

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

May 18, 2010

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer.

MEMBERS PRESENT: Olsen, Taylor, Winship, Binnie, Singer, Kienbaum, Stewart.
MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: McDonell.

CONSENT AGENDA. It was moved by Olsen, seconded by Taylor to acknowledge receipt of the Council Minutes of 3/31/2010; 4/8/2010; 4/20/2010; and 4/28/2010, Financial Reports for April, 2010; Report of Manually-Produced Checks for April, 2010; Whitewater Landmarks Commission Minutes of 1/6/2010; 2/3/2010; 3/3/2010; & 4/7/2010; Senior in the Park Minutes of 3/1/2010; Park and Recreation Minutes of 4/5/2010; Urban Forestry Minutes of 3/2/2010; Library Board Minutes of 3/8/2010 & 4/12/2010; Plan Commission Minutes of 3/8/2010 & 4/12/2010 and per Brunner's request, expedited approval of C-4 "Approval of purchase of park signage", and Taylor's request, C-5 "Authorization to repair Well No. 9 iron filter and well", and C-7 "Approval of Change Order No. 2 to contract with KBK Services for Wastewater Treatment Plant Improvement". AYES: Olsen, Winship, Binnie, Stewart, Kienbaum, Taylor, Singer. NOES: None. ABSENT: None.

APPROVAL OF PAYMENT OF INVOICES. It was moved by Olsen and seconded by Taylor to approve payment of city invoices processed through May 13, 2010 in the total sum of \$223,251.37. AYES: Taylor, Winship, Binnie, Singer, Kienbaum, Stewart, Olsen. NOES: None. ABSENT: None.

REPORTS. Downtown Whitewater Director Tami Brodnicki presented the **Downtown Whitewater's First Quarterly Report.** Tami reported on Freezefest, the Chili cook off, the Buy Local campaign, the Taste of Whitewater coming up in September, the coupon book, the various award ceremonies, spoke about tweaking their mission statement and bylaws, spoke on the many projects they have had and are continuing to work on, and also the conferences/seminars Tami has attended. Police Chief Coan reported on the **update of staffing appointments.** Promotion of Brian Uhl to Sergeant and the have hiring of Bill Becker to Police Patrol Officer. Both start their new duties June 1st. Also mentioned was Police Day Ceremony this coming Friday.

CITIZEN COMMENTS. No comments.

COMMON COUNCIL ANNOUNCEMENTS. No announcements.

**RESOLUTION DESIGNATING THE CITY OF WHITEWATER TO BE A RECOVERY
ZONE FOR PURPOSES OF THE AMERICAN RECOVERY AND REINVESTMENT
ACT OF 2009**

and

INITIAL REIMBURSEMENT RESOLUTION AND A RESOLUTION WAIVING PUBLIC BIDDING REQUIREMENT IN CONNECTION WITH THE ISSUANCE BY THE CITY OF WHITEWATER OF ITS INDUSTRIAL REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$20,000,000 ON BEHALF OF HUSCO INTERNATIONAL, INC., A DELAWARE CORPORATION, TO FINANCE THE COST OF ACQUISITION AND INSTALLATION OF NEW PRODUCTION LINES AND RELATED FACILITY IMPROVEMENTS AND EQUIPMENT FOR USE IN CONNECTION WITH THE BUSINESS OF MANUFACTURING HYDRAULIC AND ELECTROHYDRAULIC CONTROLS FOR OFF HIGHWAY AND AUTOMOTIVE APPLICATIONS. INFORMATION WITH RESPECT TO THE JOB IMPACT OF THE PROJECT WILL BE AVAILABLE AT THE TIME OF CONSIDERATION OF THE INITIAL RESOLUTION. City Manager Kevin Brunner introduced Todd Hoytink, CFO from Husco and Alex Gore who is the bond counsel from Quarles and Brady.

Hoytink explained what the project specifically focuses on is their automotive business. Their automotive industry is green technology. This is designed to improve fuel efficiency standards and power train improvements specifically the technology is cylinder activation cam phasing valves. Husco is also doing things with variable oil pumps. Husco got into the automotive business back in 2000. The company has evolved with the fuel efficiency power train components. Today they are acting both as a tier one (supplying companies direct) and tier two (supplying companies of suppliers). Their biggest customer is Ford. The next 18 months, they are looking at utilizing industrial revenue bonds at a cost effective way to offset the cost of some of the equipment. This will help the expansion of the facility and the increase of jobs.

Gore stated that the Recovery Zone Designation is a procedural hurdle in order to issue the type of bonds they are talking about. These bonds were created in the stimulus bill last February. The Recovery Zone Designation bill is for places where there is significant poverty, unemployment, foreclosures, or general distress in the city. The whole state and nation is in this situation. There is no financial obligation from the city with these bonds.

Hoytink estimates in 2014, the number of employees at the Whitewater plant might be around the 2008 status which was 180 - 200 employees.

RESOLUTION DESIGNATING THE CITY OF WHITEWATER TO BE A RECOVERY ZONE FOR PURPOSES OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

WHEREAS, the American Recovery and Reinvestment Act of 2009 (the “Stimulus Act”) authorizes the issuance of “recovery zone facility bonds,” which are a category of exempt facility bonds that may be issued to finance certain projects for private businesses; and

WHEREAS, in order to issue recovery zone facility bonds, an issuer must first designate one or more “recovery zones”, being areas which manifest significant poverty, unemployment, rate of home foreclosures or general distress or meet other criteria specified in the Stimulus Act; and

WHEREAS, the City of Whitewater, Wisconsin (the “City”) has experienced significant poverty, a high rate of unemployment, a high rate of foreclosures and other general economic distress (the “Recovery Zone Conditions”), and such Recovery Zone Conditions impair the sound growth and the tax base of the City and threaten the well-being of the citizens of the City; and

WHEREAS, the existence of Recovery Zone Conditions in the City and the qualification of the City as a recovery zone are evidenced by, among other things, the following factors: (a) data from the Wisconsin Department of Workforce Development, Bureau of Workforce Training – Labor Market Information Section indicate that the unemployment rate in Walworth County (not seasonally adjusted) was 10.7% for March, 2010 (b) Walworth County is characterized as having a “high foreclosure rate” by RealtyTrac. Inc., with 1 in 606 households in foreclosure actions and (c) U.S. Census Bureau estimates for 2008 indicated that 10.3% of people in Walworth County were in poverty; and

WHEREAS, in order to promote the well-being of the City and its citizens, it is necessary that the Recovery Zone Conditions be addressed by financing private development projects that will promote job creation and otherwise improve economic conditions in the City; and

WHEREAS, it is desirable and in the best interest of the citizens of the City to designate the City as a recovery zone for purposes of and as provided in the Stimulus Act;

NOW, THEREFORE, BE IT RESOLVED:

1. Existence of Recovery Zone Conditions in City. There exist conditions including significant poverty, unemployment, rate of foreclosures and general economic distress which cause the City as a whole to be subject to designation as a recovery zone under the Stimulus Act.
2. Designation of Recovery Zone. All of the territory located within the boundaries of the City is hereby designated as a recovery zone for all purposes of and as provided in the Stimulus Act.
3. General Authorization. The officers of the City are authorized and directed to take all actions necessary or convenient in connection with the designation of the City as a recovery zone to be eligible for the issuance of recovery zone economic development bonds and recovery zone facility bonds by the City.

And

**CITY OF WHITEWATER, WISCONSIN INITIAL RESOLUTION FOR
REVENUE BONDS WHICH ALSO CONSTITUTES A RESOLUTION
DECLARING OFFICIAL INTENT TO REIMBURSE EXPENDITURES ON
THE PROJECT WITH PROCEEDS OF A TAX-EXEMPT BORROWING**

WHEREAS, the City of Whitewater, Wisconsin (the Municipality”) is authorized by Wisconsin Statutes 66.1103 (the “Act”) to issue bonds to finance costs of certain projects including manufacturing facilities and facilities with respect to which “recovery zone facility bonds” can be issued; and

WHEREAS, bonds issued pursuant to the Act are to be payable from amounts paid under a revenue agreement (as defined in the Act) relating to the project being financed and not from tax revenues or other funds of the Municipality; and

WHEREAS, HUSCO International, Inc., a Delaware corporation (the “Borrower”), wishes to pursue the acquisition and installation of new production lines and related facility improvements and equipment (the “Project”) for use in connection with the business of manufacturing hydraulic and electrohydraulic controls for automotive applications; and

WHEREAS, the Borrower has asked the Municipality to indicate its intention to provide financing under the Act for all or a portion of the bonds and the Project before it proceeds; and

WHEREAS, the Borrower also has presented the Municipality with evidence of its intention to reimburse itself for expenditure relating to the Project which it pays with funds which are not the proceeds of revenue bonds issued under the Act; and

WHEREAS, the Borrower expects the reimbursement to be funded with the proceeds of bonds which will constitute reimbursement bonds to be issued on its behalf with respect to the Project and has indicated that it does not expect the aggregate principal amount of any bonds to be issued for the Project to exceed \$20,000,000; and

WHEREAS, Borrower has represented that it expects the Project to create approximately 35 new full-time equivalent jobs in the Municipality and that the existing 127 full-time jobs in the Municipality will be maintained; and

WHEREAS, the Project will benefit the Municipality.

NOW, THEREFORE, IT IS RESOLVED:

1. The Municipality hereby declares its intent to assist the Borrower with respect to the financing of the Project by issuing the bonds (the “Bonds”) in one or more series in an amount not to exceed \$20,000,000 and, under Treas. Reg. Sec. 1.150-2, to reimburse any expenditures made on costs of the Project prior to issuance of the Bonds with proceeds of the Bonds.

2. To encourage the Borrower to undertake the Project, the Municipality will pursue a financing plan (the “Financing”) under which it will:

(a) sell to one or more purchasers procured by the Borrower bonds under the Act:

(b) enter into one or more revenue agreements with the Borrower providing the Municipality with revenue sufficient to pay the principal of, premium, if any, and interest on the Bonds when due and requiring the Borrower to provide the portion of the Project to be financed with the Bonds; and

(c) assign any revenue agreements to the holders of the Bonds or to a trustee for their benefit and enter into any other appropriate arrangements requested by the Borrower to further secure the payment of the Bonds.

3. The Bonds shall never constitute an indebtedness of the Municipality within the meaning of any state constitutional provision or statutory limitation and shall not constitute or give rise to a pecuniary liability of the Municipality or its officers or a charge against the Municipality's general credit or taxing powers.

4. The appropriate officers of the Municipality are authorized to negotiate the terms of the Financing and all related documents. The terms of the Financing and all related documents will be subject to this Resolution and the Act and will not be binding until

(a) the details of the Financing and the issuance of the Bonds are approved and authorized by further resolution of this City Council;

(b) the electors of the Municipality have been given the opportunity to petition for a referendum as required by the Act and either (i) no petition is timely filed or (ii) if a petition is timely filed, a referendum approves the issuance of the Bonds;

(c) all documents required in connection with the Financing have been duly executed and delivered by the parties; and

(d) the Borrower has made arrangements for payment of all fees and costs of the Municipality, including attorneys' fees.

5. The City Clerk is directed to

(a) publish the Notice to Electors in substantially the form attached to this Resolution as a class 1 notice under Wisconsin Statutes Chapter 985, in a newspaper eligible to make such publication for the Municipality and

(b) file with the Secretary of the Department of Commerce of the State of Wisconsin a copy of this Resolution and a copy of the Notice to Electors.

Resolution introduced by Binnie and seconded by Olsen to approve Resolution designating the City of Whitewater to be a recovery zone for purposes of the American Recovery and Reinvestment Act of 2009 *and* Initial Reimbursement Resolution and a Resolution waiving public bidding requirement in connection with the issuance by the City of Whitewater of its Industrial Revenue Bonds in a principal amount not to exceed \$20,000,000 on behalf of Husco International, Inc. a Delaware Corporation, to finance the cost of acquisition and installation of

new production lines and related facility improvements and equipment for use in connection with the business of manufacturing hydraulic and electrohydraulic controls for off highway and automotive applications. AYES: Winship, Taylor, Olsen, Singer, Binnie, Kienbaum, Stewart. NOES: None. DATED: May 18, 2010.

ORDINANCE CREATING CHAPTER 19.25 R-O FAMILY RESIDENTIAL OVERLAY DISTRICT. City Attorney Wally McDonell stated that after the Plan Commission meeting, areas of concern were addressed and it was mostly related to non-conforming use. Individuals or property owners would have 90 days to register as oppose to the original 60 days. Another change was regarding the landlords giving names of their tenants. This requirement was changed to be initials only need to be provided for proving the eligibility of non-conforming use and for on-going reporting purposes, allowing the building inspector and zoning administrator some opportunity to determine whether or not the proper number of people was living there. Finally, there was a more specific reference to the section which gives all the rules in related to non-conforming use. There was some concern that there weren't any standards in this ordinance but non-conforming use is governed by another ordinance and is referenced in this ordinance. This simply provides a new ordinance zoning classification and it does not propose on any one house or area. It would change the number of unrelated individuals that could live in any single residential unit from three to two. Currently in R-1 and R-2, the maximum is three of unrelated individuals. The overlay district, meaning all other requirements of the underline districts, would continue to be in effect. This would simply make it more restrictive related to non-family households.

Kienbaum stated that everyone pays taxes and to restrict areas is not fair. She has had citizens complain to her how it would be hard to sell a house. She feels there are so many rules and regulations that we don't need any more.

Taylor has been talking with his constituents in District 2 and this is not popular in the district or the student body. However, there are two reasons why he is willing to support this. 1) It is a great area with people that care about their community. It does need to be preserved; 2) He wants people all over the city to know he is working in good faith and trying to help out the whole area including the university. He would like the residents to work with him and create a positive change. It's important to him for everyone to have high quality housing.

Binnie stated this is just a concept and not for just a certain area. The Plan Commission supported this by a 4-3 vote however, it was his understanding the two of the three that voted nay were in favor of the concept but it was the technicality part they had questions about.

Stewart stated the idea of the concept is great but how would one reverse it if they chose to?

McDonell stated it would require the reverse procedure to be taken off. This zoning could be initiated by any councilmember including the property owner.

Stewart's concern was imposing this on a neighborhood with some "islands" of property owners who wouldn't want the district changed.

McDonnell stated this is no different than the other zoning classifications.

Bruce Parker, Building and Code Enforcement Director, stated the enforcement would be the same with the cooperation of the homeowner and the tenants.

Kienbaum felt if the rules are enforced, there shouldn't be a problem. Everyone should be treated the same whether you're a renter or home owner. We all pay to live where we live and pay taxes. The rules need to be enforced.

Winship suggested this ordinance and the changes made with the Plan Commission were good ones. He envisioned this ordinance to be applied sparingly.

McDonnell stated there is an exception in Section 19.25.040 for foster homes and similar situations in that nature of living conditions. It is exempted by terms of the ordinance.

**AN ORDINANCE CREATING CHAPTER 19.25
R-O NON-FAMILY RESIDENTIAL
OVERLAY DISTRICT
(05-14-10 11:00 a.m. Draft)**

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

SECTION 1: Whitewater Municipal Code, Chapter 19.25, R-O Non-family Residential Overlay District, is hereby created to read as follows:

19.25.010 – Purpose and Intent.

The purpose and intent of the Non-Family Residential Overlay District is to stabilize and protect property values and to provide a mechanism to protect, preserve, and enhance essential characteristics of low density single family residential areas, in particular, areas where due to economic factors and housing pressure in the immediate area, there is the potential for the reduction of family occupied residences, and therefore the loss of the single family character of the neighborhood which will potentially lead to overcrowding, undue population concentration and lower property values.

19.25.020 - Overlay District Application. The restrictions set forth herein are in addition to the restrictions and requirements of the basic district applicable to a particular site. To the extent there is a conflict between the restrictions or requirements associated with the district, the requirements that most restrictively limit the use of the site shall apply. No party other than the owner of the property may initiate an action for the imposition of R-O non-family residential zoning on any particular property if such a petition has been made within the previous 12 months.

19.25.030 – Non-Family Residential Overlay District Additional Restrictions. In all Non-Family Residential Overlay Districts, the non-family household limitation set forth in Whitewater Municipal Ordinance 19.09.520 is reduced from 3 to 2. Therefore, in any Non-

Family Residential Overlay District a non-family household shall be limited to 2 unrelated persons.

19.25.040 – Exceptions. This limitation shall not apply to community living arrangements allowed by federal and state law (such as foster homes and adult family homes for the disabled) and, in particular, those allowed under Wisconsin Statute §62.23.

19.25.050 – Non-Conforming Use and Registration. In order to assist the enforcement of this zoning classification, the owner of any property claiming non-conforming use status regarding the unrelated persons limitation imposed by R-O zoning shall register with the City Clerk on a form provided by the Clerk within ninety (90) days of the imposition of the zoning on the property. The information required on the registration form shall include the history of the property that supports its designation as a non-conforming use which shall include the three letter initials and dates of residency of current tenants (or most recent tenants if not currently occupied), and the three letter initials and dates of residency of all tenants who resided at the premises for the last 120 days. The party claiming the non-conforming use status shall also have a continuing requirement to update the registration information to provide the initials of current tenants. Failure to register within ninety (90) days of the imposition of the R-O zoning classification shall cause the non-conforming use status to terminate. The City shall mail a notice of this requirement to the address on the property's real estate tax statement within fifteen (15) days of the imposition of the zoning on the property. The non-conforming use status of any property under this chapter will be subject to the provisions contained in City of Whitewater Ordinance 19.60.010 Existing Non-conforming Uses.

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

Ordinance introduced by Winship and seconded by Binnie to approve the ordinance creating Chapter 19.25 R-O Family Residential Overlay District. AYES: Singer, Binnie, Stewart, Winship, Taylor, Olsen. NOES: Kienbaum. DATED: May 18, 2010.

ORDINANCE AMENDING CHAPTER 2.44 EQUAL OPPORTUNITIES COMMISSION

Binnie stated in the process of the Chapter 2 the task force recommended a change for chapter 2.46, changing the charge for that commission narrowing it down to acts of the city services rather than a broader scope. A task force looked at Chapter 2.44, as far as they knew, this has never been implanted. There are state and federal agencies that handle these types of complaints and are far more qualified. Another change for both of these ordinances was to not have a commission unless or until there was a complaint filed. At that point, the city manager would appoint a commission within seven days.

Winship stated we shouldn't have people volunteer for something and then give them nothing to do. There should be a swift way to handle any complaints and that commission would make a recommendation and then it would come back to the council.

McDonnell clarified that the hope would be to avoid any federal or state claims and resolving it at the city level.

Stewart commented just the idea of the commission being appointed in 7 days with 5 members by the city manager and not approved by the council, it's possible the city manager could be the point of the grievance.

Winship stated they could amend it to do as the other commissions, to say the city manager and the council president.

McDonnell stated by general operations of general principals if there were a conflict for the city manager there would be an ethical obligation not to do it. It would be required by him/her for ethical reasons to step aside and that would be by general laws in principle. We could say in the case of some potential conflict, the council president would step in or the council.

CHAPTER 2.44
EQUAL OPPORTUNITIES COMMISSION
(Revised Draft – 05-14-10 – 11:30 a.m.)

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

2.44.010 Declaration of policy--Commission created.

It is the policy of the City pursuant to the United States and Wisconsin Constitutions and also the City's power to protect the public health, safety, and general welfare that all persons, regardless of age, race, creed, color, disability, marital status, sex, national original, ancestry, sexual orientation, or military service are entitled to fair and equal access to City services and facilities, and to that end the city hereby enacts this chapter which prohibits the City from discriminating against properly qualified persons by impairing to any degree, access to any City services and facilities.

2.44.020 Definitions.

The definitions related to protected classes set forth in Wisconsin Statute 111.32 and any acts amendatory thereto are incorporated herein.

2.44.030 Equal Opportunities Commission.

(a) The purposes and provisions of this chapter shall be implemented by:

(1) The Whitewater Equal Opportunities Commission whose five members shall be appointed by the City Manager within 10 days of the date a grievance is filed. The appointees shall serve until all pending grievance proceedings are completed, or 3 years, whichever is less.

2.44.040 Commission--Powers and duties.

(a) It shall be a prohibited discriminatory practice for the City of Whitewater, or its officers or employees to do any of the following:

(1) To refuse to furnish services or facilities, whether ordinarily provided pursuant to legal duty or local custom, when such refusal is based to any degree on consideration of age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, or military service.

(2) To aid or perpetuate discrimination against such individuals by funding an agency, organization, or person that discriminates on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, sexual orientation, or military service while directly providing City of Whitewater services or facility use opportunities.

2.44.050 Grievance procedures.

(a) Grievance alleging discrimination by the City, its officers, employees or departments, prohibited by this chapter shall be in writing. Such grievance may be initiated by the individual who may dictate it to an agent of the individual or an agent of the commission, or it may be initiated by any member of the Commission on his or her own initiative. It shall contain:

(1) Name and address of the aggrieved;

(2) Name and address of the individual, or department against whom the grievance is alleged;

(3) A statement setting forth the particulars of the alleged discrimination or discriminatory practice;

(4) A request for an action that can be taken to solve the grievance, and various solutions that may be suggested for the Commission to review.

(b) Grievances shall be filed with the City Clerk who shall forward a copy of the grievance to the City Manager, and the chairperson of the Commission. The City Manager shall designate a staff person who shall attempt to resolve the matter with the aggrieved person. In the event that a solution cannot be agreed upon between the aggrieved and the staff, the matter shall be placed on the agenda of a meeting of the Commission to be scheduled at an accessible site within thirty days of receipt of the grievance. Notice of the meeting shall be given to the aggrieved party at least ten days before the meeting date which will be scheduled at a time convenient to the aggrieved and the Commission. At the meeting the Commission shall schedule the matter for hearing on a future date and make any other procedural orders necessary to allow the parties to properly present their position at the hearing.

(c) The grievance may be withdrawn by the complainant at any time and, subject to the approval of the Commission, may be amended under such terms as the Commission shall direct. Notice of amendment or withdrawal shall be given to all parties.

(d) Hearing. The aggrieved and/or an agent designated by the aggrieved person, and ~~the~~ a staff person assigned by the City Manager to represent the City's position, shall both present oral and/or written information under oath at the hearing. After the parties have been given the opportunity to present all information, the Commission shall make written findings of fact and conclusions and, if no violation is found, the Commission shall dismiss the grievance. If a violation is found, the Commission shall issue a proposed order and forward it to the City of Whitewater Common Council for consideration. The Council may affirm, modify, or reverse the order.

2.44.060 Disqualification of commissioners.

No commissioner who files a grievance on his or her own initiative shall participate in any subsequent hearing or proceeding except as a witness, and shall not participate in the deliberations of the Commission in such case.

2.44.070 Liberal construction - - Severability.

The provisions of this chapter shall be liberally construed in order to promote the purposes and provisions contained herein. The provisions are severable and if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such shall not affect or impair any of the remaining provisions.

Ordinance moved by Binnie who amended his motion and Winship seconded to add the appointment of the commission would be made jointly by city manager and council president unless there was a conflict of interest on the part of the city manager in which case the council president would make the appointment. Winship seconded. AYES: Binnie, Stewart, Taylor, Winship, Singer, Kienbaum, Olsen. NOES: None. DATED: May 18, 2010.

ORDINANCE AMENDING CHAPTER 2.46 HANDICAPPED DISCRIMINATION COMMISSION RENAMING IT THE DISABILITY RIGHTS COMMISSION. This was discussed with the previous ordinance, Chapter 2.44.

**AN ORDINANCE AMENDING CHAPTER 2.46 HANDICAPPED
DISCRIMINATION COMMISSION RENAMING IT THE DISABILITY RIGHTS
COMMISSION
(Revised Draft – 05-14-10 – 11:15 a.m.)**

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

SECTION 1. Whitewater Municipal Code, Chapter 2.46, is hereby amended to read as follows:

Chapter 2.46 DISABILITY RIGHTS COMMISSION

2.46.010 Declaration of policy.

2.46.020 Definitions.

2.46.030 Commission - - Formation.

2.46.040 Commission - - Powers and duties.

2.46.050 General prohibitions.

2.46.070 Grievance procedures.

2.46.080 Disqualification of commissioners.

2.46.090 Liberal construction - - Severability.

2.46.010 Declaration of policy.

It is the policy of the city, pursuant to the United States and State of Wisconsin Constitutions and Regulations, and also the city's power to protect the public health, safety and general welfare,

that all persons with disabilities are entitled to fair and equal access to City of Whitewater services, programs and benefits afforded to all persons; and to that end the city hereby enacts this chapter to prohibit discrimination against any person with a disability; and creates a disability rights commission with the power and duty to hear grievances of any person with a disability, concerning City actions or inaction.

2.46.020 Definitions.

(a) “A person with disabilities” means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(b) “Is regarded as having an impairment” means 1) a physical or mental impairment that does not substantially limit major life activities, but that is treated as constituting such a limitation, or 2) a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment, or 3) has none of the impairments, but is treated by others as having such impairment.

(c) “Major life activities” means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

2.46.030 Commission – Formation.

(a) The purposes and provisions of this chapter shall be implemented by:

(1) The Whitewater Disability Rights Commission, ~~whose~~ five members shall be appointed ~~under the procedures set forth in Whitewater Municipal Code Chapter 2.12 to serve five year terms; and, where necessary, by the City Manager within 10 days of the date a grievance is filed.~~ The appointees shall serve until all pending grievance proceedings are completed, or 3 years, whichever is less.

~~(2) The City Attorney.~~

2.46.040 Commission - - Powers and duties.

The commission shall have the following powers and duties:

- (a) To adopt, amend, publish and rescind rules for governing its meetings and hearings;
- (b) To request assistance from city staff to promote the purposes of this chapter, subject to the approval of the City Manager, and to describe their duties;
- (c) To receive and investigate all grievances alleging any discriminatory practice prohibited by this chapter;
- (d) To recommend to the City Manager, for Common Council consideration, any budget and/or legislation necessary to further promote the purposes of this chapter and to file annual written reports of its work with the City Clerk.

2.46.050 General prohibitions.

(a) It shall be a prohibited discriminatory practice for the City of Whitewater, or its officers or employees, to do any of the following:

(1) To exclude a qualified person with disabilities from participation in programs or activities open to the general public, regardless of the availability of permissibly separate or different programs or activities designed especially for persons with disabilities;

(2) To provide a different or separate aid, benefit or service to qualified persons with disabilities or to any class of qualified persons with disabilities than is provided to others, unless such action is necessary to provide such individuals with aid, benefits or services that are as effective as those provided to others;

(3) To aid or perpetuate discrimination against such individuals by funding an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit or service to beneficiaries of the City of Whitewater program or activity;

2.46.070 Grievance procedures.

(a) Grievance alleging discrimination by the City, its officers, employees or departments, prohibited by this chapter shall be in writing. Such grievance may be initiated by the individual who may dictate it to an agent of the individual or an agent of the commission, or it may be initiated by any member of the Commission on his or her own initiative. It shall contain:

(1) Name and address of the aggrieved;

(2) Name and address of the individual, or department against whom the grievance is alleged;

(3) A statement setting forth the particulars of the alleged discrimination or discriminatory practice;

(4) A request for an action that can be taken to solve the grievance, and various solutions that may be suggested for the Commission to review.

(b) Grievances shall be filed with the City Clerk who shall forward a copy of the grievance to the City Manager, and the chairperson of the Commission. The City Manager shall designate a staff person who shall attempt to resolve the matter with the aggrieved person. In the event that a solution cannot be agreed upon between the aggrieved and the staff, the matter shall be placed on the agenda of a meeting of the Commission to be scheduled at an accessible site within thirty days of receipt of the grievance. Notice of the meeting shall be given to the aggrieved party at least ten days before the meeting date which will be scheduled at a time convenient to the aggrieved and the commission. At the meeting the Commission shall schedule the matter for hearing on a future date and make any other procedural orders necessary to allow the parties to properly present their position at the hearing.

(c) The grievance may be withdrawn by the complainant at any time and, subject to the approval of the commission, may be amended under such terms as the commission shall direct. Notice of amendment or withdrawal shall be given to all parties.

(d) Hearing. The aggrieved and/or an agent designated by the aggrieved person, and ~~the~~ a staff person assigned by the City Manager to represent the City's position, shall both present oral and/or written information under oath at the hearing. After the parties have been given the opportunity to present all information, the Commission shall make written findings of fact and conclusions and, if no violation is found, the Commission shall dismiss the grievance. If a violation is found, shall the Commission shall issue a proposed order and forward it to the City of Whitewater Common Council for consideration. ~~order any necessary action to be taken to remedy the violation. If the order includes the expenditure of city funds, The order shall be transmitted to the City Council for final action. The Commission's decision may be appealed to the Common Council by either the aggrieved person or the City Manager within twenty days of the decision of the commission.~~ The Council may affirm, modify, or reverse the decision order. ~~under appeal procedures it establishes.~~

2.46.080 Disqualification of commissioners.

No commissioner who files a grievance on his or her own initiative shall participate in any subsequent hearing or proceeding except as a witness, and shall not participate in the deliberations of the Commission in such case.

2.46.090 Liberal construction - - Severability.

The provisions of this chapter shall be liberally construed in order to promote the purposes and provisions contained herein. The provisions are severable and if any provision, sentence, clause,

section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such shall not affect or impair any of the remaining provisions.

Ordinance moved by Binnie who amended his motion and Winship seconded to add the appointment of the commission would be made jointly by city manager and council president unless there was a conflict of interest on the part of the city manager in which case the council president would make the appointment. Winship seconded. AYES: Binnie, Stewart, Taylor, Winship, Singer, Kienbaum, Olsen. NOES: None. DATED: May 18, 2010

AMENDING CH. 5.19 CONCERNING AMENDMENT OF CONDITIONAL USE PERMITS FOR SIDEWALK CAFES. McDonell stated at the Plan Commissions conceptual review, they added that property owners within 300 feet would be notified prior to the council action allowing the expansion of the alcohol license to allow for the sidewalk café and if the owner is different than the occupant, they would notify both the property owner and the actual business. Also recommended was that the council and each member of the Plan Commission receive a personal notification of the council meeting and potentially listen and maybe speak with it in regards to at the council meeting.

ORDINANCE AMENDING CHAPTER 5.19
SIDEWALK CAFÉ PERMIT
CONCERNING CONDITIONAL USE PERMIT REQUIREMENTS

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 is hereby amended by creating subsection 5.19.030 (5), to read as follows:

If the City Council expands the description of the licensed premises in the applicant's alcohol license to include a sidewalk café area, the applicant's current conditional use permit, that allows sale of alcoholic beverages by the drink, shall be deemed to allow the serving of alcohol in the sidewalk café area, and the applicant will not be required to obtain an amended conditional use permit for the sidewalk café area. Notice of the Council meeting at which the alcohol license premises expansion will be considered shall be sent in writing to all owners of record of properties abutting and within 300 feet of the property that is involved in the application at least 5 days before the meeting. Unintentional failure to accomplish these notifications shall not invalidate the procedures.

Ordinance moved by Olsen and seconded by Taylor to amend Chapter 5.19 Concerning Amendment of Conditional use Permits for Sidewalk Cafes. AYES: Stewart, Binnie, Winship, Taylor, Singer, Olsen, Kienbaum. NOES: None. ADOPTED: May 18, 2010.

CREATING CH. 5.20.145, FLAT FEE & MINIMUM CHARGE FOR ALCOHOLIC DRINK RESTRICTIONS. Taylor stated Police Chief Coan sent them a study on all you can drink specials. The study shows an increase in alcohol abuse and binge drinking. He felt it wasn't really proven. Taylor did some independent research, too. He contacted some of his

constituents through a face book page to see how this affects them. Since then 582 responses have come through not supporting this ordinance. Taylor also requested from the Police Department copies of incidences involving bars that have all you can drink specials. Fat Jack's, Pumpers/Mitchells, The College Pub and the Hawks Nest are the only four that have these. The police department didn't send any records regarding the Pub so Taylor guessed there weren't any. The records that Taylor has included, not one is showing having any problems with over serving. Taylor's next point was how many more regulations does Whitewater need? If we are going to consider banning all you can drink specials, there's a few other bans he would like them to consider. 1) All you can eat buffets promotes obesity; 2) High tuition can cause great harm among the students and the economy; 3) Regulate how many packs of cigarettes a person can buy a day. Cigarettes take many lives each year. Taylor feels this won't stop binge drinking. It's not right to keep telling these businesses how to run their business and how to make a profit. Taylor does not think this is right for Whitewater.

Stewart stated he did a little research also. There are several good resources out there that have done studies regarding binge drinking and underage drinking on college campuses. There was one study with 50,000 students and 120 campuses nationwide. There was one that said schools have fewer problems when they reach a certain level. There's a lot that has to do with motivation and education. Changing the environment means you can get restrictions. That's what we are trying to do here and that's a plus.

Binnie stated he would echo Stewart's comments. The tide of public opinion is turning on the side of problems relating to alcohol abuse. The majority of states have laws banning all you can drink specials. He thinks Taylor's analogies are totally flawed with respect to compare this to all you can food, tuition and tobacco. When price is disconnected to consumption, consumption goes up. It's only human nature. Overeating doesn't harm the public. We are talking about public safety. In the last 2 years of this city, we have had two fatal accidents related to drunken driving. Fortunately, no one else was killed except the driver. This shows this type of problem is increasing with these specials.

Winship is going to vote against it because he feels it's a half way measure. He spoke with faculty on campus and what he would like to have by late fall is some similar studies by college towns in states where both all you can drink specials and restrictions on happy hour, etc. have been in place for several years. We get a big picture if this makes a difference in comparable communities. The question is what kind of laws can make a difference? Banning smoking is a good thing. If a bigger ban would make a difference in this community, he would support it.

Singer agrees with Winship but he has a couple of points. Out of the 21 license holders, only 4 of them offer this special. It's not a wide spread thing among the tavern community. Regarding enforcing, we already have laws for over serving. Those can be enforced. And, working with the University, education is key and he hopes the University takes more of a leadership role. Singer feels the ordinance has some pretty big loop holes. He feels this doesn't stop the specials. They could go to a smaller dollar amount. And, if we to go after the taverns and the specials, some people might go to a house party and have a keg registration like some communities have.

Kienbaum commented that no matter what you do, people will find a way around it.

Olsen stated he does support this and we were going to put it away. The chief of police asked us to do something instead of nothing.

Taylor agreed with Binnie that some of his analogies are extremely flawed. He was giving some examples. He recalls Chief Coan stating at the last meeting that the only way they can enforce it is if they hear something around town. Just going on heresy will be very difficult for the police department to enforce. This will not stop the binge drinking.

Stewart stated this isn't prohibition and there's plenty of alcohol in this city. There should be some control and this is a good place to start. Let's do the studies next fall but let's start now with this ordinance.

Binnie spoke on behalf of the Alcohol Licensing Committee he would express frustration over the way this has gone. Several meetings ago this ordinance was presented. Since then, they have made an honest attempt to close the loop holes. Last time, those loop holes were removed. Don't waste the Alcohol Licensing's time if you give us a charge and are not willing to support.

Olsen questioned if 4 out of 21 bars are doing this, why can't the 4 get with the other 17 and make it? Why can't the 4 do what others are doing and we pass this and be done with it?

Ordinance moved by Olsen and seconded by Winship to approve to create Chapter 5.20.145, Flat Fee & Minimum Charge for Alcoholic Drink Restrictions. AYES: Stewart, Olsen, Binnie. NOES: Taylor, Kienbaum, Singer, Stewart. MOTION FAILED.

AMENDING CH. 1.21.010, SCHEDULE OF DEPOSITS TO INCLUDE PENALTIES FOR VIOLATIONS OF ALCOHOLIC DRINK PRICE RESTRICTIONS. Ordinance moved by Olsen and seconded by Winship amending Chapter 1.21.010 Schedule of Deposits to Include Penalties for Violations of Alcoholic Drink Price Restrictions. AYES: Stewart, Olsen, Binnie. NOES: Taylor, Kienbaum, Singer, Stewart. MOTION FAILED.

PRESENTATION REGARDING 2009 CITY AUDIT. Finance Director Doug Saubert introduced Kevin Brosinski from Johnson Block.

Brosinski started with the "Single Audit". This includes an audit of the federal and state programs that the audit is required to have if you have expenditures in excess of a half a million dollars. The city was just above the thresh hold in 2009. Most was related to some of the stimulus money that came through for the Wastewater Treatment Plant upgrade. In 2010, the city will be in the millions of dollars. It was necessary to audit some grants. The audits financial statements themselves were in accordance with the generally accepted accounting principles. Brosinski stated the city's general fund balance is 21.8% of the next year's budget. This is a drop from last year which was 23%. There was a change in the fund balance, the expenditures and other financing sources exceeded the revenues by approximately \$62,000 in 2009. There's the outstanding general obligation compared to the general obligation debt capacity. At the end of the year, the city had about \$16,000,000, a little more than that in the general obligation debt. That wasn't the total debt. There's still some mortgage revenue bond debt for the water and

sewer utilities but the capacity of the general obligation debt capacity is a function of 5% of the cities equalized values so that at the end of the year, the city had approximately 50% in capacity which was an increase in the capacity reduction of the debt from the previous year. However looking at things now in 2010, the city had some borrowings that increased those general obligations debt. Most of the debt at the end of the year is tied in with TIF 4 expenditures. TIF 3 was closed in 2009. There's a rate of return from the water utility that is authorized by the public service commission that the city can get. The actual rate of return in 2009 was 2%. Whitewater's authorized rate of return is 6.5%. Some of that was related to maintenance and repairs that weren't included in 2009. There are some capital expenditures that the council will be looking at in 2010. The final thing is the management letter. One of the things is the future accounting standards affecting the city and all municipalities in 2011. The city has approximately 40 other funds. Some of those are considered special revenue funds. They may need to be ruled into the general fund. There will be a change in financial reporting associated with that. He previously said the general fund experienced a drop of fund balance in 2009. This is occurring everywhere. The interest rates just dropped. The water rates have not had a conventional raise in ten years and it's looking like the city will need this. There have been some major repairs done. This process can take up to 6 months because of the paper work and the time it takes.

Binnie questioned the matter of the undesignated general funds. They have a target of 20%. With other municipalities, what sort of target do you see and secondly what experience have you seen recently?

Brosinski stated as far as rates go, they usually like to see between 20-25%. Below 10 - 15% is getting pretty lean. If you're above 25%, those places usually have it designated for a specific purpose. What he is seeing are things are pretty tight in municipalities. What a lot of municipalities do at tax collection time is get a collateral agreement.

Audit receipt and filed moved by Taylor and seconded by Olsen to approve. AYES: Winship, Binnie, Stewart, Kienbaum, Taylor, Olsen, Singer. NOES: None.

DISCUSSION OF POSSIBLE LOCATION OF TRANSIENT MERCHANTS (FOOD STANDS) IN DOWNTOWN B-2 ZONING DISTRICTS. City Manager Kevin Brunner stated he brought this to the council six years ago. Back then, in his opinion, there were some unorganized, unhealthy food stands. Most of them were university groups. The city wanted some regulation to what was going on and to have it regulated through the university. The university didn't really want anything to do with it either so for the past several years, there have been no food vendors. Recently, we have had one transient merchant license granted but Brunner believes there could be more. There has been a request to sell from a cart but the current B-2 zoning prohibits this. The vendor could serve out of the White Elephant parking lot, which would be the westerly boundary and the easterly boundary would be beyond the intersection of Whitewater and Main St. The southern boundary would be the Cravath Lakefront Park and the northern boundary would be North St. Would the council allow a motion to allow these transient merchants for specified locations? It seems to be a very popular trend.

Citizen Geoff Hale of 599 S. Franklin St. and president of the Downtown Whitewater, Inc. stated the DTWW group is trying to change the feel of downtown to a more vibrant community. This would help create a more distinctive and a more lively street life. People would be returning to the downtown because it's a special place.

Citizen Justin Nothem lives at 125 Whiton St. He has two friends, which are here tonight, that the group would like to have a hotdog stand operating from 10 p.m. – 2:30 a.m. Currently, people attending the bars think there's just pizza to eat. They would like to provide something different. There are 3 pizza places (Gus' closes at midnight) and one restaurant that serves later. This might prevent people from driving drunk to go somewhere farther to eat. Their stand would be right downtown. It's hard to find employment right now this is an opportunity to become entrepreneurs at a lower cost. To open a business would be very expensive. He is also majoring in entrepreneur and it's new this semester. This gives the city a perfect opportunity to support this new program and the students.

Taylor commented the Night and Day Café serves hotdogs.

Nothem stated he is not saying anything bad about Day and Night. He was just pointing out there are only 4 places that are opened late night and 3 serve only pizza and the other one is Day and Night. Health inspections are very important. He doesn't feel anyone should be able to pick up a grill and go downtown and start grilling and selling food. If the council were to approve this, they would work to meet the specifications necessary as well as anyone they hire.

Kienbaum suggested the Industrial Park would be a good place because the traffic is terrible with people either going out to eat or going home.

Nothem stated he has actually thought about that. He was thinking more like an ice cream truck but serving hot dogs. However, he wouldn't be able to afford that right now.

Heather Reu from Dan's Meat Market distributed a copy of their plan. Their situation is a little different than the food carts. It will be three years this coming August for them being in business downtown. They don't really fit into the sidewalk café with the grilling aspect. They would like to grill out every Saturday, May through August. Set up time would be around 10:30 a.m. and take down would be 4 p.m. Many customers enjoy this because they can come and eat with their families and shop downtown. They have many tourists from the lake area that come to their meat market. The meat industry is more highly regulated than restaurants. These regulations are included in the handout. She was hoping the council would allow grilling for their sake, in the downtown area.

Cindy Formella from Cindy's Mighty Dogs stated she was the one approved for the transient merchant license last year. It cost her around \$800 a month to operate her business. She passed her first health inspection last week. She distributed some information about the licensing process. Her goal is to employ students and purchase four more carts. She would like to have her cart in various locations around the city. She did vend one night and the students loved it. She is planning on vending where the various ball games are held throughout the summer and fall. She is proposing a change to the ordinance for proper health licensing. She has researched

this business and has been unemployed for two years. She has worked 25 years in sales and decided to re-invent herself and employ herself.

Brunner commented there seems to be a lot of interest in this. Does the council want to encourage this and bring back an amended ordinance? He thinks this is a good thing as long as there's some regulation along with health and safety.

Kienbaum commented she felt the biggest thing is to make sure they clean up afterwards.

Hale wanted to clarify that this doesn't take away from the businesses that are already downtown. He is not against the food carts. He just doesn't want to take away from the 10 p.m. and on businesses.

Alison (works with Justin Nothem), 135 W. Main St., is a huge community advocate and they would like to direct their businesses around Center, Whitewater and Main St. They would not only pick up the hot dogs wrappers but other garbage to keep the community clean and vibrant.

Singer questioned how the proposal for Dan's Meat Market fits into this?

Brunner stated it's a different proposal. We would try to address that somehow.

McDonell stated he knows Dan's isn't an outside café but he believes the sidewalk café ordinance was amended to allow cooking outside.

Winship agrees that Dan's would certainly add to the richness of the city with grilling outside, especially in the summer. He also agrees with Hale about taking business away from the restaurants downtown. Night and Day is the third business in five years. He is concerned about the stability of downtown.

Stewart mentioned that several years ago the hotdog stands downtown were non-profit and these now will be for profit. Should this part of an element in our discussion? Stewart also suggested a notification to the upper apartments in the downtown area regarding these discussions.

Moved by Taylor and seconded by Winship to direct city staff to draft an ordinance to allow transient merchants in the downtown B-2 zoning district to serve food. AYES: Singer, Stewart, Binnie, Kienbaum, Taylor, Olsen, Winship. NOES: None.

DISCUSSION REGARDING WHITON AND MAIN STREET PROJECT. Taylor commented that the city is pretty much stuck between a rock and a hard place. He still feels Dean Fischer and others should contact the state senators to see if this project could be done even two weeks sooner. That would be a strong victory. He strongly recommends that they would attempt this. He just really hopes no one else gets hurt at this intersection.

Director of Public Works, Dean Fischer, stated at the end of his memo it states the council, staff, and University has done a great effort over the last three years to improve safety on Main St. It is unfortunate "free money" takes longer to get. Fischer explained how the council approved the

funding source of HSIP and that it set the construction back to a later date. The traffic signals could have been installed with the city paying the entire cost. Fischer did discuss the historic columns/walls by the university with Strand and that they will have an issue. The university is working with the moving of the walls and that is what is causing a delay. We can put the traffic signals up with the walls where they are. For a safer intersection, it's better to move the walls.

Brunner stated this was discussed with staff earlier about the bidding process being delayed until possibly this fall. The Chancellor and Elizabeth Watson, who works with the disability group, are favor of doing the work next spring into the summer after the spring semester. No one wants any construction during the school year. They did request if the paving marking could be better. The staff are doing everything they can to enhance that section. The university agreed to pay for the bull dogs at the other two intersections. This will be done at the same time.

Fischer stated there is a lot of signage up at those intersections.

Police Chief Coan stated they have had heighten enforcement at this intersection by both the city and the university police. There have not been any more accidents there. Both pedestrians and cars need to be observant. It's not entirely an issue of enforcement.

APPROVAL OF PURCHASE OF PARK SIGNAGE. Moved by Olsen and seconded by Taylor to approve the purchase of park signage. AYES: Olsen, Winship, Binnie, Stewart, Kienbaum, Taylor, Singer. NOES: None. ABSENT: None.

AUTHORIZATION TO REPAIR WELL NO. 9 IRON FILTER AND WELL. Moved by Olsen and seconded by Taylor to approve the authorization to repair well no. 9 Iron Filter and Well. AYES: Olsen, Winship, Binnie, Stewart, Kienbaum, Taylor, Singer. NOES: None. ABSENT: None.

DISCUSSION REGARDING POSSIBLE BUSINESS LICENSURE FOR R-2 SINGLE FAMILY OCCUPANCIES. Taylor brought this forward because of the local landlords that approached him.

Code Enforcer and Neighborhood Service Director Bruce Parker stated the idea behind this was to have some type of license approval through Plan Commission and Council to increase the number of occupancy on a property. This would only be in the R-2 district on N. Prairie St.

Taylor stated the city would have more of a handle on this if it was a business type of permit. He stated it's complicated and needs to be tweaked. This would be a compromise along with the overlay district. If the tenants break any of the rules/codes, the city can take the zoning classification away easier. This would be applied for on a yearly basis. Taylor is not entirely sold on this yet but feels the Plan Commission and Council could discuss it.

McDonell commented he believed the city today, received a proposal on the same lines. It is substantially different but similar proposal. The one that was received today allows up to six unrelated.

Citizen Jeff Eppers on Starin Rd. asked if the city can't control the ordinances now, what makes one think having more in a resident would be controllable? Having a bedroom the size of 9 x 8 is like sleeping in a closet. Where are these vehicles going to be parked? The city hasn't been able to control or stop what has been going on over on Tratt St. Eppers doesn't get cooperation when he calls about people parking on the grass. Let's keep this blight to where it is and stop coming more and more into the city. The environmentally part of this is just crazy.

Citizen Jim Leaver from 181 N. Esterly Ave., stated his property abuts three or four of these rental properties and parking lots. Leaver questioned Taylor why does he think this is necessary and who is the person who approached you and why is that person interested in doing this?

Taylor stated he wasn't going to release his/her name in a public forum. Some of these places have 4 or 5 bedrooms but are only allowed to have 2 or 3 people. The rent is very expensive. It's difficult for landlords to pay the mortgage while making it a profitable venture.

Leaver wanted to know who these landlords are. He doesn't believe they are hurting. He would like to see the evidence. There have been properties bought all over town with the garages being turned into bedrooms. How will this be prevented? He stated that two of the houses behind him are duplexes. If this went into effect, this would allow 8 – 10 people in the building.

Taylor stated this ordinance needs tweaking and he doesn't agree with everything the landlords want. We need to find some compromise and peaceful living.

Leaver stated Taylor can improve the neighborhood by dropping this suggestion. All it's going to do is create more congestion. He stated he will take pictures when school is back in session what the parking areas look like.

Taylor stated the east side of Prairie St. is probably one of the most diverse streets in the city. He is trying to find a happy medium. This is a community where we all need to work together.

City Manager Brunner stated we have a process already defined by ordinance called rezoning. If a property owner truly believes that they want to have additional density or occupancy, they should go through that process. He believes he knows of one of the landlords who are requesting this. This person has been issued an over occupancy and this might be one of the ways to relieve himself of this problem.

City Attorney McDonell stated he has been working with Parker on a landlord that has 55 citations regarding 5 of his properties. He doesn't know if this is the same landlord or not that has made this proposal. Some have resulted in convictions and many are being contested at this stage of the game.

Brunner stated he believes it's that individuals remedy and he believes he has found himself in a particular problem and he doesn't believe its good public policy at all.

Winship is opposed to it for a variety of reasons. In the proposal it says these properties have changed ownership numerous times over the last 20 years because landlords haven't been able to

generate income. These are houses that have been sold to rent out to students. If this were to pass, he can see landlords all over the city applying for this. The university is providing more occupancy for students.

APPROVAL OF CHANGE ORDER NO. 2 TO CONTRACT WITH KBK SERVICES FOR WASTEWATER TREATMENT PLANT IMPROVEMENTS. Moved by Olsen and seconded by Taylor to approve the change order no. 2 to contract with KBK Services for Wastewater Treatment Plant improvements. AYES: Olsen, Winship, Binnie, Stewart, Kienbaum, Taylor, Singer. NOES: None. ABSENT: None.

APPOINTMENT OF COUNCIL REPRESENTATIVE TO WHITEWATER AQUATIC CENTER BOARD. Moved by Taylor and seconded by Singer to appoint Jim Olsen to be the representative to the Whitewater Aquatic Center Board. AYES: Singer, Kienbaum, Stewart, Winship, Binnie, Taylor. ABSTAIN: Olsen. NOES: None.

CONSIDERATION OF CANCELLATION OF THE JULY 6, 2010 COUNCIL MEETING. Brunner stated the council has done this in the past. Typically there is less business this time of the year. If there's business we will meet. Moved by Olsen and seconded by Taylor to cancel the meeting for July 6, 2010 unless there is business. AYES: Olsen, Singer, Binnie, Stewart, Kienbaum, Taylor, Winship. NOES: None.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS. None.

ADJOURN TO CLOSED SESSION TO RECONVENE 30 minutes from time of entering into closed session, pursuant to Wisconsin Statutes Chapter 19.85(1)(e) "Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session." And Chapter 19.85(1)(g) "Conferring with legal counsel for the government body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved." Items to be discussed: Acquisition of real estate for Starin Road right of way and Claim filed by Whitewater Court relating to 2009 assessment.

AYES: Kienbaum, Olsen, Binnie, Winship, Stewart, Singer, Taylor. NOES: None.

It was moved by Singer and seconded by Olsen to adjourn to close session at 9:30 p.m.

Respectfully Submitted,

Michele R. Smith
City Clerk

ORDINANCE AMENDING CHAPTER 5.19
SIDEWALK CAFÉ PERMIT
CONCERNING CONDITIONAL USE PERMIT REQUIREMENTS

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 is hereby amended by creating subsection 5.19.030 5, to read as follows:

If the City Council expands the description of the licensed premises in the applicant's alcohol license to include a sidewalk café area, the applicant's current conditional use permit, that allows sale of alcoholic beverages by the drink, shall be deemed to allow the serving of alcohol in the sidewalk café area, and the applicant will not be required to obtain an amended conditional use permit for the sidewalk café area. **Property owners within 300 feet of the licensed premises shall be sent notice of the council meeting where the expansion of the licensed premises will be considered at least one week prior to the meeting.**

Ordinance introduced by Councilmember Winship, who moved its adoption. Seconded by Councilmember Binnie. AYES: Singer, Winship, Binnie, Stewart, Taylor, Kienbaum, Olsen. NOES: None.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk