

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

August 4, 2015

The regular meeting of the Common Council of the City of Whitewater was called to order at 6:30 p.m. by Council President Patrick Singer. The meeting was held in the Community Room of the City of Whitewater Municipal Building. MEMBERS PRESENT: Abbott, Grady, Binnie, Singer, Kidd, Langnes. MEMBERS ABSENT: None. (Councilmember Stauffer resigned effective 7/30/15 due to a relocation to Iowa). LEGAL COUNSEL PRESENT: McDonell.

It was moved by Abbott and seconded by Binnie to approve the Council Minutes of 6/3/2015 and 6/16/2015 and to acknowledge receipt and filing of the following: Report of Manually Issued Checks for June, 2015; the Financial Reports for 2015; and the Whitewater Police Department Consolidated Monthly Report for June, 2015. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None.

**PAYMENT OF INVOICES.** It was moved by Abbott and seconded by Binnie to approve payment of city invoices in the total sum of \$126,349.45. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None.

**STAFF REPORTS.** Newly-appointed Chancellor Beverly Kopper was introduced to the Council. Kopper expressed strong support of a good City – University working relationship, and encouraged Councilmembers to contact her if they have questions or concerns. UWW Career and Leadership Development employee Jan Bilgen Craggs reminded citizens of the upcoming student move-in dates. Food Pantry representative Mariann Scott thanked Parks and Recreation Director Amundson and City staff members for their assistance in the temporary relocation of the Food Pantry due to Armory reconstruction.

**FIRST READING OF ORDINANCE ADOPTING CHAPTER 5.16 “PARKLET CAFÉ PERMIT”.** Downtown Whitewater representatives Dave Saalsa and Tami Brodnicki presented information on parklet cafés, which are outdoor seating units constructed on on-street parking stalls. An example from LaCrosse, Wisconsin was provided. Downtown Whitewater representatives have worked with City staff to create an ordinance to allow the cafes with authorization from the Neighborhood Services Department. Numerous advantages were noted. It was also noted that the Whitewater Police Department does have some concerns about the safety of the parklets. The parklets would be removed every Fall and stored for the winter. Discussion regarding industrial grade outdoor furniture was discussed, and the requirement to either take furniture in every night / chain it down each evening will be considered with each application.

**AN ORDINANCE ADDING CHAPTER 5.16, PARKLET 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 Section 5.16 is amended to read as follows:

The following Chapter 5.16 is hereby added to the Municipal Code:

Chapter 5.16 Parklet Café permit

Chapter 5.16 Parklet Café permit..... 2

5.16.010 - Purpose. .... 2

5.16.020 - Definitions. .... 3

5.16.030 - Permit required. .... 3

5.16.040 - Permit application..... 3

5.16.050 - Permit fees. .... 4

5.16.060 - Standards. .... 4

5.16.070 - Alcohol licensing and service of alcohol beverages..... 7

5.16.080 - Liability and insurance. .... 8

5.16.090 - Revocation or suspension. .... 8

5.16.100 - Appeal..... 9

5.16.110 - Penalty. .... 9

**I.**

**II. 5.16.010 - Purpose.**

To further encourage the revitalization of the downtown and other areas of the city, including the development of social and economic activity, the city council finds and determines:

1. That there exists a need for outdoor eating facilities in certain areas of the city to provide a unique environment for relaxation, social interaction, and food consumption.
2. That parklet cafés will permit enhanced use of the available public rights-of-way, will complement restaurants operating from fixed premises, and will promote economic activity in the area.
3. That the existence of parklet cafés encourages additional pedestrian traffic, but their presence may impede the free and safe flow of pedestrians. Therefore, a need exists for regulations and standards for the existence and operation of parklet cafés to ensure a safe environment.
4. That the establishment of permit conditions and safety standards for parklet cafés is necessary to protect and promote public health, safety, and welfare.

**III. 5.16.020 - Definitions.**

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

"Restaurant" shall mean an establishment holding a State of Wisconsin restaurant license.

"Parklet café" shall mean an expansion of a restaurant creating an outdoor dining facility on part of the public street right-of-way that immediately adjoins the licensed premises for the purpose of consuming food or beverages prepared at the restaurant adjacent thereto.

"Parklet" shall mean an expansion of a business creating an outdoor public facility on part of the public street right-of-way that immediately adjoins the premises.

**IV. 5.16.030 - Permit required.**

1. A. Parklet café: A restaurant may apply to neighborhood services for a permit to allow a restaurant to operate a Parklet café. The neighborhood services director or designee may approve, approve with conditions or restrictions, or deny a permit where necessary to protect the public health, safety or welfare, to prevent a nuisance from developing or continuing, or due to violation of this section, the City Code of Ordinances, or applicable state or federal law.

B. Parklet: A business may apply to the neighborhood services director for a permit to allow an outdoor sitting area to operate a Parklet. The neighborhood services director or designee may approve, approve with conditions or restrictions, or deny a permit where necessary to protect the public health, safety or welfare, to prevent a nuisance from developing or continuing, or due to violation of this section, the City Code of Ordinances, or applicable state or federal law.

2. Before a permit may be issued, the application and site plan shall be reviewed for approval by the city fire department and city building inspector.
3. The permit issued may be transferred to a new owner only for the location and area listed in the permit. If the site plan will change, a new plan must be filed and approved prior to the use under the new site plan. A new certificate of insurance must be filed with the city before the permit transfer.

**V. 5.16.040 - Permit application.**

- A. New Permit Application. Application for a permit to operate a parklet café or parklet shall be submitted to the department of neighborhood services and shall include at least the following information:
  1. Completed city application form.
  2. Copy of a valid restaurant license issued by the State of Wisconsin (if applicable).
  3. Copy of a current certificate of commercial liability insurance in the amount of at least \$500,000.00 per occurrence.

4. A layout, drawn to scale, which accurately depicts the dimensions of the existing area and adjacent private property, the proposed location of the parklet café or parklet, size and number of tables, chairs, steps, planters, and umbrellas, location of doorways, trees, parking meters, sidewalk benches, trash receptacles, light poles, and any other sidewalk obstructions, either existing or proposed, within the pedestrian area. This layout shall be submitted on eight and one-half-inch by eleven-inch (8½ x 11”) paper, suitable for reproduction.
5. Photographs, drawings, or manufacturer's brochures fully describing the appearance and dimensions of all proposed tables, chairs, umbrellas, barriers or other objects related to the parklet café or parklet.

B. Annual Insurance Requirement (see 5.16.080).

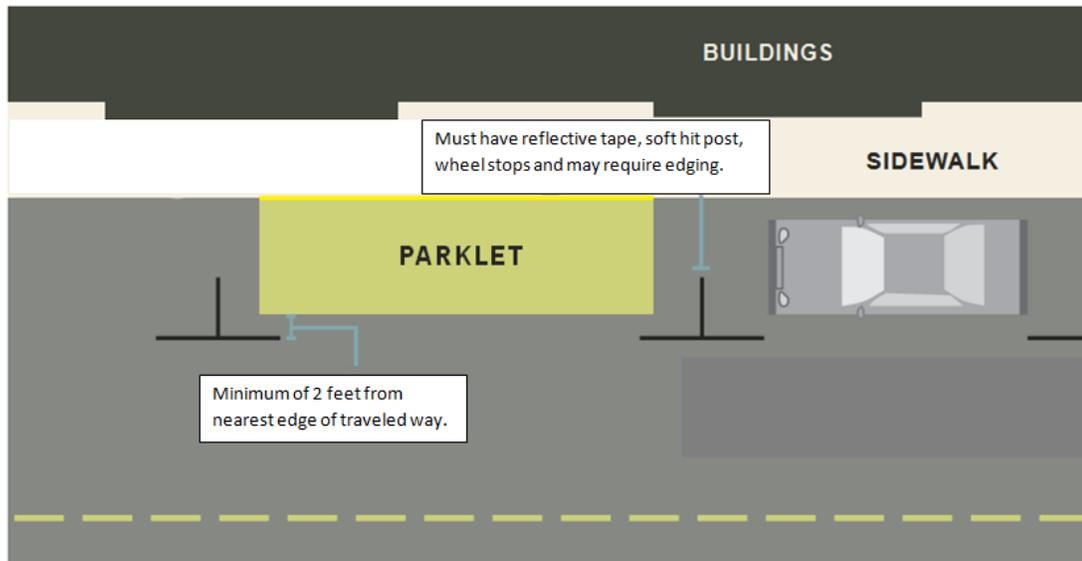
**VI. 5.16.050 - Permit fees.**

The parklet café or parklet fee shall be determined by the City Council and shall be kept on file in the Neighborhood Services Department.

**VII. 5.16.060 - Standards.**

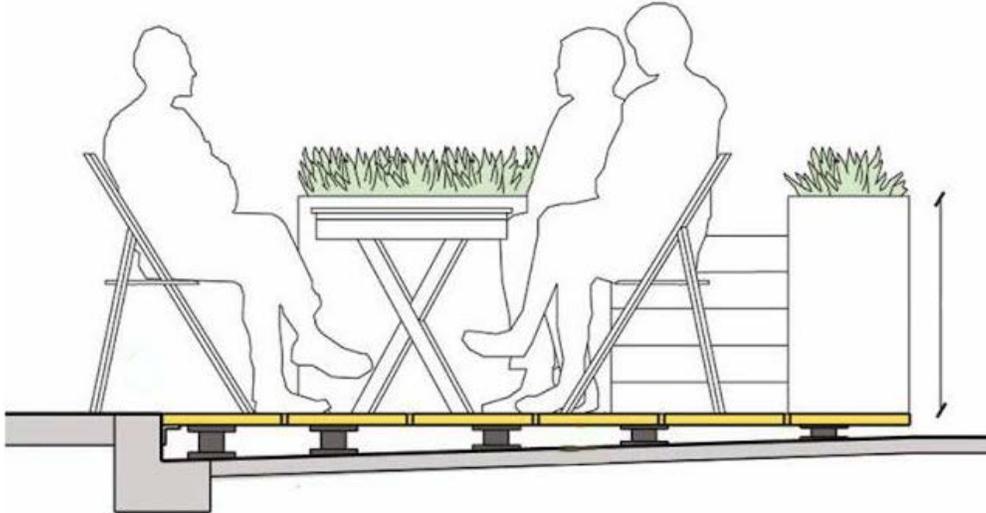
The following standards, criteria, conditions, and restrictions shall apply to all parklet cafés or parklets, provided, however, that the neighborhood services director or designee may impose additional conditions and restrictions to protect and promote the public health, safety, or welfare, to prevent a nuisance from developing or continuing, and to comply with this section, the City of Whitewater Code of Ordinances, and all applicable state and federal laws.

1. Parklet café: is restricted to the public right-of-way immediately adjacent to the licensed full-service restaurant to which the permit is issued.  
Parklet: is restricted to the public right-of-way immediately adjacent to the business to which the permit is issued.
2. The parklet café or parklet will require a conditional use permit (CUP) if the parklet café or parklet occupies more than two (2) parking spaces.
3. The parklet café or parklet site shall be located on at least one parking spot and appurtenances thereof shall be a minimum of two (2) feet from the nearest edge of traveled way.



4. Tables, chairs, umbrellas or other fixtures in the parklet café or parklet:
  - a. Shall not be placed within five (5) feet of fire hydrants, alleys, or bike racks. Shall not be placed within five (5) feet of a pedestrian crosswalk.
  - b. Shall not block designated ingress, egress, or fire exits from or to the restaurant, or any other structures.
  - c. Shall not be physically attached, chained or in any manner affixed to any structure, tree, signpost, or light pole.
  - d. Shall be permitted from April 1<sup>st</sup> through October 31<sup>st</sup> unless the Applicant can demonstrate that the parklet café or parklet will not be a hazard for snow plows or vehicles. Parklets café or parklets that have not been removed after October 31<sup>st</sup> may be removed by the City at the owner's expense.
  - e. Shall be maintained in a clean, sanitary and safe manner.
  - f. Shall have commercial-grade furniture.
  - g. Shall not be placed outside or hang over the designated parklet café or parklet area.
  
5. The Parklet café or parklet shall be located in such a manner that a distance of not less than four (4) feet is maintained at all times as a clear and unobstructed pedestrian path. For the purpose of the minimum clear path, parking meters, traffic signs, trees, light poles and all similar obstacles shall be considered obstructions.
  
6. Parklet café or parklet shall be located in B-2 Central Business Zoning District.
  
7. The Parklet café or parklet, along with the sidewalk and roadway immediately adjacent to it, shall be maintained in a neat and orderly manner at all times. Debris shall be removed as required during the day and again at the close of each business day. Maintenance details shall include access panels and how drainage will be provided along the existing gutter.

8. Parklet café or parklet decking must be flush with the curb and may not have more than a 1/2" gap from the curb.
9. The Parklet café or parklet platform shall allow for access underneath the platform and curbside drainage may not be impeded.



10. All rails around the Parklet café or parklet must be capable of withstanding a 200 lb horizontal force.
11. The Parklet café or parklet shall be required to have reflective tape, soft hit posts, wheel stops and, depending on the proposed location, may be required to have edging such as planters, railing or cables.
  - a. Any edge shall be visually permeable.
  - b. If cables are used, vertical spacing between cables may not exceed six (6") inches.
12. Umbrellas and other decorative material shall be made of treated wood, canvas, cloth, or similar material that is manufactured to be fire resistant. No portion of an umbrella shall be less than six (6) feet eight (8) inches above the sidewalk. Umbrellas must be secured.
13. Signs to be used in the parklet café or parklet shall be in accordance with [Chapter 19.54](#) of the City Code of Ordinances. However, the neighborhood services director may allow temporary easel signs.
14. No food preparation, food or beverage storage, refrigeration apparatus, or equipment shall be allowed in the parklet café unless authorized by the neighborhood services director as part of a special event.
15. No amplified entertainment shall be allowed in the parklet café unless authorized by the neighborhood services director as part of a special event.

16. A copy of the site plan, as approved in conjunction with the current parklet café or parklet permit, shall be maintained on the permittee's premise and shall be available for inspection by city personnel at all times.
17. The city, its officers and employees shall not be responsible for parklet café or parklet fixtures that are relocated or damaged.
18. Patio heaters shall not be permitted on the parklet café or parklet unless authorized by the Fire Chief.
19. The parklet café or parklet shall meet the intersection visibility requirements in accordance with [Chapter 19.51.010](#) of the City Code of Ordinances.
20. Use of the parking space must be authorized by the City.
21. All elements of the above mentioned parklet shall be constructed and/or installed to conform to the applicable provisions, rules, regulations and guidelines of the City of Whitewater Building Code, The Americans with Disabilities Act (ADA), and the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

**VIII. 5.16.070 - Alcohol licensing and service of alcohol beverages.**

1. A permittee may sell and serve alcohol beverages in a parklet café only if the permittee complies with all the requirements for obtaining an alcohol beverage license, and the parklet café is listed on the alcohol beverage license application as being a part of the licensed premises. Alcohol in parklets is prohibited.
2. Alcohol may be served at parklet cafés under the following conditions:
  - a. The permittee has a valid and appropriate retail alcohol beverage license for the principal premises.
  - b. The retail alcohol beverage license premises description includes the parklet café in the description of the licensed premises as an extended area.
  - c. The retail alcohol beverage license permits the sale of the type of alcohol beverages to be served in the parklet café.
  - d. Alcohol beverages are sold and served by the licensee or licensee's employees and sold or served only to patrons seated at tables in the parklet café.
  - e. Alcohol beverages are served by the licensee or the licensee's employees in compliance with alcohol beverage laws, ordinances and regulations.
  - f. Alcohol beverages may only be served at the parklet café when food service is available through the licensed establishment.

- g. The permittee shall be responsible for policing the parklet café area to prevent underage persons from entering or remaining in the parklet café, except when underage persons are allowed to be present on the licensed premises under applicable laws.
- h. The permittee shall not allow patrons of the parklet café to bring alcohol beverages into the parklet café from another location, nor to carry open containers of alcohol beverages about in the parklet café area, nor to carry open containers of alcohol beverages served in the parklet café outside the parklet café area.
- i. The area of the restaurant from which the alcohol beverages are dispensed shall be located indoors and shall not be located in the parklet café area.
- j. At times of closing or during times when consumption of alcohol beverages is prohibited, permittee shall remove from the parklet café area all containers used for or containing alcohol beverages. No container of alcohol beverages shall be present in the parklet café between 11:00 p.m. and 7:00 a.m.

**IX.**

**X. 5.16.080 - Liability and insurance.**

By obtaining the parklet café or parklet permit, the permittee agrees to indemnify, defend, save, and hold harmless the city, its officers and employees from any and all claims, liability, lawsuits, damages, and causes of action which may arise out of the permit or the permittee's activity in the parklet café or parklet. The permittee shall sign an indemnification agreement approved by the city attorney prior to operation of the parklet café or parklet.

- 1. The permittee shall maintain in full force and effect commercial liability insurance in the amount of at least \$500,000.00 per occurrence for bodily injury and property damage, with the City of Whitewater named as an additional insured, and shall show that the coverage extends to the area used for the parklet café.
- 2. The permittee shall provide the city with an original certificate of insurance as evidence that the requirements set forth in this section have been met prior to commencing operations. Thereafter a certificate of insurance shall be provided to the city by April 1<sup>st</sup> of each year.

**XI. 5.16.090 - Revocation or suspension.**

The approval of a parklet café or parklet permit is conditional at all times. A parklet café or parklet permit may be revoked or suspended by the neighborhood services director or designee if a permittee has been found in violation of this chapter on three (3) separate occasions documented by a written warning, or where necessary based on a violation of this ordinance, to protect the public health, safety, or welfare, to prevent a nuisance from developing or continuing, emergency situations, or to comply with the City Code of Ordinances, or to comply with applicable state or federal law.

**XII. 5.16.100 - Appeal.**

A revocation, suspension, or denial of a permit may be appealed by the permittee to the City Council. If the neighborhood services director's decision is appealed, the City Council shall hold a hearing and either grant, grant with conditions, or deny the permit. The permit holder or applicant shall be notified of the City Council appeal meeting and shall have the right to be heard prior to a decision.

**XIII. 5.16.110 - Penalty.**

The penalty for violation of this section shall be a forfeiture of not less than \$50.00 or more than \$200.00 per day for each violation, together with the costs of prosecution.

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

Ordinance introduced by Councilmember Kidd, who moved its adoption. Seconded by Councilmember Binnie. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None. FIRST READING APPROVED: August 4, 2015.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**FIRST READING OF AMENDMENTS TO TITLE 19.** Proposed for approval was an ordinance amending various sections of Chapter 19, most particularly relating to parking as well as the amount of impervious surface allowed on a lot. Lengthy discussion ensued, and concerns were expressed about the rationale as to why the 40% number was chosen by the City as the limitation as to how much square footage could be filled by impervious surfaces. It was noted that gravel driveways were considered an impervious surface, and that the figure proposed in the new ordinance consisted of the sum of all impervious coverage on the lot. Resident Jeff Knight felt that the proposed maximum would deter developers from coming to Whitewater. It was also noted that numerous existing properties would be out of compliance with the rule. Councilmember Grady also requested amendments to chapter 19.19, which relate to the rezoning requirements in the R-2A district. After a lengthy discussion, it was agreed to ask the Neighborhood Services Director to research area communities to find out what their Code says, and attempt to determine firm rationale regarding the percentages. It was agreed that no action would be taken on the proposal at this time, and more information would be obtained and the matter brought back to the Council. The proposed amendment to Chapter 19.19 will go before the Plan Commission as required, then be returned to Council for action.

**SECOND READING OF ORDINANCE RELATING TO R-2A ZONING FOR 604 W. HIGH STREET.**

**SECOND READING OF AN ORDINANCE IMPOSING THE R-2A  
RESIDENTIAL OCCUPANCY OVERLAY DISTRICT  
ZONING CLASSIFICATION FOR CERTAIN PROPERTY  
IN THE CITY OF WHITEWATER**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, do, pursuant to Municipal Code Section 19.69, hereby impose the R-2A Residential Occupancy Overlay District Zoning classification (19.19) on the below property:

Section 1: The R-2A Residential Occupancy Overlay District Zoning classification is hereby imposed upon:

Address  
604 High Street

Tax ID#  
/CL 039

Section 2: The official zoning map of the City of Whitewater is hereby amended to show the above action.

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

Ordinance introduced by Councilmember Kidd who moved its adoption. Seconded by Councilmember Abbott. AYES: Abbott, Binnie, Kidd, Langnes. NOES: Grady, Singer. ABSENT: None. ADOPTED: August 4, 2015.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

## **SECOND READING OF PUBLIC ARTS ORDINANCE.**

### SECOND READING OF AN ORDINANCE ENACTING CHAPTER 12.46 PUBLIC ARTWORK

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

SECTION I. Whitewater Municipal Code Chapter 12.46 Public Artwork is hereby created to read as follows:

12.46.010	Declaration of Purpose
12.46.020	Permitted Use
12.46.030	Site Selection
12.46.040	Accession
12.46.050	Selection Processes
12.46.060	Maintenance
12.46.070	Deaccession / Relocation
12.46.080	Community Initiated Public Art

#### **XIV. 12.46.010 Declaration of Purpose**

These regulations relating to Community Art in the City of Whitewater (here after referred to as the "City") further the following purposes:

- A. Public artwork is meant to be seen, but more so experienced, as a work of art can help inspire and provide perspective no matter what the subject at hand. Artwork should be proposed in the following areas and ways:
  - a. Integrating public artwork into parks, greenbelts and other public locations.
  - b. Building cohesion through projects that engage the Public.
  - c. Using art as a way to celebrate, reflect and enhance the character and history of a space.
  - d. To add interest to public spaces.

- B. In developing its vision for the future of the city, the city council believes that planning and development decisions should give aesthetic and social value equal weight with any project's functional and economic value. Community art strengthens public places and enhances and promotes Whitewater's identity as a livable and creative city and a desirable place to live, work and visit. Therefore, the council wishes to implement a process and provide opportunities to involve artists in the design, implementation and integration of art in community projects.
- C. The presence of works of art and decorative elements in public places in the City enhances the quality of life, promotes the general welfare, maintains the quality of the environment and property values, and enhances the attractiveness of the City for residents and visitors.
- D. Identifying locations for public works of art and decorative elements and participating in the building of a community art collection of high quality can be stimulating and unifying for the City and contribute to civic pride reflective of the City's diversity.
- E. The artwork is intended for public owned spaces and the following zoning districts: B-1, B-1A, B-2, B-3, M-1, M-2 and WUTP.
- F. Public Artwork is defined as art in any media that has been planned and executed with the intention of being staged in the physical public domain, usually outside and accessible to all. Public artwork is significant within the art world, amongst curators, commissioning bodies and practitioners of public art, to whom it signifies a working practice of site specifically, community involvement and collaboration.

**XV. 12.46.020 Permitted Use**

**A. Creative Building Art**

- 1. A non-commercial message, picture, scene, sculpture, or diagram exhibited on the outside wall of a building or structure through the application of paint, canvas, tile, panels, clay, wire, plaster or similar materials such that the wall becomes the background surface or platform for the Creative Building Art.
- 2. A one-of-a-kind, hand-painted, hand-tiled, or digitally printed image on the exterior wall of a building that does not contain any commercial message.
- 3. For definition purposes, a commercial message is any message that advertises a business conducted, services rendered, or goods produced or sold.
- 4. May be considered a wall sign or commercial message if it contains words, logos, trademarks, or graphic representations of any person, product, or service for the purpose of advertising or identifying a business.

**B. Vintage Building Art**

- 1. Must be at least twenty-five (25) years old or an exact duplicate of an original work of art where the combined age of the exact duplicate and original work of art is at least twenty-five (25) years.
- 2. Possess unique physical design characteristics, such as size, configuration, message, color, texture, etc.
- 3. Be of extraordinary significance to the City, regardless of the use identified by the work of art.

**C. Public Art Installation**

- 1. The Art location may be a facility, amenity, or project that does not contain any commercial message and which is an "approved public arts project"

2. Consisting of:
  - acquisition or placement of publicly accessible works of art;
  - provision of arts or cultural services; or
  - restoration or preservation of existing works of art.
3. Additionally, Public Art Installations are included in the proposed ordinance to ensure that all community art (whether a mural or other object) is treated similarly and does not conflict with the City's regulations pertaining to commercial messages and signage.

**XVI. 12.46.030 Site Selection**

The site must be public property or private property with written permission. Sites must be situated so that the art is visible and accessible to all members of the community. Additionally, the artwork must not seriously disrupt the flow of pedestrian or vehicular traffic or adversely alter the environmental conditions of the selected site. Structural and maintenance issues of the prospective artwork will also be considered when selecting a site, as some areas will be prone to public interactions with the art. In selection of a site the Public Works Department should be notified to insure that any existing utilities will not be affected. A work installed in these areas must be structurally sound to ensure the safety of the community as well as the longevity of the work.

**XVII. 12.46.040 Accession**

All works of art purchased, commissioned or accepted as donations become property of the City of Whitewater. All City artwork is maintained by the City and included in an inventory kept by the Public Art Committee.

People wishing to donate artwork to the City must submit slides, a written description of the work, and a rationale for the gift. The Public Art Committee will review the submitted piece for quality, maintenance requirements, donor stipulations, safety issues of the piece, availability of an appropriate site, and advice of the administrators at that site. Based on this review the Public Art Committee will either accept or decline the donation.

**XVIII. 12.46.050 Selection Processes**

There are three (3) standard ways of purchasing a piece of art. In addition to these, the City may acquire artwork through gifts. For each of the processes outlined, the Public Art Committee and City's Acquisition Procedures will be used.

- A. **Open Competition:** Artists submit proposals in response to a public advertisement. The selection committee then reviews the proposals and recommends an artist or artists for acquisitions or requests more detailed proposals from selected artists.
- B. **Limited, Invitational Competition:** The Public Art Committee recommends a limited number of artists on the basis of an interview or review of work. The artists are then invited to develop a site-specific proposal for a particular project. The artists are given an honorarium and all the necessary information as well as the opportunity to present a model and proposal to the committee. The selection committee then reviews the submitted proposals and recommends acquisitions. This process might be most appropriate for art projects calling for collaboration between an artist and an architect or landscape artist.
- C. **Direct Invitation:** In this process, if there is a majority of the Public Art Committee that feels one artist is particularly well qualified for a project s/he might be invited to submit a proposal and a model thereby bypassing the competition process. This process may be suitable should the appropriate situation arise (skip to D.8. below).
- D. Acquisition Procedures

1. Public Art Committee defines the project, i.e. location of work or capital project with which art is associated, and the method of selection. Methods of selection may include open competition; invitational competition; or direct selection.
2. Public Art Committee defines parameters of project to be used in the call for artists or direct selection, develops a budget for the project, and drafts a proposed call for artists or artists selection for City Council approval. Public comment will be invited before the Public Art Committee. For direct selection, proceed to step #8.
3. City Council considers proposal.
4. Public Art Committee determines need for panel to work on selection process for project and identifies participants. Panels will include members of the Public Art Committee, design professionals, and representatives of the user group/neighborhood.
5. Public Art Committee reviews initial submittals, which include the artist's experience and qualifications, references, and preliminary proposal(s) for the project or specific works of art, to determine compliance with the call for artists.
6. The panel, if convened by the Public Art Committee, selects two or three semi-finalists from the group of qualified artists submitted to the panel by the Public Art Committee. The semi-finalists may be asked to submit refined proposal(s). Semi-finalists may be paid a fixed honorarium, costs of travel and a per diem, depending upon the approved budget.
7. The Public Art Committee reviews the submittals of the two to three semi-finalists. The artist(s) may present their work at a public meeting. The artists' work is displayed in a public place for up to one week. Written comments from the public will be invited during this week. A public forum is held for discussion and input to the Public Art Committee on selection of the preferred artist. The Public Art Committee recommends the finalist to the City Council.
8. City Council approves or denies the selection. Denial requires direction to the Public Art Committee from the City Council and beginning the process again at the appropriate step.
9. After an affirmative vote by the Council, the Public Art Committee works with selected artist on refinement of concept, timeframe for completion of work, final budget, and approves the contract for work.
10. The Public Art Committee recommends contract to City Council
11. City Council approves contract.

**XIX. 12.46.060 Maintenance**

Before a work is accepted into the City's collection, the artist must submit:

- A. A detailed list of exact types, brands, and colors of materials used.
- B. A summary of cleaning instructions.
- C. Estimated annual maintenance needs and costs in dollars.

This information will be kept on file with the inventory of the City's collection. Any maintenance or restoration responsibilities that the artist might have must be clearly explained in the contract and agreed upon before the work becomes a part of the City's collection. A maintenance and inspection schedule suitable for the site and the work will be discussed with the artist and implemented upon possession of the work. Complete records of inspections, cleanings, and conditions of the works will be kept on file in the inventory. If a work in the City's possession becomes damaged in any way, the City may contact the artist to see if s/he can make the necessary repairs, or contact the necessary agencies or conservators to repair the work.

**XX. 12.46.070 Deaccession/Relocation**

After due consideration, the City Council may authorized the removal of a work. To remove a piece one or more of the following situations must exist:

- A. The artwork in its present state poses a safety hazard to the public or the environment.
- B. Restoration of the work aesthetically and/or structurally is not feasible, or the expense of such restoration would be disproportionate to the value of the work
- C. The architectural support (building, wall, streetscape) is to be removed or destroyed if relocation of the work is not feasible.
- D. Prolonged protest of the work persists to the extent that the work detracts rather than enhances the site and the community
- E. The work acts as an encumbrance to the use of public property
- F. The public use of the site has changed or is proposed to change in a manner that is no longer compatible with the artwork.
- G. If a work is to be moved/modified, the artist must be notified before the change, if at all possible. In the instance that a work must be removed from the City's collection, the artist must be notified and given the opportunity to purchase the art from the City. In all situations, the rights of the artist will be respected as defined in the Visual Artists Rights Act of 1990, unless waived by the artist.

**XXI. 12.46.080 Community Initiated Public Art**

The **Community Initiated Public Art Application** should be completed and submitted with proposals to the Public Art Committee for their review and possible recommendation to the City Council for final consideration.

Applications can be submitted to Neighborhood Services Department at the City of Whitewater located at 312 W Whitewater St. Applications must be submitted no less than one week prior to the "Public Discussion of any item not on the agenda". Applications presented at "public discussion" cannot be officially discussed or acted upon by the Public Art Advisory Committee until the next meeting when it can be placed on the agenda.

**XXII. 12.46.090 Public Art Committee**

This Committee acts in the public interest on all matters relating to the Public Art Ordinance including the selection, placement, and maintenance of works of public art throughout the City. The Committee provides public input in the administration and planning of the Public Art.

**Membership:**

The membership of this Committee shall be appointed by the procedure set forth in chapter 2.12.011 shall be comprised of five (5) members. Composition is specified as follows:

- 1 member from the Whitewater Arts Alliance
- 1 member from Board of Common Council or their designee
- 1 member of Downtown Whitewater
- 2 members who are private citizens of the City of Whitewater with demonstrated knowledge and appreciation for visual art
- As the need arises, the Committee may appoint non-voting ex-officio members to provide expertise or otherwise represent a particular interest unique to a location or characteristic of a work of art

**TERMS:**

Members shall serve three (3) year terms.

Ordinance introduced by Councilmember Abbott, who moved its adoption. Seconded by Councilmember Binnie. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None. ADOPTED: August 4, 2015.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**URBAN FORESTRY COMMISSION ALTERNATE MEMBER.**

**ORDINANCE NO. 1901A**

**SECOND READING OF AN ORDINANCE ADDING AN ALTERNATE MEMBER TO THE URBAN FORESTRY COMMISSION.**

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

SECTION 1: Whitewater Municipal Code Chapter 2.52, Section 2.52.090(1) is hereby amended to read as follows:

- (1) Creation and Membership. The urban forestry commission is hereby established as a permanent committee of the parks and recreation Board. There shall be seven regular members and one alternate member on the Whitewater Urban Forestry Commission. Membership shall be as follows:
  - (a) Five citizen members and an alternate citizen member shall be appointed under the procedures set forth in Whitewater Municipal Code, Chapter 2.12, each serving three-year terms, staggered annually.

Ordinance introduced by Councilmember Abbott, who moved its adoption. Seconded by Councilmember Binnie. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None. ADOPTED: August 4, 2015.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**MUNICIPAL BOUNDARY ORDINANCE.**

**SECOND READING OF AN ORDINANCE AMENDING CHAPTER 1.24 “CITY LIMITS”**

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

**SECTION 1.** Whitewater Municipal Code Section 1.24.010 is hereby amended to read as follows:

1.24.010 City boundaries.

All that territory and section of Walworth and Jefferson Counties, Wisconsin described as follows shall constitute the extent and limits of the City of Whitewater:

Beginning at the NE corner of Section 3, T4N, R15E, thence West along the North line of said Section 3, 65.5 feet more or less, to the SE corner of Section 34, T5N, R15E; thence North along the East line of said Section 34, to a point 2474.96 feet South of the East 1/4 corner of said Section 34; said point being the SE corner of Certified Survey Map 2436; thence westerly 333.90 feet along the South line of said Certified Survey Map; thence North 391.37 feet along the West line of said Certified Survey Map; thence East 333.90 feet along the North line of said Certified Survey Map to the East line of said Section; thence North along the East line of said Section 34 2083.59 feet to the East 1/4 corner of said Section 34; thence West along the South line of the Northeast 1/4 of said Section 34 to its intersection with the southerly extension of the West line of the Plat of Crestwood Heights as recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 8 of Plats on page 32; thence northerly along said extension and the West line of said Crestwood Heights to the Northwest corner of Crestwood Heights; thence southeasterly along the North line of Crestwood Heights 504.59 feet to an angle point in the northerly line of Lot 10 of Crestwood Heights; thence S 74°43' E along the North line of Crestwood Heights 216.18 feet to the Northeast corner of Lot 10 of Crestwood Heights; thence continuing S 74°43' E 1292.16 feet more or less to the East line of the Northeast 1/4 of said Section 34; thence North along the East line of the Northeast 1/4 of said Section 34 to a point lying 572.3 feet South of the Northeast corner of said Section 34; thence N 85°20' W 779.0 feet; thence N 0°31' E 510.7 feet to a point on the North line of said Section 34 which lies 771.1 feet West of the Northeast corner of said Section 34; thence West along the North line of the Northeast 1/4 of said Section 34 to the North 1/4 corner of said Section 34; thence westerly and southwesterly along the centerline of State Trunk Highway 59 to the point of intersection of said centerline and the westerly extension of the northerly-most line of Lot 1 of Certified Survey Map No. 3197 recorded in the Office of the Jefferson County Register of Deeds in Volume 13 of Certified Surveys at page 249; thence N 84°51'50" E, along said extension of the northerly-most line of said Lot 1, to the East right of way line of STH 59; thence southerly along said right of way 1368.94 feet, as described on CSM #3197, to the NW corner of an existing parcel; thence S 84°19'20" E along the North line of said parcel 179.91 feet; thence N 1°20'45" W 2.0 feet; thence S 84°02'15" E 432.77 feet to the NE corner of said parcel; thence S 0°22'15" E 194.44 feet to the SE corner of said parcel; thence N 86°27'10" W 607.71 feet to the SW corner of said parcel, said corner described on the East right of way line of STH 59; thence S 11°30'15" E along said right of way line 152.76 feet; thence S 1°19'25" E along said right of way line 976.83 feet; thence southeasterly along a curve in said right of way line 665.86 feet; thence S 11°28'15" E along said right of way line 210.31 feet to the NW corner of an existing tract; thence N 78°31'45" E 535.85 feet to the NE corner of said tract; thence S 11°28'15" E 417.39 feet; thence S 3°09'45" W 599.15 feet to the SE corner of said tract; thence S 88°56'40" W 415.0 feet to the SW corner of said tract, described on the East right of way line of STH 59; thence southeasterly along a curve in said right of way line 66.0 feet to the South line of Section 34; thence S 88°56'40" W along said South line to the SW corner of said Section 34; thence westerly along the South line of Section 33, T5N, R15E, to the SW corner of the SE 1/4 of the SE 1/4 of said Section 33; thence northerly along the West line of the SE 1/4 of the SE 1/4 and along the West line of the NE 1/4 of the SE 1/4 of said Section 33 to the NW corner of the NE 1/4 of the SE 1/4 of said Section 33; thence East along the North line of the NE 1/4 of the SE 1/4 of said Section 33 to the SW corner of Lot 1 of Certified Survey Map No. 1909 recorded in the Jefferson County Register of Deeds Office in Volume 6 of Certified Survey Maps at page 133; thence North along the West line of Lot 1 of said CSM 1909 to the Northwest corner of said Lot 1 of CSM 1909, said Northwest corner of Lot 1 of CSM 1909 also being the

Southwest corner of Lot 1 of Certified Survey Map No. 2744 recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 10 of Certified Surveys at page 250; thence North along the West line of Lot 1 of said CSM 2744 to the Northwest corner of Lot 1 of said CSM 2744, said Northwest corner of said Lot 1 of CSM 2744 being a point on the West line of CSM 369 recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 2 of Certified Surveys at page 137; thence northerly along the West line of said CSM 369 to the Northwest corner of CSM 369; thence easterly, along the North line of said CSM 369, 558.78 feet more or less to a point on the West right of way line of STH 59; thence northerly along the West right of way line of STH 59 to the point of intersection of said westerly right of way line of STH 59 with the westerly right of way line of County Trunk Highway D; thence northerly along the westerly right of way line of County Trunk Highway D to the North line of Section 33; thence easterly 33 feet more or less along the North line of said Section 33 (said North line of Section 33 also being the South line of Section 28, T5N, R15E), to the Southeast corner of Section 28, T5N, R15E; thence North, along the East line of said Section 28, to the East 1/4 corner of said Section 28; thence West along the North line of the Southeast 1/4 of said Section 28 to the Northwest corner of the East 2/3 of the West 1/2 of the Southeast 1/4 of said Section 28; thence South along the West line of the East 2/3 of the West 1/2 of the Southeast 1/4 of said Section 28 to the South line of said Section 28, said South line of said Section 28 also being the North line of Section 33, T5N, R15E; thence westerly, along the North line of said Section 33, to a point 558.47 feet East of the NW corner of said Section 33; thence S 3 degrees 02' 00" W, 891.85 feet to the NE corner of CSM 1514; thence N 88°48'00" W, 517.03 feet along the North line of said CSM 1514 to the NW corner of said CSM 1514, said corner being 891.49 feet South of the NW corner of said Section 33 on the West line of said Section 33, said corner also being on the centerline of Fremont Road; thence S 0°21'57" W, 341.12 feet along said centerline; thence S 4°29'00" E, 452.52 feet along said centerline; thence S 3°30'00" E, 203.74 feet along said centerline; thence S 0°19'00" E 226.56 feet along said centerline; thence S 5°07'00" W, 173.31 feet along said centerline to the SW corner of said CSM 1514; thence S 7°34'54" W along said centerline of Fremont Road 323.00 feet more or less to the intersection of said centerline and the West line of said Section 33; thence southerly, along the West line of said Section 33 55.80 feet more or less to the Southwest corner of the Northwest 1/4 of said Section 33; thence South 86°58'33" West, along the southerly line of the Northeast 1/4 of Section 32, T5N, R15E, 35.58 feet more or less to the West right of way line of Fremont Road; thence North 4°47'33" East 315.37 feet more or less along the West right of way of Fremont Road to a point on the East line of the Northeast 1/4 of said Section 32; thence North 01°41'08" West, along the East line of said Northeast 1/4, 102.19 feet more or less to the centerline of the Whitewater River; thence along the centerline of the Whitewater River the following courses: North 42°09'05" West 222.55 feet to a point; thence North 75°19'03" West 56.53 feet to a point; thence North 16°12'25" West 129.26 feet to a point; thence North 08°35'23" East 148.32 feet to a point; thence North 17°45'44" East 85.33 feet to a point; thence North 11°17'11" West 77.56 feet to a point; thence North 54°08'47" West 95.70 feet to a point; thence North 23°33'33" West 58.56 feet to a point; thence North 0°00'00" East 72.60 feet to a point; thence North 26°46'44" East 199.82 feet to a point; thence North 02°51'10" West 87.23 feet to a point; thence North 29°42'47" West 133.49 feet to a point; thence North 20°31'02" West 148.69 feet to a point; thence North 12°45'09" West 127.76 feet to a point; thence North 36°21'17" West 139.35 feet to a point; thence North 18°36'22" West 488.07 feet to a point; thence North 00°03'39" West 174.82 feet more or less to a point 50 feet southerly of the North line of the Northeast 1/4 of said Section 32; thence (leaving the centerline of said River) westerly 789 feet more or less to a point on the West line of the East 1/2 of the Northeast 1/4 of said Section 32, which point lies 50 feet southerly of the North line of the Northeast 1/4 of said Section 32; thence southerly along the West line of the East 1/2 of the Northeast 1/4 of said

Section 32, and along the West line of Certified Survey Map No. 4964 recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 26 of Certified Surveys at Page 108 as Document No. 1204670, 36.03 feet more or less to the easterly-most Northeast corner of Lot 1 of Certified Survey Map No. 5539 recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 30 of Certified Surveys at Page 291 as Document No. 1341230; thence N 59°20'22" W, along the northerly line of Lot 1 of CSM 5539, said northerly line also being the South right-of-way line of C.T.H. "U", 70.09 feet; thence S 89°44'33" W, continuing along said northerly line of Lot 1 of CSM 5539 and said South right-of-way line of C.T.H. "U", 340.52 feet; thence N 00°15'27" W, continuing along said northerly line of Lot 1 of said CSM 5539 and said South right-of-way line of C.T.H. "U", 17.00 feet; thence N 00°15'27" W, 33.00 feet to the North line of the NE 1/4 of Section 32, T5N, R15E; thence S 89°44'33" W, along said North line of the NE 1/4 of said Section 32, 659.30 feet to the Northwest corner of said CSM 5539, said Northwest corner of said CSM 5539 also being the Northeast corner of Certified Survey Map No. 1749 recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin in Volume 5 of Certified Surveys at Page 387; thence S 02°00'37" E, along the West line of said CSM 5539 and along the East line of said CSM 1749, a distance of 434.08 feet to the Southeast corner of said CSM 1749; thence S 00°50'09" E, continuing along the West line of said CSM 5539, a distance of 895.60 feet to a point on the North line of the SW 1/4 of the NE 1/4 of Section 32, T5N, R15E, said point also being the Southwest corner of Lot 1 of said CSM 5539; thence westerly, along the North line of the SW 1/4 of the NE 1/4 of said Section 32, a distance of 274.66 feet, more or less, to the Northwest corner of the SW 1/4 of the NE 1/4 of said Section 32; thence N 88°40' W, 2060.31 feet along the North line of the South 1/2 of the NW 1/4 of said Section 32 to the NE corner of Block 3 of Twin Oaks Subdivision; thence S 00°44' W along the East line of said Twin Oaks Subdivision, 731.00 feet to the NE corner of Lot 6 of Block 2 of said Twin Oaks Subdivision; thence N 88°40' W along the North line of said Lot 6 190.00 feet to the East line of County Trunk Highway "N" also being the West line of said Block 2; thence S 00°44' W along the West line of said Block 2, 285.00 feet to the SW corner of said Block 2; thence N 88°40' W, 33.00 feet to the centerline of said County Trunk Highway "N"; thence S 00°44' W along said centerline 320.61 feet to the North line of the NW 1/4 of the SW 1/4 of said Section 32; thence Westerly along said North line of said NW 1/4 of said SW 1/4 of said Section 32 to the West 1/4 corner of said Section 32; thence Westerly along the North line of the NE 1/4 of the SE 1/4 of Section 31, T5N, R15E to the NW corner of said NE 1/4 of said SE 1/4; thence Southerly along the West line of the East 1/2 of the Southeast 1/4 of said Section 31, said West line of the East 1/2 of said Southeast 1/4 of said Section 31 being the westerly-most boundary of the City of Whitewater in said Section 31, to the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of said Section 31; thence leaving said westerly-most boundary of the City of Whitewater in Section 31 and running thence Easterly along the South line of Northeast 1/4 of the Southeast 1/4 of said Section 31 and the South line of the Northwest 1/4 of the Southwest 1/4 of Section 32, T5N, R15E, through lands located in the City of Whitewater, to the Southeast corner of Lot 29, Park Crest Subdivision, a subdivision located in the City of Whitewater, said Southeast corner of said Lot 29 being the point of beginning of the description of lands (hereinafter referred to as the "Excluded Lands") lying in part in the West 1/2 of the Southwest 1/4 of Section 32 and in part in the East 1/2 of the Southeast 1/4 of Section 31, T5N, R15E, Jefferson County, Wisconsin which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin and lying in part in the Northeast 1/4 of the Northeast 1/4 of Section 6, T4N, R15E, Walworth County, Wisconsin which remain a part of the Town of Whitewater, Walworth County, Wisconsin; thence N 00°12'09" E along the East line of Lots 29 and 28 of Park Crest Subdivision 229.62 feet to the northerly-most Northwest corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence S 89°36'33" E 486.59 feet to a point on the

centerline of County Trunk Highway N as originally laid out as a 66-foot wide right of way, said point being the northerly-most Northeast corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence S 26°36'48" E along said centerline 257.70 feet to the South line of the NW 1/4 of the SW 1/4 of said Section 32; thence continue S 26°36'48" E along said centerline of County Trunk Highway N 395 feet more or less to the point of intersection of said centerline and the westerly extension of the southerly line of Lot 11, South Blooming Field Acres Subdivision; thence N 89°35'24" E 244.12 feet to the Southeast corner of said Lot 11; thence S 00°23'18" E 89.84 feet; thence S 89°37'34" West 199.94 feet to said centerline of County Trunk Highway N; thence S 26°36'48" E along said centerline 73.54 feet; thence N 89°35'59" E 244.17 feet; thence S 00°20'03" E 89.69 feet; thence N 89°30'54" E along the southerly-most line of Lot 12, South Blooming Field Acres Subdivision to the East line of the SW 1/4 of the SW 1/4 of Section 32, T5N, R15E; thence South along said East line 180 feet; thence West to said centerline of County Trunk Highway N; thence along said centerline to the Southeast corner of Certified Survey Map recorded in Volume 2 of Certified Surveys on Page 205; thence West along the South line of said Certified Survey Map to the West line of the SW 1/4 of the SW 1/4 of Section 32, T5N, R15E; thence South along said West line 250 feet; thence East 1205.52 feet more or less to said centerline of County Trunk Highway N; thence southeasterly along said centerline to a point on the South line of said Section 32, T5N, R15E, Jefferson County, Wisconsin, said point also being a point on the North line of Section 5, T4N, R15E, Walworth County, Wisconsin, and said point being the southerly-most southeasterly corner of that portion of the Excluded Lands which remain a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence westerly along the North line of Section 5, T4N, R15E, to the NW corner of said Section 5, said NW corner of said Section 5 also being the NE corner of Section 6, T4N, R15E, Walworth County, Wisconsin and said corner also being the NE corner of that portion of the Excluded Lands which remain a part of the Town of Whitewater, Walworth County, Wisconsin; thence southerly along the East line of said Section 6, 251.46 feet more or less to a point on the southerly-most line of the lands described in Deed recorded in Volume 619, page 773 (Jefferson County) and Volume 283, page 922 (Walworth County), said point on the southerly-most line of the lands described in said Deed being the southeasterly corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin; thence westerly, along the southerly-most line of the lands described in said Deed, 365 feet more or less to the southwest-most corner of the lands described in said Deed, said southwest-most corner of the lands described in said Deed being the Southwest corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin; thence northerly, along the westerly-most line of the lands described in said Deed, 251.46 feet more or less to the Southwest corner of Section 32, T5N, R15E, Jefferson County, Wisconsin, said Southwest corner of said Section 32 being the Northwest corner of that portion of the Excluded Lands remaining a part of the Town of Whitewater, Walworth County, Wisconsin and also being the southerly-most Southwest corner of that portion of the Excluded Lands remaining a part of the Town of Cold Spring, Jefferson County, Wisconsin; thence N 0°24' E, along the West line of the Southwest 1/4 of said Section 32, 292.85 feet; thence West 10.00 feet; thence N 0°24' E, parallel with said West line of said Southwest 1/4 of said Section 32, 260.00 feet to a point on the South line of Lot 1 of Certified Survey Map recorded in Volume 2 of Certified Survey Maps of Jefferson County at page 205; thence westerly, along the South line of said Lot 1, 149.80 feet more or less to the Southwest corner of said Lot 1; thence northerly, along the West line of said Lot 1, 183.24 feet more or less to the Northwest corner of Lot 1; thence easterly, along the northerly line of said Lot 1, 1136.4 feet more or less to a point 5 feet southwest of the centerline of C.T.H. "N" as originally laid out as a 66-foot wide right of way; thence northwesterly, along a line drawn parallel to and 5.00 feet southwest of said centerline of C.T.H. "N", 441 feet more or less to a

point 177.96 feet southerly of the North line of the Southwest 1/4 of the Southwest 1/4 of Section 32, T5N, R15E; thence westerly parallel with said North line, 325.60 feet more or less to a point 331.20 feet West of said centerline of C.T.H. "N"; thence northerly 177.96 feet to a point on the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 32 that lines 240 feet West of said centerline of C.T.H. "N"; thence westerly, along the North line of the Southwest 1/4 of the Southwest 1/4 of said Section 32 (also being the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 32), to the Southeast corner of Lot 29, Park Crest Subdivision and the ending point of the description of the Excluded Lands; thence leaving the boundary of said Excluded Lands and running westerly, along the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 32, and along the South line of the Southeast 1/4 of the Northeast 1/4 of Section 31, T5N, R15E, through lands located in the City of Whitewater to the Southwest corner of the Northeast 1/4 of the Southeast 1/4 of said Section 31, said Southeast corner being a point on the westerly-most boundary of the City of Whitewater in said Section 31; thence southerly, along the West line of the East 1/2 of the Southeast 1/4 of said Section 31, 1330.52 feet more or less to the Southwest corner of the Southeast 1/4 of the Southeast 1/4 of said Section 31 (said Southwest corner also being a point on the North line of Section 6, T4N, R15E, Walworth County, Wisconsin); thence westerly along the North line of Section 6, T4N, R15E, to the Northwest corner of said Section 6; thence southerly, along the West line of said Section 6, 123.49 feet; thence continuing southerly, along the West line of said Section 6, said West line also being the centerline of Warner Road, 866.51 feet more or less to the Northwest corner of the parcel described in Volume 669 of Deeds at page 374, Walworth County Register of Deeds; thence easterly, along the North line of said parcel described in Volume 669 of Deeds at page 374, 484 feet more or less to the northerly most Northwest corner of the parcel described in Volume 307 of Records at page 385, Walworth County Register of Deeds; thence easterly along the North line of said parcel described in Volume 307 of Records at page 385, 325.75 feet more or less to the Northwest corner of Lot 1 of Breidsan Hills Subdivision (subdivision plat recorded as Document No. 334782); thence easterly, along the north line of said Lot 1, 195 feet more or less to the Northwest corner of Lot 2 of Certified Survey Map No. 1871 recorded in Volume 9 of Certified Surveys at page 33; thence easterly, along the north line of said Lot 2 of CSM 1871, 90.57 feet more or less to the Southwest corner of parcel described in Volume 652 of Records, page 8209; thence northwesterly, along the southwesterly line of said parcel, 230.16 feet to the westerly-most corner of said parcel; thence northeasterly, along the northwesterly line of said parcel, 171.04 feet more or less to the southwest right-of-way line of former USH 12/STH 89; thence southeasterly, along said southwest right-of-way line, 477.75 feet more or less to the north line of Lot 2 of Certified Survey Map No. 1871; thence easterly, along said north line, 46.12 feet more or less to the centerline of former USH 12/STH 89; thence southeasterly, along the centerline of Business Highway 12 (formerly US Highway "12") 1410 feet more or less to the northerly-most corner of Certified Survey Map No. 3227 recorded in the Office of the Walworth County Register of Deeds in Volume 18 of Certified Surveys at page 44; thence westerly, along the North line of CSM 3227, 345.43 feet more or less to the Northwest corner of CSM 3227; thence continuing westerly, along the North line of the parcel described in Deed recorded in the Office of the Walworth County Register of Deeds as Document No. 529107, 2239.77 feet more or less to a point on the West line of said Section 6 which lies 999.8 feet North of the West 1/4 corner of said Section 6; thence South along said West line of said Section 6, the centerline of Warner Road, 999.8 feet to the West 1/4 corner of said Section 6; thence S 0°29'07" E, along the West line of the Southwest 1/4 of Section 6, T4N, R15E, 251.14 feet; thence N 89°30'53" E 141.38 feet; thence S 29°39'21" E, along the westerly line of the right of way of U.S. Highway 12, 1892.03 feet; thence S 08°14'40" E, along said westerly line of said U.S. Highway 12 right of way, 690.32 feet; thence S 5°57'24" E, 307.67 feet to a point on the southwesterly line of the right of way of US

Highway 12; thence S 13°03'07" E, along said right of way line, 45.77 feet; thence continuing along said right of way line 500.93 feet along a curve to the left having a radius of 728.35 feet and a chord direction of S 34°46'21" E and a chord length of 491.12 feet; thence S 54°28'32" E, along said right of way line, 126.80 feet; thence N 89°24'04" E, along said right of way line, 66.78 feet; thence S 54°52'46" E, along said right of way line, 735.12 feet more or less to a point on a line drawn from the Southeast corner of Lot 1 of Certified Survey Map No. 1099 southerly to a point on the South line of Section 7, T4N, R15E lying 409.00 feet West of the South 1/4 corner of said Section 7; thence southerly, along said line drawn southerly from the Southeast corner of CSM 1099, and the southerly extension thereof, 4276.19 feet more or less to the northwesterly line of the former Chicago, Milwaukee & St. Paul Railroad right of way; thence continuing S 0°18'58" E along said line, 75.25 feet M/L, to the S'ly R/W line of said railroad; thence N 60°58'58" E, along said S'ly R/W line, 2029.25 feet M/L, to the beginning of a tangent curve, concave to the NW and having a radius of 5803.00 feet; thence continuing along said S'ly R/W line and NE'ly along said curve, through a central angle of 10°29'05", an arc distance of 1061.91 feet M/L, to a point of tangency; thence continuing along said S'ly R/W line, N 50°29'53" E, 1635.55 feet M/L, to the NW corner of that certain parcel described in a deed recorded in Vol. 650, Page 8477, records of Walworth Co., WI; thence S 29°45'34" E, along the W'ly line of said parcel, 690.02 feet M/L, to a point on the centerline of State Highway "59"; thence N 29°42'26" E, along said centerline, 510.27 feet M/L to the beginning of a tangent curve, concave to the SE and having a radius of 1206.23 feet; thence NE'ly along said curve and centerline, through a central angle of 14°33'19", an arc distance of 306.43 feet M/L, to a point of tangency; thence northeasterly, along said centerline, 416.29 feet M/L, to the SW corner of that certain parcel of land described in a deed recorded in Vol. 347, page 363, Records of Walworth County; thence S 79 degrees 21'54" E, along the S. line of said parcel, 511.79 feet, to an angle point therein; thence continuing along said S. line, S 59 degrees 08'33" E, 272.80 feet, to a point on the N-S 1/4 line said Sec. 8, said point being 380.19 feet S'ly of the center of said Sec. 8; thence continuing S 59 degrees 08'33" E, 920.81 feet more or less, to a point on the W. line of State Highway "89"; thence N 0 degrees 01'19" W, 357.09 feet more or less, to the NW corner of that certain parcel described in a deed recorded in Vol. 670, page 1339, Records of Walworth County, said corner being described as on the centerline of State Highway "89"; thence S 81 degrees 49'00" E, along the N. line of said parcel, 550.68 feet more or less, to the NW corner of Certified Survey Map No. 489, recorded in Vol. 2, page 311 of Certified Surveys of Walworth County; thence N 68 degrees 59'00" E, along the N'ly line of said CSM, 86.68 feet, to an angle point therein; thence continuing along said N'ly line, S 86 degrees 52'00" E, 355.06 feet, to the NE corner thereof; thence S 0 degrees 16'43" W, along the E. line of said CSM, 160.00 feet to the Northeast corner of Lot 3 of said CSM 489; thence N 87 degrees 10' W, along the N. line of said Lot 3 of said CSM 489, 153.87 feet to the NW corner of said Lot 3; thence S, along the W. line of said Lot 3, 457.97 feet more or less to a point on the N'ly right of way of Willis Ray Road; thence continue S 33.01 feet more or less to the centerline of Willis Ray Road, said centerline being the S'ly boundary of said CSM 489; thence S 86 degrees 23' E, along said centerline of Willis Ray Road and said S'ly line of said CSM 489, 153.99 feet to the SE corner of said CSM 489; thence N, along the E'ly line of said CSM 489, 147.88 feet; thence S 86 degrees 06'06" E (recorded as parallel to the centerline of Willis Ray Road) 856.31 feet, to a point on the E. line of said Section 8, said point being 110.59 feet N'ly of the SE corner of the NE 1/4, SE 1/4, said Section 8; thence N 0 degrees 56'05" E, along the E. line of said Section 8, 1208.78 feet, to the E 1/4 corner, Section 8; thence Easterly along the E-W 1/4 line of Sections 9 and 10 to the center of said Section 10, T4N, R15E; thence northerly, along the N-S 1/4 line of Section 10, T4N, R15E, 6 chains; thence East along a line drawn parallel to the South line of the Northeast 1/4 of said Section 10, to the Northwest corner of Lot 1 of Certified Survey Map No. 1643 recorded in the Walworth County Register of Deeds Office as Document No. 155915;

thence easterly along the northerly-most line of said Lot 1 of said CSM 1643 to the northerly-most Northeast corner of said Lot 1, said northerly-most Northeast corner of said Lot 1 of CSM 1643 also being the Northwest corner of Certified Survey Map No. 1010 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 4 of Certified Surveys at page 285 as Document No. 56192; thence easterly along the North line of said CSM 1010 to a point on the centerline of Old Highway P; thence northwesterly along the centerline of Old Highway P to the Southeast corner of Certified Survey Map No. 2616 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 13 of Certified Surveys at page 139 as Document No. 310254; thence southwesterly along the southeasterly line of said CSM 2616 to the Southwest corner of said CSM 2616; thence northwesterly along the southwesterly line of said CSM 2616 to the Northwest corner of said CSM 2616; thence northeasterly along the northwesterly line of said CSM 2616, 389.86 feet more or less to a point on the southwesterly right of way line of Old Highway P; thence northwesterly along the southwesterly right of way line of Old Highway P to a point where the southwesterly right of way line of Old Highway P intersects with the southerly right of way line of State Trunk Highway 59 (formerly U.S. Highway 12); thence northwesterly along said southerly right of way line of Highway 59 to a point which lies N 73°41' E 1112.00 feet more or less from a point on the West line of Northeast 1/4 of Section 10, T4N, R15E located 1325.94 feet South of the North 1/4 corner of said Section 10; thence N 41°58' W along the southerly right of way line of said State Trunk Highway 59 (also referred to as Elkhorn Road and formerly known as U.S. Highway 12) 406 feet more or less to the southeasterly boundary of an existing parcel; thence S 48°02' W 323 feet; thence N 41°58' W 150 feet; thence N 48°02' E 356 feet to the centerline of State Trunk Highway 59 (formerly U.S. Highway 12); thence N 41°58' W along the centerline of said highway 787.40 feet to the North line of said Section 10; thence S 87°37' W 193.38 feet along the North line of said Section 10 to the North 1/4 corner of said Section 10; thence N 3°08'18" W, along the N-S 1/4 line of Section 3, T4N, R15E to the point of intersection of said N-S 1/4 line with the centerline of State Trunk Highway 59/Elkhorn Road (formerly United States Highway 12); thence southeasterly along said centerline to the point of intersection of said centerline and the southwesterly extension of the Northwest line of the public road Sunrise Lane; thence N 45°19'42" E along the Northwest line of Sunrise Lane, 126.59 feet to the Southwest corner of Lot 1 of CSM 1292; thence N 3°08'18" W, 237.00 feet to the Northwest corner of said Lot 1 of CSM 1292; thence N 85°39'12" E, 323.50 feet to the Northeast corner of said Lot 1; thence continue N 85°39'12" E 80.00 feet; thence S 3°08'18" E, 237.00 feet to the North line of Outlot 1, CSM 2620 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 13 of Certified Surveys at Page 147, as Document No. 310791; thence N 85°39'12" E along said North line 209.86 feet to the Northeast corner of said Outlot 1; thence S 4°22'43" E, 66.00 feet to the Southeast corner of said Outlot 1, said corner being the Northeast corner of Lot 1, of said CSM 2620; thence continuing S 4°22'43" E along the East line of said CSM 2620, 236.09 feet to the Southeast corner of said Lot 1, said corner being on the South line of said Section 3, 720 feet more or less East of the South 1/4 corner of said Section 3; thence West along the South line of said Section 3 (the South line of said Section 3 also being the North line of Section 10, T4N, R15E) 479.58 feet more or less to the northerly right of way line of State Trunk Highway 59 (also sometimes referred to as Elkhorn Road and formerly designated as U.S. Highway 12); thence southeasterly along the northerly right of way line of said highway 536.38 feet more or less to a point on the North line of Certified Survey Map No. 503 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 2 of Certified Surveys on page 333 as Document No. 694000; thence East along the North line of said CSM 503 430.95 feet to the Northeast corner of said CSM 503; thence South along the East line of said CSM 503 235.98 feet to the Southeast corner of said CSM 503; thence West along the South line of said CSM 503 266.34 feet more or less to

the centerline of State Trunk Highway 59 (formerly US Highway 12); thence southeasterly along the centerline of the road that existed and was known and designated as United States Highway 12 prior to construction of the US Highway 12 By-Pass of the City of Whitewater to the intersection of said former centerline and the East line of said Section 10, said point of intersection being approximately 145.5 feet more or less North of the East 1/4 corner of said Section 10; thence North along the East line of said Section 10 to the NE corner of said Section 10; thence continuing North along the East line of Section 3, T4N, R15E, 728.24 feet to the Northeast corner of Walton's Pine Bluff Subdivision; thence S 88°32'30" W along the North line of Walton's Pine Bluff Subdivision 147.41 feet to the Southeast corner of Lot 7, Pine Bluff Subdivision; thence N 00°00'00" E 333.29 feet to the Northeast corner of Lot 4 of Pine Bluff Subdivision; thence S 79°14'04" E 27.00 feet to the Southeast corner of Lot 3 of Pine Bluff Subdivision; thence N 00°00'02" E, 252.43 feet more or less to the Northeast corner of Lot 1 of Pine Bluff Subdivision; thence continue N 00°00'02" E 35 feet more or less to the centerline of Bluff Road; thence easterly along the centerline of Bluff Road to the East line of Section 3, T4N, R15E; thence North along said East line of said Section 3, the centerline of Howard Rd., to the point of intersection of said centerline with the E-W 1/4 line of said Section 3; thence West along said E-W 1/4 line 463.82 feet to the Southwest corner of Certified Survey Map No. 1771 recorded in the Register of Deeds Office for Walworth County, Wisconsin in Volume 8 of Certified Surveys at Page 210 as Doc. No. 172293; thence N 01°13' E, along the West line of CSM 1771, 374.66 feet to the Northwest corner of CSM 1771; thence East, parallel with said E-W 1/4 line of said Section 3 and along the North line of CSM 1771, 466.51 feet to the East line of said Section 3 and the centerline of Howard Road; thence South along the West line of Section 2, T4N, R15E (said West line of Section 2 also being the East line of Section 3, T4N, R15E) and the centerline of Howard Road 341.66 feet more or less to a point on the West line of said Section 2 lying 33 feet North of the West 1/4 corner of said Section 2; thence easterly, parallel with the East-West 1/4 line of said Section 2 33 feet; thence southerly parallel to the West line of said Section 2, 33 feet to the East-West 1/4 line of said Section 2; thence East, along the East-West 1/4 line of said Section 2, 549 feet more or less to a point on said East-West 1/4 Section line which lies 582 feet East of the West 1/4 corner of said Section 2; thence South, parallel with the West line of the Southwest 1/4 of said Section 2, said West line also being the centerline of Howard Road, 883.51 feet; thence West, parallel with the East-West 1/4 line of said Section 2, 356 feet; thence South, parallel with the West line of said Southwest 1/4 of Section 2 162 feet to the northerly line of the Wisconsin & Southern Railroad right of way; thence easterly along the northerly line of the said railroad right of way to the North-South 1/4 line of said Section 2; thence North along the said North-South 1/4 line of said Section 2 to the Northeast corner of the South 1/2 of the Northwest 1/4 of said Section 2; thence West along the North line of the South 1/2 of the Northwest 1/4 of said Section 2 to the Northeast corner of Certified Survey Map No. 1480 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 7 of Certified Surveys on Page 56; thence southerly along the East line of said CSM 1480 to the Southeast corner of said CSM 1480, said Southeast corner of CSM 1480 also being the Northeast corner of Lot 2 of Certified Survey Map No. 906 recorded in the Office of the Register of Deeds for Walworth County, Wisconsin in Volume 4 of Certified Surveys at Page 133; thence South along the East line of Lot 2 of said Certified Survey Map No. 906 222.87 feet more or less to the Southeast corner of Lot 2 of said Certified Survey Map No. 906; thence West along the South line of Lot 2 of said CSM 906 179.48 feet more or less to the easterly right of way line of Howard Road; thence continuing westerly 33 feet more or less to the centerline of Howard Road, said centerline also being the East line of Section 3, T4N, R15E; thence North along said East line of said Section 3 to a point 1670.46 feet north of the East 1/4 corner of said Section 3; thence S 89°45' W, 357.00 feet; thence North, parallel with said East

line of said Section 3, 702.70 feet; thence N 89°45' E, 357.00 feet to the said East line of said Section 3; thence North along said East line to the NE corner of said Section 3.

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

Ordinance introduced by Councilmember Abbott, who moved its adoption.

Seconded by Councilmember Binnie. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None. ADOPTED: August 4, 2015.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

**JOINT MEETING BETWEEN CDA, COMMON COUNCIL AND PLAN COMMISSION REGARDING TIF DISTRICTS.** City Manager Clapper expressed the need for a joint meeting between the three Boards/Committees. It was determined that Wednesday evenings work well. City Manager Clapper will send out a scheduling e-mail tomorrow and get the meeting arranged.

**CITIZEN APPOINTMENTS TO LIBRARY BOARD, POLICE AND FIRE COMMISSION AND COUNCILMEMBER APPOINTMENT TO WHITEWATER UNIVERSITY TECHNOLOGY PARK BOARD.** It was moved by Kidd and seconded by Abbott to appoint Jim Winship to the open Library Board position and to appoint Glenn Hayes to the open Police and Fire Commission position. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None. It was then noted that the time of meeting of the Whitewater University Technology Park does not work for Councilmember Grady's employment schedule, and he must resign that position. It was moved by Grady and seconded by \_\_\_ to appoint Stephanie Abbott to the open Tech Park Board position. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None. Councilmember Abbott indicated she will have to resign her Aquatic Board position. Filling of that position will be handled at a future meeting.

**SPAIU LLC REQUEST FOR "CLASS B" BEER AND LIQUOR LICENSE, 162 W. MAIN.** Fratelli's Restaurant is selling their business to Spaiu, LLC, Bajram Spahijoski, Agent. The restaurant name will now be "Fanatico". Fratelli's has surrendered their license contingent upon the council approval of transfer of the license to Spaiu, and contingent upon consummation of the sale of the business. Alcohol Licensing Committee has recommended approval of the application. It was moved by Abbott and seconded by Grady to approve the transfer of a "Class B" Beer and Liquor license to Spaiu, LLC, Bajram Spahijoski, Agent, 162 W. Main St., Whitewater, contingent upon Plan Commission approval of a conditional use permit for the establishment. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None.

**841 BREWHOUSE REQUEST FOR AMENDMENT TO LICENSED PREMISES FOR ONE-DAY EVENT.** 841 Brewhouse would like to host an outdoor fundraiser event on September 6, 2015, from 12:00 p.m. – 6:00 p.m. in a roped off area east of the banquet room on the premises. It was moved by Binnie and seconded by Abbott to approve amendment of the licensed premises as requested, for a one-day period. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None.

**MSA PROFESSIONAL SERVICES AGREEMENT – HWY. 59 PROJECT.** Wisconsin Department of Transportation is preparing to reconstruct Highway 59 from Newcomb Street to US Highway 12. The project construction is planned for 2020. The City is responsible for valuation and property acquisition of right of ways and easements on twenty-five parcels of land between Newcomb Street and Sunrise Lane. Five proposals were received for the necessary services. Based on cost, workload and experience, it is recommended that the City enter into a contract with the low bidder, MSA Professional Services of Madison, Wisconsin. It was moved by Abbott and seconded by Grady to approve an agreement with MSA Professional Services for services relating to the Highway 59 project. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None.

**COMPLAINT FILED AGAINST POLICE CHIEF LISA OTTERBACHER.** Police and Fire Commission Chairperson Bilgen-Craggs informed the Council that an investigation of the allegations against Police Chief Otterbacher has been completed by Attorney Steve Wassel of Delavan, Wisconsin. Mr. Wassel's findings indicate that Chief Lisa Otterbacher did not violate department policy or procedure.

**FINANCE DIRECTOR QUARTERLY REPORT – 2<sup>ND</sup> QUARTER, 2015.** Since the Finance Director was not available to attend this meeting, it was agreed that the report will be delayed to the next Council meeting.

**WASTEWATER TREATMENT PLAN DIGESTER COMPLEX MANWAYS.** The Wastewater Utility has one storage tank and two anaerobic digesters. Currently, it is virtually impossible to safely maintain some of the equipment. Installation of the proposed manways will allow safe entry and ease of routine maintenance in all of the tanks. It was moved by Binnie and seconded by Abbott to approve a contract with M-Z Construction, Inc. of Linden, Wisconsin (with deduct) in the amount of \$72,000 for installation of Digester Complex Manways. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None.

**MOU AGREEMENT AND UTILITY EASEMENT AGREEMENT WITH GEORGE STREET PROPERTY OWNER.** City Attorney McDonell indicated that the proposed agreements were necessary in conjunction with the reconstruction of George Street. It was moved by Binnie and seconded by Grady to enter into a Memorandum Agreement with the Lee Daniels Trust relating to construction easements and a Utility Easement, all relating to property on George Street. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None.

**VACANT COUNCILMEMBER ALDERMANIC DISTRICT 1 SEAT.** Councilmember Craig Stauffer had to resign his councilmember position due to a new job opportunity in Iowa. Councilmembers discussed the process of filling the seat, and directed the City Clerk to advertise the position, with applications due by 9/4/15 and appointment of a replacement councilmember be considered on 9/15/15.

**FUTURE AGENDA ITEMS:** Councilmember Grady requested that closure of Streets at Franklin and Starin be placed on the next Council Agenda. Closure is intended for September 19, 2015.

**ADJOURNMENT**. It was moved by Abbott and seconded by Binnie to adjourn the meeting. AYES: Abbott, Grady, Binnie, Singer, Kidd, Langnes. NOES: None. ABSENT: None. The meeting adjourned at 9:00 p.m.

Respectfully submitted,

Michele R. Smith, Clerk