City of Whitewater

Michele R. Smith, City Clerk

**RESOLUTION PROVIDING FOR THE SALE OF \$5,195,000 GENERAL  
OBLIGATION CORPORATE PURPOSE BONDS, SERIES 2022**

Resolution No. 2022-7

**RESOLUTION PROVIDING FOR THE SALE OF \$5,195,000 GENERAL  
OBLIGATION CORPORATE PURPOSE BONDS, SERIES 2022A**

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin (the "City") has adopted initial resolutions (the "Initial Resolutions") authorizing the issuance of general obligation bonds for the following public purposes and in the following amounts:

- (a) \$1,080,000 for equipment of the fire department;
- (b) \$1,575,000 for street improvement projects;

- (c) \$1,365,000 for parks and public grounds projects;
- (d) \$970,000 for sewerage projects, consisting of storm water projects; and
- (e) \$205,000 for community development projects in Tax Incremental District No. 12;  
and

WHEREAS, the City Council hereby finds and determines that the projects described in the Initial Resolutions are within the City's power to undertake and therefore serve a "public purpose" as that term is defined in Section 67.04(1)(b), Wisconsin Statutes;

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

Section 1. Combination of Issues. The issues referred to above are hereby combined into one issue of bonds designated "General Obligation Corporate Purpose Bonds, Series 2022A" (the "Bonds") in an amount not to exceed \$5,195,000 for the purposes above specified.

Section 2. Sale of the Bonds. The City Council hereby authorizes and directs that the Bonds be offered for public sale. At a subsequent meeting, the City Council shall consider such bids for the Bonds as may have been received and take action thereon.

Section 3. Notice of Sale. The City Clerk (in consultation with Ehlers & Associates, Inc. ("Ehlers")) be and hereby is directed to cause notice of the sale of the Bonds to be disseminated in such manner and at such times as the City Clerk may determine and to cause copies of a complete Notice of Sale and other pertinent data to be forwarded to interested bidders as the City Clerk may determine.

Section 4. Official Statement. The City Clerk (in consultation with Ehlers) shall also cause an Official Statement to be prepared and distributed. The appropriate City officials shall determine when the Official Statement is final for purposes of Securities and Exchange Commission Rule 15c2-12 and shall certify said Official Statement, such certification to constitute full authorization of such Official Statement under this resolution.

Resolution introduced by Councilmember Schreiber, who moved its adoption.  
Seconded by Councilmember McCormick. AYES: Schreiber, McCormick, Brown,

Binnie, Majkrzak, Smith, Allen. NOES: None. ABSENT: None. ADOPTED: February 1,2022.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**FINAL READING OF ORDINANCE REVISING RECENTLY ADOPTED WARDS IN CITY, PURSUANT TO REQUEST FROM WALWORTH COUNTY.** Walworth County GIS has requested that the City make one change to their recently adopted Ward ordinance. The change concerns an area with “zero” population, so makes no change to district numbers.

**ORDINANCE NO. 2039A**

**ORDINANCE AMENDING CHAPTER 1.08 OF THE CITY OF WHITEWATER MUNICIPAL CODE ENTITLED “WARDS”**

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

**Section 1.08.020, Ward 1, is amended to read as follows:**

Commencing at the Southeasterly point of the City of Whitewater Municipal Boundary at its intersection with US Highway 12, thence generally north and easterly along City of Whitewater municipal boundary to its intersection with the Walworth – Jefferson County line; Thence west along said County line to the intersection of Highway 59 / N. Newcomb Street and the Jefferson County line; Thence south along Highway 59 / N. Newcomb Street to its intersection with E. Main Street; Thence westerly along E. Main Street and southeasterly along East Milwaukee Street / US Highway 12 / Elkhorn Road along City of Whitewater boundaries to the point of beginning.

**Section 1.08.030, Ward 2, is amended to read as follows:**

Commencing at the intersection of Old Highway P and the City of Whitewater Municipal boundary line; Thence generally northwesterly along city boundary and Highway 12 / Elkhorn Road / E. Milwaukee Street to its intersection with E. Main Street; Then generally westerly along E. Main Street to the intersection of E. Main Street and W. Whitewater Street; Thence southwestly on W. Whitewater Street to its intersection with S. Fremont Street; Thence southeasterly along S. Fremont Street to its intersection with Ann Street; Thence southwestly along Ann Street to its intersection with S. Franklin Street; Thence southerly along S. Franklin Street to its intersection with W. Caine Street; Thence westerly along W. Caine Street to its intersection with Gault Street; Thence northerly along Gault Street to its intersection with W Harper Street; Thence Southwestly along Harper Street to its intersection with Highway 59; Thence southerly along Highway 59/89 to the City of Whitewater boundary; Thence generally easterly and

southerly along the City of Whitewater municipal boundary line to S. Franklin Street; Thence continue northerly and easterly along City of Whitewater Municipal Boundary, to Old Highway P, the point of beginning.

Ordinance introduced by Councilmember Smith, who moved its adoption and waiver of the requirement for a second reading of the Ordinance. Seconded by Councilmember Allen. AYES: Schreiber, McCormick, Brown, Binnie, Majkrzak, Smith, Allen. NOES: None. ABSENT: None. ADOPTED: February 1, 2022.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**REQUEST FOR DIRECTION ON IMPROVING AND MAINTAINING PLATTED SECTIONS OF FRATERNITY LANE AND CARRIAGE DRIVE.** Public Works Director Marquardt explained that as part of the Vanderlip Lift Station project, the forcemain and sanitary sewer will need to be replaced on Carriage Drive. Carriage Drive is currently gravel and the City does not maintain the Street. Marquardt requested input as to whether the Street should be paved, and whether the City should begin maintaining the road after replacement of the forcemain and sewer. Marquardt indicated that an agreement that has been in place since 2005 states that until the road is paved, the property owners are responsible for the road maintenance. Marquardt's recommendation is to continue with the existing maintenance agreement, and replacing the road with gravel. With regard to the Fraternity Lane area north of Carriage Drive, the street is paved. However the asphalt is in need of replacement. Marquardt stated that although there is no work being done here in conjunction with the Vanderlip project, it is a good time to consider replacing the asphalt, since other streets in the area are going to be repaved and the equipment will be available. Marquardt recommends that the City repave Fraternity Lane, take over maintenance of it, and work with property owners in regard to snow removal. Councilmember Allen asked whether Fraternity Lane was paved by the property owner as part of a developer's agreement. Marquardt was not able to locate any documentation on this. He said that it was paved before the apartments were built on the street. The property owners installed the curb and gutter. Allen said that it is a private street. Marquardt stated that it was platted as public right of way for a subdivision, and the street was paved before the properties were developed. Allen asked whether the City would be required to maintain the Street if the City were to pave it. Councilmember Allen recommended that the City speak to the property owner and work out details. No action was taken on this item.

**AGREEMENT WITH PULLIN AND PLOWIN LLC FOR SNOW REMOVAL AND/OR LAWN MAINTENANCE.** The City is in need of services for snow plowing / grass mowing for those city properties that do not comply with code requirements

voluntarily. Neighborhood Services Director Bennett solicited quotes, and received only one. Bennett reported that the submitted quote does meet the specifications . It was moved by Allen and seconded by Schreiber to approve the agreement with Pullin' and Plowin' LLC, contingent upon receipt of a certificate of insurance proving that the service provider carries Worker's Compensation insurance. AYES: Schreiber, McCormick, Brown, Binnie, Smith, Majkrzak, Allen. NOES: None. ABSENT: None.

**DEVELOPMENT AGREEMENT WITH BOWER'S HOUSE LLC (GREG APRAHAMIAN) FOR REDEVELOPMENT OF BUILDING KNOWN AS THE WHITE ELEPHANT BUILDING.**

Community Development Director Cathy Anderson reviewed the process the White Elephant building has undergone to begin the restoration and renovation project. A grant application was submitted in 2021. . It is a \$2 million project being privately financed by the owner. He is also receiving a CDI grant of \$250,000. He has received a \$75,000 low interest façade loan and will receive some in-kind DPW work at a value of \$75,000. It was moved by Allen and seconded by Schreiber to approve the Development Agreement with Bower's House LLC. AYES: Schreiber, McCormick, Allen, Majkrzak, Brown, Binnie. NOES: None. ABSTAIN: Smith. ABSENT: None.

**MUNICIPAL CODE UPDATES.** Clerk Michele Smith explained that ordinances become effective one day after publication in our official newspaper, The Whitewater Register. She has heard concerns about the fact that the newly-adopted ordinances are not immediately placed on the City's online code. Previously the City codified new ordinances on a quarterly or semi-annual basis, in an effort to keep costs low. Smith indicated that she has now subscribed to a service with Municipal Code that will place newly-adopted ordinances on the City's website within a week or so after adoption. Councilmember Majkrzak thanked Clerk Smith for the effort to publish ordinances on the website on a more timely basis, and wonders whether the Whitewater Banner would consider publishing new ordinances. Smith indicated that she could investigate that further.

**REQUESTS FOR FUTURE AGENDA ITEMS AND/OR POLCO QUESTIONS.**

Councilmember Allen would like a discussion on the Arch Development project and how it progressed; the Youth Build project; and an update from the City Manager on Code Enforcement, NSO training, and the properties in violation as mentioned by Councilmembers Allen and McCormick. Allen also requested a discussion and possible direction regarding recreational trailers being located within a neighborhood with Restrictive Covenants in place.

**EXECUTIVE SESSION.** It was moved by Binnie and seconded by Allen to Adjourn to Closed Session, **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: Public Construction bidding requirements for the Cravath and Trippe Lake Dredging Project.** AYES: Schreiber, McCormick, Brown, Binnie, Smith, Majkrzak, Allen. NOES: None. ABSENT: None.

The regular portion of the meeting adjourned at 7:50 p.m.

**RECONVENE INTO OPEN SESSION.**

**CRAVATH AND TRIPPE LAKE DREDGING PROJECT.** The Common Council indicated that they would be taking no action on this project.

**EXECUTIVE SESSION.** It was moved by Binnie and seconded by Allen 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 AND 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.” **Items to be Discussed: 1) Negotiation of Agreement with Whitewater Fire Department; and 2) Annual City Manager Performance Evaluation.** AYES: Schreiber, McCormick, Brown, Binnie, Majkrzak, Smith, Allen. NOES: None. ABSENT: None. The meeting adjourned at 8:17 p.m.

Respectfully submitted,

Michele R. Smith, Clerk