

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

February 7, 2012

The meeting of the Common Council was called to order at 6:30 p.m. by Council President Singer. MEMBERS PRESENT: Binnie, Singer, Stewart, Olsen, Abbott, Kienbaum, Winship. ABSENT: None. LEGAL COUNSEL PRESENT: Wallace McDonell.

It was moved by Councilmember Olsen and seconded by Councilmember Winship to approve the Council minutes of January 17, 2012 and to acknowledge receipt and filing of the following: Community Development Authority Minutes of December 12, 2011, January 12, 2012, January 17, 2012 and January 24, 2012; and Park and Recreation Minutes of December 5, 2011. AYES: Binnie, Singer, Stewart, Olsen, Abbott Kienbaum, Winship. NOES: None. ABSENT: None.

APPROVAL OF PAYMENT OF INVOICES. It was moved by Olsen and seconded by Winship to approve payment of invoices in the total sum of \$173,993.01. AYES: Singer, Stewart, Winship, Olsen, Binnie, Abbott, Kienbaum. NOES: None. ABSENT: None.

STAFF REPORTS. City Manager Brunner reported on the **Employee Length of Service Awards.** Thirteen employees were recognized with the length of service awards. Brunner also reported on the **2011 City Performance Report.** Each year, objectives are set for each department. Around 86% of the planned objectives were met. The **Downtown Whitewater Annual Report** was presented by Tami Brodnicki, Downtown Whitewater Director, and an annual **Tourism Report** was presented by Kathleen Fleming.

HEARING OF CITIZEN COMMENTS. Robert Young, the new Executive Director for the Innovation Center, thanked the Common Council and the citizens of Whitewater for their support of the Technology Park.

MEMORANDUM OF UNDERSTANDING (“MOU”) WITH COMMUNITY DEVELOPMENT AUTHORITY AND UNIVERSITY TECHNOLOGY PARK BOARD FOR OPERATION OF WHITEWATER UNIVERSITY TECHNOLOGY PARK AND INNOVATION CENTER. City Manager Brunner stated that adoption of the MOU has been recommended by both the CDA and the Tech Park Board. Binnie noted he has a concern about Section 5.01 of the MOU, where it is stated that the City was committed to a \$20,000 contribution that increases to \$27,000, then includes an annual inflation amount which is either 3% or the consumer price index, whichever is greater. He noted that over a 20 year term, that would bring the city minimum contribution to \$48,765. City Manager Brunner explained that the City is already contributing \$27,000 through financial support, maintenance of the facility and grounds, and legal services.

**RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF
UNDERSTANDING AMONG THE CITY OF WHITEWATER, WISCONSIN; CITY OF
WHITEWATER COMMUNITY DEVELOPMENT AUTHORITY; AND THE
WHITEWATER-UNIVERSITY TECHNOLOGY PARK, INCORPORATED**

WHEREAS, the City of Whitewater; the City of Whitewater Community Development Authority; and the Whitewater-University Technology Park, Incorporated, in cooperation with the University of Wisconsin-

Whitewater, developed a Whitewater-University Technology Park and built the Whitewater Innovation Center in said park, and

WHEREAS, the City of Whitewater; the City of Whitewater Community Development Authority; and the Whitewater-University Technology Park, Incorporated believe it is in all parties' best interests to delegate the management of the Whitewater Innovation Center to the Whitewater- University Technology Park, Incorporated, and

WHEREAS, a Memorandum of Understanding is necessary for the purpose of setting forth the management responsibilities to be delegated to the Whitewater-University Technology Park, Incorporated, and

WHEREAS, it is in the City of Whitewater's best interests to delegate the management of the Whitewater Innovation to the Whitewater-University Technology Park, Incorporated,

Now, therefore, **BE IT RESOLVED**, that the Common Council of the City of Whitewater authorizes and directs that the City of Whitewater enter into the attached Memorandum of Understanding delegating the management of the Whitewater Innovation Center to the Whitewater- University Technology Park, Incorporated.

Resolution introduced by Councilmember Olsen who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Abbott, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. ADOPTED: February 7, 2012.

Kevin Brunner, City Manager

Michele R. Smith, City Clerk

DELEGATING MANAGEMENT AND CONTROL OF THE EFFIGY MOUNDS PRESERVE TO THE WHITEWATER PARK AND RECREATION BOARD.

City Attorney McDonell indicated that the proposed Resolution delegates management and control of the Preserve to the Park and Recreation Board. McDonell noted, however, that the Resolution does not revoke the authority from the Landmarks Commission, and the Landmarks Commission has a continuing role regardless of the management because it is a designated Landmark in the City.

RESOLUTION DELEGATING MANAGEMENT AND CONTROL OF THE WHITEWATER EFFIGY MOUNDS PRESERVE TO THE WHITEWATER PARK AND RECREATION BOARD

WHEREAS, the City of Whitewater is the owner of the Whitewater Effigy Mounds Preserve, hereinafter at times referred to as the "Mounds Preserve", and

WHEREAS, for the purpose of promoting the efficient management of the Mounds Preserve, the City Council seeks to provide direction to City committees, boards, commissions, staff and the general public concerning the management and control responsibilities for the Mounds Preserve.

Now, therefore, **IT IS HEREBY RESOLVED:**

1. The Whitewater Parks and Recreation Board shall have the exclusive jurisdiction (subject to City Council authority) and power to govern, manage, control, improve, and care for the Whitewater Effigy Mounds Preserve and may adopt rules and regulations to secure the quiet, orderly and suitable use and operation of the Mounds Preserve by the public.

2. The Whitewater Parks and Recreation Board's management and control of the Mounds Preserve shall be in compliance with the City of Whitewater Landmarks Ordinance and State laws applicable to the Mounds Preserve. This resolution does not revoke any authority from the Whitewater Landmarks Commission that is explicitly delegated to that body in Chapter 17 - The City of Whitewater Landmarks Commission Ordinance.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Singer, Kienbaum, Stewart, Binnie, Winship, Abbott, Olsen. NOES: None. ABSENT: None. ADOPTED: February 7, 2012.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

ADOPTING THE WHITEWATER EFFIGY MOUNDS PRESERVE PRESERVATION AND RESTORATION PLAN. Park and Recreation Director Amundson presented the Whitewater Effigy Mounds Preserve Preservation and Maintenance Plan. Councilmember Binnie reported that some of his constituents have indicated that maintenance of the preserve has been worse than it's ever been. Park & Recreation Director Amundson indicated that prairie growth takes time to develop, and the proposed plan has a burning schedule. Winship expressed concern over the financial implications of the Plan. Amundson indicated that consultants tend to overestimate costs, and Amundson believes that creative planning at the local level can reduce the numbers listed in the proposal. Mariann Scott, Landmarks member, stated the Landmarks Commission voted on recommending only the portions of the plan that had to do with the preservation, as they felt it was the only portion of the project that their Committee was charged to deal with. Scott also indicated there are concerns over fencing located on public land, boundary markers, and protection of the Mounds from invasive species of plants. When Councilmember Olsen questioned the requirement for a 250' easement around the property, Park & Recreation Director Amundson indicated that the reference applied only to future development. Olsen requested that the language be amended to clarify that fact.

**RESOLUTION ADOPTING THE WHITEWATER EFFIGY MOUNDS PRESERVE
PRESERVATION AND MAINTENANCE PLAN
WALWORTH COUNTY, WISCONSIN**

WHEREAS, the City of Whitewater arranged to have Jennings & Associates complete a preservation and maintenance plan for the Whitewater Effigy Mounds Preserve for City planning purposes, and

WHEREAS, Jennings & Associates completed the plan, and

WHEREAS, said plan has been presented to the City of Whitewater Park and Recreation Board, and was adopted by it on August 1, 2011

WHEREAS, the Whitewater Effigy Mounds Restoration Plan completed by Jennings & Associates is a sound and valuable guide and reference to the City of Whitewater for the purposes of land management,

Now, therefore, **BE IT RESOLVED** that the Common Council of the City of Whitewater, Walworth and Jefferson Counties, acknowledges the receipt of the Whitewater Effigy Mounds Restoration Plan prepared by Jennings & Associates and attached hereto, and adopts the plan as a resource and guide for management of the Whitewater Effigy Mounds Preserve. This resolution does not approve any funding for said Plan; rather, any funding requests shall be presented to the Council and acted upon separately by the Council.

Resolution introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Abbott, Kienbaum, Stewart, Singer, Binnie, Winship, Olsen. NOES: None. ABSENT: None. ADOPTED: February 7, 2012.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

BUDGET TRANSFER RESOLUTION.

**2012
BUDGET TRANSFER RESOLUTION I**

WHEREAS, the Common Council of the City of Whitewater adopted the Budget Resolution for 2012 on November 15, 2011, 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:

General Fund #100

Increase

Shop/Fleet Operations

Police Vehicle Repair 100.53230.353 \$ 14,900.00

Decrease

Police Patrol

Repair/Maintenance Vehicles 100.52110.244 <\$ 12,000.00>

Police Investigation

Repair/Maintenance Vehicles 100.52120.241 <\$ 2,900.00>

To transfer the 2012 budgeted amounts for the Repair/Maintenance of police vehicles (for Patrol/Investigation) only to Shop/Fleet Operation. This is to centralize this function within one area of responsibility. A new budget account has been created (353) to track this repair/maintenance expense.

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 Olsen who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Abbott, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. ADOPTED: February 7, 2012.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AMENDING MEMORANDUM OF UNDERSTANDING WITH UWW REGARDING POLLING PLACE. As a result of the redistricting and the movement of the Starin Hall Ward to campus, a revision to the MOU and amendment to the Resolution regarding polling locations is necessary.

RESOLUTION LOCATING POLLING PLACE FOR WARDS 7, 8, 9 & 12 TO UWWHITEWATER CAMPUS

WHEREAS, the City Council of the City of Whitewater, Walworth and Jefferson Counties, finds that it is in the City of Whitewater's best interest to have a polling place for Wards 7, 8, 9 & 12 held the Hamilton Center, on the University of Wisconsin-Whitewater campus.

NOW, THEREFORE, BE IT RESOLVED that beginning on April 3, 2012, the polling place for the Presidential, Presidential Primary and Gubernatorial elections in the City of Whitewater for Wards 7, 8, 9 and 12 shall be held at the Hamilton Center on the University of Wisconsin campus.

Resolution introduced by Councilmember Olsen who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Abbott, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None. ADOPTED: February 7, 2012.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AMENDING CHAPTER 11.21 HEAVY TRUCK TRAFFIC ROUTES, AND REPEALING CHAPTER 11.54, HEAVY TRUCK TRAFFIC. City Manager Brunner indicated that the Community Development Authority has expressed concerns over the proposed ordinance as it does not allow Janesville Street to be a part of the area authorized to be used for truck traffic. (All streets can be used for truck delivery purposes). The CDA encouraged more research on potential truck routes to the City, particularly to determine the fiscal impact on Whitewater Business Park firms before taking action. It was agreed that Janesville Street, from the intersection of Janesville to Franklin St. to Hwy. 12, will be added to the ordinance. DPW Director Fischer said that he's sent out a letter to many businesses in the Business Park informing them of the change, but has not had any feedback from them. Councilmember Olsen stated that Pope Transport is still discussing this with their staff, and that Hagen Trucking does not have concerns about the proposal. Councilmember Kienbaum stated that good signage is important so that everyone understands the change. It was moved by Singer and seconded by Olsen to amend the ordinance to add language to include Janesville St., from Franklin to Hwy. 12. AYES: Olsen, Abbott, Winship, Singer, Stewart. NOES: Binnie, Kienbaum. Amendment to the Ordinance was approved.

ORDINANCE AMENDING CHAPTER 11.32 HEAVY TRAFFIC ROUTES AND REPEALING CHAPTER 11.54 TRUCK TRAFFIC (02-9-12 Draft)

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

SECTION 1. Whitewater Municipal Code Chapter 11.54, Truck Traffic, is hereby repealed.

SECTION 2. Whitewater Municipal Code Chapter 11.32, Use by heavy traffic prohibited, is amended to read as follows:

(a) Heavy traffic is prohibited on all streets in the city except Janesville Street, South Franklin Street, North Tratt Street, Business Highway 12, and state and federal highway routes through the city; provided, that the ordinary use of the streets for the purpose of obtaining orders for and carrying of supplies and other necessary things to and from any one place or residence fronting on the streets is excepted from the provisions of this section.

(b) In this section, “heavy traffic” means all vehicles not operating completely on pneumatic tires and all vehicles or combination of vehicles, other than motor buses, designed or suited for transporting property of any nature and having a gross weight of more than six thousand pounds.

(c) Any person who violates the provisions of this chapter shall, upon conviction thereof, be subject to a penalty of not less than \$25.00 nor more than \$200.00 for the first offense, together with the costs of prosecution; and on second and subsequent offenses within one year not less than \$50.00 nor more than \$250.00, together with the costs of prosecution.

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

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AMENDING CHAPTER 1.21.010, SCHEDULE OF DEPOSITS, RELATING TO HEAVY TRUCK TRAFFIC VIOLATIONS.

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

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

SECTION 1: Whitewater Municipal Code Section 1.21.010 is hereby amended to add the following:

<u>CHAPTER OR SECTION NUMBER</u>	<u>OFFENSE</u>	<u>DEPOSITS AND COSTS</u>
11.32	Violation of Heavy Truck Traffic Prohibition	1 st offense - \$100.00 plus statutory penalty assessment, jail assessment, court costs and crime lab assessment
		2 nd and subsequent offenses within one year - \$150.00 plus statutory penalty assessment, jail assessment, courts costs and crime lab assessment

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

Ordinance introduced by Councilmember Olsen and seconded by Councilmember Binnie. AYES: Olsen, Abbott, Winship, Singer, Stewart, Kienbaum, Binnie. NOES: None.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

AMENDING CHAPTER 5 OF MUNICIPAL CODE, EXTENDING HOURS OF OPERATION FOR CLASS A LICENSEES.

**SECOND READING OF ORDINANCE AMENDING SECTION 5.20.090
CLOSING HOURS FOR RETAIL ALCOHOL ESTABLISHMENTS**

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 5.20.090 (2), is hereby amended to read as follows:

5.20.90. Hours.

(2) If a retail class "A" license, between 9:00 p.m. and 6:00 a.m., except that a retail class "A" licensed premises may remain open at any and all other times, provided there is no sale of alcohol beverages between the hours of 9:00 p.m. and 6:00 a.m.

Ordinance introduced by Councilmember Olsen, who moved its adoption. Seconded by Councilmember Winship. AYES: Olsen, Abbott, Binnie, Singer, Kienbaum, Winship, Stewart. NOES: None. ABSENT: None. SECOND READING APPROVED: February 7, 2012.

Kevin M. Brunner, City Manager

Michele R. Smith, City Clerk

CITY PROCUREMENT / PURCHASING POLICY. Councilmember noted that a number of years ago, there was a policy in effect indicating that if a local bid or quote was within 5% of the cost of the lowest bid, that the Council could choose to buy local. He noted that the policy adopted in 2007 does not include this language. Olsen would like to see this language put back in the policy, especially in light of the "Buy Local" promotions. Councilmember Binnie stated he would be in support the proposal as long as it was not so definitive that the Council must always go with local. Winship is receptive to an amendment to the policy if it allows a local purchase, but does not lock the Council into making a local purchase. City Attorney McDonell will work with City Manager Brunner to bring a proposal back to Council.

APPROVAL OF EFFIGY MOUNDS PRESERVE FENCE AGREEMENTS OF OTHER ACTIONS CONCERNING FENCES. City Attorney Wallace McDonell indicated that there are three circumstances regarding fences near the Effigy Mounds. The first one involves a property owned by Jon Kachel. City Attorney McDonell explained that the Kachel fence was replaced a number of years ago. After it was erected, it was discovered that the fence is located on Effigy Mounds land. Presented for Council approval was an agreement with the Kachels stating that they will remove the fence by May 31, 2012. The Wisconsin Historical Society will be present to assist in defining the proper process. It was also noted that the Mounds Park Acres covenants require property owners to have a fence located at least 10' from their property line. McDonell indicated that the City is not going to enforce that covenant for this circumstance.

The other two circumstances are related to City property adjacent to those owned by Jim Schumacher and James Rodgers. City Attorney McDonell indicated that both of these properties have fences adjacent to them, which fences were installed long before the current property owners purchased their lots. It was noted that the fence line goes a couple of feet into the Effigy Mounds. McDonell reported that both property owners acknowledge that the City owns the fence, and that the City can move that fence at any time it chooses to do so.

Landmarks Commission member Mariann Scott indicated that the Mounds area is catalogued with the State of Wisconsin. City Attorney McDonell confirmed that the methods of fence removal from the catalogued ground will be followed per State regulations when fences are removed. Councilmember Olsen questioned whether there will be boundary markings indicating where the City owns property and where the taxpayer owns property. City Attorney McDonell indicated that there are currently flags on the property boundary, and that the public does have access to the public portion of the property. McDonell also indicated that he has received e-mails from both the Schumachers and the Rodgers, confirming that they are not attempting to gain "squatter's rights" on the land. Landmarks Chairperson Christ asked whether the property owners currently planting flowers on the catalogued land will continue to be allowed to plant flowers there. City Attorney McDonell indicated that this is an issue for the State Historical Society. McDonell indicated that the land owners must adhere to the rules concerning catalogued property. McDonell stated that it has been indicated to him that John Broihan of the State Historical Society will be re-looking at the cataloguing in that area. Attorney McDonell indicated that property owners were not previously aware of exactly where their property lines were. Christ questioned whether the property owners can dig up their gardens. Attorney McDonell indicated that his general understanding was there is to be no disturbance of catalogued land.

It was moved by Olsen and seconded by Singer to approve the Agreement with Jon and Teri Kachel, and to acknowledge receipt of the report relating to the other two fences (adjacent to the Schumacher and Rogers property). AYES: Abbott, Winship, Olsen, Binnie, Singer, Kienbaum, Stewart. NOES: None. ABSENT: None.

APPROVAL OF THREE-YEAR CITY ENGINEERING CONTRACT WITH STRAND ASSOCIATES.

City Manager Brunner stated that engineering firms were interviewed, and it was recommended that the City retain Strand as their engineering firm. It was moved by Councilmember Olsen and seconded by Councilmember Binnie to approve the three-year city engineering contract with Strand Associates. AYES: Olsen, Abbott, Winship, Binnie, Singer, Kienbaum, Stewart. NOES: None.

REVIEW OF 2ND COUNCIL MEETING DATE IN FEBRUARY (DUE TO ELECTION ON 2/21/12, MEETING WOULD BE HELD ON 2/23/2012) AND POSSIBLE DIRECTION REGARDING MAINTAINING THE 2/21/12 MEETING DATE.

By unanimous approval, the Council meeting date was moved to 2/23/12.

COUNCILMEMBER REQUESTS FOR FUTURE AGENDA ITEMS. None.

ADJOURNMENT It was moved by Olsen and seconded by Binnie to adjourn the meeting. AYES: Abbott, Binnie, Singer, Olsen, Stewart, Kienbaum, Winship. NOES: None. ABSENT: None. Being no further business to come before the regular portion of the meeting, the meeting adjourned at 7:55 p.m.

Respectfully submitted,

Michele R. Smith
City Clerk