

**CITY OF WHITEWATER
COMMON COUNCIL AGENDA**

Common Council Meeting

Tuesday, January 6, 2009

6:30 p.m.

City of Whitewater Municipal Building Community Room

312 W. Whitewater Street Whitewater, Wisconsin

**AMENDED AGENDA AS OF 3:30 P.M. 1/5/2009 TO ADD
LANGUAGE TO ITEM O-1, TO ALLOW DISCUSSION
REGARDING / POSSIBLE AMENDMENT(S) TO 2009 BUDGET**

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE.

CONSENT AGENDA

CA-A	Approval of Council Minutes of 9/16/2008; 10/7/2007; 10/21/2008; and 12/2/2008.
CA-B	Approval of Payment of invoices processed through 12/31/2008.
CA-C	Acknowledgment of Receipt and Filing of: *Police Department Consolidated Monthly Report for September 2008.
CA-D	Expedited approval of the following items, per city staff recommendation: O-4, O-5.

STAFF REPORTS:

City Mgr.	1) Presentation of 2008 City Management Performance Report; 2) Update on Whitewater University Technology Park Planning.
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A	Action on appointment of Citizen representative to vacant Aldermanic District 1 Council Seat (City Clerk Request).
B	Administration of Oath to appointed Council Member for Aldermanic District.

HEARING OF CITIZEN COMMENTS. No formal Common Council Action will be taken during this meeting although issues raised may become a part of a future agenda. Items on the agenda may not be discussed at this time.

COMMON COUNCIL ANNOUNCEMENTS.

RESOLUTIONS: NONE

ORDINANCES – First Reading (waive second reading)

O-1	Ordinance Amending Title 11 Regarding General Parking Forfeiture Amounts <u>AND DISCUSSION / POSSIBLE ACTION REGARDING 2009 BUDGET AMENDMENTS</u>
O-2	Ordinance Amending Title 11 Regarding Subsection 11.56.030 Regarding Parking Forfeiture Increases for Late Payment.

O-3	Ordinance Amending Section 1.21.010 Schedule of Deposits, adding the following Ch. 11.56.010 (4).
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ORDINANCES – Second Reading

*O-4	Ordinance Amending Title 11 Regarding Handicapped Parking.
*O-5	Ordinance Amending Ch. 1.21.010 Schedule of Deposits Amending Ch. 11.50.020 (Handicapped Parking Fine).

CONSIDERATIONS:

C-1	Discussion regarding study relating to Commercial and Multi-Family Recycling Practices (DPW Director Request).
C-2	Approval of Change of Agent for Class B Beer License for Raceway Food Mart II, Pankaj Kalra, Agent, 1138 W. Main Street, Whitewater. (City Clerk Request).
C-3	Appointment of Council Representative to Community Development Authority (to fill position vacated by Craig Stauffer) (City Clerk Request).
C-4	Discussion regarding informal Council policy requiring that subjects be discussed with Council prior to bringing forth an Ordinance. (Councilmember Binnie request).
C-5	Councilmember Requests for Future Agenda Items.
C-6	ADJOURN.

Anyone requiring special arrangements is asked to call the Office of the City Manager / City Clerk at least 72 hours prior to the meeting.

- **Items denoted with asterisks will be approved on the Consent Agenda unless any council member requests that it be removed for individual discussion.**

**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, 2008

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. MEMBERS ABSENT: Stauffer. LEGAL COUNSEL PRESENT: No.

It was moved by Nosek and seconded by Stewart to acknowledge receipt and filing of the financial Statements for August, 2008; the Report of Manually-Produced Checks for August, 2008; and the Plan and Architectural Review Commission Minutes of 7/21/2008. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer.

APPROVAL OF PAYMENT OF INVOICES. It was moved by Nosek and seconded by Stewart to approve payment of city invoices in the total sum of \$96,950.72. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer.

STAFF REPORTS: City Manager Brunner reported on **Downtown Whitewater's** recruitment program and gave an update on **Alliance of Cities** activities. Cable Coordinator Luckett reported on the **relocation of Channels for Station 13 and UWW TV Channel 19** effective 9/30/08. Park and Recreation Director Amundson reported that negotiations are ongoing with Mercy Health Systems for the **aquatic center**.

CITIZEN COMMENTS: Resident Terry Race said the City has no need to purchase expensive software to track Neighborhood Services complaints; all you need is paper. He said that one year ago he filed his first complaint with the Neighborhood Services office, and received no response whatsoever. Second and third complaints were filed, also with no response. Race stated that his neighbor had left messages with Neighborhood Services Department and received no call back either. Race feels there is a lack of desire to enforce codes in our City. In an effort to help document complaints, Race prepared a Complaint Form that he suggested the Neighborhood Services Department be required to use so complaints can be tracked. According to Race, there is currently no tracking system in that Department. Race provided a diskette with the form on it in case the City would like to make some revisions to it. Race believed it would help track progress of complaints.

COMMON COUNCIL ANNOUNCEMENTS: Councilmember Taylor congratulated Rick Lien on his award from the State Water Association.

RESOLUTION ACCEPTING MORAINÉ VIEW PARK MASTER PLAN. The Moraine View Park Master Plan was presented for approval by the Park and Recreation Board.

**RESOLUTION ACKNOWLEDGING RECEIPT OF
THE MORAINÉ VIEW PARK MASTER PLAN**

WHEREAS, the City of Whitewater Park and Recreation Board has developed and approved a Moraine View Park Master Plan, and

WHEREAS, the City of Whitewater Plan Commission has accepted the plan as being consistent with the City of Whitewater's Master Plan, and

WHEREAS, the City of Whitewater Common Council supports the development of park and open space for use by the general public.

Now, therefore, BE IT RESOLVED that the Common Council of the City of Whitewater hereby recognizes the extensive and professional efforts put forth by the Park and Recreation Board of the City of Whitewater in the development of the Moraine View Park Master Plan and accepts receipt of the plan.

Resolution introduced by Councilmember Taylor, who moved its adoption. Seconded by Councilmember Binnie. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

RESOLUTION REQUESTING EXEMPTION FROM JEFFERSON 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 2009, 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 Clerk to the following parties:

ADMINISTRATOR
Jefferson County Library Council
Dwight Foster Public Library
102 E. Milwaukee Ave.
Fort Atkinson, WI 53538

COUNTY CLERK

320 S. Main Street, Room 109
Jefferson, WI 53549

Fiscal Note: Estimated Municipal 2009 Library Appropriation: \$586,456.

ADOPTED: September 16, 2008

AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AMENDING CHAPTER 5 RELATING TO ALCOHOL LICENSE USE. This item was removed from the agenda for further review.

ORDINANCE AMENDING DUMPSTER SCREENING REQUIREMENTS. It was moved by Binnie and seconded by Nosek to amend 8.24.010 to add a sentence at the end: "Each dumpster in violation of this section shall be considered a separate offence." It was then moved by Binnie and seconded by Singer to amend the motion to not only add the forementioned sentence but also "remove "producing large amounts of rubbish" and to change "shrubs" to "evergreen landscaping." A vote was taken on the amendment: AYES: Singer, Stewart, Taylor, Binnie. NOES: Kienbaum, Nosek. ABSENT: Stauffer. A vote was then taken on the now-amended motion. AYES: Nosek, Binnie, Singer, Stewart. NOES: Taylor, Kienbaum. ABSENT: Stauffer.

AN ORDINANCE AMENDING CHAPTER 8.24 RUBBISH

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

SECTION 1: Whitewater Municipal Code Chapter 8.24 section 8.24.010 is hereby amended to read as follows:

8.24.010 Screening from view required. The owners or occupants of all property located in the city shall effectively screen all rubbish and garbage containers from view from the public streets by means of a fence, evergreen landscaping, or buildings. All existing dumpsters located more than 200' off any city right of way and 25' or more from any lot line, may be waived from this Section if maintained in a clean and orderly fashion and approved by the City of Whitewater. All residential units using "toters" shall locate all toters along the side or rear of the building, and in no case shall they be located in any street yard unless screened from the public view by 4' fencing and landscaping with shrubs. If required, the screening of the rubbish and/or garbage container shall be erected or provided within thirty (30) days following service of written notice upon the owner or occupant directing the owner or occupant to erect or provide such screen. Such notice shall be issued by the Director of Neighborhood Services of the City or his designees. Each dumpster in violation of this section shall be considered a separate offense.

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

Ordinance introduced by Councilmember Binnie who moved its adoption. Seconded by Councilmember Nosek. Nosek, Binnie, Singer, Stewart. NOES: Taylor, Kienbaum. ABSENT: Stauffer. FIRST READING APPROVED: September 16, 2008.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

WHITON AND MAIN STREET AND COTTAGE AND MAIN STREET IMPROVEMENTS.

Strand Associates representatives were present to discuss pedestrian access and mobility treatments along the .4 mile segment of W. Main Street between Prince and Prairie. A cursory review of possible improvements was discussed.

1. Multiway Stop could be used to regulate the movements of pedestrians and vehicles. One disadvantage is that it impedes the progress of motor vehicle traffic through an existing corridor of coordinated traffic signals and often requires pedestrians to take the first step into the intersection to be recognized as having the right of way by drivers.

2. Traffic Signal Control permits pedestrians to cross while vehicles are stopped via the traffic device and permits ample time to cross the roadway. A disadvantage is it may reduce the efficiency of motor vehicle travel through the corridor.

3. Cul-de-Sac Intersecting streets would inhibit the movement of vehicles to or from an existing street and would reduce conflict between pedestrians and vehicles along a corridor. A disadvantage is that it shifts the traffic pattern in the area and may create concerns elsewhere. It can also create driver confusion.

4. Conversion from Two-Way Streets to One-Way Pairs. Converting two parallel two-way streets to a one-way pair would reduce conflict between pedestrians and vehicles toward the corridor. However, it shifts the traffic pattern in the area and may create concerns elsewhere.

5. HAWK (Actuated Pedestrian Signals). These high-intensity activated crosswalks are used at midblock crossings and minor intersections. They are often used in areas where there are frequent crashes with pedestrians, including streets near universities, shopping centers and schools. The signal permits pedestrians to cross while vehicles are stopped via the traffic control device, allows ample time for crossing, and disrupts traffic only when pedestrians actuate the signals. Disadvantages are that they may reduce the efficiency of motor vehicle travel through the corridor and they are not approved for use by the Federal Highway Administration or the Wisconsin Department of Transportation.

6. In-Pavement Lighting Systems. In-pavement lighting systems are treatments municipalities have used at midblock crossings and other locations to improve pedestrian access and mobility. It may also be used to notify drivers of the presence of a crosswalk. It notifies drivers of the presence of a crosswalk, especially under low-light conditions. A disadvantage is that it may reduce the efficiency of motor vehicle travel through the corridor and they deteriorate from roadway maintenance such as plowing.

7. Raised Medians / Refuge Islands. They provide pedestrians the opportunity to cross multi-lane roadways in two stages. Medians also provide space for aesthetic treatments

and may help to reduce speeds through a corridor. They are most useful on high-volume, high-speed roads. A disadvantage is it limits access to adjacent driveways, has higher construction costs, and additional right of way is needed for expanding the roadway.

8. Signage / Pedestrian Crossing Lights. Pedestrian crossing signs and crossing light applications would indicate to drivers there is a pedestrian crossing ahead. It provides an advance warning before a crossing, reduces speed, and has a low construction cost. A disadvantage is there is driver noncompliance through the overuse of signs, increased maintenance, and can give a false sense of security to pedestrians since vehicles are only being warned of potential pedestrian in sidewalk.

9. Driveway Improvements. Narrowing or closing driveways, converting driveways to right in / right out only, or adding medians to wide driveways can improve pedestrian mobility and access. Disadvantages are businesses are often unwilling to combine driveways, there are costs associated with driveway reconstruction, and creation of overcapacitated entrances and exits.

10. Barriers. Restrictive barriers such as arched bollards or concrete walls may be installed to discourage pedestrians from crossing at locations with no crosswalk.

11. Pedestrian Overpass would provide an alternative access across a roadway as opposed to finding gaps in traffic. A disadvantage is the high cost associated with construction.

Lengthy discussion ensued where different options were discussed. It was moved by Stewart and seconded by Singer to install a stop sign now at Whiton; place temporary lights on Whiton; put a permanent stop signs and work with University relating to barrier on the UWW side of Main Street; and change Cottage Street to a one way Street. Concerns about traffic back up if stop signs were installed were discussed.

It was then moved by Singer and seconded by Binnie to amend the motion to take out the installation of stop signs now. A motion was taken on the amendment: AYES: Binnie, Singer, Kienbaum. NOES: Stewart, Taylor. ABSTAIN. Nosek. ABSENT: Stauffer. Amendment to motion fails.

A vote was then taken on the original motion; namely, to install stop signs now at the Whiton intersection; place temporary lights on Whiton; put permanent stop lights and work with the University on a barrier on the UWW side; and change Cottage to a one way Street. AYES: Stewart. NOES: Taylor, Nosek, Binnie, Singer, Kienbaum. ABSENT: Stauffer. Motion fails.

APPROVAL OF CONTRACT FOR CLEANING OF WHITEWATER CREEK.

DPW Director Fischer contacted three landscape companies for proposals for the clean up of Whitewater Creek. Due to heavy spring rains, the clean up required is more than City staff can do. Proposed for approval is a proposal from Stonebrook Landscaping for a time and material cost at a price of \$27.50 per hour per crew member. They estimate it will take 480 hours per man to complete the clean up from North Street to Highway U. Councilmember Nosek felt the amount of manhours anticipated was excessive. Fischer explained that if it took less time to clean the Creek, there would be less cost involved. It was moved by Binnie and seconded by Taylor to approve the proposal from Stonebrook Landscaping for a six person crew, at a cost of \$27.50 per hour per crew member, not to

exceed 480 hours per crew member. AYES: Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSTAIN: Nosek. ABSENT: Stauffer.

FIRST STREET PARKING LOT CONCEPT AND REQUEST FOR APPROVAL OF PROJECT AS A 2009 TIF PROJECT.

Proposed was reconstruction of the First Street parking lot as a TIF 4 project to be completed in 2009. Due to the development of the former Hallmark building and the need to construct a dumpster enclosure behind the building, the project has moved forward. Area property owners have agreed to create a shared dumpster area. It was moved by Binnie and seconded by Taylor to authorize staff members to move forward to detail design of the First Street parking lot. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer.

APPROVAL OF CONTRACT FOR POLICE COMMUNICATION CENTER UPGRADE.

Two bids were received for the Police Communications (Dispatch) Center upgrade. Based on recommendation of the Neighborhood Services Director, it was moved by Taylor and seconded by Binnie to approve a contract with Dave Williams of Country Builders in the sum of \$45,235. AYES: Taylor, Binnie, Singer, Kienbaum, Stewart, Nosek. NOES: None. ABSENT: Stauffer.

BORROWING FOR POLICE COMMUNICATIONS PROJECT AND EMERGENCY ALERTING SYSTEM PROJECT.

City Manager Brunner indicated that paperwork for the borrowing of \$281,500 is being finalized. Brunner explained that this borrowing will be funded in part by the surcharge being placed on emergency medical service bills (ambulance bills). A \$40 – 45 charge will be added to the approximately 1000 calls per year to help pay for this borrowing. Finance Director Saubert verified that the City would have to levy for the borrowing, but it would be reimbursed.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS.

Councilmember Nosek stated that this is the fifth time he has asked for details regarding the reinspection fees, what properties have been cited, how many times have they been in violation, what have they been charged and/or recharged, how much has been collected by the City, and whether the matter(s) have been resolved. Councilmember Kienbaum stated that this is the third time she has asked for a discussion on supervision of city-owned buildings that are being rented out. Councilmember Taylor requested that the ordinance relating to limitation of number of cars in front and side yards be brought back to Council.

ADJOURNMENT. It was moved by Stewart and seconded by Nosek to adjourn the meeting. AYES: Taylor, Binnie, Singer, Kienbaum, Stewart, Nosek. NOES: None. ABSENT: Stauffer. The meeting adjourned at 9:19 p.m.

Respectfully submitted,

CA-A

Michele R. Smith,
City Clerk

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

October 7, 2008

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: No.

PLEDGE OF ALLEGIANCE. The pledge was led by Webelos, Pack 111 Boy Scouts. Nosek presented a certificate to the boys.

APPROVAL OF COUNCIL MINUTES OF AUGUST 19, 2008; AUGUST 26, 2008; SEPTEMBER 2, 2008; AND SEPTEMBER 4, 2008. It was moved by Taylor and seconded by Binnie to approve Council minutes of August 19, August 26, September 2 and September 4 of 2008. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None

APPROVAL OF PAYMENT OF INVOICES PROCESSED THROUGH OCTOBER 3, 2008. It was moved by Taylor and seconded by Binnie to approve payment of invoices for the amount of \$256,726.72 processed through October 3, 2008. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None

ACKNOWLEDGMENT OF RECEIPT AND FILING OF REPORT OF MANUALLY-PRODUCED CHECKS FOR SEPTEMBER, 2008, BUSINESS PARK MARKETING COMMITTEE MINUTES OF AUGUST 18, 2008, LIBRARY BOARD MINUTES OF AUGUST 11, 2008, AND CDA BOARD MINUTES OF AUGUST 25, 2008. It was moved by Taylor and seconded by Binnie to acknowledge receipt and filing of report of manually-produced checks for September, 2008. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None

STAFF REPORTS. City Manager Brunner informed the council that a State grant of \$319,810 had been received to repair the Depot Museum building. A second grant (State transportation enhancement) of \$150,000 has been received to improve Whitewater's multiuse trail to the south of town which will be combined with TIF #4 funds for Moraine Park basin. In addition, a stewardship grant for \$150,000 has been received to replace Trippe Shelter. He also reported that the Walworth County Economic Development Alliance will be dealing with four issues over the next few weeks: 1) rate of commercial retention, 2) workforce availability in Walworth County (up 2,000 over 6,500 previously), 3) shrinkage of taxable revenue, and 4) the development process most efficient across their jurisdiction. Make a Difference Day was another success with 500 volunteers contributing on 50 projects. This effort was organized by Matt Amundson (Park & Recreation Department) and Kim Clarkson (UW-Whitewater). Professor Jimmy Peltier of UW-Whitewater has distributed information promoting the business park (examples given to Council members) to targeted industries and other multimedia outlets.

DPW director Fischer gave project updates on Highland Street and Fourth Street construction projects as well as the painting of the water tower. He talked about progress on the beach lift

station and the possibility of a train quiet zone and the Eastgate project. Whitewater Creek cleanup is starting in the coming week with FEMA financing for the project. He commented on the extension of Corporate Drive, soccer field grading, and the sale of bricks by the City at the city garage.

HEARING OF CITIZEN COMMENTS. Tim Reutebuch of UW-Whitewater commented on the first year of the community garden. Eighteen families participated. Water was an issue this first year but there has been an agreement to move the project and solve the problem. He thanked the City for its support.

COMMON COUNCIL ANNOUNCEMENTS. There were no announcements.

RESOLUTION ADOPTING 2008 BUDGET TRANSFER RESOLUTION #5.

BUDGET TRANSFER RESOLUTION 5

WHEREAS, the Common Council of the City of Whitewater adopted the Budget Resolution for 2008 on November 20, 2007, setting forth the detailed estimates of revenues and expenditures required for the various purposes performed by the City,

AND WHEREAS, certain accounts have demonstrated a need for additional funds to adequately perform the service,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater that the following budget changes are authorized:

EXPENDITURES:

Increase

General Equipment Fund #217

Capital Equipment	217.52600.810	\$	12,460.00
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REVENUES:

Decrease

Fund Balance Applied	217.49300.52	\$	12,460.00
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To adjust for the upgrade of the UPS room air conditioners. Work was performed in July by Vorpapel Service, Inc. The upgrade will be included in the upcoming borrowing for the communications /911/Siren upgrade/remodeling project.

EXPENDITURES:

Increase

Parkland Acquisition Fund #240

Property Tax – Acquisitions	240.56110.525	\$	149.30
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Land Acquisition	240.56110.820	\$	75,238.22
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REVENUES:

CA-A

Decrease
Fund Balance applied 240.49300.56 \$ 75,387.52

To adjust for the purchase of the Schilt Property thru the Parkland Acquisition Fund. The purchase was approved at the August 5, 2008 council meeting.

EXPENDITURES:

Increase
General Fund #100
Patrol – Training 100.52110.154 \$ 2,000.00

REVENUES:

Increase
Miscellaneous Revenues
Donation – Public Safety 100.48500.52 \$ 2,000.00

To adjust for the reimbursement of training expense for Sergeant David Gempler through a Department of Justice career development training scholarship.

EXPENDITURES:

Increase
General Fund #100
Legislative Support
Office Supplies 100.51100.310 \$ 2,000.00

Decrease
Contingencies 100.51110.910 \$ 2,000.00

To adjust for the invoices for the rental registration program start-up. Ordinance approved at the June 16, 2008 and July 15, 2008 council meeting.

Internal transfer in Police Investigation. \$2,500 will be used to purchase ET Kits instead of upgrading the Photo lineup software.

IT IS FURTHER RESOLVED that no changes are made to the tax levy as originally made, and these changes represent shifts in income or expenditures actually experienced or anticipated.

Resolution introduced by Councilmember Taylor who moved its adoption. Seconded by Councilmember Binnie. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ADOPTED October 7, 2008.

RESOLUTION SUPPORTING LONG TERM CAPITAL PLAN FOR STRATEGIC INVESTMENTS IN PUBLICLY OWNED RAILROAD INFRASTRUCTURE IN WISCONSIN.

Resolution Supporting Long-Term Capital Plan for Strategic Investments in Publicly-Owned Railroad Infrastructure in Wisconsin

The City of Whitewater, WI directs this resolution to Governor Doyle, Transportation Secretary Frank Busalacchi, Senator Judy Robson and Representative Kim Hixson.

WHEREAS, the State of Wisconsin in participation with seventeen southern Wisconsin counties including Grant county, jointly own 600 miles of railroad infrastructure throughout the state, intersecting the City of Whitewater, WI, and

WHEREAS, a viable railroad system is critical to the safe and efficient transportation of raw materials and finished product throughout the State of Wisconsin and remains an economic lifeline to the nations railroad system, and

WHEREAS, the Wisconsin & Southern Railroad Co. (WSOR) had 2 major derailments in 2007 in the same vicinity of each other on the publicly-owned railroad system, both of which were caused by aged and defective rail, and

WHEREAS, town and county officials and local citizens throughout Southern Wisconsin are concerned for their future safety, and

WHEREAS, funding for capital projects on publicly-owned railroad corridors comes from Wisconsin's Freight Railroad Preservation Program (FRPP), which provides 80% funding for eligible projects with the remaining 20% coming from WSOR and participating county governments, and

WHEREAS, it is the intention of the WSOR to reconstruct approximately 45 public at-grade rail crossings, install over 42,000 new ties, and install 42 miles of continuous welded rail from Waukesha to Milton, WI, intersecting the City of Whitewater, as part of the company's long-term capital improvement plan to improve public safety, and

WHEREAS, as a result of FRPP being severely underfunded in current and past budgets, many capital projects that are deemed essential for public safety reasons have been either delayed or put on hold indefinitely, and

WHEREAS, in order to conduct aforementioned capital improvements that do not further impair public safety, the WSOR proposes the State of Wisconsin increase its FRPP funding level to \$42 Million or \$21 Million per year for the 2009/2011 biennial budget, and

WHEREAS, if approved in the upcoming 2009/2011 biennial budget, all seventeen counties including Walworth County and the WSOR could begin aforementioned improvements as early as July 2010,

THEREFORE IT IS HEREBY RESOLVED: The City of Whitewater **fully supports** the efforts of the WSOR to undertake strategic investments in railroad infrastructure in Walworth

County and further endorses WSOR's proposal to increase **FRPP funding to \$42 million in the 2009/2011 Biennial Budget.**

Resolution introduced by councilmember Taylor, who moved its adoption. Seconded by councilmember Binnie. AYES: Stauffer, Taylor, Binnie, Singer. NOES: Nosek, Kienbaum, Stewart. ADOPTED: October 7, 2008.

Kevin M Brunner

Michele R Smith

RESOLUTION AMENDING CENTRAL AREA PLAN. Nosek was reluctant to consider the resolution at this meeting. Mitch Simon (lawyer) stated that this resolution was only to acknowledge what the Plan Commission has already adopted and the rezoning application for the 33 parcels is already a year old. The public hearing has already been held and the issue will be going back to the Plan Commission later in the month. The Central Neighborhood Plan is waiting for approval to proceed with certification.

Nosek replied that he wants to be sure Council does not affirm any flaws in reasoning and he would like clarification on some points in the resolution. Brunner stated that the planner should be present to answer any questions. The planner (Roffers) will be present for the rezone certification.

**RESOLUTION AMENDING THE CITY OF WHITEWATER
CENTRAL AREA PLAN AS A COMPONENT OF THE
CITY OF WHITEWATER MASTER PLAN**

WHEREAS, the City of Whitewater Plan and Architectural Review Commission has the authority under Wis. Stats. 62.23(2) to adopt a Master Plan for the general purpose of guiding and accomplishing coordinated, adjusted, and harmonious development of the City; and

WHEREAS, the City Plan and Architectural review Commission in 1997 adopted the City of Whitewater Central Area Plan as a component of the City's Master Plan, and

WHEREAS, the City of Whitewater Plan and Architectural Review Commission has the authority under Wis. Stats. 62.23(2) to amend its Master Plan and components thereof, and

WHEREAS, the Plan and Architectural Review Commission has duly noticed and held a public hearing on proposed amendments to the aforementioned Central Area Plan;

NOW THEREFORE BE IT RESOLVED that the Plan and Architectural Review Commission of the City of Whitewater hereby:

1. Adopts the attached amendments (Exhibits 1 and 2) to the City of Whitewater Central Area Plan as amended components of the City's Master Plan, with the inclusion of all lands abutting Lindsey Court in the "Mixed Residential" future land use category;

2. Certifies a copy of the attached amendments (Exhibits 1 and 2) to the City Council; and
3. Directs that the recommendations of the attached amendments (Exhibits 1 and 2) to the Central Area Plan shall control in the event of any conflicts with other previously adopted components of the City's Master Plan.

Nosek moved to postpone consideration of the resolution. Taylor seconded. AYES: Stauffer, Taylor, Nosek, Binnie, Singer. NOES: Kienbaum, Stewart.

FIRST READING OF ORDINANCE AMENDING CHAPTER 5.20 TO ALLOW ISSUANCE OF CLASS C WINE LICENSES.

AN ORDINANCE AMENDING CHAPTER 5.20 ALCOHOLIC BEVERAGES

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

SECTION 1: Whitewater Municipal Code Chapter 5.20 section 5.20.012 is hereby created to read as follows:

5.20.012 "Class C" Licenses Authorized. The City of Whitewater is hereby authorized to issue "Class C" wine licenses, which shall authorize the retail sale of wine by the glass or in an open original container for consumption on the premises where sold. A "Class C" license may be issued to a person qualified under Wis. Stat. 125.04(5) for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom or for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. "Class C" license holders shall abide by the terms of Wis. Stats 125.51 (3m) and any amendments thereto. In this section a barroom means a room that is primarily used for the sale or consumption of alcohol beverages.

SECTION 2: Whitewater Municipal Code Chapter 5.20 section 5.20.060 license fees is hereby amended by adding (5) "Class C"—wine license \$100.

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

Ordinance introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Stauffer. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ADOPTED: October 7, 2008.

FIRST READING OF ORDINANCE CREATING CH. 16.20; STORM SEWER ILLICIT DISCHARGE AND CONNECTION.

This ordinance was considered along with the ordinance adding fines for illicit discharge and connection. Fischer (DPW Director) recommended passage of both ordinances. Nosek indicated that the contractor working on the Whitewater Creek cleanup could look for illicit discharge. Stewart questioned whether fines

would be in line with the amount of discharge. Emphasis should be on stopping the illicit discharges.

ORDINANCE CREATING CHAPTER 16.20

STORM SEWER ILLICIT DISCHARGE AND CONNECTION ORDINANCE

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

Whitewater Municipal Code Chapter 16.20 is hereby created to read as follows:

Sec. 16.20.10 Purpose and Intent.

Sec. 16.20.20 Definitions

Sec. 16.20.30 Applicability

Sec. 16.20.40 Responsibility for Administration

Sec. 16.20.50 Compatibility with other regulations

Sec. 16.20.60 Severability

Sec. 16.20.70 Ultimate responsibility

Sec. 16.20.80 Discharge prohibitions

Sec. 16.20.90 Watercourse protection

Sec. 16.20.100 Compliance monitoring

Sec. 16.20.110 Requirements to prevent, control and reduce storm water pollutants by use of best management practices

Sec. 16.20.120 Notification of spills

Sec. 16.20.130 Violations, enforcement, and penalties

Sec. 16.20.140 Appeals

Sec. 16.20.150 Enforcement measures after appeal

Sec. 16.20.160 Cost of abatement of the violation

Sec. 16.20.170 Violations deemed a public nuisance

Sec. 16.20.180 Remedies not exclusive

SECTION 16.20.10. PURPOSE AND INTENT.

The purpose of this ordinance is to provide for the health, safety, environment and general welfare of the citizens of the City of Whitewater through the regulation of non-storm water discharges into waters of the state or the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into waters of the state or the MS4 in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants into waters of the state or the MS4 by storm water discharges by any user.
- (2) To prohibit illicit connections and discharges into waters of the state or the MS4.
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

SECTION 16.20.20. DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency. Employees or designees of the Director of Public Works.

Best Management Practices (BMPs). Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

Construction Activity. Activities subject to the City of Whitewater construction permits per Construction Site Erosion Control Zoning Ordinance or WPDES construction permits per NR 216 and ch. 283, Wis. Stats.

Contaminated storm water. Storm water that comes into contact with material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts or industrial machinery in the source areas listed in NR 216.

Department (DNR). The Wisconsin Department of Natural Resources.

Discharge. As defined in ch. 283, Wis. Stats., when used without qualification includes a discharge of any pollutant.

Discharge of pollutant or discharge of pollutants. As defined in ch. 283, Wis. Stats. means any addition of any pollutant to the waters of this state from any point source.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics

may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit Discharge. Any discharge into waters of the state or the municipal separate storm sewer system that is not composed entirely of storm water. Non-storm water discharges that are not considered illicit discharges include water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, fire fighting, and discharges authorized under a WPDES permit unless identified by the Director of Public Works as a significant source of pollutants to waters of the state.

Illicit Connections. An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter waters of the state or the MS4 including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter waters of the state or the MS4 and any connections to waters of the state or the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to waters of the state or the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to WPDES Industrial Permits per NR 216 and ch. 283, Wis. Stats.

Maximum Extent Practicable (MEP). A level of implementing management practices in order to achieve a performance standard or other goal which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features.

Municipality. Any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district or any other public entity created pursuant to law and having authority to collect, treat or dispose of sewage, industrial wastes, storm water or other wastes.

Municipal Separate Storm Sewer System (MS4). As defined in Wisconsin Administrative Code NR 216, means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all the following criteria:

- (a) Owned or operated by a municipality.
- (b) Designed or used for collecting or conveying storm water.
- (c) Which is not a combined sewer conveying both sanitary and storm water.
- (d) Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

Non-Storm Water Discharge. Any discharge to the MS4 that is not composed entirely of storm water.

Owner. Any person holding fee title, an easement or other interest in property.

Outfall. The point at which storm water is discharged to waters of the state or to a storm sewer.

Person. An individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

Pollutant. As defined in ch. 283, Wis. Stats., means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution. As defined in ch. 283, Wis. Stats., means any man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

Pollution prevention. Taking measures to eliminate or reduce pollution.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Water. Runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

Storm Water Management Plan / Storm Water Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to waters of the state or the MS4 to the Maximum Extent Practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Watercourse. A natural or artificial channel through which water flows. These channels include: all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils maps in the NRCS soils book for Walworth and Jefferson Counties, all channels identified on the

site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.

Waters of the state. As defined in ch. 283, Wis. Stats., means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

Wisconsin Pollutant Discharge Elimination System (WPDES) Storm Water Discharge Permit. A Wisconsin pollutant discharge elimination system permit issued pursuant to Wisconsin Statute

SECTION 16.20.30. APPLICABILITY.

This ordinance shall apply to all water and discharges entering waters of the state or the MS4 generated on any lands unless explicitly exempted by the Director of Public Works.

SECTION 16.20.40. RESPONSIBILITY FOR ADMINISTRATION.

The Director of Public Works shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Director of Public Works may be delegated in writing by the Director of Public Works to persons or entities acting in the beneficial interest of or in the employ of the agency.

SECTION 16.20.50. COMPATIBILITY WITH OTHER REGULATIONS.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

SECTION 16.20.60. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

SECTION 16.20.70. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will

ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

SECTION 16.20.80. DISCHARGE PROHIBITIONS.

a. Prohibition of Illicit Discharges.

No person shall throw, dump, spill, drain, or otherwise discharge, cause, or allow others under its control to throw, dump, spill, drain, or otherwise discharge into waters of the state or the MS4 any pollutants or waters containing any pollutants, other than storm water.

b. Allowed Discharges.

(1) Water line flushing, landscape irrigation, diverted stream flows, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and discharges authorized under a WPDES permit unless identified by the Director of Public Works as a significant source of pollutants to waters of the state.

(2) Discharges or flow from firefighting, and other discharges specified in writing by the Director of Public Works as being necessary to protect public health and safety.

(3) Discharges associated with dye testing; however this activity requires a verbal notification to the Director of Public Works and the Department of Natural Resources a minimum of one business day prior to the time of the test.

(4) Any non-storm water discharges permitted under a construction activity permit, industrial activity permit, or WPDES permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director of Public Works prior to allowing discharges to waters of the state or the MS4.

c. Prohibition of Illicit Connections.

(1) The construction, use, maintenance or continued existence of illicit connections to waters of the state or the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to waters of the state or the MS4, or allows such a connection to continue.

(4) Improper connections in violation of this ordinance must be disconnected and redirected,

if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Director of Public Works.

(5) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to waters of the state or the MS4, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Director of Public Works requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Director of Public Works.

SECTION 16.20.90. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of soil erosion, trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

SECTION 16.20.100. COMPLIANCE MONITORING.

a. Right of Entry: Inspecting and Sampling.

The Director of Public Works shall be permitted to enter and inspect properties and facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

(1) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the Director of Public Works.

(2) Facility owners and operators shall allow the Director of Public Works ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.

(3) The Director of Public Works shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Director of Public Works to conduct monitoring and/or sampling of the facility's storm water discharge.

(4) The Director of Public Works has the right to require the owner or operator to install monitoring equipment as necessary, and make the monitoring data available to the Director of

Public Works. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

(5) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Director of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.

(6) Unreasonable delays in allowing the Director of Public Works access to a facility is a violation of this ordinance. A person who is the operator of a facility commits an offense if the person denies the Director of Public Works reasonable access to the facility for the purpose of conducting any activity authorized or required by this ordinance.

b. Special Inspection Warrant.

If the Director of Public Works has been refused access to any part of the premises from which storm water is discharged, and the Director of Public Works is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Director of Public Works may seek issuance of a special inspection warrant per s. 66.0119, Wis. Stats.

SECTION 16.20.110. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The owner or operator of any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into waters of the state or the MS4 through the use of structural and non-structural BMPs. Further, any person responsible for a property or premise, that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to waters of the state or the MS4. Compliance with all terms and conditions of a valid permit authorizing the discharge of storm water associated with industrial activity or construction activity, to the maximum extent practicable, shall be deemed compliance with the provisions of this section.

SECTION 16.20.120. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges

or pollutants discharging into storm water, the MS4, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release, so as to minimize the impacts of the discharge.

In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services, and shall also notify the Director of Public Works. In the event of a release of non-hazardous materials, said person shall notify the Director of Public Works in person or by phone, e-mail or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works within 3 business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 5 years.

Failure to provide notification of a release as provided above is a violation of this ordinance.

SECTION 16.20.130. VIOLATIONS, ENFORCEMENT, AND PENALTIES.

a. Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the Director of Public Works is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation. The Director of Public Works is authorized to seek costs of the abatement as outlined in Section 16.20.160.

b. Warning Notice.

When the Director of Public Works finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Director of Public Works may serve upon that person a verbal or written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in the subsection shall limit the authority of the Director of Public Works to take action, including emergency action or any other enforcement action without first issuing a Warning Notice.

c. Notice of Violation.

Whenever the Director of Public Works finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Director of Public Works may order compliance by written notice of violation to the responsible person.

The Notice of Violation shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the Director of Public Works by filing a written notice of appeal within 5 business days of service of notice of violation; and
- (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, representatives of the Director of Public Works may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Director of Public Works may go on the land and commence the work after issuing the notice of intent. The Director of Public Works is authorized to seek costs of the abatement as outlined in Section 16.20.160.

Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of BMPs.

13.4. Suspension of MS4 Access.

d. Emergency Cease and Desist Orders

When the Director of Public Works finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the state which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Director of Public Works may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- (1) Immediately comply with all ordinance requirements; and
- (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Director of Public Works may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the state, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Director of Public Works may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Director of Public Works that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance.

A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Director of Public Works within 30 days of receipt of the Notice of Violation.

e. Suspension due to Illicit Discharges in Emergency Situations

The Director of Public Works may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the Director of Public Works may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons.

f. Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Director of Public Works will notify a violator of the proposed termination of its MS4 access.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Director of Public Works.

g. Prosecution and Penalties.

Any person violating any provision of this ordinance shall be subject to a forfeiture of not less than \$25.00 or more than \$1000.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

The Director of Public Works may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, river bank cleanup, etc. Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

SECTION 16.20.140. APPEALS.

a. Board of Appeals.

The board of appeals created pursuant to Chapter 19.72 of City of Whitewater ordinance enacted pursuant to 62.23(7)(e), Wis. Stats.:

- (1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Director of Public Works in administering this ordinance except for cease and desist orders obtained under Section 16.20.120(d).
- (2) Upon appeal, may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and shall use rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

b. Who May Appeal.

Appeals to the board of appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the City of Whitewater affected by any decision of the Director of Public Works.

SECTION 16.20.150. ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of

Violation, or, in the event of an appeal, the appropriate authority upheld the decision of the Director of Public Works, then representatives of the Director of Public Works may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Director of Public Works may go on the land and commence the work after issuing the notice of intent. The Director of Public Works is authorized to seek costs of abatement as outlined in Section 16.20.160. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 16.20.160. COST OF ABATEMENT OF THE VIOLATION.

The costs of the work performed by the Director of Public Works pursuant to this ordinance, plus interest at the rate authorized by the City of Whitewater shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect it as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.

SECTION 16.20.170. VIOLATIONS DEEMED A PUBLIC NUISANCE.

Any condition in violation of any of the provisions of this ordinance and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.

SECTION 16.20.180. REMEDIES NOT EXCLUSIVE.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Director of Public Works to seek cumulative remedies.

The Director of Public Works may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Ordinance introduced by Councilmember Nosek, who moved its adoption. Seconded by Councilmember Binnie. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. FIRST READING APPROVED: October 7, 2008.

Kevin M Brunner

Michele R Smith

FIRST READING OF ORDINANCE AMENDING CH. 1.21.010, SCHEDULE OF DEPOSITS, TO ADD FINES FOR ILLICIT DISCHARGE AND CONNECTION.

**AN ORDINANCE AMENDING SECTION 1.21.010
SCHEDULE OF DEPOSITS**

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

SECTION 1: Whitewater Municipal Code Section 1.21.010 is hereby amended by adding the following:

<u>CHAPTER OR SECTION NUMBER</u>	<u>OFFENSE</u>	<u>DEPOSITS AND COSTS</u>
Chapter 16.20	Illicit discharge and Connection ordinance	1 st offense - \$250.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment
		2 nd offense within 1 year - \$350.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment
		3 rd offense within 1 year -\$500.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment

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

Ordinance introduced by Councilmember Nosek, who moved its adoption. Seconded by Councilmember Binnie. . AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. FIRST READING APPROVED: October 7, 2008.

SECOND READING OF ORDINANCE AMENDING CHAPTER 8.24.010; SCREENING OF RUBBISH AND GARBAGE CONTAINERS.

**ORDINANCE AMENDING CHAPTER 8.24.010
SCREENING OF RUBBISH AND GARBAGE CONTAINERS**

8.24.010 Screening from view required. The owners or occupants of all property located in the city shall effectively screen all rubbish and garbage containers from view from the public streets by means of a fence, evergreen landscaping or building. All existing dumpsters located more than two hundred feet off any city right-of-way and twenty-five feet or more from any lot line may be waived from this section if maintained in a clean and orderly fashion and approved by the city of Whitewater. All residential units using “toters” shall locate all toters along the side or rear of the building, and in no case shall they be located in any street yard unless screened from the public view by four feet fencing and landscaping with shrubs. If required, the screening of the rubbish and/or garbage container shall be erected or provided within thirty days following service of written notice upon the owner or occupant directing the owner or occupant to erect or

provide such screen. Such notice shall be issued by the director of neighborhood services of the city or his designees. Each dumpster in violation of this section shall be considered a separate offense.

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

Ordinance introduced by Councilmember Stauffer, who moved its adoption. Seconded by Councilmember Binnie. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ADOPTED: October 7, 2008.

CONSIDERATION OF PROPOSAL FOR RECOMMENDED IMPROVEMENTS AT WHITON AND MAIN AND COTTAGE AND MAIN STREETS. Brunner referred Council to his memo concerning possible improvements to the intersections. Recommendations by a committee including Police Chief Coan, DPW Director Fischer, Chancellor Telfer and his staff, and Luke Holman of Strand were made using the September 12 report by Strand which was presented at the September 16th Council meeting. 1) Installation of a Main/Whiton traffic signal. This signal would permit ample time for pedestrian crossing and be timed to match other signals on Main Street. There would be no left hand turns from Main Street. The signal would cost \$100,000-\$150,000 depending on engineering design and would be installed in 4 to 6 months. 2) Pedestrian barriers installed between Whiton and Cottage Streets along Main Street as there is a strong need to discourage pedestrians from crossing Main Street where there is no crosswalk. There is already a wall on the north side of Main between Whiton & Prince Streets in front of the Greenhill Center of the Arts. The University has agreed to pay for these barriers on the north side of the street. The property on the south side is owned by David Kachel. 3) Three driveways are to be closed between Whiton and Cottage for safety and in order to install barriers.

Nosek indicated that he was disappointed in the committee choosing the most costly and obstructive solutions to the problem. He objected to having three stop lights in a distance of three blocks as this would only be needed during the school year and there are already more stop lights on Main Street than the city needs. He gave other suggestions: 1) reduce speed by enforcing speed limit, pedestrian yield signs and jay-walking prohibition. 2) Improve existing precautionary measures to traffic aids. Add eye level warning flashers which would be more visible to motorists and pedestrians and make the activation buttons more visible. 3) Reduce traffic by eliminating parking south of Main Street for two blocks in this area. Also parking could be restricted in the Prairie/Prince corridor to those who live there.

Singer stated that there is no jay-walking ordinance in Whitewater. Fischer (DPW) informed the council that activation buttons that are more accessible for persons with disabilities are being installed at the pedestrian crossing and there will be eye level signage.

Binnie appreciates the effort put into this evaluation of the situation. He believes that the focus should be on safe crossing of pedestrians. He would like to see Whiton become a cul-de-sac and have right turns only out of the University Mall drive. He noted that the past three traffic incidents have been at intersections with lights. He believes that students will jump barriers and

that the barriers are aesthetically unpleasant. He suggested use of the "HAWK System" which has had five years of study in Tucson where it is used at one hundred crossings in that city. The Federal Highway Administration and State website approves the signaling system although it is still listed as experimental.

Stewart informed the council that police from the University have been helping pedestrians cross at peak times to heighten the attention of motorists and pedestrians. The barriers to be installed by the University are great. It is considerate of David Kachel to offer to close the driveways and nice to have that kind of cooperation.

Taylor stated that there can be no consideration of price on safety and that he likes the HAWK System with no barriers along Main Street.

Kienbaum believes that it was a good idea to put pedestrian crossings at these corners; the problem is with people not stopping when they should. She suggested thorny bushes as barriers. Police should enforce the speed limit.

Luke Holman (Strand) answered a question from Singer saying that lights on Main Street would continue to be timed and that pedestrian action would not accelerate light change. There would be morning (West to East) and evening (East to West) coordination. He added that the "HAWK System" would penalize volume of traffic. The "HAWK System" experiment is still being reviewed by the Department of Transportation.

Nosek stated that he would like the red light time to be increased for pedestrian crossings.

Brunner replied to a funding question by Stewart by stating that the cost of these intersection improvements could come out of the fund balance or be added to the loan for public safety communications improvements. The second alternative would cost \$13,000 to \$14,000 a year over nine years.

Nosek stated that the city could employ crossing guards for 16-20 years for that amount of money. The signals are of dubious merit and permanent.

Kienbaum noted that the University is doing a good job currently by having police at these intersections during peak traffic times.

Taylor asked about the possibility of putting median islands in this area for pedestrians. Brunner responded that there is not adequate right of way and the cost would be prohibitive.

Binnie asked if Council could pass provision (2) for barriers along Main Street without the other provisions, particularly as provision (3) closing of driveways on the South Side of Main Street is not under control of Council. Brunner responded that the Plan Commission could be directed to cooperate with Council's wishes.

Stauffer stated that in order for these plans to work a jay-walking ordinance must be passed and there must be enforcement.

Mitch Simon (attorney) stated that plans for development on the south side of Main Street will eliminate the driveways. Nosek responded that there would still be parking between buildings behind landscaping.

In response to a question by Taylor, Chief Coan stated that warnings about jay-walking could be given before a jay-walking ordinance is in place. Taylor then asked if Council would direct city staff to see what approvals the "HAWK System" would need, and acknowledged that installation of this type of signal could slow traffic. On the other side, installation of this type of signal would save money over installing standard traffic light signals.

Binnie reiterated that the experience in Tucson shows it is easy to obtain approval for the signal. He gave a description of how the signal works with a progression of yellow to red lights to signal that a pedestrian is crossing. The Strand representative said that State statute would need to be checked to see if it would be possible to get approval for the "HAWK System" signal in Wisconsin.

Brunner reintroduced the possibility of making Whiton a cul-de-sac and asked if this would cause an access problem. Nosek stated that both Whiton and Cottage could be changed to cul-du-sacs near Main Street but that it would be better to limit parking south of Main Street. Stewart responded that this is a unique intersection which is gaining use with pedestrians and cars. Pedestrians should not control traffic.

Kienbaum noted that traffic signage used on Starin Road has worked.

Binnie stated that the "HAWK System" is not much different from a traffic signal. Holman responded that the "HAWK" provides for immediate pedestrian crossing whereas a standard light signal moves with a preset cycle. Binnie responded that there would be better pedestrian compliance with immediate feedback. Nosek labeled the "HAWK System" as user friendly as it is only activated when needed and there is no stopping at all for cars at slow times. Holman repeated that the "HAWK system" still costs \$75,000 to \$100,000 and is less efficient for vehicle traffic at peak traffic times. A standard light is activated both by vehicles and pedestrians.

Stauffer was against closing Whiton to through traffic. He suggested pushing parking back to a commuter parking lot, perhaps provided by the University. Fischer stated that preventing left turns with a traffic signal would provide the desired result and expected to go to the standard signal and not the "HAWK System".

It was moved by Stewart and seconded by Taylor to accept the provisions in the City Manager's Memo. This motion was not acted on.

It was moved by Taylor and seconded by Binnie to amend the motion such that the provisions be accepted without the provision for the traffic signal, instead directing City staff to research the "HAWK System" alternative. AYES: Taylor, Binnie, Singer, Kienbaum. NOES: Stauffer, Nosek, Stewart.

It was moved by Nosek and seconded by Kienbaum that the entire recommendation be tabled until further information can be provided on the HAWK system. AYES: Stauffer, Taylor, Nosek, Binnie, Kienbaum. NOES: Singer, Stewart.

After a vote on changes in the parked car ordinance, Stewart asked that the pedestrian crossing issue be reconsidered in order to consider approval of the stoplight only. Singer expressed interest in the "HAWK System" but would like to see other options. Stewart stated that there is a familiarity issue with "HAWK" and that it is not a good idea to experiment with pedestrian safety.

Stewart moved to take off the table the proposal for recommended improvements at Whiton and Main and Cottage and Main Streets. The motion was seconded by Singer. AYES: Stauffer, Singer, Kienbaum, Stewart. NOES: Taylor, Nosek, Binnie.

Singer moved to reconsider the amendment to research the HAWK system in lieu of a traffic signal. The motion was seconded by Stewart. AYES: Stauffer, Singer, Stewart. NOES: Taylor, Nosek, Binnie, Kienbaum.

A motion was made by Taylor and seconded by Kienbaum to table the issue a second time. AYES: Stauffer, Taylor, Nosek, Binnie, Kienbaum. NOES: Singer, Stewart.

APPROVAL OF CONTRACT FOR COMMUNICATION CENTER UPGRADE. Stauffer asked Tim Nobling (IT) about the difference between radio communication and cell phone communication in police cars. Nobling stated that expenses would be reduced by half with a newer plan using cell cards in lap tops.

Coan informed Council that the upgrade would be done by Radicom, which was the vendor for the equipment currently in use which is no longer supported. He added that the company puts in four to five centers per year at about the same price and that each project is custom designed for its application. The University will be partly funding the upgrade.

Stewart suggested that costs for a traffic light at Main and Whiton (\$75,000-\$100,000) could be added to the loan amount for the upgrade (\$312,628) by Radicom. Kienbaum stated that timing of spending on large items is important.

Brunner added that the cost of the upgrade has actually gone down from what it would have been two years ago by \$30,000.

It was moved by Stauffer and seconded by Taylor to approve the contract with Radicom for \$312,628. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None

APPROVAL OF TWO-YEAR EXTENSION OF JANITORIAL CONTRACT. It was moved by Kienbaum and seconded by Taylor to extend the contracts with Diversified Building Maintenance and Peterson Cleaning for two years. Diversified total for the Library and the Municipal Building would be \$67,236 for 2009 and \$67,236 for 2010. Peterson cleaning total for the Lakefront Center, the Armory and the Community Building would be \$32,317.44 for

2009 and \$32,317.44 for 2010. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None

APPROVAL OF PURCHASE OF COMPUTER EQUIPMENT FOR PUBLIC SAFETY COMMUNICATIONS CENTER. It was moved by Stauffer and seconded by Taylor to approve the purchase of computer equipment as part of the communications center upgrade. The RADICOM Contract is \$257,095 and the City's Direct IT Purchases are \$6313. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None

DISCUSSION AND POSSIBLE DIRECTION REGARDING MODIFICATION OF THE FEE FOR SIDEWALK FOOD SERVICES PERMIT. Singer's opinion was that the permit would still be too expensive after the proposed modification. He recommended waiving the fee for two years as the permit still has regulations in it and this would encourage business to experiment with this type of service. Binnie indicated that he was disappointed in the response to the ordinance.

It was moved by Singer and seconded by Kienbaum to direct staff to draft an amendment that would eliminate the fee for sidewalk café permits. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None

REVIEW OF AND POSSIBLE DIRECTION RELATING TO ORDINANCE LIMITING NUMBER OF CARS IN FRONT AND SIDE YARDS OF PROPERTIES. Taylor opined that more than three cars should be allowed in a driveway in R-3 zoning. Residents are unhappy with tickets they are getting for parking in their own driveways. Parker stipulated that this change would only concern properties zoned R-3 with existing driveways. There will be no new construction of driveways to hold more cars. If duplexes are considered there could be 10 cars in front of a residence. He suggested that duplexes have the same total parking limit as single family residences.

Nosek stated that in areas with properties zoned R1 and R2 there is a problem with diminishing quality of life. Screening should be considered for parking in new development.

It was moved by Taylor and seconded by Binnie to direct City staff to draft an ordinance that would change the number of cars allowed to park in front and side yards to five in R-3 zoning with the same number of cars allowed for duplexes. AYES: Taylor, Binnie, Singer, Kienbaum. NOES: Stauffer, Nosek, Stewart.

APPOINTMENT OF CITIZEN MEMBERS TO PLAN COMMISSION. It was moved by Stewart and seconded by Taylor that Kevin Martin be appointed to a position on the Plan and Architectural Review Board. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS. Nosek suggested discussing recycling in multifamily units. Taylor asked to see the list of future agenda items.

Kienbaum would like a master plan update with an emphasis on Smart Growth consistent with State statute.

ADJOURN It was moved by Binnie and seconded by Taylor to adjourn the meeting. The meeting was unanimously adjourned at 9:20 pm.

Respectfully Submitted,

Nancy Stanford
Administrative Assistant

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

October 21, 2008

The regular meeting of the Common council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. MEMBERS ABSENT: Stauffer. LEGAL COUNSEL PRESENT: No.

PLEDGE OF ALLEGIANCE. The pledge was led by Wolf Den Pack 111 Boy Scouts.

APPROVAL OF PAYMENT OF INVOICES PROCESSED THROUGH OCTOBER 17, 2008. It was moved by Nosek and seconded by Binnie to approve payment of invoices processed through October 17, 2008. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer.

ACKNOWLEDGMENT OF RECEIPT AND FILING OF FINANCIAL STATEMENTS FOR SEPTEMBER, 2008, LIBRARY BOARD MINUTES OF SEPTEMBER 15, 2008, AND PARK & RECREATION MINUTES OF AUGUST 4, 2008 AND SEPTEMBER 8, 2008. It was moved by Nosek and seconded by Binnie to acknowledge receipt and filing of financial statements for September 2008. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer.

STAFF REPORTS. Brunner deferred the report on the 2009 budget process to the Special Council Meeting scheduled for October 28 at 6:30 pm. Matt Amundson (Park & Rec. Director) demonstrated the new activity registration and building reservation software that was in the process of being activated. This software will permit on-line reservations and registrations.

HEARING OF CITIZEN COMMENTS. No citizen comments.

COMMON COUNCIL ANNOUNCEMENTS. Nosek observed that the diagonal parking approved by Council and recently introduced has been a good thing for the downtown area. Kienbaum thanked the community for the many donations to the Food Pantry. She added that Whitewater's Food Pantry is well taken care of. Taylor wished UW students and alumni a Happy Homecoming October 25-26. Brunner invited everyone present to the dedication of the North end of Whitewater's multi-purpose trail through Fairhaven's Prairie Village on Tuesday October 28 at the gazebo. He also invited everyone to the special budget meeting on October 28.

COMMON COUNCIL MEMBER RIGHTS IN DEBATE POLICY DATED OCTOBER 21, 2008. Singer introduced a resolution which would give more structure and equal time during debates. He looked at other city councils' resolutions to see what types of procedures they used. Other boards do this successfully and the initial time limit is not set in stone. He suggested a five minute limit per council member which could be extended by a simple majority vote. Nosek found the resolution to be frivolous as well as dogmatic and repressive. He believes that the chairman of the council should direct debate. In answer to Binnie's question Singer replied that there could not be a motion to cut off debate. He answered Stewart's question by

stating that a resolution is more flexible than an ordinance and that there is no conflict. Stewart believes that this resolution has the possibility of cutting off debate and "calling the question". Singer moved to approve the Common Council Member Rights in Debate Policy and it was seconded by Taylor. AYES: Singer, Kienbaum. NOES: Taylor, Nosek, Binnie, Stewart. ABSENT: Stauffer. ACTION FAILS.

FIRST READING OF ORDINANCE PROHIBITING JAY WALKING.

**ORDINANCE AMENDING TITLE 12
STREETS, SIDEWALKS AND PUBLIC GROUNDS
PROHIBITING JAY WALKING ON MAIN STREET**

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

Title 12 of the City of Whitewater Municipal Code is hereby amended by adding Chapter 12.04.015, Jay Walking Prohibited:

- (a) It shall be unlawful for any person to cross Main Street, unless at an intersection, at any point between the intersection of Prairie Street and Main Street and the intersection of ~~Prince-Whiton~~ Street and Main Street. This chapter does not prohibit persons from crossing Main Street at the intersections of Main Street and Prairie; Cottage; Whiton and Prince Streets, if done in compliance with all signs and signals or upon direction of a traffic officer.
- (b) Any person violating any provision of this section shall forfeit and pay a penalty of not less than \$10.00 or more than \$50.00, together with the cost of prosecution.

Ordinance introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Kienbaum. AYES: Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: Taylor. ABSENT: Stauffer. FIRST READING APPROVED: November 21, 2008.

**FIRST READING OF ORDINANCE AMENDING SCHEDULE OF DEPOSITS
(ASSIGNING PENALTY FOR JAY WALKING).**

**AN ORDINANCE AMENDING SECTION 1.21.010
SCHEDULE OF DEPOSITS**

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

SECTION 1: Whitewater Municipal Code Section 1.21.010 is hereby amended by adding the following:

CHAPTER OR		
<u>SECTION NUMBER</u>	<u>OFFENSE</u>	<u>DEPOSITS AND COSTS</u>

12.04.015

Jay walking on Main Street

1st offense - \$20.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment

2nd offense - \$30.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment

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

Ordinance introduced by Councilmember Binnie, who moved its adoption. Seconded by councilmember Kienbaum. AYES: Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: Taylor. ABSENT: Stauffer. FIRST READING APPROVED: October 21, 2008.

Kevin M Brunner

Michele R Smith

AMENDMENT OF ORDINANCE PERTAINING TO POLICE AND FIRE COMMISSION MEMBERSHIP. Amendment of ordinance was tabled by the Chair. Councilmembers agreed that it seems to have already been passed in its present form.

FIRST READING OF AMENDMENT TO CHAPTER 19.51.08 (FRONT AND SIDE YARD PARKING LIMITATIONS OF CHAPTER 19.51) TO ALLOW UP TO FIVE VEHICLES IN FRONT AND SIDE YARDS OF R-3 ZONED PROPERTIES. It was agreed that the proposed ordinance would be referred to Plan Commission.

**ORDINANCE AMENDING SUBSECTION 19.51.080
(FRONT AND SIDE YARD PARKING LIMITATIONS)
OF CHAPTER 19.51 OF THE WHITEWATER MUNICIPAL CODE**

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

Section 19.51.080 of Chapter 19.51 of the Whitewater Municipal Code is hereby amended to read as follows:

Section 19.51.080: Front and side yard parking limitation. In all residential districts **with the exception of R-3 (Multifamily Residence District)**, unless otherwise allowed by a zoning permit, not more than three vehicles shall be parked **in the existing driveway or** in the required front or side yard area, except a legally established two-family dwelling may have no more than ~~six~~ **five** vehicles parking in the front and side yard area. In no case shall vehicles be parked closer than three feet to any abutting property line or on any lawn area.

In the R-3 Multifamily Residence District, unless otherwise allowed by a zoning permit, not more than five vehicles shall be parked in the existing driveway or required front or side yard. In no case in this zoning district shall vehicles be parked closer than three feet to any abutting property line or on any lawn area.

Ordinance introduced by Councilmember Binnie who moved its adoption. Seconded by Councilmember Taylor. AYES: Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: Nosek. ABSENT: Stauffer.

Kevin M Brunner

Michele R Smith

FIRST READING AMENDING CHAPTER 5.19 TO DELETE PERMIT FEES FOR SIDEWALK CAFÉ PERMIT.

ORDINANCE AMENDING CHAPTER 5.19 TO DELETE APPLICATION AND RENEWAL FEES FOR SIDEWALK CAFÉ PERMIT

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

Section 1: Whitewater Municipal Code, Chapter 5.19, subsection E, Permit Fees, shall be amended to read as follows:

E. Permit fees.

There shall be no application fee or renewal of permit fee for sidewalk café permits.

Ordinance introduced by Councilmember Taylor, who moved its adoption. Seconded by Councilmember Kienbaum. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer. FIRST READING APPROVED: October 21, 2008.

Kevin M Brunner

Michele R Smith

SECOND READING AMENDING CHAPTER 5.20 TO ALLOW ISSUANCE OF CLASS C WINE LICENSES. .

AN ORDINANCE AMENDING CHAPTER 5.20 ALCOHOLIC BEVERAGES

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

SECTION 1: Whitewater Municipal Code Chapter 5.20 section 5.20.012 is hereby created to read as follows:

5.20.012 “Class C” Licenses Authorized. The City of Whitewater is hereby authorized to issue “Class C” wine licenses, which shall authorize the retail sale of wine by the glass or in an open original container for consumption on the premises where sold. A “Class C” license may be issued to a person qualified under Wis. Stat. 125.04(5) for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom or for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. “Class C” license holders shall abide by the terms of Wis. Stats 125.51 (3m) and any amendments thereto. In this section a barroom means a room that is primarily used for the sale or consumption of alcohol beverages.

SECTION 2: Whitewater Municipal Code Chapter 5.20 section 5.20.060 license fees is hereby amended by adding (5) “Class C”—wine license \$100.

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

Ordinance introduced by Councilmember Nosek, who moved its adoption. Seconded by Councilmember Binnie. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer. ADOPTED: October 21, 2008.

SECOND READING CREATING CHAPTER 16.20 STORM SEWER ILLICIT DISCHARGE AND CONNECTION ORDINANCE.

ORDINANCE CREATING CHAPTER 16.20

STORM SEWER ILLICIT DISCHARGE AND CONNECTION ORDINANCE

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

Whitewater Municipal Code Chapter 16.20 is hereby created to read as follows:

- Sec. 16.20.10 Purpose and Intent.
- Sec. 16.20.20 Definitions
- Sec. 16.20.30 Applicability
- Sec. 16.20.40 Responsibility for Administration
- Sec. 16.20.50 Compatibility with other regulations
- Sec. 16.20.60 Severability
- Sec. 16.20.70 Ultimate responsibility
- Sec. 16.20.80 Discharge prohibitions

Sec. 16.20.90 Watercourse protection

Sec. 16.20.100 Compliance monitoring

Sec. 16.20.110 Requirements to prevent, control and reduce storm water pollutants by use of best management practices

Sec. 16.20.120 Notification of spills

Sec. 16.20.130 Violations, enforcement, and penalties

Sec. 16.20.140 Appeals

Sec. 16.20.150 Enforcement measures after appeal

Sec. 16.20.160 Cost of abatement of the violation

Sec. 16.20.170 Violations deemed a public nuisance

Sec. 16.20.180 Remedies not exclusive

SECTION 16.20.10. PURPOSE AND INTENT.

The purpose of this ordinance is to provide for the health, safety, environment and general welfare of the citizens of the City of Whitewater through the regulation of non-storm water discharges into waters of the state or the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into waters of the state or the MS4 in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants into waters of the state or the MS4 by storm water discharges by any user.
- (2) To prohibit illicit connections and discharges into waters of the state or the MS4.
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

SECTION 16.20.20. DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency. Employees or designees of the Director of Public Works.

Best Management Practices (BMPs). Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters

of the state.

Construction Activity. Activities subject to the City of Whitewater construction permits per Construction Site Erosion Control Zoning Ordinance or WPDES construction permits per NR 216 and ch. 283, Wis. Stats.

Contaminated storm water. Storm water that comes into contact with material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts or industrial machinery in the source areas listed in NR 216.

Department (DNR). The Wisconsin Department of Natural Resources.

Discharge. As defined in ch. 283, Wis. Stats., when used without qualification includes a discharge of any pollutant.

Discharge of pollutant or discharge of pollutants. As defined in ch. 283, Wis. Stats. means any addition of any pollutant to the waters of this state from any point source.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit Discharge. Any discharge into waters of the state or the municipal separate storm sewer system that is not composed entirely of storm water. Non-storm water discharges that are not considered illicit discharges include water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, fire fighting, and discharges authorized under a WPDES permit unless identified by the Director of Public Works as a significant source of pollutants to waters of the state.

Illicit Connections. An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter waters of the state or the MS4 including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter waters of the state or the MS4 and any connections to waters of the state or the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to waters of the state or the MS4 which has not been documented in plans, maps, or equivalent records and

approved by an authorized enforcement agency.

Industrial Activity. Activities subject to WPDES Industrial Permits per NR 216 and ch. 283, Wis. Stats.

Maximum Extent Practicable (MEP). A level of implementing management practices in order to achieve a performance standard or other goal which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features.

Municipality. Any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district or any other public entity created pursuant to law and having authority to collect, treat or dispose of sewage, industrial wastes, storm water or other wastes.

Municipal Separate Storm Sewer System (MS4). As defined in Wisconsin Administrative Code NR 216, means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all the following criteria:

- (a) Owned or operated by a municipality.
- (b) Designed or used for collecting or conveying storm water.
- (c) Which is not a combined sewer conveying both sanitary and storm water.
- (d) Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.

Non-Storm Water Discharge. Any discharge to the MS4 that is not composed entirely of storm water.

Owner. Any person holding fee title, an easement or other interest in property.

Outfall. The point at which storm water is discharged to waters of the state or to a storm sewer.

Person. An individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.

Pollutant. As defined in ch. 283, Wis. Stats., means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution. As defined in ch. 283, Wis. Stats., means any man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

Pollution prevention. Taking measures to eliminate or reduce pollution.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Water. Runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.

Storm Water Management Plan / Storm Water Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to waters of the state or the MS4 to the Maximum Extent Practicable.

Wastewater. Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

Watercourse. A natural or artificial channel through which water flows. These channels include: all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils maps in the NRCS soils book for Walworth and Jefferson Counties, all channels identified on the site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.

Waters of the state. As defined in ch. 283, Wis. Stats., means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

Wisconsin Pollutant Discharge Elimination System (WPDES) Storm Water Discharge Permit. A Wisconsin pollutant discharge elimination system permit issued pursuant to Wisconsin Statute

SECTION 16.20.30. APPLICABILITY.

This ordinance shall apply to all water and discharges entering waters of the state or the MS4 generated on any lands unless explicitly exempted by the Director of Public Works.

SECTION 16.20.40. RESPONSIBILITY FOR ADMINISTRATION.

The Director of Public Works shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the Director of Public Works may be delegated in writing by the Director of Public Works to persons or entities acting in the beneficial interest of or in the employ of the agency.

SECTION 16.20.50. COMPATIBILITY WITH OTHER REGULATIONS.

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

SECTION 16.20.60. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

SECTION 16.20.70. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

SECTION 16.20.80. DISCHARGE PROHIBITIONS.

a. Prohibition of Illicit Discharges.

No person shall throw, dump, spill, drain, or otherwise discharge, cause, or allow others under its control to throw, dump, spill, drain, or otherwise discharge into waters of the state or the MS4 any pollutants or waters containing any pollutants, other than storm water.

b. Allowed Discharges.

- (1) Water line flushing, landscape irrigation, diverted stream flows, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and discharges authorized under a WPDES permit unless identified by the Director of Public Works as a significant source of pollutants to waters of the state.
- (2) Discharges or flow from firefighting, and other discharges specified in writing by the Director of Public Works as being necessary to protect public health and safety.
- (3) Discharges associated with dye testing, however this activity requires a verbal notification to the Director of Public Works and the Department of Natural Resources a minimum of one business day prior to the time of the test.
- (4) Any non-storm water discharges permitted under a construction activity permit, industrial

activity permit, or WPDES permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Director of Public Works prior to allowing discharges to waters of the state or the MS4.

c. Prohibition of Illicit Connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to waters of the state or the MS4 is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to waters of the state or the MS4, or allows such a connection to continue.
- (4) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Director of Public Works.
- (5) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to waters of the state or the MS4, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Director of Public Works requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Director of Public Works.

SECTION 16.20.90. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of soil erosion, trash, debris, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

SECTION 16.20.100. COMPLIANCE MONITORING.

a. Right of Entry: Inspecting and Sampling.

The Director of Public Works shall be permitted to enter and inspect properties and facilities

subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

- (1) If a property or facility has security measures in force which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to representatives of the Director of Public Works.
- (2) Facility owners and operators shall allow the Director of Public Works ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.
- (3) The Director of Public Works shall have the right to set up on any property or facility such devices as are necessary in the opinion of the Director of Public Works to conduct monitoring and/or sampling of the facility's storm water discharge.
- (4) The Director of Public Works has the right to require the owner or operator to install monitoring equipment as necessary, and make the monitoring data available to the Director of Public Works. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Director of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (6) Unreasonable delays in allowing the Director of Public Works access to a facility is a violation of this ordinance. A person who is the operator of a facility commits an offense if the person denies the Director of Public Works reasonable access to the facility for the purpose of conducting any activity authorized or required by this ordinance.

b. Special Inspection Warrant.

If the Director of Public Works has been refused access to any part of the premises from which storm water is discharged, and the Director of Public Works is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Director of Public Works may seek issuance of a special inspection warrant per s. 66.0119, Wis. Stats.

SECTION 16.20.110. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The owner or operator of any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into waters of the state or the MS4 through the use of structural and non-structural BMPs. Further, any person responsible for a property or premise, that is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to waters of the state or the MS4. Compliance with all terms and conditions of a valid permit authorizing the discharge of storm water associated with industrial activity or construction activity, to the maximum extent practicable, shall be deemed compliance with the provisions of this section.

SECTION 16.20.120. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which is resulting or may result in illicit discharges or pollutants discharging into storm water, the MS4, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release, so as to minimize the impacts of the discharge.

In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services, and shall also notify the Director of Public Works. In the event of a release of non-hazardous materials, said person shall notify the Director of Public Works in person or by phone, e-mail or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director of Public Works within 3 business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 5 years.

Failure to provide notification of a release as provided above is a violation of this ordinance.

SECTION 16.20.130. VIOLATIONS, ENFORCEMENT, AND PENALTIES.

a. Violations.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.

In the event the violation constitutes an immediate danger to public health or public safety, the

Director of Public Works is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation. The Director of Public Works is authorized to seek costs of the abatement as outlined in Section 16.20.160.

b. Warning Notice.

When the Director of Public Works finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the Director of Public Works may serve upon that person a verbal or written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in the subsection shall limit the authority of the Director of Public Works to take action, including emergency action or any other enforcement action without first issuing a Warning Notice.

c. Notice of Violation.

Whenever the Director of Public Works finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the Director of Public Works may order compliance by written notice of violation to the responsible person.

The Notice of Violation shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the Director of Public Works by filing a written notice of appeal within 5 business days of service of notice of violation; and
- (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, representatives of the Director of Public Works may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Director of Public Works may go on the land and commence the work after

issuing the notice of intent. The Director of Public Works is authorized to seek costs of the abatement as outlined in Section 16.20.160.

Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of BMPs.

13.4. Suspension of MS4 Access.

d. Emergency Cease and Desist Orders

When the Director of Public Works finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the state which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Director of Public Works may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- (1) Immediately comply with all ordinance requirements; and
- (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Director of Public Works may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the state, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Director of Public Works may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Director of Public Works that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance.

A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Director of Public Works within 30 days of receipt of the Notice of Violation.

e. Suspension due to Illicit Discharges in Emergency Situations

The Director of Public Works may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the state. If the violator fails to comply with a suspension order issued in an emergency, the Director of Public Works may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the state, or to minimize danger to persons.

f. Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Director of Public Works will notify a violator of the proposed termination of its MS4 access.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Director of Public Works.

g. Prosecution and Penalties.

Any person violating any provision of this ordinance shall be subject to a forfeiture of not less than \$25.00 nor more than \$1000.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

The Director of Public Works may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, river bank cleanup, etc. Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

SECTION 16.20.140. APPEALS.

a. Board of Appeals.

The board of appeals created pursuant to Chapter 19.72 of City of Whitewater ordinance enacted pursuant to 62.23(7)(e), Wis. Stats.:

- (1) Shall hear and decide appeals where it is alleged that there is error in any order, decision

or determination made by the Director of Public Works in administering this ordinance except for cease and desist orders obtained under Section 16.20.120(d).

(2) Upon appeal, may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and shall use rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

b. Who May Appeal.

Appeals to the board of appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the City of Whitewater affected by any decision of the Director of Public Works.

SECTION 16.20.150. ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, the appropriate authority upheld the decision of the Director of Public Works, then representatives of the Director of Public Works may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Director of Public Works may go on the land and commence the work after issuing the notice of intent. The Director of Public Works is authorized to seek costs of abatement as outlined in Section 16.20.160. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

SECTION 16.20.160. COST OF ABATEMENT OF THE VIOLATION.

The costs of the work performed by the Director of Public Works pursuant to this ordinance, plus interest at the rate authorized by the City of Whitewater shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect it as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.

SECTION 16.20.170. VIOLATIONS DEEMED A PUBLIC NUISANCE.

Any condition in violation of any of the provisions of this ordinance and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.

SECTION 16.20.180. REMEDIES NOT EXCLUSIVE.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Director of Public Works to seek cumulative remedies.

The Director of Public Works may recover all attorney's fees, court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Ordinance introduced by Councilmember Nosek, who moved its adoption. Seconded by Councilmember Binnie. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer. ADOPTED: October 21, 2008.

SECOND READING AMENDING CHAPTER 1.21.010, SCHEDULE OF DEPOSITS, TO ADD FINES FOR ILLICIT DISCHARGE AND CONNECTION ORDINANCE.

**AN ORDINANCE AMENDING SECTION 1.21.010
SCHEDULE OF DEPOSITS**

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

SECTION 1: Whitewater Municipal Code Section 1.21.010 is hereby amended by adding the following:

<u>CHAPTER OR SECTION NUMBER</u>	<u>OFFENSE</u>	<u>DEPOSITS AND COSTS</u>
Chapter 16.20	Illicit discharge and Connection ordinance	1 st offense - \$250.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment
		2 nd offense within 1 year - \$350.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment
		3 rd offense within 1 year -\$500.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment

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

Ordinance introduced by Councilmember Nosek, who moved its adoption. Seconded by Councilmember Binnie. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer. ADOPTED: October 21, 2008.

CONSIDERATION OF PROPOSAL FOR RECOMMENDED IMPROVEMENTS AT WHITON AND MAIN AND COTTAGE AND MAIN STREETS AND POSSIBLE DIRECTION REGARDING MAIN STREET CORRIDOR PEDESTRIAN/TRAFFIC

STUDY IMPROVEMENTS. Brunner suggested that additional evaluation of the Main Street traffic corridor by Strand and Associates would be useful.

Luke Holman of Strand informed Council that it would be possible to get experimental approval for a "HAWK System" signal. There would then be research follow up for FHWA approval. What would need to be considered is how this signal applies to the Main Street corridor and combines with other signals. His recommendation was not to install the "HAWK" signal as it will slow traffic in the corridor. Strand would like to model the project even if the signal is considered.

Singer noted that traffic would slow considerably with the high volume of pedestrian traffic at busy times of the day.

Binnie suggested that the current warning lights should have had a traffic study. Response to citizen pressure is leading to improper procedure for decisions concerning the corridor. He stated that he is not concerned about the liability issue, the area needs study. Having three different types of traffic control in such close proximity to each other is not a good idea. He asked if the study showed no need for a light at the Main/Whiton intersection would Council approve it all the same. The consensus was that they probably would. He continued by asking if there might then be a light at the Cottage/Main intersection also.

Stewart stated that a traffic signal was approved at the last meeting with no study, now Council is being asked to approve a long study. Holman responded that Strand would be looking into other ideas to apply to the corridor. He told Council that the study would take 45 days and cost \$6,000.

Binnie and Nosek agreed that the "HAWK System" signal should still be considered as it would only be used during peak times versus a traffic signal which cycles all day and all night.

Harriet Kaluva (570 S Clark Street) stated that the buttons on the crossing signals are too hard to push for some of the handicapped and that students are still having a hard time getting across the street. Singer asked if the current and planned signals are ADA compliant. Holman indicated that they are.

Binnie moved to approve a Main Street corridor traffic analysis by Strand and Associates costing \$6,000 to be paid for with any funds that may be available from the University and the City contingency fund. Taylor seconded. AYES: Taylor, Nosek, Binnie, Singer, Stewart. NOES: Kienbaum. ABSENT: Stauffer.

Nosek wished to present three motions concerning the Main Street traffic corridor. The first was to have Council direct the Chief of Police to initiate more traffic and pedestrian enforcement. Police Chief Coan stated that enforcement would always be subject to staffing and manpower availability. He added that the UW would be lowering enforcement in the area soon. Coan indicated that there are other reasons for incidents than speed and there is not always a relationship between severity of an incident and speed.

CA-A

Binnie and Taylor agreed that there is not enough focus on the area and that yielding is the problem. Kaluva replied that speed is always a factor and the speed limit should be lowered and enforced to “save a life”.

Stewart stated that he would not be in favor of this type of enforcement as it is not even-handed. Council should not make these choices for the Police Department.

It was moved by Nosek and seconded by Binnie to have Council direct the Chief of Police to initiate aggressive, yet reasonable enforcement of ordinances related to the posted speed limit, failure to yield to pedestrians and jaywalking, with primary focus directed to the University corridor between Franklin and Tratt Streets. AYES: Nosek, Binnie. NOES: Taylor, Singer, Kienbaum, Stewart. ABSENT: Stauffer.

It was moved by Nosek that the Police Department and the City Administration study and then recommend for consideration to the City Council a plan to help reduce the traffic on Main Street in the University corridor between Prairie and Prince Streets that would include but not be limited to the restriction of parking on Prairie, Cottage, Whiton and Prince Streets south of Main Street during normal, peak class hours (possibly 7:30 AM to 4:30 PM. There was no second and the motion failed.

It was moved by Nosek that the City of Whitewater and the University of Wisconsin-Whitewater enter a cooperative, comprehensive planning process to consider policies that would result in lowering the volume of traffic on Main Street in the university corridor in hopes of creating a safer pedestrian environment there. There was no second and the motion failed.

AGREEMENT BETWEEN THE CITY OF WHITEWATER, ANA RODRIGUEZ (RODRIGUEZ PROPERTIES III) AND BULLDOG INVESTMENTS AS OWNER AND LAND CONTRACT VENDOR, FOR THE CITY TO PAY FOR REPAIRS AND PAINTING (IN LIEU OF PURSUING AN ACTION UNDER THE HOUSING MAINTENANCE CODE CHAPTER 14.05.420), OF 161 W. MAIN STREET IN RETURN FOR AN AGREEMENT THAT THE COSTS PAID BY THE CITY WILL BECOME A SPECIAL CHARGE AGAINST THE PROPERTY (SIMILAR TO A SPECIAL ASSESSMENT) AND SHALL BE A LIEN AGAINST THE PROPERTY. This consideration was pulled from the agenda prior to the meeting.

AMBULANCE BILLING CONTRACT. It was moved by Nosek and seconded by Binnie to approve the ambulance billing contract with American Accounts & Advisors, Inc. for the bid amount of 7% of monies collected.. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer.

APPROVAL OF SMALL ANIMAL COLLECTION CONTRACT WITH THE HUMANE SOCIETY OF JEFFERSON COUNTY. It was moved by Nosek and seconded by Binnie to approve the small animal collection contract with the Humane Society of Jefferson County for \$1,877.51. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer.

REQUEST FOR APPROVAL OF SUBMISSION OF GRANT APPLICATION FOR SHARED RIDE TAXI.

It was moved by Nosek and seconded by Binnie to approve submission of a grant application for shared ride taxi service. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer.

APPROVAL OF \$312,628 BORROWING TO FINANCE UPGRADES TO COMMUNICATIONS CENTER, 911 BATTERY BACKUP AND SIREN UPGRADE.

It was moved by Binnie and seconded by Nosek to approve borrowing of \$312,628 for the purpose of financing upgrades to the police communications center, 911 battery backup and siren upgrade. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: Stauffer.

REVIEW OF PROPOSED 2009 GENERAL FUND BUDGET REVENUES/DEBT SERVICES/TRANSFERS/AND SPECIAL REVENUE FUNDS.

The review will take place at the October 28 special meeting.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS. Nosek requested a discussion of cell phone use while driving in the city.

ADJOURN. It was moved by Taylor and seconded by Stewart to adjourn the meeting. The meeting was adjourned at 9:15 pm.

Respectfully Submitted,

Nancy Stanford
Administrative Assistant

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

December 2, 2008

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Taylor, Nosek, Binnie, Singer, Kienbaum, MEMBERS ABSENT: Stauffer, Stewart. It was moved by Binnie and seconded by Nosek to approve the Council minutes of November 6, 2008; November 11, 2008; and November 18, 2008; and to acknowledge receipt and filing of the Park and Recreation Board Minutes of 10/6/2008; the Plan Commission Minutes of 9/15/2008; and the Landmarks Commission Minutes of 9/3/2008 and 10/1/2008. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stauffer, Stewart.

APPROVAL OF PAYMENT OF INVOICES. It was moved by Binnie and seconded by Nosek to approve payment of city invoices in the total sum of \$124,137.70. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stauffer, Stewart.

STAFF REPORTS. CDA Coordinator Nimm reported that their Housing Loan Program has resulted in five applications this year, two of which have closed, and three of which are pending.

HEARING OF CITIZEN COMMENTS: None.

COMMON COUNCIL ANNOUNCEMENTS. Councilmember Singer announced that Plan Commission may have a special meeting on December 15th relating to neighborhood preservation. Councilmember Kienbaum indicated she has been approached by citizens concerned about the economic problems being experienced in the State. She feels that now is not the time to plan large projects; she believes we should wait until we know where we stand. Councilmember Taylor wished the Whitewater Football team good luck in their third round playoff.

2008 BUDGET TRANSFER RESOLUTION NO. 6. Adjustment to the 2008 budget was necessary to cover additional cost of Presidential election expenses; unexpected repairs to equipment, FEMA grant expenses for Whitewater Creek Clean up, Dispatch Center Upgrade, additional fuel expenses, and to recognize partial payment from the DNR towards a Stormwater Utility. Saubert explained that this budget transfer resolution recognizes the anticipated cost for the Whitewater Creek cleanup, which Saubert believes is less. Councilmember Nosek would be interested in seeing total cost figures and to know whether the City met the threshold and the ultimate cost to the City.

2008
BUDGET TRANSFER RESOLUTION VI

WHEREAS, the Common Council of the City of Whitewater adopted the Budget Resolution for 2008 on November 20, 2007, setting forth the detailed estimates of revenues and expenditures required for the various purposes performed by the City,

AND WHEREAS, certain accounts have demonstrated a need for additional funds to adequately perform the service,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Whitewater that the following budget changes are authorized:

1) EXPENDITURES:

Increase

General Fund #100

General Administration

Election Inspectors	100.51400.116	\$ 1,800.00
Operating Supplies	100.51400.340	\$11,000.00

Decrease

Contingencies	100.51110.910	\$12,800.00
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To adjust for additional cost of Presidential election expenses. \$10,000 of campus related election expenses were offset by the University (Revenue 100.43540.52).

2) EXPENDITURES:

Increase

General Fund #100

Fire Department

Repair/Maintenance Vehicles	100.52200.241	\$10,600.00
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Decrease

Contingencies	100.51110.910	\$10,600.00
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To adjust for unexpected major repairs to the 1990 Grummen Ariel-Unit 1250. The hydraulic pump failed and had to be replaced at a cost of \$9,675. Also replaced the windshield on unit 1220- 1996 HME Pumper-at a cost of \$925.

3) EXPENDITURES:

Increase

General Fund #100

Park Maintenance

FEMA-WW Creek Cleanup	100.53270.824	\$79,200.00
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Decrease

Contingencies	100.51110.910	\$ 9,900.00
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REVENUES:

Increase

Intergovernmental		
Fed/State Grants-Reimbursement	100.43510.00	\$69,300.00

To adjust for the FEMA Grant/Expenses for the cleanup of Whitewater Creek. City match is 12.5% of the expenses. Approved by City Council on September 16, 2008.

4) EXPENDITURES:

Increase

Governmental Equipment Fund #217

Communications/Dispatch

Dispatch Center Upgrade	217.52600.812	\$
	318,668.00	

REVENUES:

Increase

Governmental Equipment Fund #217

Other Financing Sources

Note Payable-First Citizens	217.49120.52	
	\$312,628.00	

Fund Balance applied	217.49300.52	\$ 6,040.00
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To adjust for the Dispatch Center Upgrade (includes Equipment/Remodeling) that was approved at the October 21, 2008 Council Meeting. A borrowing of \$312,628 was approved to finance the Dispatch Center Upgrade, UPS Battery Backup for the 9-1-1 System, and Emergency Siren Upgrades. The University of Wisconsin-Whitewater contributed \$75,000 towards the upgrades.

5) REVENUES:

Increase

General Fund #100

Intergovernmental Revenue

Stormwater Grant-State	100.43522.63	\$34,350.00
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Decrease

Fund Balance Applied	100.49300.00	\$34,350.00
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To recognize partial payment from the State of Wisconsin-DNR for the establishment of the Stormwater Utility. The General Fund (in 2007) paid the total expenses to establish the Stormwater Utility

6) EXPENDITURES:

Increase

General Fund #100

Fuel Exp-Variou Departments

Fire Department	100.52200.351	\$ 1,706.00
Rescue Service	100.52300.351	\$ 4,500.00
Street Maintenance	100.53300.351	\$10,000.00
Snow & Ice	100.53200.351	\$10,000.00

Decrease

Contingencies	100.51110.910	\$26,206.00
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Transfer from Contingencies to cover additional fuel expenses in various departments due to the high cost of fuel/usage for the first 9 months of 2008. The contingencies account has been taken down to zero with this transfer. I was unable to cover the additional fuel expenses for all General Fund departments.

7) REVENUES:

Increase

General Fund #100

Intergovernmental

University-Reimbursement	100.43540.52	\$14,000.00
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Decrease

Fund Balance Applied	100.49300.00	\$14,000.00
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To adjust for \$14,000 billing to the University for a Stormwater Management Quality Plan. Expenses were incurred and paid in July, 2007. Strand Engineering performed the work. Expenses were paid by the General Fund.

8) EQUITY:

Decrease

Residual Equity Transfer

Property Escrow Fund #265	265.34301	\$ 211.07
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Energy Mgmt/Capital Serv Fund #275	275.34301	\$ 6,692.87
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S.W.I.M. Complex Fund #455	455.34301	\$ 3,719.92
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Starin Park Master Plan Fund #457	457.34301	\$ 794.68
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Park & North St. Recon. Fund #468	468.34301	\$ 3,594.19
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Caine/Gault/Clark Recon. Fund #470	470.34301	\$62,140.77
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Increase

General Fund	100.34301	\$ 6,903.94
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Capital Proj-LSP-Gross	450.34301	\$70,249.56
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To formally close-out the above funds and transfer the remaining cash balances into the General Fund #100 (Property Escrow #265 & Energy Management #275). Total equals \$6,903.94 and the Capital Projects-LSP-Gross #450 (S.W.I.M. #455, Starin Park Master Plan #457, Park & North Reconstruction #468, Caine, Gault, Clark St. Reconstruction #470) equals \$70,249.56.

The funds are closed out to the fund which originally provided the funding for the projects.

9) EXPENDITURES:

Increase

Newcomb/Milw St Intersection

Design/Engineering	454.57500.821	\$10,000.00
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REVENUES:

Transfer In	454.43355.57	\$10,000.00
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EXPENDITURES:

CIP-LSP Fund #450

<i>Increase</i>		
Transfer Out	450.57500.650	\$10,000.00
REVENUES:		
Fund Balance Applied	450.49300.57	\$10,000.00

To transfer \$10,000 from CIP-LSP Fund #450 to Newcomb/Milwaukee Intersection Fund #454 to cover engineering expenses.

10) EXPENDITURES:

<i>Increase</i>		
<u>Rescue Squad Equipment Fund #810</u>		
Life Saving Equip. Outlay	810.52280.810	\$59,100.00
REVENUES:		
Fund Balance Applied	810.49300.52	\$59,100.00

To recognize the purchase of 4 12-lead monitors for the Rescue Squad. Purchase was made out of the Rescue Squad Equipment Fund #810 (Hospital Fund). Units will be placed in each ambulance.

IT IS FURTHER RESOLVED that no changes are made to the tax levy as originally made, and these changes represent shifts in income or expenditures actually experienced or anticipated.

Resolution introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Nosek. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stauffer, Stewart. ADOPTED: December 2, 2008

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

MORATORIUM ON REQUESTS TO CHANGE ZONING TO R-2 OR R-3.

Councilmember Nosek expressed concerns about the loss of single family residences and the decline of some neighborhoods. Nosek cited the recent rezone of the Tratt Street area. Several councilmembers were concerned about any negative effect the moratorium could have on Lindsey Court residents. "Upzoning" has occurred around them and there is discussion among some of the Lindsey Court residents about requesting a rezone. Some of them would then sell their properties. Nosek requested adoption of a moratorium until such time as a committee could review the problem of zoning and declining neighborhoods and make some recommendations to deal with the problem. Councilmember Kienbaum does not agree that Tratt Street has failed. She noted that there are many areas in the City that look worse. Attorney Mitchell Simon announced that he is working with that neighborhood and they are in the process of filing their petition for rezone to R-3. Simon has concerns that adoption of the Resolution would hurt his clients. It was moved by Nosek and seconded by Binnie to adopt the Resolution with the understanding that the Lindsey Court neighborhood would be excluded from the moratorium. It was then moved by Taylor and seconded by Kienbaum to amend the Resolution to add language prohibiting R-3 properties from being rezoned to R-1 (to

prevent the loss of multi-family housing). All motions were withdrawn and it was agreed to revisit this subject at the December 16th council meeting.

FIRST READING OF ORDINANCE REQUIRING THAT ALL BOARD AND COMMISSION MEMBERS TAKE AN OATH OF OFFICE. Councilmember Taylor thought it would be prudent for all Board & Commission members to take an Oath of Office. Councilmember Nosek felt the ordinance was not necessary.

AN ORDINANCE REQUIRING OATH OF OFFICE FOR OFFICERS, BOARD AND COMMITTEE MEMBERS.

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

SECTION 1: Whitewater Municipal Code Chapter 1.16, Section 1.16.065 is hereby created to read as follows:

1.16.065 Oath of Office Required.

Every person elected or appointed to an office or position on a board or committee in the City of Whitewater shall take an oath swearing that he or she will support the Constitution of the United States, the Constitution of the State of Wisconsin, the Ordinances of the City of Whitewater, and will fairly and impartially discharge the duties of said office or position to the best of their ability so help them God.

Ordinance introduced by Councilmember Singer who moved its adoption. Seconded by Councilmember Kienbaum. AYES: Taylor, Binnie, Singer, Kienbaum. NOES: Nosek. ABSENT: Stauffer, Stewart. First Reading Approved: 12/2/2008.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AMENDING TITLE 11 REGARDING HANDICAPPED PARKING, GENERAL PARKING FORFEITURE AMOUNTS AND OTHER PARKING REGULATIONS.

During the budget process, it was recommended that parking fines be increased from \$10 to \$20 and that the fine for unauthorized parking in a Handicapped Parking stall increase from \$50 to \$80. Councilmember Singer requested that the proposed ordinance subjects be split as he felt there were separate issues listed in the ordinance. City Manager Brunner stated that the University charges a parking penalty of \$25. Councilmember Taylor opposes the parking fine increase, stating that instead of using fine increases to subsidize the city budget, other things could have been cut. It was moved by Taylor and seconded by Kienbaum to amend the ordinance to change the fine from the proposed \$20 to \$15. AYES: Taylor, Singer, Kienbaum. NOES: Nosek, Binnie. It was then moved by Binnie and seconded by Nosek to postpone action on the ordinance until the 12/16/2008 council meeting. AYES: Nosek, Binnie, Singer. NOES: Kienbaum, Taylor.

AMENDING CHAPTER 11.12, ARTERIAL HIGHWAYS AND ONE-WAY STREETS.

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

CORPORATE DRIVE Eastbound at Howard Road

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

Ordinance introduced by Councilmember Binnie, who moved its adoption.

Seconded by Councilmember Nosek. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stauffer, Stewart. First Reading Approved: 12/2/2008.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AMENDING CHAPTER 7.62 REGARDING "LOITERING". The existing loitering ordinance has a typographical error as it refers to 12:00 "p.m." instead of 12:00 "a.m."

AN ORDINANCE AMENDING CHAPTER 7.62.010 "LOITERING – HOURS PROHIBITED"

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

SECTION 1. Whitewater Municipal Code Section 7.62.010, "Loitering – Hours Prohibited, is amended to read as follows:

7.62.010 Loitering – Hours prohibited. No minor person under the age of eighteen years shall loiter, idle, wander or play, either on foot or in a vehicle of any nature whatsoever, upon the streets, alleys, highways, roads, sidewalks, parks, playground, public grounds, vacant lots or other unsupervised places of the City between the hours of eleven p.m. Sunday through Thursday and four a.m. of the following day, and the hours of twelve a.m. and four a.m. on Saturday and Sunday, unless accompanied by a parent, guardian or other adult person having care and custody of the minor, provided, however, that this section shall not apply to minors while they are returning home from functions authorized by the governing body of any public or parochial school, a church in the City, and while such return is being made by the shortest and most direct route and as fast as reasonably possible under the circumstances. This section shall not apply to minors returning home from work, provided that any such minor shall carry a pass issued by the

Chief of Police, and shall be returning home by the shortest and most direct route and as fast as reasonably possible under the circumstances. This section shall not apply to minors who are attending or traveling to or from any constitutionally protected expressive activity.

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

Ordinance introduced by Councilmember Binnie, who moved its adoption. Seconded by Councilmember Nosek. Ayes: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stauffer, Stewart. First Reading Approved: 12/2/2008.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AMENDING CH. 1.21.010 TO INCREASE BOND PENALTIES FOR HANDICAPPED PARKING VIOLATIONS. It was moved by Binnie and seconded by Nosek to postpone action on this matter until the 12/16/2008 council meeting. AYES: Nosek, Binnie, Singer. NOES: Kienbaum, Taylor. ABSENT: Stauffer, Stewart.

WHITEWATER AQUATIC CENTER. Park and Recreation Director Amundson stated that Mercy and the Whitewater Aquatic Center are parting ways. The Aquatic Board is resuming operating of the facility effective January 1. Members and users will see no operational change. The Board commitment is to break even on costs.

APPROVAL OF CONTRACT FOR CITY LEGAL SERVICES. An employment agreement between City Attorney Wallace McDonell and the City was presented for approval. City Manager Brunner asked that the language at item 1.2 be changed so that the City Attorney be under the direction of the Manager instead of the Manager and the Common Council. Compensation is \$50,000 per year, and effective in 2010, the employee shall receive salary increases consistent with the across-the-board percentage wage increases granted to all other salaried employees. The contract does not provide for vacation, sick leave, special leave, or longevity pay benefits. It was moved by Singer and seconded by Taylor to approve the contract as presented. It was then moved by Nosek and seconded by Binnie to amend the contract to specify that the position is under the direction of the City Manager and not the Council. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. Motion amended. A vote was then taken on the original motion, to approve the contract, now amended to include language that the City Attorney shall be under the direction of the City Manager. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart, Stauffer.

APPROVAL OF AGREEMENT WITH RAY & LEAH BRITSON REGARDING REPLICA OF DORR-ENGBRETSON HOUSE (622 W. Main Street). Ray and Leah Britson wish to donate a replica of the historic Engebretson-Dorr house to Whitewater for the purpose of public display and enjoyment. A formal agreement was presented verifying that the City accepts the donation and will retain ownership of it. If the City ever decides it no longer wants the replica, it shall offer to return the it to the

Britsons. The City may allow other parties to take custody and control of the replica house if they enter into an agreement with that third party providing that the house will be properly maintained and displayed. It was moved by Nosek and seconded by Taylor to approve the Agreement for Donation with the Britsons. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart, Stauffer.

APPROVAL OF CONTRACT WITH STRAND ASSOCIATES FOR ENGINEERING SERVICES FOR WHITEWATER UNIVERSITY TECHNOLOGY PARK. It was moved by Binnie and seconded by Nosek to approve an engineering agreement with Strand Associates, in a sum not to exceed \$155,700, to provide engineering services for the Whitewater University Technology Park, contingent upon Community Development Authority approval of the same. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart, Stauffer.

APPOINTMENT OF CITIZEN MEMBER TO TREE COMMISSION. The Nominations Committee recommended appointment of Kristine Zaballos to fill the open position on Tree Commission. It was moved by Binnie and seconded by Nosek to approve the appointment as recommended. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stauffer, Stewart. Motion carried by unanimous consent agenda roll call vote.

APPROVAL OF CONTRACT WITH STRAND ASSOCIATES FOR N. FIRST ST., NORTH ST., AND FIRST STREET PARKING LOT CONSTRUCTION. DPW Director Fischer requested approval of a contract with Strand Associates for a sum not to exceed \$81,200 to complete engineering work on the N. First St., North Street, and First Street parking lot reconstruction. The project construction cost is estimated at \$750,000, including engineering and contingencies. The project will be funded by TIF 4, as well as the Water and Wastewater Utility budgets. It was moved by Nosek and seconded by Binnie to approve the engineering services agreement with Strand, for a sum not to exceed \$81,200. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stewart, Stauffer

DOWNTOWN EASTGATE PROJECT. City Manager Brunner stated that he has tried to address public comments and concerns expressed by those with businesses at the Eastgate project location (intersection of Wisconsin, Milwaukee and Main Streets). Brunner stated that the project is slated for completion in 2010 and will round the corner at Main and Milwaukee to improve truck flow. A median will be installed in a portion of the intersection, and there will be a new concrete panel installed at the railroad crossing. Safety gates and new lights are expected, too. It was noted that Wisconsin & Southern Railroad is looking to replace the bridge as a 2009 project. Donna Henry, owner of the buildings at the corner of Milwaukee and E. Main, expressed concerns over the proposed plan. In particular, the ingress / egress planned for her properties will create hardships for customers to access the business. It was noted that customers coming from the west will have to drive "around the block" in order to access the businesses. Henry is concerned about the effects this would have on the businesses. Business tenants Lisa Berglin and Barb Harrington expressed the same concerns about the proposal.

Councilmember Roy Nosek said that this intersection is fraught with problems. He said that at some point a decision is going to have to be made. City Manager Brunner stated that he will meet with the neighbors again in an attempt to resolve some of the concerns. The subject will be back to the Council at a later date.

APPROVAL OF CONTRACT FOR ENGINEERING SERVICES FOR DOWNTOWN EASTGATE PROJECT. Pending an opportunity to review the project plan, approval of the engineering services contract will be brought back to Council the first meeting in January.

APPROVAL OF CONTRACT WITH STRAND ASSOCIATES FOR ENGINEERING SERVICES FOR MUNICIPAL PARKING LOT EXPANSION. DPW Director Fischer presented a plan to expand the parking lot across from City Hall, next to the Stone Stable. The project will add 25-26 stalls. Construction cost is estimated at approximately \$76,000, which does not include lighting or landscaping, which will be completed as separate projects by City staff members. The project will be funded by TIF 4. It was moved by Taylor and seconded by Binnie to approve a contract with Strand Associates, at a cost not to exceed \$14,400, for engineering services for the parking lot expansion. AYES: Taylor, Nosek, Binnie, Singer. NOES: Kienbaum. ABSENT: Stauffer, Stewart.

APPROVAL OF CONCEPT OF WHITEWATER STREET PROJECT. DPW Director Fischer stated that a Committee consisting of Dawn Hunter, John Patterson, Blake Scharine, Karen Coburn, Prue Negley, Jim Stewart plus City staff members met to discuss concepts for the Whitewater Street Project. The final concept expands the sidewalk area on the north side of Whitewater Street by four feet, from Fremont to Second Street. Also included is creation of stamped concrete crosswalks, similar to the intersection at the Fourth Street project, plus the construction of three bump outs in the park space (mirror bump outs in south portion of Cravath Lake Park). The project cost is approximately \$150,000. Councilmember Kienbaum expressed concern with this nonessential project being approved during such hard economic times. City Manager Brunner indicated that the project would be funded through TIF and that TIF monies must be expended by next year to be TIF eligible. It was moved by Taylor and seconded by Binnie to approve the Whitewater Street Project concept. AYES: Taylor, Nosek, Binnie, Singer. NOES: Kienbaum. ABSENT: Stauffer, Stewart.

APPROVAL TO PURCHASE A SKIDSTEER. The Department of Public Works is in need for a second, larger skidsteer unit. The DPW Equipment Replacement Fund was adjusted to allow the purchase of another skidsteer. Prices on used and demonstration units were obtained by Streets Superintendent Nass. It was moved by Taylor and seconded by Binnie to approve the purchase of a skidsteer unit from Bobcat of Janesville, Wisconsin, in the sum of \$28,185. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stauffer, Stewart. Motion carried by unanimous consent agenda roll call vote.

DISCUSSION REGARDING PARKING RESTRICTIONS IN FRONT AND SIDE YARDS OF RESIDENTIAL PROPERTY. Councilmember Singer noted that Council had referred the subject of limiting parking in side and front yards of property in R-3 zoned districts to Plan Commission. Singer feels there is some confusion as to what Plan Commission is to do. City Attorney McDonell stated that Neighborhood Services Director Parker recommended allowing up to five vehicles in front or side yards for those properties zoned R-3 (zoning allows up to five unrelated people to live in a residence). Neighborhood Services Director Parker stated that he's had some complaints and he would like to revisit this to be sure everyone is covered. Councilmember Nosek reminded Council that the ordinance was originally written to limit the number of cars in front and side yards to two, but recently was increased to three. Nosek is quite comfortable in letting this be discussed at the Plan Commission level and brought back. Further discussion will take place on this subject after Plan Commission reviews it further.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS.

Councilmember Binnie asked that discussion take place about Council's previous request that ordinances not be brought forth to Council until the entire Council has discussed the subject matter. Councilmember Binnie also suggested that Chapter 11 of the Municipal Code be revised. He specifically noted that the ordinance does not specify who is entitled to park in a handicapped stall. Councilmember Nosek asked that the recycling opportunities for multi-family housing be brought to Council. Councilmember Kienbaum stated that she would like the School Bus Company to come and explain their opinion of the amendments to the corner of Wisconsin Street, E. Main Street, and Milwaukee Street. She would also be interested in hearing the opinions of semi-truck drivers who use that intersection. Councilmember Taylor stated that he has been noticing some large bills for pizza being paid from city funds. He would like to know how much taxpayer money is being spent on food for city employees and under what circumstances does the City pay for food.

ADJOURNMENT. It was moved by Binnie and seconded by Taylor to adjourn the meeting. AYES: Taylor, Nosek, Binnie, Singer, Kienbaum. NOES: None. ABSENT: Stauffer, Stewart. The meeting adjourned at 9:30 p.m..

Respectfully submitted,

Michele R. Smith,
City Clerk

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
AMERICAN MILLWORK & HARDWARE					
1841	AMERICAN MILLWORK & HARDWARE	100200	GEN BLDG/OPERATING SUPPLIES	01/06/2009	130.13
			LIBRARY/BLDG MAINTENANCE		54.22
Total AMERICAN MILLWORK & HARDWARE					184.35
AT&T					
3917	AT&T	3917-1609	GEN BLDG/DAIN LINES	01/06/2009	68.14
Total AT&T					68.14
CARGILL INCORPORATED					
4331	CARGILL INCORPORATED	2397042	STREET/SALT	01/06/2009	2,885.16
		2399065	STREET/SALT	01/06/2009	2,825.49
Total CARGILL INCORPORATED					5,710.65
CARQUEST AUTO PARTS STORE					
21	CARQUEST AUTO PARTS STORE	21-010609	POLICE PATROL/VEHICLE MAINTENANCE	01/06/2009	52.66
			POLICE INV/VEHICLE REPAIRS		43.40
			CSO/VEHICLE REPAIRS		35.99
			STREET/REPAIR PARTS		3.14
			STREET/REPAIR PARTS		172.46
			CABLE/VAN REPAIR PARTS		28.12
			WASTEWATER/AUTO EXPENSE		39.54
Total CARQUEST AUTO PARTS STORE					375.31
DUJARDIN, MICHELLE					
4759	DUJARDIN, MICHELLE	REFUND	REC/NRPA MEMBERSHIP	01/06/2009	42.00
Total DUJARDIN, MICHELLE					42.00
GEN COMMUNICATIONS INC					
119	GEN COMMUNICATIONS INC	175251	RESCUE/AMBULANCE PORTABLES	01/06/2009	2,340.60
Total GEN COMMUNICATIONS INC					2,340.60
GOVERNMENT FINANCE OFFICER ASN					
464	GOVERNMENT FINANCE OFFICER ASN	0062001	FINANCE/2009 DUES	01/06/2009	185.00
Total GOVERNMENT FINANCE OFFICER ASN					185.00
HONEYWELL GLOBAL FINANCE					
4059	HONEYWELL GLOBAL FINANCE	003463296	GEN BLDG/BUSINESS EQUIPMENT	01/06/2009	28,873.21
			WASTEWATER/BUSINESS EQUIPMENT		2,040.29
Total HONEYWELL GLOBAL FINANCE					30,913.50
LEAGUE OF WI MUNICIPALITIES					
308	LEAGUE OF WI MUNICIPALITIES	2009 DUES	GEN ADMN/2009 DUES	01/06/2009	2,440.62
Total LEAGUE OF WI MUNICIPALITIES					2,440.62
MANN BROTHERS INC					
256	MANN BROTHERS INC	25826-2	STREET/SAND	01/06/2009	2,136.76
		25915-2	STREET/SAND	01/06/2009	994.39

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
Total MANN BROTHERS INC					3,131.15
MEYER'S AUTO SUPPLY					
176	MEYER'S AUTO SUPPLY	67509	STREET/VEHICLE REPAIR PARTS	01/06/2009	5.55
		68019	FIRE/OPERATING SUPPLIES	01/06/2009	110.88
		68061	FIRE/OPERATING SUPPLIES	01/06/2009	1.09
		68188	WATER/TRUCK #12 BULB	01/06/2009	.79
		68230	FIRE/OPERATING SUPPLIES	01/06/2009	36.96
		68323	FIRE/OPERATING SUPPLIES	01/06/2009	128.95
Total MEYER'S AUTO SUPPLY					284.22
MILWAUKEE MAP SERVICE					
871	MILWAUKEE MAP SERVICE	299830	PLANNING/OFFICE SUPPLIES	01/06/2009	1,845.00
Total MILWAUKEE MAP SERVICE					1,845.00
PER MAR SECURITY SERVICES					
260	PER MAR SECURITY SERVICES	330895	WHITE BLDG/BLDG REPAIRS	01/06/2009	168.75
Total PER MAR SECURITY SERVICES					168.75
QUILL CORPORATION					
445	QUILL CORPORATION	3202999	NEIGHBORHOOD SVC/OFFICE SUPPLIES	01/06/2009	26.86
			REC/OFFICE SUPPLIES		135.09
			DPW/OFFICE SUPPLIES		14.60
Total QUILL CORPORATION					176.55
SASSY SHIRTS					
131	SASSY SHIRTS	30080-30085	REC/YOUTH BASKETBALL SHIRTS	01/06/2009	996.50
		30132	PLANNING/NAME PLATE	01/06/2009	29.85
Total SASSY SHIRTS					1,026.35
SCHOPEN'S AUTOMOTIVE					
137	SCHOPEN'S AUTOMOTIVE	35096	RESCUE/#1281 WINDSHIELD	01/06/2009	402.26
Total SCHOPEN'S AUTOMOTIVE					402.26
SE-WBIA					
2203	SE-WBIA	IDE UPDATE	NEIGHBORHOOD SVC/JONES	01/06/2009	170.00
Total SE-WBIA					170.00
STRAND ASSOCIATES INC					
358	STRAND ASSOCIATES INC	68726	TID 4/MAIN MILWAUKEE & WIS ST	01/06/2009	866.14
		68727	WASTEWATER/BEACH PUMPING STATION	01/06/2009	2,445.91
		68728	WASTEWATER/ANAEROBIC DIGEST STUDY	01/06/2009	336.19
		68772	TID 4/CORPORATE & COMMERCE DR	01/06/2009	5,378.00
		68832	PLANNING/CIP MEETING	01/06/2009	453.02
			PLANNING/THAYER PROPERTY		364.39
			TID 4/WHITEWATER ST		1,587.82
			PLANNING/MAIN & WHITON		3,976.31
Total STRAND ASSOCIATES INC					15,407.78

Vendor	Vendor Name	Invoice No	Description	Inv Date	Net Inv Amt
8	UW WHITEWATER	9975	GEN BLDG/OPERATING SUPPLIES	01/06/2009	156.62
			LIBRARY/BLDG MAINTENANCE		51.46
			POLICE PATROL/OPERATING SUPPLIES		6.59
Total UW WHITEWATER					214.67
WE ENERGIES					
25	WE ENERGIES	25-1609	TRAFFIC/ELECTRIC	01/06/2009	169.11
			ST LIGHTS/ELECTRIC		600.46
			CITY & PARKS/ELECTRIC		1,193.60
			CITY & PARKS/GAS		735.55
			LIBRARY/GAS		1,454.95
Total WE ENERGIES					4,153.67
WEMSA					
375	WEMSA		BINDRIM RESCUE/CONFERENCE	01/06/2009	195.00
			GRAHAM RESCUE/CONFERENCE	01/06/2009	195.00
			HASS RESCUE/CONFERENCE	01/06/2009	130.00
			LINDERT RESCUE/CONFERENCE	01/06/2009	260.00
			TERBACHER RESCUE/CONFERENCE	01/06/2009	215.00
			ETERSON C RESCUE/CONFERENCE	01/06/2009	195.00
			RISCH RESCUE/CONFERENCE	01/06/2009	130.00
			OCKWELL R RESCUE/CONFERENCE	01/06/2009	195.00
			RODGERS J RESCUE/CONFERENCE	01/06/2009	130.00
			SCHAMBOW RESCUE/CONFERENCE	01/06/2009	130.00
			THORNE RESCUE/CONFERENCE	01/06/2009	360.00
			WISKES RESCUE/CONFERENCE	01/06/2009	260.00
Total WEMSA					2,395.00
WHITEWATER FIRE DEPT					
284	WHITEWATER FIRE DEPT	FICER DUES	FIRE/EMPLOYEE ED & TRNG	01/06/2009	250.00
Total WHITEWATER FIRE DEPT					250.00
WHITEWATER GLASS CO INC					
408	WHITEWATER GLASS CO INC	408-10609	GEN BLDG/413 W CENTER WINDOW	01/06/2009	194.30
Total WHITEWATER GLASS CO INC					194.30
WI ALLIANCE OF CITIES					
1003	WI ALLIANCE OF CITIES	10/8/2008	GEN ADMN/2009 MEMBERSHIP DUES	01/06/2009	1,772.00
Total WI ALLIANCE OF CITIES					1,772.00
WI MUNICIPAL JUDGES ASSOC					
2205	WI MUNICIPAL JUDGES ASSOC	2009 DUES	COURT/PROFESSIONAL SVC	01/06/2009	100.00
Total WI MUNICIPAL JUDGES ASSOC					100.00

Total Paid: -
 Total Unpaid: 73,951.87
 Grand Total: 73,951.87

Dated: December 31, 2008

Finance Director: *[Signature]*

**WHITEWATER POLICE DEPARTMENT
CONSOLIDATED MONTHLY REPORT**



September 2008

**Submitted by
James R. Coan
Chief of Police**

**WHITEWATER POLICE DEPARTMENT
CONSOLIDATED MONTHLY REPORT
SEPTEMBER 2008**

**Unified Crime Reporting Incidents
Year-to-Date Statistics**

	No. of Incidents		Total Amount Lost	
	<u>2008</u>	<u>2007</u>	<u>2008</u>	<u>2007</u>
Murder/Non-Negligent Manslaughter	0	0	\$0	\$0
Sexual Assaults - 1st, 2nd, 3rd, 4th Degree	5	12	\$0	\$0
Total Robbery	2	1	\$285	\$1,750
Total Burglary	40	30	\$32,772	\$25,138
Total Motor Vehicle Thefts	6	3	\$15,900	\$4,200
<u>Thefts</u>				
Pocket Picking	0	5	\$0	\$571
Purse Snatching	0	0	\$0	\$0
Shoplifting	30	5	\$1,252	\$243
From Automobiles	39	33	\$7,442	\$14,989
Automobile Parts/Accessories	12	12	\$1,320	\$3,022
Bicycles	29	33	\$4,595	\$4,358
From Buildings	41	39	\$23,909	\$10,834
Coin Operated Machine	1	5	\$24	\$617
All Other	58	46	\$10,069	\$7,080
Total Thefts	210	178	\$48,611	\$41,714
Grand Total	263	224	\$97,568	\$72,802

**Property Amount Stolen and Recovered
Year to Date Statistics**

	<u>2008</u>	<u>2007</u>
Property Stolen	\$97,568	\$72,802
Property Recovered	\$37,649	\$14,842
Percentage Recovered/Stolen	39%	20%
Property Stolen Average per Month	\$10,841	\$8,089

NOTE: In addition to the recovery of stolen property, there was \$0.00 recovered as a result of restitution paid for investigative costs and non-sufficient funds checks cashed.
Year to date total \$258.00

**WHITEWATER POLICE DEPARTMENT
CONSOLIDATED MONTHLY REPORT
SEPTEMBER 2008**

Monthly Arrest Totals:	Adult	281
	Juvenile	35
	Combined Total	316

Arrests	This Month	This Year to Date	Last Year to Date	Increase/Decrease
Animals - License Required/ at Large / Noise	0	1	6	-5
Arson	0	0	0	SAME
Assault (Aggravated)	5	23	6	17
Assault (Other)	10	40	22	18
Ball Jumping	0	27	31	-4
Bomb Threat	0	0	0	SAME
Burglary	0	5	17	-12
Cigarette / Tobacco Violation	6	34	24	10
Cigarette Deliver / Provided by Non-Retail	0	0	1	-1
Citations Written for Parking Tickets	1	1	4	-3
Contribute to Delinquency	0	4	1	3
Contribute to Truancy	0	0	2	-2
Controlled Substance - Possession	2	51	60	-9
Controlled Substance - Sale / Manufacture	0	4	8	-4
Court Order Violation	0	5	11	-6
Criminal Damage	4	38	33	5
Criminal Trespassing	1	7	2	5
Curfew	3	30	34	-4
Disorderly Conduct	35	279	288	-9
Embezzlement	0	0	0	SAME
Emergency Detention / Protective Custody	6	55	31	24
Encourage Probation / Parole Violation	0	0	0	SAME
Escape	0	0	0	SAME
Extortion	0	0	0	SAME
Fail to Obey Officer	0	9	10	-1
False Imprisonment	0	2	0	2
Fireworks - Sell / Discharge without Permit	0	1	1	SAME
Forgery and Counterfeiting	0	8	4	4
Fraud	12	43	99	-56
Harbor / Aid a Felon	0	0	0	SAME
Illegal Blood Alcohol Content (IBAC)	12	96	130	-34

Continued on next page

**WHITEWATER POLICE DEPARTMENT
CONSOLIDATED MONTHLY REPORT
SEPTEMBER 2008**

Arrests	This Month	This Year to Date	Last Year to Date	Increase/ Decrease
Illegal Open Letter or Package	0	43	0	43
Liquor Laws	84	312	413	-101
Littering	0	2	0	2
Local Warrants Served	11	148	110	38
Motor Vehicle Theft	0	1	3	-2
Murder and Non-Negligent Manslaughter	0	0	0	SAME
Negligent Handling of Burning Materials	0	0	0	SAME
Noise	5	15	23	-8
Obstruct / Resist Officer	5	37	45	-8
Obstructions on Streets Prohibited	0	3	0	3
Offenses Against Family and Children	0	2	0	2
Operate Auto While Intoxicated	13	107	132	-25
Pornography / Obscene Material	1	1	0	1
Possess Drug Paraphernalia	6	45	33	12
Prostitution (Enticement)	0	7	1	6
Reckless Endangering Safety	0	8	2	6
Registered Sex Offender Photograph Minor	0	1	0	1
Robbery	0	0	0	SAME
Runaway	2	10	18	-8
Sex Offenses (Other)	0	1	1	SAME
Sexual Assault - 1st Degree	0	2	1	1
Sexual Assault - 2nd Degree	0	3	7	-4
Sexual Assault - 3rd Degree	0	1	1	SAME
Sexual Assault - 4th Degree	3	5	4	1
Solicitors / Peddlers Prohibited	0	0	1	-1
Stolen Property	0	0	1	-1
Theft (Except Motor Vehicle)	11	138	54	84
Traffic Offenses	62	677	617	60
Traffic Ordinance Violations	0	3	1	2
Truancy	6	26	42	-16
Warrant / Pickups for Other Agencies	9	113	118	-5
Weapons (Conceal/Possess/Negligent Use)	1	17	8	9
Zoning Violations	0	2	4	-2
Total	316	2493	2465	28

**WHITEWATER POLICE DEPARTMENT
CONSOLIDATED MONTHLY REPORT
SEPTEMBER 2008**

Miscellaneous Activities and/or Complaints

Type of Activity/Complaint	This Month	This Year to Date	Last Year to Date
Calls for Service	818	6,144	5,387
Activity Logs *	31	404	553
Traffic Stops *	235	1,817	1,798
Family Disturbances	5	36	29
Open Doors / Windows	0	6	4
Noise Complaints	45	299	295
Animal Complaints	29	246	196
False Alarms	9	100	83

* Officer initiated activities

Motor Vehicle Accidents

Type of Activity/Complaint	This Month	This Year to Date	Last Year to Date
Fatal	0	2	0
Personal Injury	5	22	28
Pedestrian	0	3	11
Hit and Run	9	40	43
Property Damage over \$1000	13	90	73
Property Damage under \$1000	13	80	49
Total	40	237	204

Parking Tickets Issued

Type of Activity/Complaint	This Month	This Year to Date	Last Year to Date
Issued by Patrol Officers	337	2,493	2,723
Issued by Community Service Officers	523	2,190	3,355
Total	860	4,683	6,078

**WHITEWATER POLICE DEPARTMENT
CONSOLIDATED MONTHLY REPORTS
SEPTEMBER 2008**

Monies Received

Type	This Month	This Year to Date	Last Year to Date
Bicycle Licenses	\$12.00	\$72.00	\$90.00
Citations/Warrant Payments	\$1,148.90	\$38,852.80	\$38,926.40
Miscellaneous	\$20.79	\$135.48	\$120.00
Parking Permits	\$2,020.00	\$17,230.00	\$4,620.00
Parking Violations	\$9,995.00	\$90,650.00	\$100,604.00
Total	\$13,196.69	\$146,940.28	\$144,360.40

Overtime Hours

Type	This Month	This Year to Date	Last Year to Date
Squad Patrol	24.00	387.00	365.75
Investigation	37.50	341.25	176.75
Radio Dispatch	44.00	162.50	294.75
Parking	0.00	3.75	11.50
Traffic	1.25	18.50	21.00
Special Event	15.25	184.00	149.00
Reports	44.50	385.50	381.25
Training	63.75	857.50	583.00
Roll Call	26.50	247.75	220.00
Transporting Prisoners/Custody	14.50	143.50	128.75
Municipal Court	4.00	31.25	40.50
County Court	24.75	261.00	100.50
Holidays	136.75	798.75	430.75
Other	84.25	517.25	462.25
Total	521.00	4,339.50	3,365.75

**WHITEWATER POLICE DEPARTMENT
CONSOLIDATED MONTHLY REPORT
SEPTEMBER 2008**

TRAINING

- From September 2nd through November 14th, Sgt. Gempler attended Police Staff and Command training at Blackhawk Technical College.
- From September 9th through 12th, Juvenile Officer Martin attended the Juvenile Officer Conference in Wisconsin Dells.
- On September 10th, Support Services Manager Boyd, Records Technicians Hass and Swartz completed the Unlocking the Secrets of Access training.
- From September 16 through 18th, Lt. Gray, Det. Sgt. Winger, RCA Lentz, Dispatchers Petersen and Hogue attended Crime Information Bureau Conference in Green Bay.
- From September 29th through October 2nd, Dispatcher Ojibway and Officer Weston attended the NAFTA Conference in Wisconsin Dells.

MEMORANDUM

TO: Common Council
City Manager Brunner

FROM: Michele Smith, Clerk

DATE: 1/2/2009

RE: Applicant for Vacant Aldermanic District 1 Seat

Dear Council,

Former Councilmember Jim Allen has contacted me and informed me he is interested in serving as interim Councilmember for Aldermanic District 1. Jim is not interested in running for the seat in the April election. Jim recently purchased one of the condos at the corner of Clay and Wisconsin Streets, and has resided in District 1 for a couple of months. Due to time constraints (getting agenda out), I was not able to obtain an official letter of interest from Jim prior to agenda preparation. I will ask him to prepare one. As most of you know, Jim Allen served as a councilmember for several terms. He is a lifelong City resident who currently serves on the Community Development Authority. Jim is employed by Chartwell's on the UW-W campus. Please consider Jim Allen as an applicant for the interim position.

A

303 Ann Street
Whitewater, WI 53190
December 24, 2008

Office of City Clerk
City of Whitewater

I am submitting a letter of interest to complete the term of City of Whitewater Councilmember for Aldermanic District 1. I currently serve on the Plan and Architectural Review Commission, Park and Recreation Board and the Tree Commission. I have also served on the storm water utility ad hoc committee, the lakes committee, and the downtown Whitewater economic restructuring committee.

Thankyou for your consideration of this request,



David Stone

ORDINANCE NO. _____
ORDINANCE AMENDING TITLE 11 REGARDING GENERAL PARKING
FORFEITURE AMOUNTS

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

Section 2: Whitewater Municipal Code, Chapter 11.56, Sub-section 11.56.010 (4), is hereby amended to read as follows:

(4) Parking. The forfeiture for violation of parking regulations provided in this title, unless otherwise specifically provided for in this title, and except as otherwise provided by adoption and reference in Chapter 11.04 of this title, shall be not less than twenty nor more than one hundred five dollars.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

Michele R. Smith, City Clerk

NOES:

ABSENT:

Kevin Brunner, City Manager

ADOPTED:

ORDINANCE NO. _____
ORDINANCE AMENDING TITLE 11 REGARDING
SUBSECTION 11.56.030 REGARDING PARKING FORFEITURE
INCREASES FOR LATE PAYMENT

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

Section 1: Whitewater Municipal Code, Chapter 11.56, Subsection 11.56.030, is hereby amended to read as follows:

11.56.030 Parking forfeitures.

- (a) Any person charged with violating any parking provision of Title 11 of this code shall be notified that he or she has the right to contest the citation by requesting, in writing to the clerk of municipal court, within seven days of issuance, an appearance in the city municipal court. If such request is made a date shall be assigned.
- (b) The use of the parking ticket system in which the defendant pays the stipulated amount instead of appearing in court is extended to parking offenses under Title 11 of this code. The forfeiture, stipulated amount and increased forfeiture amount shall be as follows:
 - (1) The forfeiture for any person who fails to pay a forfeiture as indicated on the citation within seven days after issuance shall be increased by 50%.
 - (2) The forfeiture for any person who fails to pay a forfeiture as indicated on the citation within thirty days after issuance shall be doubled.
- (c) Any person requesting an appearance within seven days after issuance, shall have the right to a trial and shall be given a date of hearing on the issue of whether or not the party is guilty of the charge.
- (d) If a party has requested the appearance in writing within seven days, the party shall not be subject to the increased forfeiture provided for herein, even if there is a finding of guilty.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

ABSENT:

ADOPTED:

Michele R. Smith, City Clerk

Kevin Brunner, City Manager

ORDINANCE NO. _____
AN ORDINANCE AMENDING SECTION 1.21.010
SCHEDULE OF DEPOSITS

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

SECTION 1: Whitewater Municipal Code Section 1.21.010 is hereby amended by adding the following:

<u>CHAPTER OR SECTION NUMBER</u>	<u>OFFENSE</u>	<u>DEPOSITS AND COSTS</u>
11.56.010 (4)	General parking violations	1 st offense - \$20.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment

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

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

ADOPTED:

ORDINANCE NO. _____
ORDINANCE AMENDING TITLE 11 REGARDING HANDICAPPED PARKING

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

Section 1: Whitewater Municipal Code, Chapter 11.50, Handicapped Parking, Sub-section 11.50.020, is hereby amended to read as follows:

11.50.020 Penalty for violation. Any person who violates the provisions of this chapter shall, upon conviction thereof, be subject to a penalty of not less than eighty nor more than one hundred dollars, together with the costs of prosecution.

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

Michele R. Smith, City Clerk

NOES:

ABSENT:

Kevin Brunner, City Manager

ADOPTED:

ORDINANCE NO. _____
AN ORDINANCE AMENDING SECTION 1.21.010
SCHEDULE OF DEPOSITS

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

SECTION 1: Whitewater Municipal Code Section 1.21.010 is hereby amended to change the deposit and costs for Section 11.50.020, Handicapped parking, to read as follows:

<u>CHAPTER OR SECTION NUMBER</u>	<u>OFFENSE</u>	<u>DEPOSITS AND COSTS</u>
11.50.020	Handicapped parking violations	1 st offense - \$80.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment

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

Ordinance introduced by Councilmember _____, who moved its adoption. Seconded by Councilmember _____.

AYES:

NOES:

Kevin Brunner, City Manager

ABSENT:

Michele R. Smith, City Clerk

ADOPTED:

MEMORANDUM

To: Kevin Brunner, City Manager
Fr: Dean Fischer, Director of Public Works
Date: December 23, 2008



Subject: Commercial & Multi-Family Recycling

Attached is the letter sent to the three refuse/recycling vendors servicing the City of Whitewater.

Here is what I found.

John's Disposal indicated that every multi-family and commercial customer that they have in Whitewater has some type of recycling.

Waste Management indicates they have 34 customers having refuse collection and 15 have recycling service.

Veolia indicates they have 54 customers having refuse collection and 47 having recycling service.

Using the numbers from Waste Management and Veolia, 70% of the customers recycle.

I will note that some of the businesses that do not have recycling is because it is a satellite office such as First Citizens Bank, Nitardy Funeral Home, and others.

None of the vendors provided any records indicating the pounds of recycle material.

Based on the information obtained from this survey, city staff needs to work on increasing the number of customers to recycle.

Staff would ask the Council to allow the staff 6 months to identify the customers via the vendors to increase the number of customers who are recycling.

Please place this on the January 6 agenda for discussion and direction.

CITY OF WHITEWATER

Department of Public Works



PHONE: (262) 473-0140
FAX: (262) 473-0549
Email: dfischer@ci.whitewater.wi.us
WEBSITE: www.ci.whitewater.wi.us

Dean Fischer
Public Works Director
P.O. Box 178
Whitewater, WI 53190

September 12, 2008

To whom it may concern,

The City of Whitewater is a responsible unit as required by State Statutes and regulated by the DNR for recycling. Part of our responsibility is to be sure that all properties within the City are recycling and making effort to recycle as much as possible.

The City of Whitewater is requesting the following information from you as contractors, who handle refuse and recycling within the city limits for multi-family and commercial properties.

Please provide the city with how many customers you have in each type of property class. Indicate how many of these units are recycling. If you have records indicating the pounds of recycling material, please forward as well.

If you have any questions, please call or email me.

Sincerely,



Dean Fischer
Public Works Director

Jan 6, 2009

C-2

SCHEDULE FOR APPOINTMENT OF AGENT BY CORPORATION/NONPROFIT ORGANIZATION OR LIMITED LIABILITY COMPANY

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by the officer(s) of the corporation/organization or members/managers of a limited liability company and the recommendation made by the proper local official.

To the governing body of: Town/Village/City of Whitewater County of Walworth

The undersigned duly authorized officer(s)/members/managers of Wish Enterprises LLC (registered name of corporation/organization or limited liability company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as

Raceway Food Mart II (trade name)

located at 1138 W Main Whitewater WI 53190

appoints Pankaj Kalra (name of appointed agent)

213 N Fraternity La. #106, Whitewater, WI 53190 (home address of appointed agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

[] Yes [X] No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course? [] Yes [X] No Already an officer, more than 1yr

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? see above (Fraternity Lane)

For: (name of corporation/organization/limited liability company)

By: (signature of Officer/Member/Manager)

And: (signature of Officer/Member/Manager)

ACCEPTANCE BY AGENT

I, Pankaj Kalra (print/type agent's name), hereby accept this appointment as agent for the

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

Pankaj Kalra (signature of agent)

X 12/26/08 (date)

Agent's age X 47

Date of birth X 5-8-1961 Where Born: X INDIA

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on (date) by (signature of proper local official) Title (town chair, village president, police chief)

transfer took place 12/24/08

86

5/20/2008

V34-16

approval of a license to sell package beer goods. It was moved by Taylor and seconded by Binnie to approve a Class "A" License for SBL Petro, Inc., Amar Nath, Agent, 844 E. Milwaukee Street. AYES: Stauffer, Taylor, Nosek, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. Motion carried by unanimous consent agenda roll call vote.

REQUIREMENT THAT BOARD AND COMMISSION MEMBERS BE REQUIRED TO TAKE OATH OF OFFICE. Councilmember Taylor had asked that this be discussed. Upon research conducted by the City Clerk's office, most communities do require all Board and Commissioners to take an Oath of Office once they are appointed. It was moved by Taylor and seconded by Binnie to instruct staff to draft an ordinance or policy giving instruction that all Board and Commission members should take an Oath of Office. AYES: Taylor, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSTAIN: Stauffer, Nosek.

UPDATE ON NON-COMPLIANT DUMPSTERS IN CITY. Councilmember Nosek requested an update on his April 3rd request for enforcement of the dumpster enclosure ordinance. Nosek stated that there are still violations, and we have not done enough. Nosek stated that the properties shown on his slide show are still in violation. Specifically Nosek referred to the property at Main and Whiton (Regent Apartments). Nosek also mentioned dumpsters located on the public right of way. Although Code Enforcement Parker sent out 30 day compliance notices, Nosek noted that as of tomorrow it will be seven weeks since he brought up the subject of these violations. He noted that some are *still* in violation. Neighborhood Services Director Parker stated that after he was given direction to enforce, he had to fit it into his schedule along with everything else he has to do. Parker reported on all of the totter notices he has mailed. Nosek stated that he did not ask about toters – dumpsters were the subject. Parker stated that as of tonight, the construction of the dumpster enclosures has begun. Council President Singer noted that this will not be solved tonight. He asked staff to review the pictures of the properties. Nosek argued that a 30 day notice has been given, more than 30 days have passed, and when does 30 days mean 30 days? Nosek requested that the non-compliant property owners be cited. Council deferred to City Manager Brunner. Brunner stated that although he does supervise the City's Code Enforcement, he does not look at the dumpsters. Brunner stated that there has been some progress. Brunner stated that the incentive is now greater for compliance with the reinspection ordinance in place. Parker does not prefer citations (compared to reinspection fees) because there is a possibility that the Court may throw the case out. Councilmember Taylor agreed that these problems need to be nipped in the bud. City Manager Brunner agreed to supervise this process.

DISCUSSION REGARDING ORDINANCES BEING BROUGHT TO THE COMMON COUNCIL. Concerns were expressed about any one councilmember or staff member bringing forth an ordinance to Council without some additional support for the subject. Legal expenses accrue, and some times the ordinance is never adopted. It was agreed that councilmembers and staff members will attempt to have discussions on agenda items first, bringing the ordinance forth if there seems to be council consensus on what the ordinance should say.

JOINT MUNICIPAL COURT WITH UW-WHITEWATER. City Manager Brunner stated that he does not yet have the agreement with the University firm – the proposal is to have all University citations adjudicated through the Whitewater Municipal Court. This would be the first of its kind in the State of Wisconsin. Brunner proposes starting this July 1st. It will increase the court work load by 30%. The City would retain 80% of net income with the University getting the remaining 20%. No formal action was taken.