



**CITY OF WHITEWATER COMMON COUNCIL
Common Council Meeting**

THURSDAY, February 18, 2021 – 6:30 p.m.

Due to Coronavirus Concerns, this will be a VIRTUAL MEETING. (not in person). Citizens are welcome (and encouraged) to join via computer, smart phone or telephone. Citizen participation is welcome during topic discussion periods.

AMENDED AGENDA AS OF 2/17/21 – 8:00 a.m.

Agenda is amended to add an Ordinance – Prohibiting Smoking and Vaping within 20 feet of Playground Equipment or Skate Park Equipment in Public Parks.

You are invited to a Zoom webinar.
When: Feb 18, 2021 06:30 PM Central Time (US and Canada)
Topic: Common Council Meeting

Please click the link below to join the webinar:
<https://zoom.us/j/96064141555?pwd=WGRyK0ZXOUJ2UnNVNmNJempwQlcxUT09>

Passcode: 907305

Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 929 205 6099
Webinar ID: 960 6414 1555
Passcode: 907305

CONSENT AGENDA:

CA-A	Approval of Council Minutes of 1/19/21 and 2/2/21 council meeting.	P. 1
CA-B	Acknowledgment of Receipt and Filing of the following: Public Works Committee minutes of 1/12/21; - P. 56 CDA minutes of 12/17/20. – P. 66	n/a
CA-C	Authorization to amend agenda with less than 72 hours notice (as required by City of Whitewater Transparency Ordinance).	n/a
CA-D	Expedited Approval of the Following Items, per City staff recommendation: C-4	n/a

CITY MANAGER REPORT.

STAFF REPORTS:

Library Director	Library Update, including update on library employee salaries and holidays.	P. 70
Parks and Recreation	Lakes Drawdown Project Updates	n/a

HEARING OF CITIZEN COMMENTS: No formal Common Council Action will be taken during this meeting although issues raised may become a part of a future agenda. Participants are allotted a three-minute speaking period. Specific items listed on the agenda may not be discussed at this time; however citizens are invited to speak to those specific issues at the time the Council discusses that particular item.

*To make a comment during this period, or during any agenda item: **On a computer or handheld device**, locate the controls on your computer to raise your hand. You may need to move your mouse to see these controls. **On a traditional telephone**, dial *6 to unmute your phone and dial *9 to raise your hand.*

RESOLUTIONS:

R-1	Consideration of a resolution adopting a Relocation Order pursuant to Wis. Stat. s. 32.05 providing for the acquisition of lands and interests for the Southwest Elevated Water Tank Project. (DPW Director Request).	P. 77
R-2	Authorizing the sale of Lot 4B of Whitewater Business Park. (CDA Director Request).	n/a

ORDINANCES – First Reading

O-1	Ordinance Prohibiting Smoking and Vaping within 20 feet of Playground or Skate Park Equipment in Public Parks. (Councilmember Schulgit Request)	
-----	--	--

CONSIDERATIONS:

C-1	Presentation by Ehlers with regard to Tax Increment Financing Extension. (TIF 4) (City Manager Request).	P. 83
C-2	Appointment of citizen member to Community Involvement and Cable TV Commission. (City Manager Request).	P. 94
C-3	Discussion and possible direction regarding sizing of the new Southwest Elevated Tank. (water tower) (DPW Director Request)	P. 97
*C-4	Denial of claim filed against City by Samuel Zimmerman, with regard to an injury sustained by his son in a City Park. (Finance Director).	P. 102
C-5	Requests for Future Agenda Items and Future POLCO questions.	n/a
C-6	EXECUTIVE SESSION: Adjourn to Closed Session, TO RECONVENE , pursuant to Wisconsin statutes 19.85(1)(e) “Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.” Item to be discussed: Negotiation of purchase of 336 N. Fremont Street.	n/a
n/a	RECONVENE INTO OPEN SESSION	n/a
C-7	Adopting Resolution authorizing the purchase of 336 N. Fremont Street.	P. 108
C-8	EXECUTIVE SESSION. Adjourn to Closed Session, NOT TO RECONVENE , pursuant to Wisconsin Statutes 19.85(1)(c) “Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.” Item to be Discussed: Annual City Manager Performance Evaluation.	n/a

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

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

ORDINANCE No. _____
AN ORDINANCE PROHIBITING SMOKING AND VAPING
WITHIN TWENTY FEET OF PLAYGROUND OR SKATE PARK
EQUIPMENT IN PUBLIC PARKS

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

SECTION 1. Whitewater Municipal Code Chapter 8.36, Section 8.36.011, is hereby created to read as follows:

8.36.011 – No Smoking or Vaping Near Playground or Skate Park Equipment.

- (a) Smoking and Vaping Prohibited Near Playground or Skate Park Equipment. To protect the health and comfort of children and the public, smoking, vaping and the use of all electronic nicotine devices is prohibited within twenty (20) feet of playground or skate park equipment located within City parks.

Ordinance introduced by Council Member _____, who moved its adoption.

Seconded by Council Member _____.

AYES:
NOES:
ABSENT:
ADOPTED:

Cameron Clapper, City Manager

Michele R. Smith, City Clerk



**CITY OF WHITEWATER COMMON COUNCIL
Common Council Meeting**

THURSDAY, February 18, 2021 – 6:30 p.m.

Due to Coronavirus Concerns, this will be a VIRTUAL MEETING. (not in person). Citizens are welcome (and encouraged) to join via computer, smart phone or telephone. Citizen participation is welcome during topic discussion periods.

You are invited to a Zoom webinar.
When: Feb 18, 2021 06:30 PM Central Time (US and Canada)
Topic: Common Council Meeting

Please click the link below to join the webinar:
<https://zoom.us/j/96064141555?pwd=WGRyK0ZXOUJ2UnNVNmNJempwQlcxUT09>

Passcode: 907305

Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 929 205 6099
Webinar ID: 960 6414 1555
Passcode: 907305

CONSENT AGENDA:

CA-A	Approval of Council Minutes of 1/19/21 and 2/2/21 council meeting.	P. 1
CA-B	Acknowledgment of Receipt and Filing of the following: Public Works Committee minutes of 1/12/21; - P. 56 CDA minutes of 12/17/20. – P. 66	n/a
CA-C	Expedited Approval of the Following Items, per City staff recommendation: C-4	n/a

CITY MANAGER REPORT.

STAFF REPORTS:

Library Director	Library Update, including update on library employee salaries and holidays.	P. 70
Parks and Recreation	Lakes Drawdown Project Updates	n/a

HEARING OF CITIZEN COMMENTS: No formal Common Council Action will be taken during this meeting although issues raised may become a part of a future agenda. Participants are

allotted a three-minute speaking period. Specific items listed on the agenda may not be discussed at this time; however citizens are invited to speak to those specific issues at the time the Council discusses that particular item.

*To make a comment during this period, or during any agenda item: **On a computer or handheld device**, locate the controls on your computer to raise your hand. You may need to move your mouse to see these controls. **On a traditional telephone**, dial *6 to unmute your phone and dial *9 to raise your hand.*

RESOLUTIONS:

R-1	Consideration of a resolution adopting a Relocation Order pursuant to Wis. Stat. s. 32.05 providing for the acquisition of lands and interests for the Southwest Elevated Water Tank Project. (DPW Director Request).	P. 77
R-2	Authorizing the sale of Lot 4B of Whitewater Business Park. (CDA Director Request).	n/a

ORDINANCES – First and Second Reading - NONE

CONSIDERATIONS:

C-1	Presentation by Ehlers with regard to Tax Increment Financing Extension. (TIF 4) (City Manager Request).	P. 83
C-2	Appointment of citizen member to Community Involvement and Cable TV Commission. (City Manager Request).	P. 94
C-3	Discussion and possible direction regarding sizing of the new Southwest Elevated Tank. (water tower) (DPW Director Request)	P. 97
*C-4	Denial of claim filed against City by Samuel Zimmerman, with regard to an injury sustained by his son in a City Park. (Finance Director).	P. 102
C-5	Requests for Future Agenda Items and Future POLCO questions.	n/a
C-6	EXECUTIVE SESSION: Adjourn to Closed Session, TO RECONVENE , pursuant to Wisconsin statutes 19.85(1)(e) “Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session.” Item to be discussed: Negotiation of purchase of 336 N. Fremont Street.	n/a
n/a	RECONVENE INTO OPEN SESSION	n/a
C-7	Adopting Resolution authorizing the purchase of 336 N. Fremont Street.	P. 108
C-8	EXECUTIVE SESSION. Adjourn to Closed Session, NOT TO RECONVENE , pursuant to Wisconsin Statutes 19.85(1)(c) “Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.” Item to be Discussed: Annual City Manager Performance Evaluation.	n/a

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

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

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

January 19, 2021

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Binnie. MEMBERS PRESENT: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: Wallace McDonell.

It was moved by Allen and seconded by Singer to approve the Council minutes of 11/5/20 and 11/17/20 and to acknowledge receipt and filing of the CDA minutes of 11/19/20; the Public Works Committee minutes of 12/8/20; the Irvin L. Young Memorial Library Board minutes of 11/16/20; the Police and Fire Commission minutes of 9/9/20 and the Financial Reports for October and November, 2020. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None.

CITY MANAGER REPORT: Clapper announced that Public Safety professionals were given an opportunity to receive the Covid vaccine. He indicated that the City is not mandating that employees receive the vaccination.

STAFF REPORTS: The Public Facilities Report was delayed from December's meeting. DPW Director Marquardt indicated that the current facilities are in various shapes, sizes and conditions. They do not meet ADA requirements and there is insufficient space for basic needs. Technical difficulties prevented the full report to be given. DPW will post the report on their website. Councilmember Allen agreed that the project will be expensive, but that it is necessary.

CITIZEN COMMENTS: City Manager Clapper had originally planned to discuss a community scooter rental program at this meeting, but it will be delayed until the February 2 meeting.

SUBMISSION OF CDBG APPLICATION FOR WATER TOWER PROJECT.

Public Works Director Marquardt has assumed management of the CDBG application for the water tower project. The project corresponds to the timeline of the close out of the CDBG loan fund program formerly administrated by the Community Development Authority (CDA). Marquardt reported that the Public Works Committee hosted the citizen participation meeting required by the CDBG application. Marquardt noted that there was no objection voiced to the project itself, although a few questions arose relating to the remaining project funding. (See Exhibit A for Resolution).

Resolution introduced by Councilmember Allen, who moved its adoption. Seconded by Councilmember Majkrzak. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. ADOPTED: January 19, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE AMENDING TERM LIMITS ON PARKS AND RECREATION BOARD.

ORDINANCE No. 2017
AN ORDINANCE AMENDING SECTION 2.52.030 -
REGARDING TERM LIMITS ON THE PARKS AND
RECREATION BOARD

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

SECTION 1. Whitewater Municipal Code Chapter 2.52, Section 2.52.030 is hereby amended by deleting the following language:

Citizen members shall be limited to three consecutive terms and cannot be reappointed as a board member until one three-year term has elapsed.

Ordinance introduced by Councilmember Majkrzak, who moved its adoption. Seconded by Councilmember Singer. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. FIRST READING APPROVED: 1/19/21.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

FIRST READING OF ORDINANCE AMENDING SECTION 2.12.011 REGARDING BOARD AND COMMISSION TERM LIMITS.

ORDINANCE No. 2018
AN ORDINANCE AMENDING SECTION 2.12.011 - REGARDING TERM LIMITS

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

SECTION 1. Whitewater Municipal Code Chapter 2.12, Section 2.12.011 is hereby amended to read as follows:

Chapter 2.12.011 – Appointment of boards, commission and committee members.

- (c) Unless otherwise specified by city ordinance or state statutes, no member of a board, committee or commission shall serve more than two consecutive 5-year terms or two consecutive 4-year terms or three consecutive 3-year terms as applicable for that board, committee or commission. An incumbent may continue to serve beyond this period, until their replacement has been duly appointed. An appointment to fill a partial term shall not count in the limits specified above.

Unless otherwise specified by city ordinance or state statutes, an individual who has been replaced as a result of the maximum service limits shall be eligible for reappointment after they have been off the board, committee or commission for a minimum of one year. This subsection shall not apply to the City Council.

Ordinance introduced by Council Member Allen, who moved its adoption.

Seconded by Council Member Singer. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. FIRST READING APPROVED: January 19, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

SECOND READINGS OF ORDINANCES AMENDING CHAPTER 14 AS THEY RELATE TO CROSS CONNECTIONS.

ORDINANCE No. 2010A
AN ORDINANCE AMENDING SUBSECTION 14.08.342
CROSS CONNECTIONS - DEFINITIONS

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

SECTION 1. Whitewater Municipal Code Chapter 14.08 Subsection 14.08.342 is hereby amended to read as follows:

14.08.342 - Cross connections—Definitions.

- a. **Cross Connection.** Any physical connection or arrangement between two otherwise separate systems, one of which contains potable water from the city water system, and the other, water from a private source, water of unknown or questionable safety, or steam, gases or chemicals, whereby there may be cause for backflow or backsiphonage from one system to the other, the direction of flow depending on the pressure differential between the two systems.
- b. **Backflow.** The undesirable flow of water or mixtures of water and other liquids, solids, gases or other substances under positive or reduced pressure into a potable supply of water from any source.
- c. **Backflow Prevention.** A means designed to prevent backflow caused by backpressure or backsiphonage; most commonly categorized as an air gap, reduced pressure principle backflow assembly, double check valve assembly, pressure vacuum breaker assembly, backsiphonage backflow vacuum breaker (spill resistant pressure vacuum breaker) assembly, pipe applied atmospheric vacuum breaker, flush tank ballcock, laboratory faucet

backflow preventer, backflow preventer for carbonated beverage machine, vacuum breaker wall hydrants, chemical dispensing machine, hose connection vacuum breaker, hose connection backflow preventer, backflow preventer with intermediate atmospheric vent and barometric loop.

- d. **Backpressure.** An elevation of pressure in the downstream piping system above the utility supply pressure, which would cause or tend a reversal of the normal direction of flow.
- e. **Backsiphonage.** The flow of water or other liquids, mixtures or substance into the utility's potable water system from any source caused by the sudden reduction of pressure in the utility's potable water supply system.

Ordinance introduced by Council Member Allen, who moved its adoption. Seconded by Council Member Singer. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. ADOPTED: January 19, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

ORDINANCE No. 2011A
AN ORDINANCE AMENDING SUBSECTION 14.08.343
CROSS CONNECTIONS - PROHIBITED

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

SECTION 1. Whitewater Municipal Code Chapter 14.08 Subsection 14.08.343 is hereby amended to read as follows:

14.08.343 - Cross connections—Prohibited.

No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any cross connection. No person shall remove or permit to be removed a cross-connection control device. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water supply of the city may enter the supply or distribution system of said municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Whitewater Water Utility and by the Wisconsin Department of Natural Resources in accordance with Section NR 811, Wisconsin Administrative Code.

Seconded by Council Member Singer. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. ADOPTED: January 19, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

ORDINANCE No. 2012A
AN ORDINANCE AMENDING SUBSECTION 14.08.344
CROSS CONNECTIONS – INSPECTION FOR

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

SECTION 1. Whitewater Municipal Code Chapter 14.08 Subsection 14.08.344 is hereby amended to read as follows:

14.08.344 - Cross connections—Inspection for.

It shall be the duty of the Whitewater Water Utility to cause inspections to be made of all properties served by the public water system where cross connection with the public water system is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Whitewater Water Utility and as approved by the Wisconsin Department of Natural Resources. Residential properties serviced by the utility shall be surveyed on a 10-year interval. All non-residential properties (industrial, commercial and public authority service) serviced by the utility shall be surveyed on a 2 year interval. Commercial properties of similar or lesser risk to residential properties, based upon the potential health hazards, may follow the same schedule as residential properties. Property owners of non-residential properties must, at their own expense, have their plumbing system inspected by a State of Wisconsin Certified Cross Connection Inspector/Surveyor. Failure to promptly correct an unprotected cross connection shall be sufficient cause for the Whitewater Water Utility to discontinue water service to the property, as provided under Section 14.08.346.

Seconded by Council Member Singer. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. ADOPTED: January 19, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

ORDINANCE No. 2013A
AN ORDINANCE AMENDING SUBSECTION 14.08.345
CROSS CONNECTIONS – RIGHT OF ENTRY FOR INSPECTION

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

SECTION 1. Whitewater Municipal Code Chapter 14.08 Subsection 14.08.345 is hereby amended to read as follows:

14.08.345 - Cross connections—Right of entry for inspection.

Upon presentation of credentials, representatives of the Whitewater Water Utility shall have the right to request entry at any reasonable time to examine any property served by a connection to the public water system of the city for cross connections and backflow prevention. If entry is refused, such representative shall obtain a special inspection warrant under Section 66.122, Wisconsin Statutes. On request, the owner, lessee or occupant of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property.

Seconded by Council Member Singer. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. ADOPTED: January 19, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

ORDINANCE No. 2014A
AN ORDINANCE AMENDING SUBSECTION 14.08.346
CROSS CONNECTIONS – SHUTOFF FOR VIOLATION

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

SECTION 1. Whitewater Municipal Code Chapter 14.08 Subsection 14.08.346 is hereby amended to read as follows:

14.08.346 - Cross connections—Shutoff for violation.

The Whitewater Water Utility is authorized and directed to discontinue water service to any property wherein any connection in violation of Sections 14.08.342 through 14.08.347 exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. Water service shall be discontinued only after reasonable notice and opportunity for hearing under Chapter 68, Wisconsin Statutes, within ten days of hearing such emergency discontinuance.

Seconded by Council Member Singer. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. ADOPTED: January 19, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

ADOPTION OF CHAPTER 19.54, “SIGN REGULATIONS.” City Manager Clapper indicated that the proposed ordinance was reviewed by the Plan and Architectural Review Commission. Ben Rohr of Vandewalle Associates summarized changes made. He indicated that the Reed vs. Gilbert Supreme Court case necessitated the updating of the Ordinance. Rohr indicated that the existing ordinance contained many content-based regulations. Signs relating to home occupations were addressed. The most significant change was the addition of a subsection under the temporary miscellaneous sign section, with discussed offsite non-commercial signage relating to fundraising. Resident Jeff Knight of Panther Court thanked the Council for taking

their concerns into account and addressing them. Knight said the changes made in the final draft went quite a way toward helping non-profit organizations continue marketing. Ordinance 2016A introduced by Councilmember Singer, who moved its adoption. Seconded by Councilmember Allen. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ADOPTED: January 19, 2021. (Ordinance attached as Exhibit B).

MEMORANDUM OF UNDERSTANDING WITH DOWNTOWN WHITEWATER, INC.

It was moved by Allen and seconded by Singer to approve the 2021 MOU with Downtown Whitewater, Inc. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None.

SITING FOR NEW CITY WATER TOWER. City Manager Clapper reported that materials from the Public Works Director were provided to the Council. Clapper confirmed that letters were mailed to the community members owning property near various sites. Input and comments were reviewed and consensus was to pursue the site immediately adjacent to the City's Well No. 9 (across the "bridge to nowhere"). It was mentioned that the new tower will replace the one located in Starin Park, which may be the oldest operating tower in the State of Wisconsin. . It was moved by Allen and seconded by Majkrzak to site the new City water tower on the property adjacent to Well No. 9. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None.

RETENTION OF EMINENT DOMAIN ATTORNEY TO ASSIST IN ACQUISITION OF WATER TOWER REAL ESTATE. It was moved by Allen and seconded by Singer to authorize the retention of Attorney Sarah Beach of Axley Brynelson of Madison, at a cost of \$345 per hour, to assist with eminent domain matters relating to the acquisition of property for the water tower site. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None.

STRAND TASK ORDER 21-01 FOR WATER TOWER DESIGN. It was moved by McCormick and seconded by Majkrzak to authorize a task order to create a design for the new water tower, for a sum not to exceed \$142,000. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None.

2020 ANNUAL REPORT AND 2021 MANAGEMENT PLAN. City Manager Clapper indicated that the Council will receive the 2020 Annual Report in terms of goals planned at the budget process. The 2021 management plan is included. Clapper indicated that the year's highlights included the Lakes Drawdown project and Covid handling. It was indicated that the report did not indicate a resolution to the definition of roles for the Community Development Authority. Brown acknowledged the receipt of the report via e-mail earlier in the day, would like an opportunity to review the document before discussing further. Clapper indicated he had been working off of a model of the previous manager, where the document was delivered the evening of the council meeting. Clapper assured Council the document will be provided earlier in the future. Clapper was agreeable to bring the document back at a future meeting for further discussion. Clapper will make some minor updates to the document and submit it to the Council.

Approval of “CLASS B” BEER AND LIQUOR LICENSE FOR TAQUERIA LA ESTRELLA RRJ, INC. It was moved by Allen and seconded by Singer to approve a Beer and Liquor license for Taqueria La Estrella RRJ, Inc., Juan Marchan Arroup, Agent, 1170 W. Main Street, Whitewater. (former Las Chicas restaurant). AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None.

FUTURE AGENDA ITEMS AND POLCO QUESTIONS. Councilmember Allen requested discussion regarding the salary increase given to the Library Board, and its effect on the city budget.

EXECUTIVE SESSION. It was moved by Binnie and seconded by Allen to adjourn to Closed Session, NOT TO RECONVENE, pursuant to Wisconsin Statutes 19.85(1)(c) “Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.” Item to be Discussed: Annual City Manager Performance Evaluation. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. The meeting adjourned at 8:06 p.m.

Respectfully submitted,

Michele R. Smith, City Clerk

Division of Energy, Housing and Community Resources

Community Development Block Grant – Authorizing Resolution for CDBG Application Submission

does hereby approve and authorize the preparation and filing of an application for the above-named project(s); and that the **City Manager** is hereby

(Council President, Mayor, Board Chair, Village President)

authorized to sign all necessary documents on behalf of **City of Whitewater**; and the

(County, City, Village, Town)

that authority is hereby granted to **Public Works Committee**

(Name of Appropriate Committee)

to take the necessary steps to prepare and file the application for funds under this program in accordance with this resolution.

ADOPTED on **19** day of **January**, **2021**. ATTEST:
this _____
(Day) (Month) (Year) (Signature of Clerk)

The governing body of **City of Whitewater** has authorized the above resolution

(UGLG/Unit of General Local Government's Name)

by Resolution No.: **n/a**, dated **1/19/2021**.
(Resolution Number) (Date Authorized)

Signature of the Chief Elected Official **City Manager** _____
Title Date Signed

Cameron Clapper

Typed Name of the Chief Elected Official

Division of Energy, Housing and Community Resources

Community Development Block Grant – Authorizing Resolution for CDBG Application Submission

AUTHORIZING RESOLUTION: CDBG APPLICATION SUBMISSION FORM INSTRUCTIONS

The Unit of General Local Government (UGLG) must submit documentation of an Authorizing Resolution for submission of a Community Development Block Grant (CDBG) grant application with the application materials.

- Fill-in the designated spaces throughout the form. (Please refer to the micro text located beneath each fillable slot for guidance on the type of information that must be input.)
- The **Authorizing Resolution** form must be signed by the local Clerk.
- The **Authorizing Resolution** form must be signed by the Unit of General Local Government's (UGLG's) Chief Elected Official (i.e., Mayor, City Council President, Village President, Town Board Chairman, County Board Chairman, or County Executive). Make sure to provide the signature, typed name, and title of the Chief Elected Official (CEO). Fill-in the date the form is signed by the CEO.
- The **Authorizing Resolution** form must be **mailed** with your CDBG Application materials. Fill-in the date the form is submitted with your CDBG Application materials.
- Retain the original completed **Authorizing Resolution** form for your prospective grant file and **mail** a copy to the Division of Housing (DOH) with your CDBG Application materials. Send the completed form to:

**Wisconsin Department of Administration
Division of Energy, Housing and Community Resources
Bureau of Community Development
Attn: CDBG Grant Application Reviewer
101 E. Wilson Street, 6th Floor
P.O. Box #7970
Madison, WI 53707-7970**

Table of Contents

19.54 Sign Regulations	2
19.54.010: Purpose	2
19.54.020: Definition of a Sign	2
19.54.030: Definitions and Rules Related to Sign Groups, Sign Categories, & Sign Types	5
Definitions and rules related to the Permanent Business Signs Group:.....	5
Definitions and rules related to the Temporary Business Signs Group:	12
Definitions and rules related to the Permanent Miscellaneous Signs Group:	15
Definitions and rules related to the Temporary Miscellaneous Signs Group:.....	19
19.54.040: Electronic Message Signs	21
19.54.050: Fuel Price Signs and Fueling Station Canopy Signs and Stripes	22
19.54.060: Group Developments	22
19.54.070: Permitted Sign Rules	23
Figure 19.54.080: Permanent Business Sign Group	24
Figure 19.54.090: Temporary Business Sign Group	25
Figure 19.54.100: Permanent Miscellaneous Sign Group	26
Figure 19.54.110: Temporary Miscellaneous Sign Group	27
19.54.120: Sign Setback, Height, Measurement, and Flexibility	28
Section 19.54.130: Sign Permits – Application, Enforcement, and Revocation	31
19.54.140 : Sign Prohibitions and Limitations	33
19.54.150 : Appearance, Construction and Maintenance of Signage	35
19.54.160 : Nonconforming Signs	36
19.54.170 : Removal of Sign and Sign Structures where Business is no Longer in Operation	36
19.54.180: Fees	37

19.54 SIGN REGULATIONS

19.54.010: PURPOSE

- (1) The purpose of this Chapter is to establish standards for the fabrication, erection, and use of signs, and to regulate the location, type, size, and height of signage for all properties within the City of Whitewater. The adoption of this Chapter reflects the formal finding of fact by the City of Whitewater Plan Commission and City Council that regulation of signage advances the following compelling governmental interests:
 - (a) Reduce signage that the City has determined to be a cause of unsafe traffic and visibility conditions for pedestrians, bicyclists, drivers, and passengers.
 - (b) Protect pedestrians, bicyclists, drivers, and passengers from injury caused by the faulty and uncontrolled construction and use of signs within the City.
 - (c) Protect pedestrians, bicyclists, drivers, and passengers from injury caused by distractions, obstructions, and hazards created by certain signs or by cluttered, distracting, or illegible signage.
 - (d) Promote the public welfare, health, and safety of all persons using public thoroughfares and rights-of-way within the City of Whitewater in relation to the signage displayed thereon, or overhanging, or projecting into such public spaces.
 - (e) Preserve the value of private property by assuring the compatibility of signs with surrounding land uses.
 - (f) Assure that public benefits derived from expenditures of public funds for the improvement and beautification of public streets and other public structures and spaces are protected by exercising reasonable controls over character and design of signage.
 - (g) Advance the aesthetic goals of the City throughout the community and ensure the effectiveness and flexibility in the design, creativity, or use of signage without creating a detriment to the general public.
- (2) Furthermore, this Chapter leaves ample and adequate alternative channels of commercial speech communication for the messages portrayed on advertising signs – namely, distributed print media, broadcast media, and point-of-purchase display – and is narrowly defined so as to limit said prohibition to commercial speech on exterior signage and signage intended to be viewed from beyond the boundaries of a site.
- (3) The penalties of the City of Whitewater Municipal Code may be applicable to violations of the provisions of this Chapter. Signs that fail to comply with the requirements in this Chapter are subject to the penalties found in Section 19.75.080.
- (4) Any sign authorized by this Chapter may contain a noncommercial message.

19.54.020: DEFINITION OF A SIGN

- (1) Definition of a sign. In this Chapter, the word “sign” means any object, device, display, structure, or part thereof, situated or visible from outdoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, logos, symbols, fixtures, colors, illumination, or projected images.
- (2) Signs do not include:
 - (a) Traffic control and other government messages located within a right-of-way.

- (b) Decorations that are incidentally and customarily associated with any national holiday or religious holiday, or with any community festival or similar event.
- (c) Flags which do not contain a commercial message, commercial logo, or commercial colors.
- (d) Art works, which can be found in Chapter 12.46 Public Artwork. including but not limited to wall murals, which do not contain a commercial message, logo, or colors; and/or which contain pictorial representations referring to businesses, merchandise, products, or services of an exclusively historic nature of 50 years or older (meaning no longer offered as an active commercial enterprise).
- (e) Building colors and lighting which do not contain a commercial message, commercial logo, or commercial colors.
- (f) Interior site signs located on the interior of the grounds of the following land uses: Outdoor Open Space, Passive Outdoor Recreational, or Active Outdoor Public Recreational facility, which are primarily oriented to persons within the grounds.
- (g) Interior building signs located on the interior of a building and not attached to or located within 3 feet of the inside of a window, which are primarily oriented to persons within the building.
- (h) Window displays of merchandise, pictures, or models of products or services incorporated in a window display, which are not directly attached to an interior or exterior window surface.
- (i) Vehicles that are licensed, operable, and parked in legal parking spaces.
- (j) Individual signs less than 1 square foot in area are not regulated by this ordinance. Individual signs shall not be combined in a “mosaic” arrangement to create a resulting larger sign.

(3) **Other Definitions.**

- (a) **Advertising.** Any writing, painting, display, emblem, drawing, sign, or other device designed, used, or intended for display or any type of publicity for the purpose of making anything known or attracting attention to a place, product, goods, services, idea, or statement.
- (b) **Building frontage.** The width of the building façade that fronts a public street, highway, or interstate.
- (c) **Business/tenant frontage.** The portion of a building frontage occupied by a single tenant space having a public entrance within the building frontage. For businesses located on the interior of a building without frontage, the building elevation providing customer access shall be considered the business frontage.
- (d) **Commercial message.** Any sign wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business product, service, idea, or commercial activity.
- (e) **Copy.** Words, letters, numbers, figures, designs, or other symbolic representations incorporated into a sign.
- (f) **Changeable copy.** Sign copy that may be changed manually to provide different information such as boards with changeable letters, bulletin boards, and chalkboards.
- (g) **Customer entrance.** The entrance that the public can use when an establishment is open to the public.
- (h) **Electronic message sign:** See Section 19.54.040.
- (i) **Elevation, building.** The view of any building or other structure from any 1 of 4 sides regardless of the configuration or orientation of a building. No building shall be treated as having more than 4 building elevations. Each elevation will generally be identified as a north, south, east, or west building elevation.

-
- (j) **External illumination.** The lighting of an object from a light source located a distance from the object.
 - (k) **Façade.** Any side of a building facing a public way. See “Building frontage.”
 - (l) **For lease.** The period of time in which a property is being offered for lease through a licensed real estate agent or is being offered for lease by the owner.
 - (m) **For rent.** The period of time in which a property is being offered for rent through a licensed real estate agent or is being offered for lease by the owner.
 - (n) **For sale.** The period of time in which a property is being offered for sale through a licensed real estate agent or is being offered for sale by the owner.
 - (o) **Group Development.** A development containing two or more nonresidential tenants in spaces with separate outside customer doors. See Section 19.54.060.
 - (p) **Height of sign.** The vertical distance from the average ground level at the base of the sign to the top of the highest attached component of the sign. See Section 19.54.120(2) for the measurement of sign height.
 - (q) **Lighting, ambient.** Illumination in which the only light that falls onto the sign comes from sources that are available naturally (e.g. sunlight, moonlight) or from artificial lighting sources used for other purposes in the vicinity of the sign (e.g. street lights, lighting installed for other purposes or sites).
 - (r) **Lighting, backlit.** Illumination that is arranged in such a way that the light is cast from behind the sign to the eyes of the viewer. Often, the lighting element is unshielded but concealed behind individual freestanding letters, creating a silhouette effect.
 - (s) **Lighting, gooseneck.** Illumination resulting from light emitted directly from a shielded light fixture located at the top of the sign and angled downward onto the sign face. The light fixture is attached to a curved neck which is often flexible, allowing the user to position the light source onto the sign face.
 - (t) **Lighting, internal.** Illumination emanating from a lighting element that is located behind the sign face and which is completely enclosed.
 - 1. Internally illuminated signs shall have a light-colored copy on a dark-colored or opaque background, so that the copy is legible during the day and night. When illuminated, the sign shall appear to have an illuminated copy with a dark or non-illuminated background.
 - a. The requirements of Subsection (t)1., above, shall not apply to internally illuminated individual characters, letters, or shapes that do not contain copy on the sign face.
 - 2. Neon lighting is not considered to be internal lighting.
 - (u) **Lighting, neon.** Glass tube lighting in which a gas and phosphors are used in combination to create a colored light. Neon lighting is not considered internal lighting as defined in Subsection (t) above.
 - (v) **Maintain.** Maintaining the existing appearance of the sign; replacing the sign face or the supporting structure with identical materials, colors, and messages; changing the message of a Marquee Sign; or changing the face of an Off-Premise Advertising Sign (billboard).
 - (w) **Open house.** An on-premise event used to advertise the lease, rent, or sale of a property.
 - (x) **Plat phase.** The collection of lots, rights-of-ways, and outlots located within the perimeter boundary of a Final Plat.
 - (y) **Sign area.** The entire face of a sign, including the extreme limits of writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display but not including any supporting framework. See Section 19.54.120(4).

- (z) **Sign face.** The area or display surface used for the message.
- (aa) **Site.** A site shall include all lots that are contiguous, under unified single ownership and intended to remain under unified single ownership under the jurisdiction of this Chapter. A site may also be determined to be a portion of a single lot where more than one building in a Group Development (approved by the City) contains separate businesses. For the purposes of this Chapter, the site shall be determined by the Zoning Administrator.
- (bb) **Temporary sign.** A sign or advertising intended to be displayed for a certain limited period of time. If a sign display area is permanent, but the message displayed is subject to periodic changes, that sign shall not be considered as temporary. A mobile or portable sign shall not be considered a temporary sign or used for such a purpose. Refer to Section 19.54.090 and 19.54.110 for rules related to temporary signs.
- (cc) **Three-dimensional signs.** Signs that have a depth or relief on their surface. Where a sign consists of one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture or statue-like trademarks), the sign area shall be measured as their maximum projection upon a vertical plane. See Section 19.54.120(4)(g).
- (dd) **Window pane.** The area defined by any combination of the window frame and mullions located within said frame.

19.54.030: DEFINITIONS AND RULES RELATED TO SIGN GROUPS, SIGN CATEGORIES, & SIGN TYPES

This Section provides the definitions and rules related to various Sign Groups, Sign Categories, and Sign Types. The following provides the regulations for these signs applicable to each zoning district.

- (a) The rules for Permanent Business Signs are located in 19.54.080.
- (b) The rules for Temporary Business Signs are located in 19.54.090.
- (c) The rules for Permanent Miscellaneous Signs are located in 19.54.100.
- (d) The rules for Temporary Miscellaneous Signs are located in 19.54.110.
- (e) Signage for all uses in the Planned Development zoning district shall be permitted per the base zoning district and may be granted flexibility through the Planned Development process.

Any Sign Type not addressed by this Chapter shall be prohibited.

Definitions and rules related to the Permanent Business Signs Group:

- (1) **Permanent Business Sign.** A permanent sign which directs attention to a business, commodity, service, or entertainment conducted, sold, offered, or manufactured upon the site where the sign is located.

“Permanent Business Signs” is a Sign Group containing various Sign Categories and Sign Types that a business is eligible to use. Permanent Business Signs include the following Sign Categories: Freestanding Signs, On-Building Signs, Pedestrian Signs, and Daily Notice Signs. Sign must be designed of durable all-weather material complementary to and harmonious with the building and site, and must be closely integrated with site landscaping. See 19.54.080 for additional rules for Permanent Business Signs related to zoning districts.

- (a) **Freestanding Sign Category.** A sign permanently resting on or supported by a slab, pedestal, post, pylon, or any other form of base located on the ground.

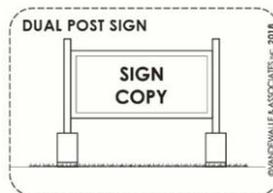
The following Freestanding Sign Types are addressed by this Chapter:

1. **Monument Sign.** A type of Freestanding Sign in which the bottom edge of the sign face is located within one foot of a ground-mounted pedestal.

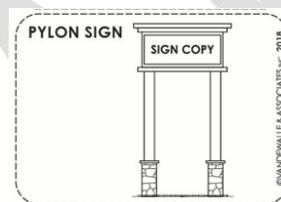
- a. Monument signs shall not interfere with vehicle visibility or circulation. The footing and related supporting structure of a monument sign, including bolts, flanges, brackets, etc., shall be concealed by the sign exterior, masonry covering, earth and permanent groundcover, or using landscaping.
- b. Over 50 square feet requires a Conditional Use Permit (CUP) in permitted districts.
- c. Electronic Message Signs (of up to 50% of the sign area) are permitted for this Sign Type in nonresidential zoning districts. See Section 19.54.040.
- d. The following forms of sign lighting are permitted: ambient, backlit, internal, and gooseneck.
- e. Group Development Signs may increase the maximum sign area by 20 square feet per additional storefront with a maximum of 160 square feet in total sign area, and an increase in maximum height up to 2 feet in height above the maximum height established in Figure 19.54.080. See Section 19.54.060.
- f. Sign must be designed of materials complementary to and harmonious with the building and site, and must be closely integrated with site landscaping.
- g. Any internal illuminated sign must have opaque cabinet fields and a translucent message.
- h. Sign must be located on-site and must not be located within any street right-of-way.



2. **Dual Post Sign.** A type of Freestanding Sign mounted to the sides or ends of two or more posts, with the majority of the sign area located between the outermost posts, with the bottom edge located within an average of 3 feet of existing grade.
 - a. Over 50 square feet requires a Conditional Use Permit (CUP) in permitted districts.
 - b. Electronic Message Signs (of up to 50% of the sign area) are permitted for this Sign Type in nonresidential zoning districts. See Section 19.54.040.
 - c. The following forms of sign lighting are permitted: ambient, backlit, internal, and gooseneck.
 - d. Sign must be designed of materials complementary to and harmonious with the building and site, and must be closely integrated with site landscaping.
 - e. Any internal illuminated sign must have opaque cabinet fields and a translucent message.
 - f. Sign must be located on-site and must not be located within any street right-of-way.
 - g. Group Development Signs may increase the maximum sign area by 20 square feet per additional storefront with a maximum of 160 square feet in total sign area, and an increase in maximum height up to 2 feet in height above the maximum height established in Figure 19.54.080. See Section 19.54.060.



3. **Pylon Sign.** A type of Freestanding Sign erected upon one or more pylons or poles, generally of a height that is taller than permitted for a Dual Post sign.
 - a. Pylon signs may only be approved through the Conditional Use Permit (CUP) process in permitted districts.
 - b. Electronic Message Signs (of up to 50% of the sign area) are permitted for this Sign Type in nonresidential zoning districts. See Section 19.54.040.
 - c. The following forms of sign lighting are permitted: ambient, backlit, internal, and gooseneck.
 - d. Sign must be designed of materials complementary to and harmonious with the building and site, and must be closely integrated with site landscaping.
 - e. Any internal illuminated sign must have opaque cabinet fields and a translucent message.
 - f. Sign must be located on-site and must not be located within any street right-of-way.
 - g. Group Development Signs may increase the maximum sign area by 20 square feet per additional storefront with a maximum of 160 square feet in total sign area, and an increase in maximum height up to 2 feet in height above the maximum height established in Figure 19.54.080. See Section 19.54.060.



- (b) **On-Building Sign Category.** A type of sign permanently affixed to an outside wall of a building.

The following On-Building Sign Types are addressed by this Chapter:

 1. **Wall Sign.** A type of On-Building Sign that is mounted directly on, and parallel to, a building façade or other vertical building surface. A Wall Sign also includes a sign located on the interior of a building that is intended to be viewed primarily from beyond the boundaries of the site.
 - a. Every business shall be permitted a minimum of 30 square feet of On-Building Sign area, regardless of the business's actual building façade length.
 - b. More than one On-Building Sign shall require a Conditional Use Permit (CUP).
 - i. If more than one On-Building Sign is permitted, the total square footage must not exceed the max square footage allowed, per Figure 19.54.080.
 - ii. The total combined sign area of all signs on any given wall shall still be limited by its length ratio of said wall.
 - c. The top edge of a Wall Sign shall not extend above the top edge of the vertical exterior wall or above the lowest edge of a roof line of the portion of the building to which it is mounted.
 - d. Wall Signs shall be mounted parallel to, and within 1 foot of a building facade or other vertical building surface.

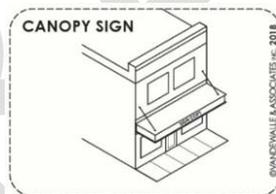
- e. Bottom of sign shall be a minimum of 14 feet above a drive, alley, street, parking space or other vehicle surface; a minimum of 8 feet above a sidewalk, patio, or other ground-level surface and a maximum of 3 feet from the building.
- f. Any internal illuminated sign must have opaque cabinet fields and a translucent message.



- 2. **Awning Sign.** A type of On-Building Sign that is directly affixed to the surface area of the awning via sewing, silk screening, painting, or similar method. An awning can be retracted, folded or collapsed against the face of a supporting structure.
 - a. Awning Signs shall be horizontally and vertically centered on the face(s) of the awning.
 - b. Awning Signs shall not project above, below, or beyond, the awning surface.
 - c. Awning Signs shall not exceed 50 percent of the area of an angled face of the awning.
 - d. Awning Signs shall not be more than 12 inches tall on a vertical face of the awning.
 - e. The entire awning façade (including the vertical and angled faces combined) shall be considered a sign for purposes of area measurement. See 19.54.080
 - f. A sign may be hung beneath an awning parallel to the building frontage so long as it and its structural components are no less than 8 feet above the ground immediately beneath the sign.
 - g. The awnings shall be constructed and erected so that the lowest portion of the projecting frame thereof shall be not less than eight feet above the level of the sidewalk or public thoroughfare.
 - h. Every business shall be permitted a minimum of 30 square feet of On-Building Sign area, regardless of the business's actual building façade length.
 - i. More than one On-Building Sign shall require a Conditional Use Permit (CUP).
 - i. If more than one On-Building Sign is permitted, the total square footage must not exceed the maximum square footage allowed, per Figure 19.54.080.
 - ii. The total combined sign area of all signs on any given wall shall still be limited by its length ratio of said wall.
 - j. Bottom of sign shall be a minimum of 14 feet above a drive, alley, street, parking space or other vehicle surface; a minimum of 8 feet above a sidewalk, patio, or other ground-level surface and a maximum of 3 feet from the building.

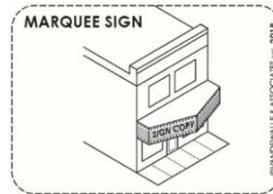


3. **Canopy Sign.** A type of On-Building Sign that is directly affixed via bolts, brackets, or similar method to a rigid permanent canopy which is mounted to, or adjacent to, the façade of a building. A Canopy is not retractable.
 - a. Canopy Signs shall be horizontally and vertically centered on the face(s) of the canopy.
 - b. Canopy Signs shall not project above or below the canopy face.
 - c. Canopy Signs shall not exceed 50 percent of the area of an angled face of the awning.
 - d. A sign may be hung beneath a canopy parallel to the building frontage so long as it and its structural components are no less than eight feet above the ground immediately beneath the sign.
 - e. The canopy shall be constructed and erected so that the lowest portion of the projecting frame thereof shall be not less than eight feet above the level of the sidewalk or public thoroughfare.
 - f. Every business shall be permitted a minimum of 30 square feet of On-Building Sign area, regardless of the business's actual building façade length.
 - g. More than one On-Building Sign shall require a Conditional Use Permit (CUP).
 - i. If more than one On-Building Sign is permitted, the total square footage must not exceed the maximum square footage allowed, per Figure 19.54.080.
 - ii. The total combined sign area of all signs on any given wall shall still be limited by its length ratio of said wall.
 - h. Bottom of sign shall be a minimum of 14 feet above a drive, alley, street, parking space or other vehicle surface; a minimum of 8 feet above a sidewalk, patio, or other ground-level surface and a maximum of 3 feet from the building.
 - i. Any internal illuminated sign must have opaque cabinet fields and a translucent message.



4. **Marquee Sign.** A type of On-Building Sign that is mounted to a permanent roof-like structure that projects out from the exterior wall of a structure and shelters the entrance and/or entrance approaches to a building.
 - a. Sign copy shall be horizontally and vertically centered on the face(s) of the marquee.
 - b. Marquee Signs must be finished and enclosed on both the top and bottom of the sign between the back of the sign face and the building façade.
 - c. Letters displayed on a Marquee Sign must be a minimum of 10 inches tall.
 - d. Marquee Signs may only be approved through the Conditional Use Permit process.
 - e. Bottom of sign shall be a minimum of 14 feet above a drive, alley, street, parking space or other vehicle surface; a minimum of 8 feet above a sidewalk, patio, or other ground-level surface; and a maximum 3 feet from the building.
 - f. The following forms of sign lighting are permitted: ambient, backlit, internal, and gooseneck.

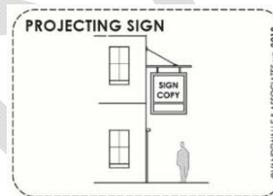
- g. Every business shall be permitted a minimum of 30 square feet of On-Building Sign area, regardless of the business's actual building façade length.
- h. More than one On-Building Sign shall require a Conditional Use Permit (CUP).
 - i. If more than one On-Building Sign is permitted, the total square footage must not exceed the maximum square footage allowed, per Figure 19.54.080.
 - ii. The total combined sign area of all signs on any given wall shall still be limited by its length ratio of said wall.



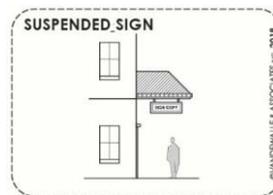
- (c) **Pedestrian Category.** A sign attached perpendicularly to the façade of a building and mounted just above sidewalk level, and which is oriented and sized for visibility to nearby pedestrians rather than to motorists. Pedestrian signs are only permitted in the B-2 zoning district or if specifically authorized within a specific implementation plan for a Planned Development District (PD).

The following Pedestrian Sign Types are addressed by this Chapter:

- 1. **Projecting Sign.** A type of Pedestrian Sign that is mounted perpendicular to the wall on which it is mounted, extends less than 3 feet from the wall, and is oriented to pedestrian traffic.
 - a. Bottom of sign shall be a minimum of 14 feet above a drive, alley, street, parking space or other vehicle surface; a minimum of 8 feet above a sidewalk, patio, or other ground-level surface; and a maximum 3 feet from the building.



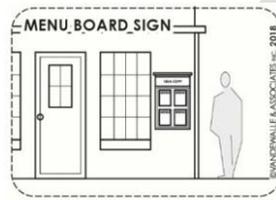
- 2. **Suspended Sign.** A type of Pedestrian Sign that is mounted perpendicular to the nearest wall and suspended from the underside of a horizontal plane surface, such as a covered porch, arcade, or canopy.
 - a. Bottom of sign shall be a minimum of 14 feet above a drive, alley, street, parking space or other vehicle surface; a minimum of 8 feet above a sidewalk, patio, or other ground-level surface; and a maximum 3 feet from the building.



- (d) **Daily Notice Sign Category.** A sign typically used to advertise daily specials, daily menu items, or on-site events that change on a daily basis and which usually includes changeable copy. This type of sign is often associated with restaurants, taverns, retail stores, music venues, and retail stores.

The following Daily Notice Sign Types are addressed by this Chapter:

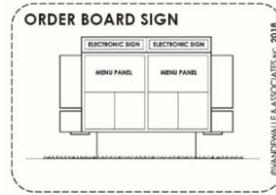
1. **Menu Board Sign.** A type of Daily Notice Sign mounted flat against a wall containing changeable copy.
 - a. Menu Board Signs shall be securely affixed to the exterior wall of the building containing the use within 10 feet of the customer entrance.
 - b. Menu Board Signs shall not extend more than 4 inches from the wall on which they are mounted.



2. **Bulletin Board Sign.** A type of freestanding Daily Notice Sign located on-site containing changeable copy.
 - a. Bulletin Board signs shall only be permitted for public, charitable, or religious institutions as determined by the Zoning Administrator.
 - b. Sign must be located on-site.
 - c. Signs shall only be located on a public sidewalk or private walkway that is a minimum 6 feet wide and shall only be displayed during the hours of operation for the on-site land use.



3. **Order Board Sign.** A type of Daily Notice Sign used only in conjunction with drive-through or drive-in establishments.
 - a. Order Board Signs shall be freestanding or mounted on the exterior wall of the building containing the use.
 - b. Freestanding two-way microphone/speaker devices shall not count toward the maximum permitted area of the Order Board Sign.
 - c. Order Board Sign audio components shall meet the noise standards set forth in Section 19.58 of the Zoning Ordinance.
 - d. Order Board Sign lighting components shall meet the exterior lighting standards set forth in Section 19.57.150 of the Zoning Ordinance. The following forms of sign lighting are permitted: ambient, backlit, internal, and gooseneck.
 - e. Order Board Signs may only be approved through the Conditional Use Permit process.



Definitions and rules related to the Temporary Business Signs Group:

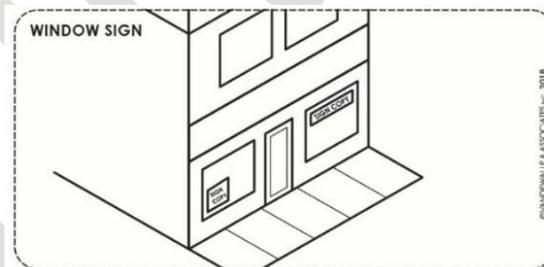
- (2) **Temporary Business Sign.** A temporary sign which directs attention to a business, commodity, service, or entertainment conducted, sold, offered, or manufactured upon the site where the sign is located. Temporary Business Signs do not require a Sign Permit and are typically used to promote temporary activities.

“Temporary Business Signs” is a Sign Group containing various Sign Categories and Sign Types that a business is eligible to use. Temporary Business Signs includes the following Sign Categories: Window Signs, Sandwich Board Signs, Temporary Board & Banner Signs, Temporary Flag or Feather Signs, and Temporary Approved Development Signs. See 19.54.090 for additional rules for Temporary Business Signs related to zoning districts.

- (a) **Window Sign Category.** A sign located within a building that is attached to the inside face of an exterior window.

The following Window Sign Types are addressed by this Chapter:

1. **Window Sign.** A type of sign that is either painted onto the inside face or exterior of a window, attached to the inside face of an exterior window, or located inside a building within 3 feet of a window and intended to be viewed from the exterior of the building. Window Signs may face toward the outside, the inside, or both.
 - a. A “Window” is the total area within a window frame, which may be divided by muntins or mullions. Glass areas divided by walls, piers or columns are considered separate windows.
 - b. Window sign area cannot exceed 50% of each individual window glass area on or in which the window signs are located.



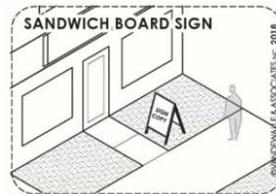
- (b) **Sandwich Board Sign Category.** A sign placed on the ground and constructed in such a manner as to form an “A”-like shape, hinged or not hinged at the top, with each angular face held together at an appropriate distance by a supporting element such as a folding bar, latch, or chain.

The following Sandwich Board Sign Types are addressed by this Chapter.

1. Sandwich Board Signs. See definition above.
 - a. There shall be adequate space available on the premises to place the sign on private property in a manner that is visible to the public. Signs shall only be located on a public

sidewalk or private walkway that is a minimum 6 feet wide and shall only be displayed during the hours of operation for the on-site land use.

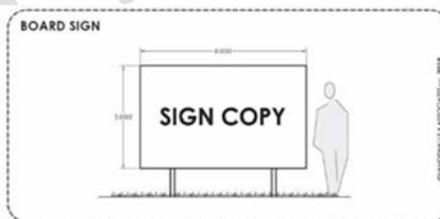
- b. The sign must be placed directly in front of the business to which it is related.
- c. A minimum of four feet in width of unobstructed travel way must remain available in all directions on the sidewalk at all times.
- d. A maximum of one Sandwich Board Sign is permitted per business and does not require a sign permit.
- e. Sign is only permitted during business hours.



- (c) **Temporary Board & Banner Sign Category.** A sign located outside of a building for up to two limited periods of display in a calendar year. Such signs are often used for the purpose of informing the public of a sale or special offer.

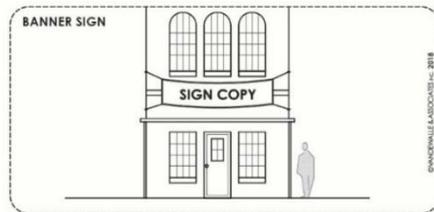
The following Temporary Board & Banner Sign Types are addressed by this Chapter:

- 1. **Board Sign.** A type of Temporary Board & Banner Sign that is temporarily placed on the ground and is made of rigid material such as plywood or corrugated plastic.
 - a. Board Signs are permitted during the sale or lease of the subject property or on-site building. Signs are permitted to be displayed between the listing of the subject property or on-site building for sale or for lease and shall be removed within 10 days after undergoing a rental or lease agreement or sale.
 - i. Sign must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).
 - b. A Noncommercial Board Sign (See Section 19.54.030(4)(b)) is permitted within a period up to 21 days, 4 times per calendar year.
 - i. 32 square feet on each side of a two-sided sign max area.
 - c. Limit one sign per street frontage.



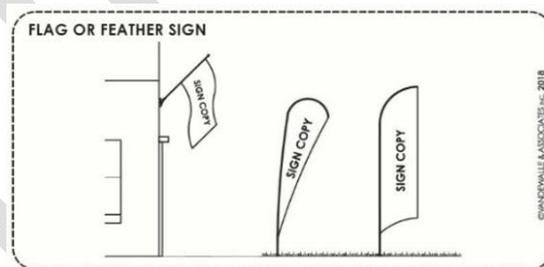
- 2. **Banner Sign.** A type of Temporary Board & Banner Sign that is made of flexible material such as cloth or vinyl and is supported along one or more sides or at two or more corners by wires, ropes, string, nails, or other removable fastening materials.
 - a. Sign must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).

- b. Display limit of 21 consecutive days, 4 times per calendar year.



- (d) **Temporary Flag & Feather Sign Category.** A sign located outside of a building with no display time limit. Such signs are often used for the purpose of informing the public of a sale or special offer.

1. **Flag Sign.** A type of Temporary Flag & Feather Sign that is located outside of a building. It's made of vinyl, fabric, or other similar lightweight all-weather flexible material which is mounted on a pole. The pole can either be driven into the ground or attached to a building. If the pole is driven into the ground, it must be rigid and permanent. If the pole is attached to the building, it must also be rigid.
 - a. Sign must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).
 - b. One Flag Sign per property. Flag Signs are only permitted during business hours.
 - c. Flags which do not contain a commercial message, commercial logo, or commercial colors do not count toward the limit.
2. **Feather Sign.** A type of Temporary Flag & Feather Sign consisting of a piece of vertically elongated, flexible material such as cloth or vinyl which is affixed to a single pole driven in the ground. The pole may be rigid or flexible but is not permanent.
 - a. Sign must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).
 - b. One Feather Sign per business. Feather Signs are only permitted to be displayed during business hours.



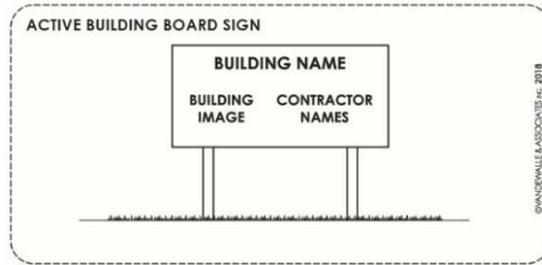
- (e) **Temporary Approved Development Sign Category.** A sign which is limited to display only during the active development of a building or plat. Mesh screens (construction site fencing as defined in section 66.1102(5), Wis. Stats.) containing images and/or text are permitted only during this time period, but are not considered signs.

The following Temporary Approved Development Sign Types are addressed by this Chapter:

1. **Active Building Board Sign.** A type of Temporary Approved Development Sign that is made of a rigid material such as plywood or corrugated plastic, which may be displayed only

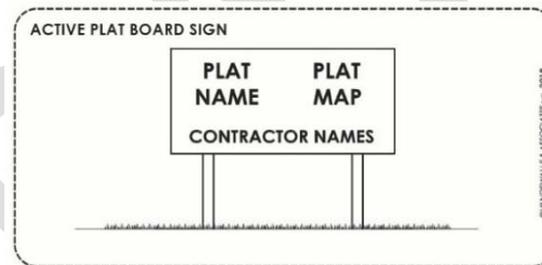
on the site of a building under construction, and only during the time period in which the Building Permit is valid.

- a. Period of active building development is between the issuance of the building permit and the issuance of the first occupancy permit for the building.



2. **Active Plat Board Sign.** A type of Temporary Approved Development Sign that is made of a rigid material such as plywood or corrugated plastic, which may be displayed only on the site of a subdivision plat under construction, and only during the time period when less than 75 percent of the lots in the plat phase have been sold.

- a. Period of active plat development is between the recording of the final plat to the issuance of building permits for 75% of the lots; as applied to each development phase in the final plat.



Definitions and rules related to the Permanent Miscellaneous Signs Group:

- (2) **Permanent Miscellaneous Sign.** A permanent sign that is available to all sites in the City regardless of land use (with the exception of Institutional Information Signs, which is only permitted for Institutional land uses).

“Permanent Miscellaneous Signs” is a Sign Group containing various Sign Categories and Sign Types that a site or business is eligible to use. Permanent Miscellaneous Signs includes the following Sign Categories: Miscellaneous Permanent Signs and Optional Miscellaneous Signs. See 19.54.100 for additional rules for Permanent Miscellaneous Signs related to zoning districts.

- (a) **Miscellaneous Permanent Signs.** The following Miscellaneous Permanent Sign Types are addressed by this Chapter:
 1. **Address Sign.** A type of Miscellaneous Permanent Sign that contains address numerals. See 12.44.060 of the City of Whitewater Municipal Code: Housing Numbering.
 - a. Sign must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).

- b. Additional Address and Building Management Identification Signs are allowed on each public right-of-way facing side of a property (corner lots).



- 2. **Building Management Identification Sign.** A type of Miscellaneous Permanent Sign indicating the name and/or address of the property owner, tenant, and/or manager of the property.
 - a. Sign must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).
 - b. On-building signs must be located within 10 feet of building's main entrance.
 - c. Additional Address and Building Management Identification Signs are allowed on each public right-of-way facing side of a property (corner lots).
 - d. A Home Occupation Land Use that requires a Conditional Use Permit (CUP) may have one on-building Building Management Identification Sign not to exceed three square feet in area. Said identification sign may include one or more of the following: name, address, and/or home occupation title. Signs related to home occupations can be permanently mounted in the yard, not to exceed three square feet, in the form of an On-Site Directional Sign as described below, only if the closest point of the permitted on-building sign is greater than 75 feet from the street right-of-way.



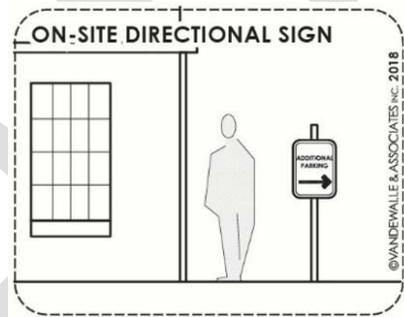
- 3. **On-Site Warning Sign.** A type of Miscellaneous Permanent Sign that indicates a warning from the property owner related to conditions on-site and/or that cites a City, State, or Federal law, order, rule, or regulation. Such signs shall contain no commercial message. Examples include signs listing parking hours or “No Trespassing,” “No Loitering,” or “Customer Parking Only” signs.

- a. Sign must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).



4. **On-Site Directional Sign.** A type of Miscellaneous Permitted Sign that includes a directional arrow or symbol that directs people to a specific destination within a development or site. On-Site Directional Signs may also include either the name, logo, or symbol of the destination, provided that the name, logo, or symbol is less than 1 square foot.

- a. Sign must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).

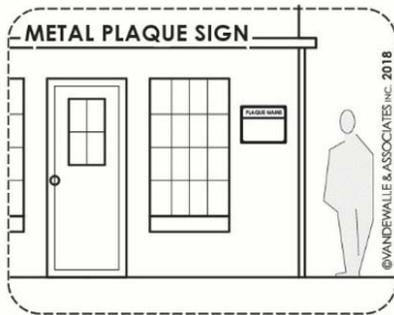


- (b) **Optional Miscellaneous Sign Category.** A Sign Category that conveys information which the City of Whitewater finds essential to encourage placemaking, particularly related to officially-recognized historic places, officially-designated neighborhoods, and conveying information for the general public.

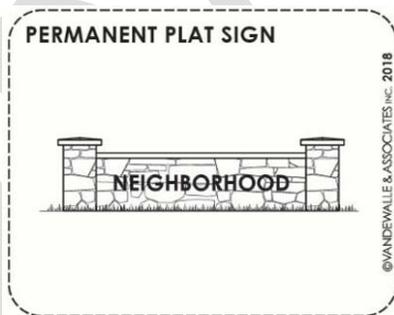
The following Optional Miscellaneous Sign Types are addressed by this Chapter:

1. **Metal or Ceramic Plaque Sign.** A type of Optional Miscellaneous Sign available to officially-recognized historic properties, sites, or districts, typically denoting the name of the building onto which it is mounted, its date of erection, and/or historical information.
 - a. Sign must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).
 - b. The following forms of sign lighting are permitted: ambient, backlit, internal, and gooseneck.
 - c. On-building signs must be located within 10 feet of building's main entrance.
 - d. A Home Occupation Land Use that requires a Conditional Use Permit (CUP) may have one on-building Metal or Ceramic Plaque Sign not to exceed three square feet in area. Said identification sign may include one or more of the following: name, address, and/or

home occupation title. Signs related to home occupations can be permanently mounted in the yard, not to exceed three square feet, in the form of an On-Site Directional Sign as described above, only if the closest point of the permitted on-building sign is greater than 75 feet from the street right-of-way.

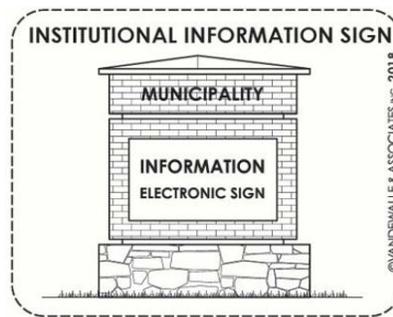


2. **Permanent Plat Sign.** A type of Optional Miscellaneous Sign typically indicating the name of a neighborhood, neighborhood association, or subdivision recognized by the City of Whitewater.
 - a. Permanent Plat Signs shall be located within a platted outlot or within a permanent sign easement.
 - b. Permanent Plat Signs shall be configured as Monument Signs or Dual Post Signs.
 - c. Permanent Plat Signs shall be located within a platted outlot or within a permanent sign easement.
 - d. Sign must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).
 - e. The following forms of sign lighting are permitted: ambient, backlit, internal, and gooseneck.



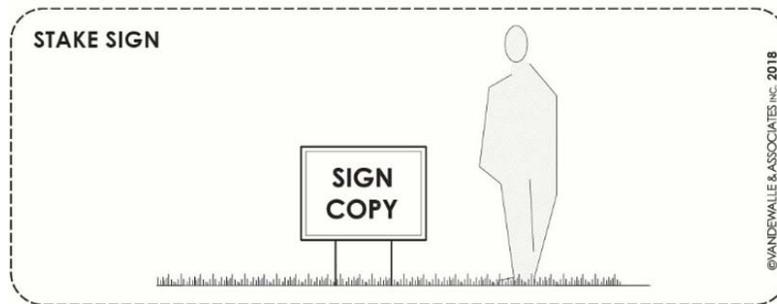
3. **Institutional Information Sign.** A type of Optional Miscellaneous Sign typically providing information to the community regarding scheduled public events, public activities, and public facilities.
 - a. Sign must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).
 - b. Institutional Information Signs shall require a Conditional Use Permit.
 - c. Institutional Information Signs shall be configured as Monument Signs or Dual Post Signs.

- d. Institutional Information Signs may have changeable copy or be configured as an Electronic Message Sign meeting the requirements of Section 19.54.040.
- e. Institutional Information Signs are only allowed for Institutional land uses as determined by the Zoning Administrator.
- f. The following forms of sign lighting are permitted: ambient, backlit, internal, and gooseneck.
- g. Additional Address and Building Management Identification Signs are allowed on each public right-of-way facing side of a property (corner lots).

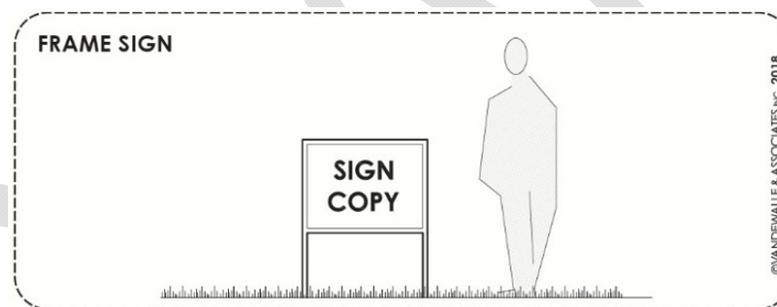


Definitions and rules related to the Temporary Miscellaneous Signs Group:

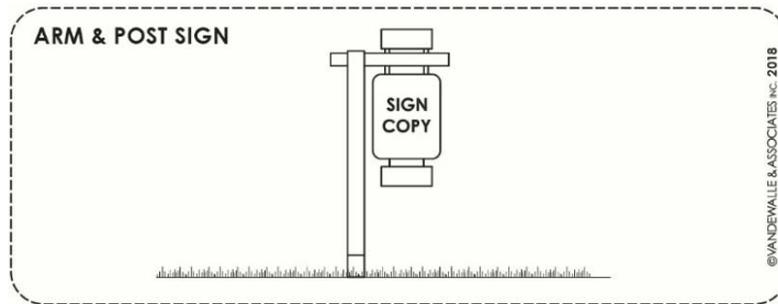
- (4) **Temporary Miscellaneous Sign:** A temporary sign that does not contain a commercial message, excluding for rent or for sale of the property.
- “Temporary Miscellaneous Signs” is a Sign Group containing one Sign Category, Yard Signs, which is available to all land uses. See 19.54.110.
- (a) **Yard Sign Category.** A Sign Category that is intended to accommodate a wide variety of sign purposes (e.g. garage sale signs, for sale signs, political signs, “slow down for kids” signs, etc.), often needed on a temporary basis. Such signs are freestanding and mounted on 1 or 2 stakes or posts and do not have footings. No more than two signs per yard. All Yard Signs must be placed on-site.
- The following Yard Sign Types are addressed by this Chapter:
1. **Stake Sign.** A type of Yard Sign that consists of a sign face erected upon one or more metal wires or wood, metal, or plastic stakes of no more than 3 inches in width.
 - a. Yard Signs must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).
 - b. One additional Yard Sign per street frontage is permitted if the subject property is for lease, for rent, for sale, or hosting an open house. The additional sign(s) must be removed within 10 days after undergoing a rental or lease agreement, sale, or open house.
 - c. Any number of Yard Signs is permitted within a period of 90 days prior to, and 10 days following, any local, state, or federal election hosted by the City per 12.04 of state statute, with 12 square feet per side of a 2-sided sign and maximum height of 6 feet per sign.



2. **Frame Sign.** A type of Yard Sign that consists of a frame into which a sign face can be inserted and erected upon 2 wood, metal, or plastic stakes or ground spikes.
 - a. Yard Signs must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).
 - b. One additional Yard Sign per street frontage is permitted if the subject property is for lease, for rent, for sale, or hosting an open house. The additional sign(s) must be removed within 10 days after undergoing a rental or lease agreement, sale, or open house.
 - c. Any number of Yard Signs is permitted within a period of 90 days prior to, and 10 days following, any local, state, or federal election hosted by the City per 12.04 of state statute, with 12 square feet per side of a 2-sided sign and maximum height of 6 feet per sign.



3. **Arm & Post Sign.** A type of Yard Sign mounted on a post or posts, either with a bracket arm extending outward to support a hanging sign, with the sign attached directly to the side of the post, or with the sign mounted between 2 posts.
 - a. Yard Signs must be located on-site and must not be located within any street right-of-way (which includes the entire public sidewalk and street terrace area) or vision triangle (19.51.010).
 - b. One additional Yard Sign per street frontage is permitted if the subject property is for lease, for rent, for sale, or hosting an open house. The additional sign(s) must be removed within 10 days after undergoing a rental or lease agreement, sale, or open house.
 - c. The area maximum for Arm & Post signs includes the sign face, as well as any additional placards that are attached to the sign.
 - d. Any number of Yard Signs is permitted within a period of 90 days prior to, and 10 days following, any local, state, or federal election hosted by the City per 12.04 of state statute, with 12 square feet per side of a 2-sided sign and maximum height of 6 feet per sign.



- (b) **Noncommercial Signs.** Any sign that does not contain a commercial message (See Section 19.54.020(3)(d)) that is not otherwise addressed by the sign regulations. Noncommercial Signs include advertising displays erected by non-for-profit organizations for providing notice of events open to the community, signs for fundraising and related purposes, or signs containing political, civic, public service, ideological, or religious messages.
1. Noncommercial Signs on lots with an on-site dwelling unit (See Section 19.09.260).
 - a. Noncommercial Signs are permitted to take the form of Yard Sign in Section 19.54.030(4) and Figure 19.54.110.
 - b. Noncommercial Signs must conform to all Yard Sign regulations in Section 19.54.030(4) and Figure 19.54.110.
 - c. Off-premise advertising signs are permitted for Noncommercial Signs.
 2. Noncommercial Signs on lots that do not contain an on-site dwelling unit (See Section 19.09.260).
 - a. Noncommercial Signs are permitted to take the form of Yard Signs in Section 19.54.030(4) and Figure 19.54.110 or any Temporary Board and Banner Sign in Section 19.54.030(2)(b) and Figure 19.54.090.
 - b. One Noncommercial Sign is permitted per lot in addition to the number of signs permitted in the Yard Sign and Temporary Board and Banner Sign Sections and must conform to all regulations in the Yard Sign Section 19.54.030(4) and Figure 19.54.110 and Temporary Board and Banner Sign Section 19.54.030(2)(b) and Figure 19.54.090.
 - c. Off-premise advertising signs are permitted for Noncommercial Signs.

19.54.040: ELECTRONIC MESSAGE SIGNS

- (1) **Electronic Message Sign.** A type of sign that displays words, lines, logos, graphic images, or symbols, which may be changed electronically to provide different information, and which includes computer signs, electronic reader boards, video screens, LCD signs, electronic time and temperature signs, and other signs with electronically-controlled changing or moving displays.
- (a) Electronic Message Signs shall require a Conditional Use Permit.
 - (b) Electronic Message Signs shall be permitted only with a nonresidential land use.
 1. No more than 1 Electronic Message Sign shall be permitted per site.
 - (c) In addition to the setback requirements of this Chapter, the Planning Commission shall consider visibility from any residential zoning district.
 - (d) Electronic Message Signs may be integrated into the design of the following Sign Types: Monument Signs, Dual Post Signs, Pylon Signs, Order Board Signs, or Institutional Information Signs.

1. For Monument Signs, Dual Post Signs, Pylon Signs, Institutional Information Signs, and Order Board Signs, no more than 50 percent of a sign's actual area shall contain an Electronic Message Sign.
 2. Electronic Message Signs shall count toward the site's maximum permitted sign area, except for Institutional Information Signs.
- (e) Messages and non-text images shall not change appearance more than once every 10 seconds, and transitions between messages shall be via instantaneous change. Use of Electronic Message Signs for images, text, or lighting that change appearance in a manner not permitted above shall be considered flashing, scrolling, or animated signs, which are prohibited per Section 19.54.140(1)(j).
 - (f) Electronic Message Signs shall be equipped with photosensitive equipment which automatically adjusts the brightness and contrast of the sign in direct relation to the ambient outdoor illumination.
 - (g) Electronic Message Signs shall comply with the exterior lighting requirements of Section 19.57.150.
 - (h) Electronic Message Signs shall be maintained so as to be able to display messages in a complete and legible manner.

19.54.050: FUEL PRICE SIGNS AND FUELING STATION CANOPY SIGNS AND STRIPES

- (2) **Fuel Price Signs.** A type of sign that lists the price of gasoline sold on-site, as required by Wis. Stat. section 100.18(8).
 - (a) Fuel Price Signs shall not be separate signs, but rather shall be integrated into the design of a permitted sign, described in Section 19.54.030(1) and in Figures in this ordinance. 19.54.080
 - (b) Fuel Price Signs shall list no more than one price per type of fuel. Such prices shall be displayed on a single structure.
 - (c) Fuel Price Signs may be illuminated, per the exterior lighting requirements of Section 19.57.150.
 - (d) Fuel Price Signs may contain changeable copy or Electronic Message Signs per the requirements of Section 19.54.040.
- (3) **Fueling Station Canopy Signs and Stripes.** A type of sign that is placed on the fascia of a fueling station canopy.
 - (a) Fueling station canopy signs and stripes shall require a Conditional Use Permit.
 - (b) Names, logos, or symbols shall be a maximum of 4 square feet in size and must face a public right-of-way.
 - (c) Stripe width is limited to a maximum height of 20 percent of the fascia's vertical height, to a maximum height of 12 inches.
 - (d) Canopy signs and stripes may be internally illuminated. See Section 19.54.140 for illumination requirements.

19.54.060: GROUP DEVELOPMENTS

- (1) **Group Development** is a development containing two or more nonresidential tenants in spaces with separate outside customer doors. In order to accommodate increased signage needs for multi-tenant buildings or a site with multiple business, Group Developments shall be permitted.
 - (a) **Group Development Freestanding Signs**
 1. Each business/tenant shall be eligible for integration into a Group Development Sign. The allocation of sign area for each tenant shall be determined by the property owner.

2. Group Development Signs shall be configured as Freestanding Signs.
3. Group Developments may increase the maximum sign size area by 20 square feet per additional storefront with a maximum of 160 square feet in total sign area, and an increase in maximum height up to 2 feet in height above the maximum height established in Figure 19.54.080.
4. Once a Sign Permit is granted for a proposed Group Development Sign, all existing freestanding signs on the site shall be brought into conformity with this Chapter.

19.54.070: PERMITTED SIGN RULES

- (1) Signs shall be allowed on private property in the City in accordance with 19.54.080 through 19.54.110, which address permitted signage as it relates to permits, quantity, area, location, lighting, and zoning districts. The requirements set forth in 19.54.080 through 19.54.110 shall be declared to be part of this Chapter.
 - (a) The rules for Permanent Business Signs are located in 19.54.080.
 - (b) The rules for Temporary Business Signs are located in 19.54.090.
 - (c) The rules for Permanent Miscellaneous Signs are located in 19.54.100.
 - (d) The rules for Temporary Miscellaneous Signs are located in 19.54.110.
 - (e) Signage for all uses in the Planned Development zoning district shall be permitted per the base zoning district and may be granted flexibility through the Planned Development process.

FIGURE 19.54.080: PERMANENT BUSINESS SIGN GROUP							Sign Area & Height Maximums for Zoning Districts: Land uses identified in Section 19.54.030			
REFER TO SECTION 19.54.030 FOR DEFINITIONS AND RULES FOR EACH SIGN CATEGORY AND EACH SIGN TYPE							1 & 2 Family Residential	Multi-Family Residential	Non-Residential and Mixed-Use	Downtown
Sign Categories & Sign Types	Sign Permit Required and Approver	Number of Signs Allowed	Sign Locations Allowed	Sign Face Materials Allowed	Sign Lighting Allowed	Sign Area Formula	R-1, R-1x, R-2, R-2A, R-0	R-3, R-3A, R-4,	B-1, B-1A, B-3, M-1, M-2, WUTP, AT, and I	B-2, B-2A
A. Freestanding Sign Category. Choose 1 of the following Sign Types.										
1. Monument Sign	50 sq. ft and less. Staff approval	1 sign per street frontage, plus 1 sign per lot with more than 200 feet of total street frontage	15' from the street curb	Durable, all-weather materials in all districts	Ambient, Backlit, Internal, or Gooseneck	1 sf of sign area per .45 ft of street frontage	Not allowed	50 sf area per frontage 6 ft height limit	Use Sign Area Formula with a 100 sq. ft. max 6 ft height limit	50 sf area per frontage 6 ft height limit
2. Dual-Post Sign	50+ sq. ft. C.U.P.									
3. Pylon Sign	Yes: C.U.P. approval.									
B. On-Building Sign Category. Choose 1 of the following Sign Types. Note: All On-Building Signs on the same building façade must be the same Type of Sign (1-4), below.										
1. Wall Sign	Yes: Staff approval	1 sign. More than one sign requires a CUP	Sign shall not extend above parapet or fascia. Minimum overhang rules.	Durable, all-weather materials in all districts.	Ambient, backlit, or gooseneck.	1 sf of sign area per 1 ft of building façade length	Not allowed	50 sf area	Per formula.	
2. Awning Sign					Gooseneck.			Per formula.		
3. Canopy Sign					Backlit, gooseneck.			40 sf area	60 sf area	40 sf area
4. Marquee Sign	Yes, For Each new sign P.C. approval.				Ambient, Backlit, Internal, or Gooseneck .			Not allowed	100 sf area	
C. Pedestrian Sign Category. Choose 1 of the following Sign Types. Note: All Pedestrian Signs on the same building façade must be the same Type of Sign (1-2), below.										
1. Projecting Sign	Yes: Staff Approval.	1 for each customer entrance.	Minimum overhang rules.	Durable, all-weather materials in all districts.	Gooseneck.	None. Use max area.	Not allowed	16 sf area	10 sf area	
2. Suspended Sign							Not allowed	10 sf area	10 sf area	
D. Daily Notice Sign Category										
1. Menu Board Sign	Yes: Staff approval.	1 for each business.	Within 10 ft of customer entrance.	Durable, all-weather materials in all districts.	Internal.	None. Use max area.	Not allowed	8 sf area		
2. Bulletin Board Sign	Yes: Staff approved		15' from the street curb face.		Internal.		Not allowed	10 sf area / 8 ft height		
3. Order Board Sign	Yes: PC Approval		Drive-thru		Ambient, Backlit, Internal, or Gooseneck		Not allowed	24 sf area / 8 ft height		
Abbreviations: ft = feet max = maximum min = minimum sf = square feet C.U.P. = Conditional Use Permit P.C. = Plan Commission										

Example Sign Diagrams:

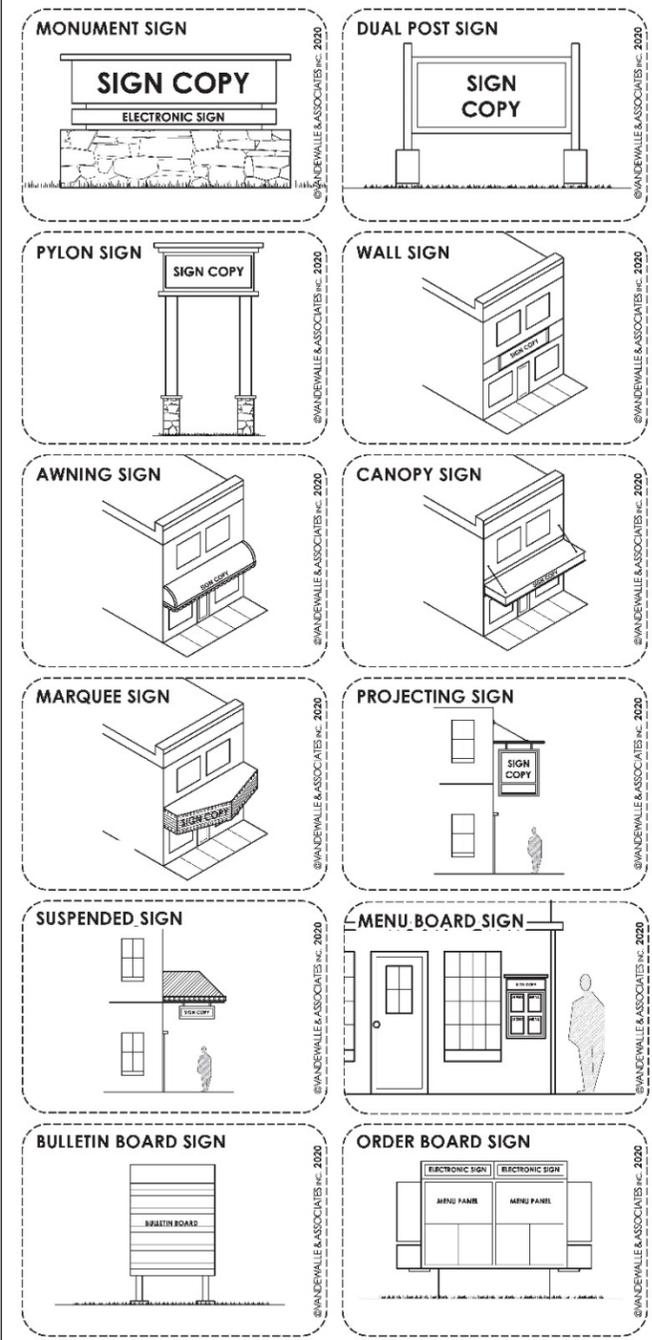


FIGURE 19.54.090: TEMPORARY BUSINESS SIGN GROUP							Sign Area & Height			
REFER TO SECTION 19.54.030 FOR DEFINITIONS AND RULES FOR EACH SIGN CATEGORY (LETTERED), AND EACH SIGN TYPE							Maximums for Zoning Districts:			
Sign Categories & Sign Types	Sign Permit Required and Approver	Number of Signs Allowed	Sign Locations Allowed	Sign Face Materials Allowed	Sign Lighting Allowed	Sign Area Formula	1 & 2 Family Residential	Multi-Family Residential	Non-Residential and Mixed-Use	Downtown
							R-1, R-1X, R-2, R-2A, R-0	R-3, R-3A, R-4,	B-1, B-1A, B-3, M-1, M-2, WUTP, AT, and I	B-2, B-2A
A. Window Sign Category. No time limit on the display of these signs.										
1. Window Sign	No Permit Required.	Not to exceed maximum coverage percentages.	Only allowed on the inside of the window.	Paper, vinyl, or similar lightweight material.	Ambient only; up to 1 internally illuminated or neon sign per tenant	Based on the percent of window area covered. →	Not allowed.		50% max window area coverage	
B. Sandwich Board Sign Category. Display limit is based on business hours.										
1. Sandwich Board Signs	No Permit Required	1 for each business.	Within 10 ft of customer entrance	Durable, all-weather materials in all districts.	Ambient only	None. Use max area.	Not allowed		6 sf area / 3 ft height / 2 ft width	
C. Temporary Board or Banner Sign Category.										
1. Board Sign	No Permit Required.	1 per street frontage	On-site	Plywood or similar rigid, all-weather material.	Ambient only.	None; Use max sign area limit. →	Not allowed.		32 sf max area	
2. Banner Sign		1 per business.	On-building	Vinyl, Fabric, or Lightweight all-weather material.			Not allowed.	100 sf max area, No max height	32 sf max area, No max height	
D. Temporary Flag or Feather Sign Category. No time limit on the display of these signs.										
1. Flag Sign	No Permit Required.	1 per lot.	Sign setback shall be at least max. sign height	Vinyl, Fabric, or Lightweight all-weather material.	Ambient Only	None; Use max sign area limit. →	32 sf max area, cannot exceed building height			
2. Feather Sign		1 for each business					Not allowed.	8 sf max area, 6 ft max height		
E. Temporary Approved Development Sign Category. Display limit is based on the period of active development.										
1. Active Building Sign	No Permit Required.	1 for each development team member.	On-Building; or Freestanding; and clustered in a single location approved by the City	Any durable, all-weather material.	Ambient only.	None Needed.	100 sf max area, 15 ft max height		100 sf max area, 15 ft max height	
2. Active Plat Sign										
F. Prohibited Temporary Sign Category. Display of the following signs is always prohibited in all zoning districts:										
<ul style="list-style-type: none"> • Signs resembling any traffic control sign. • Signs in a required vision triangle (19.51.010) near a street intersection or driveway apron • Signs in public right-of-way, unless authorized by City through special events permit or designee. • Signs that project above the building parapet or eave. • Signs that flutter, undulate, swing, rotate, or otherwise move, e.g. inflatable signs, wind socks/tubes, pennants, streamers, festoons, and pinwheels; except signs permitted in A.-C., above. • Flashing, scrolling, or animated signs (including signs that change their appearance more often than once per 10 seconds), beacon, search lights, and strobe lights. • Signs mounted on platforms, with wheels or runners, such as trailer signs, sled signs, or other portable signs. 										
Abbreviations: ft = feet max = maximum min = minimum sf = square feet C.U.P. = Conditional Use Permit P.C. = Plan Commission										

Example Sign Diagrams:

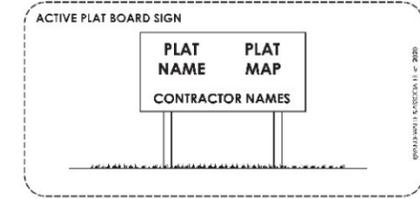
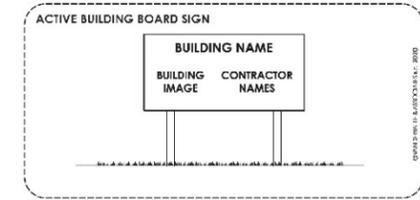
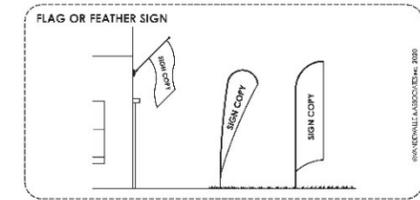
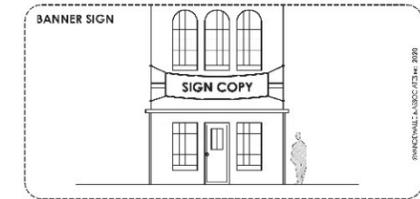
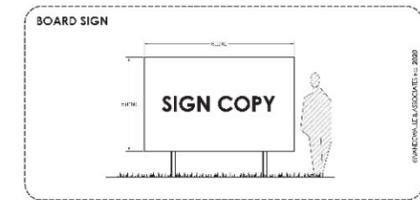
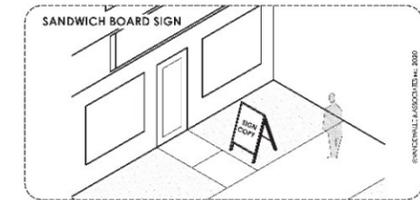
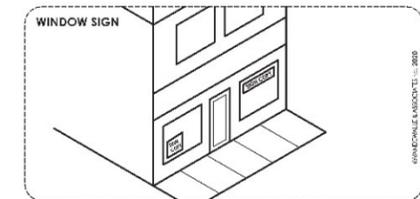


FIGURE 19.54.100: PERMANENT MISCELLANEOUS SIGN GROUP REFER TO SECTION 19.54.030 FOR DEFINITIONS AND RULES FOR EACH SIGN CATEGORY (LETTERED), AND EACH SIGN TYPE (NUMBERED).							Sign Area & Height Maximums for Zoning Districts: Available to all land uses in Chapter 19 Zoning district, other than Institutional Information Signs			
Sign Categories & Sign Types	Sign Permit Required and Approver	Number of Signs Allowed	Sign Locations Allowed	Sign Face Materials Allowed	Sign Lighting Allowed	Sign Area Formula	1 & 2 Family Residential	Multi-Family Residential	Non-Residential and Mixed-Use	Downtown
							R-1, R-1X, R-2, R-2A, R-0	R-3, R-3A, R-4,	B-1, B-1A, B-3, M-1, M-2, WUTP, AT, and I	B-2, B-2A
A. Miscellaneous Permanent Sign Category. Approved during site plan review.										
1. Address Sign	No Permit Required.	1 per address.	On-building, and visible from street. Also see Section 12.44.060.	Any durable, all-weather material.	Ambient only.	None needed. Use max sign area limit. →	4 sf max area 6 ft max mounted height			
2. Building Management Identification Sign			On-building, and next to main entry				4 sf max area 6 ft max mounted height			
3. On-Site Warning Sign		5 per address	On-building, or freestanding.				6 sf max area 4 ft max post mounted height 6 ft max building or fence height			
4. On-Site Directional Sign		As permitted in writing by the Zoning Administrator.					6 sf max area 4 ft max post mounted height 6 ft max building or fence height			
B. Optional Miscellaneous Sign Category.										
1. Metal or Ceramic Plaque Sign	Yes. For each new sign. Landmarks Commission approval.	As permitted in writing by the Zoning Administrator.	On-building or freestanding.	Bronze, aluminum, or stainless steel.	Ambient, Backlit, Internal, or Gooseneck	None. Needed. Use max sign area limit. →	6 sf max area 6 ft max height			
2. Permanent Plat Sign	Yes. Staff approval	As approved per the final plat.	Sign setback shall be at least max. sign height.	Any durable, all-weather material.	Ambient, Backlit, Internal, or Gooseneck	10 sf per 100 ft of lot frontage	100 sf max area 6 ft max height		100 sf max area 6 ft max height	
3. Institutional Information Sign	Yes. For each new sign. P.C. approval.	1 per site, more than 1 P.C. approval	Freestanding with minimum 15 ft setback.				100 sf max area 6 ft max height			
Abbreviations: ft = feet max = maximum min = minimum sf = square feet C.U.P. = Conditional Use Permit P.C. = Plan Commission										

Example Sign Diagrams:

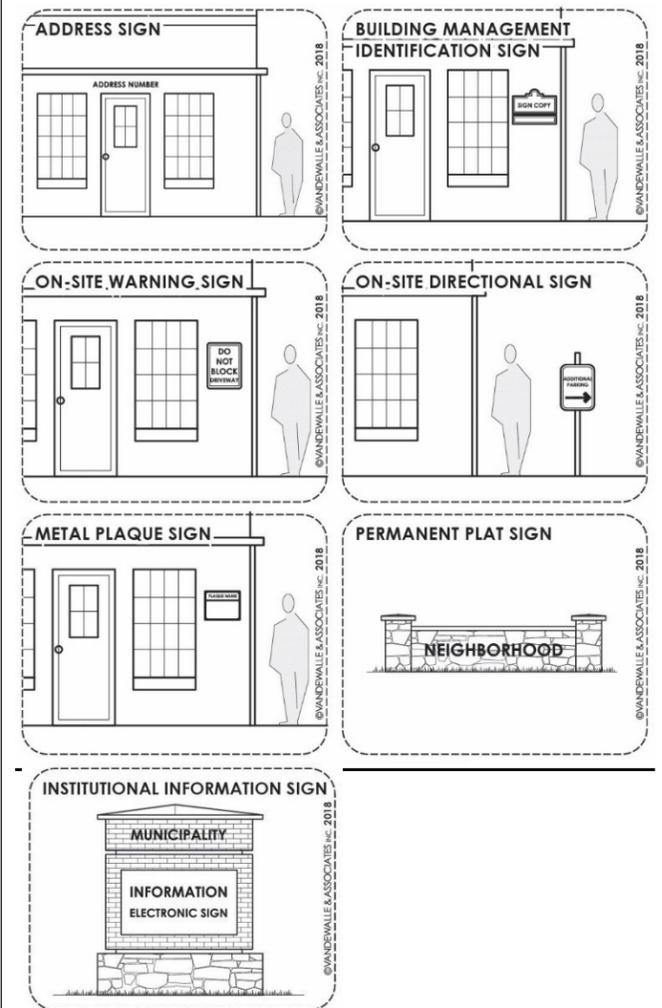
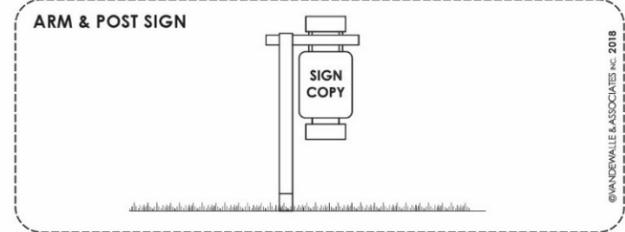
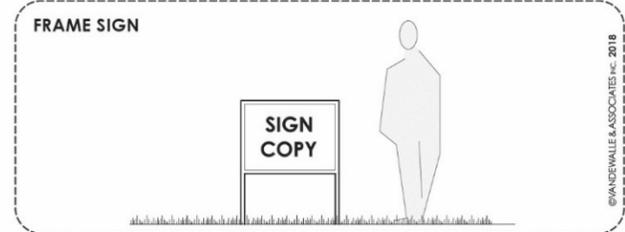
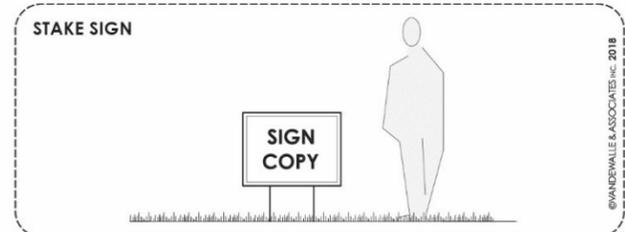


Figure 19.54.110: Temporary Miscellaneous Sign Group REFER TO SECTION 19.54.030 FOR DEFINITIONS AND RULES FOR EACH SIGN CATEGORY (LETTERED), AND EACH SIGN TYPE							Sign Area & Height Maximums for Zoning Districts: Available to all land uses identified in Chapter 19 Zoning District.			
							1 & 2 Family Residential	Multi-Family Residential	Non-Residential and Mixed-Use	Downtown
Sign Categories & Sign Types	Sign Permit Required and Approver	Number of Signs Allowed	Sign Locations Allowed	Sign Face Materials Allowed	Sign Lighting Allowed	Sign Area Formula	R-1, R-1X, R-2, R-2A, R-0	R-3, R-3A, R-4,	B-1, B-1A, B-3, M-1, M-2, WUTP, AT, and I	B-2, B-2A
A. Yard Sign Category.										
1. Stake Sign	No Permit Required.	2 per lot	Must be located on-site	Any material.	No.	Use max sign area limit. →	12 square feet per side of a 2-sided and maximum height of 6 feet per sign.			
2. Frame Sign										
3. Arm & Post Sign							12 sf max area 6 ft max height			
Abbreviations: ft = feet max = maximum min = minimum sf = square feet C.U.P. = Conditional Use Permit P.C. = Plan Commission										

Example Sign Diagrams:



19.54.120: SIGN SETBACK, HEIGHT, MEASUREMENT, AND FLEXIBILITY

- (1) Sign Setbacks. Signs must be located on-site (unless otherwise specified in this chapter), outside of the vision triangle (19.50.010), and must not be located within any street right-of-way, unless otherwise specified or approved by the Plan Commission. Each sign type must be set back in a location consistent with, 19.54.080 19.54.090 19.54.100 and 19.54.110.
- (2) Sign Height.
 - (a) The height of a freestanding sign shall be measured from the average ground level adjacent at the base of the sign to the top of the highest attached component of the sign, or from the centerline grade of the nearest adjacent public road. Information shall be supplied with the permit application.
 - (b) The average ground level is defined as the average elevation of the ground upon which the sign supports are placed, except when the sign supports rest upon a berm or other area elevated above the surrounding ground. In such cases, the average elevation of the base of such berm or other area shall be considered as the ground level.
- (3) Minimum Ground Clearance. All On-Building and Pedestrian Signs shall have a minimum clearance of 14 feet above a drive, alley, or street and a minimum of 8 feet above a sidewalk, path, trail, or other ground-level surface.
- (4) Measurement of Sign Area: The measurement of sign area is based on the arrangement of sign copy and sign background:
 - (a) Unless otherwise specified in this chapter, in the case of a freestanding sign (including three-dimensional objects), sign area shall include the total sign area(s) that can be viewed from any single vantage point. i.e., for a typical freestanding sign that faces two directions, only the largest sign face visible from any single vantage point shall count toward the total permitted sign area. Sign area shall not include any elements of the sign structure designed solely for support of the sign structure and located below or to the side of the sign message. Examples of parts of a freestanding sign structure which are exempt from the sign area include the sign base and the supporting columns, posts, or poles.
 - (b) For signs comprised of individual letters and related copy which are attached to a background surface with one or more neutral surface colors, sign area shall be measured as the sum of the smallest rectangle or as the sum of the irregular shapes enclosing each letter or related copy. See Example 1 in Figure 19.54.120(2).
 1. If an exact sign area calculation is not provided by the sign manufacturer, then the sign shall be measured using the smallest rectangles method.
 2. If an exact sign area calculation is provided by the sign manufacturer, then the applicant has the option to use the sum of the irregular shapes enclosing each letter or related copy to calculate the sign's total area.
 - (c) For signs comprised of individual letters and related copy which are attached to a background surface with one or more non-neutral background colors, sign area shall be measured as the sum of the smallest rectangles and right triangles enclosing entire sign message and any and all non-neutral background color areas. See Example 2 in Figure 19.54.120(2).
 - (d) For signs comprised of letters and related copy surrounded by one or more sign background colors on a single panel, frame, or cabinet, the sign area shall be measured as the smallest single rectangle enclosing the entire sign message and any and all background color areas. See Example 3 in Figure 19.54.120(2).
 - (e) For signs comprised of individual letters and related copy surrounded by one or more sign background colors on individual panels, sign area shall be measured as the smallest single rectangle enclosing the entire sign message and any and all background color areas. See Example 4 in Figure 19.54.120(2).
 - (f) Groupings of related smaller signs may be counted as one sign. In such cases, sign area shall be measured as the smallest single rectangle enclosing the individual signs and any and all background color areas. See Example 4 in Figure 19.54.120(2).
 - (g) For signs comprised of one or more three-dimensional objects (i.e., balls, cubes, clusters of objects, sculpture or statue-like trademarks), the sign area shall be measured as their maximum projection upon a vertical plane. See Figure 19.54.120(1).

Figure 19.54.120(1): Measurement of a 3D Sign Area

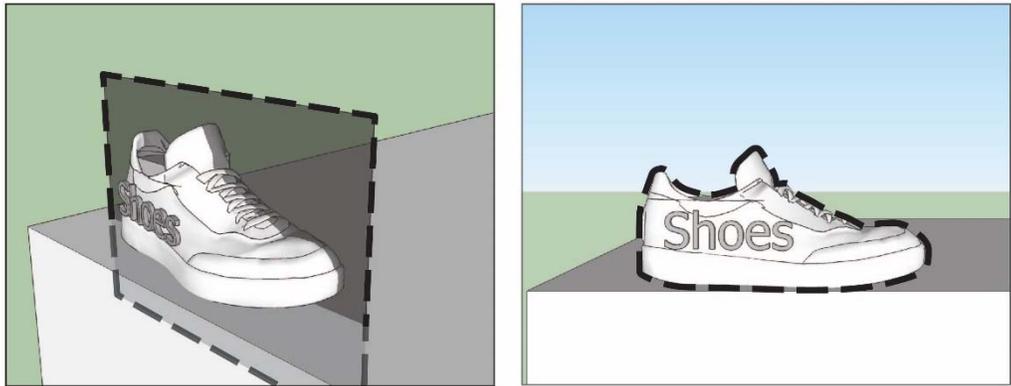


Figure 19.54.120 (2): Measurement of Sign Area



Example 1: Individual letters on a neutral surface

If a sign area calculation is not provided, the sum of smallest rectangles OR

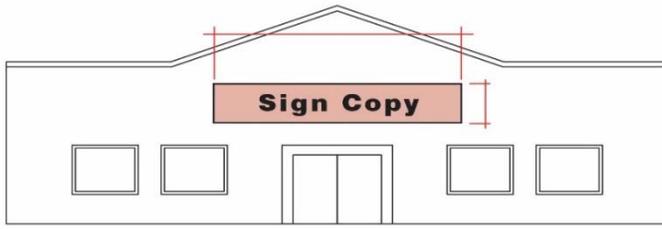


If a sign area calculation is provided with the sign permit application, the sum of the irregular shapes enclosing each letter or related copy



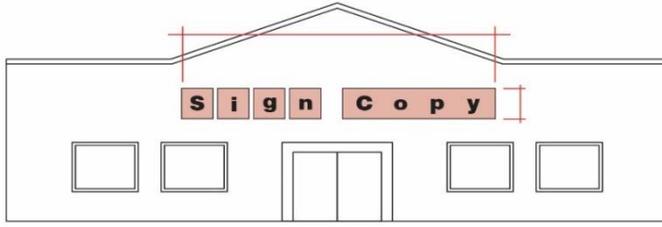
Example 2: Individual letters on a colored background

Sum of smallest rectangles and right triangles



Example 3: Individual letters or words grouped on one or more panels

Smallest single rectangle



Example 4: Individual letters on separate panels

Smallest single rectangle

DRAFT

SECTION 19.54.130: SIGN PERMITS – APPLICATION, ENFORCEMENT, AND REVOCATION

- (1) Applicability.
 - (a) No Sign that requires a permit shall be erected, installed, re-faced or constructed without approval from the City of Whitewater.
 - (b) For signs requiring a permit, this Section shall apply and be construed to require a permit for a change of copy on any sign or for any conversions or changes in the sign structure.
 - (c) This Section shall not apply to cleaning, repair, or other normal maintenance of the sign or sign structure.
 - (d) No new permit is required for signs which are in place as of the effective date this Chapter, and such signs may remain as legal nonconforming signs. Any alteration or relocation of such signs shall conform to the requirements of this Chapter.
 - (e) Any sign permit granted hereunder shall not be assigned or transferred to any other sign, including a modified sign face or modified sign structure.
 - (f) The owner or tenant may request all such signs at one site be included under one permit.
- (2) Review Authority.
 - (a) The City shall review all Freestanding, On-Building; Order Board, or Optional Miscellaneous Signs, all signs accompanying changes in use or new use which must receive approval and all proposed signs which would require approval of a Group Development for a site or sites which will have more than one sign viewed together as part of a group of signs. This may be required with a zoning permit for change of use or a sign permit. All signs which require approval of a sign permit by the Zoning Administrator or Plan Commission shall be reviewed according to the following evaluation factors:
 1. Conformance to the zoning and sign code.
 2. Minimization of conflict with vehicular or pedestrian circulation.
 3. Compatibility with the building characteristics, adjacent uses, and adjacent signs.
 4. Compatibility with the specific physical site conditions which warrant approval of the proposed sign.
 5. Materials and maintenance aspects.
 6. Legibility and visual clarity.
- (3) Sign Permit Application. Each sign permit application shall include:
 - (a) The name, address, phone number, and email address of the applicant.
 - (b) The name of the business or land use the proposed sign will serve.
 - (c) The name, address, phone number, email address, and signature of the property owner.
 - (d) The name, address, phone number, and email address of the sign contractor.
 - (e) The property's zoning designation.
 - (f) The property's current land use or uses for the entire subject property, including all indoor and outdoor areas.
 - (g) The approved site plan for the subject property. If a site plan was not previously required or approved, a site plan for the subject property with requirements as determined by the Zoning Administrator shall be provided. At a minimum, the site plan shall include the following:
 1. Location, type, height, width, and area of the proposed sign.
 2. Location, type, height, width, and area of all existing signs on the property and indication of whether existing sign(s) will remain or be removed/replaced.

3. All property lines and buildings on the property and within 50 feet of the proposed sign.
 4. All parking areas, driveways, and public roads.
 5. Method of attachment, structural support, method of illumination, and sign materials.
 6. The total area of all signs on the subject property both before and after installation of the proposed sign.
 7. Approximate value of the sign to be installed, including cost of installation.
- (h) Payment of the sign permit fee, as established from time to time by the City.
- (i) A written statement that all temporary signs will be removed per the limits.
- (j) Any other information that may reasonably be requested by the Zoning Administrator for the purpose of application evaluation.
- (k) Any existing or proposed sign on property abutting a State Highway, United States Highway, or Interstate Highway may also require approval from the Wisconsin Department of Transportation or the Federal Highway Administration.
- (4) Granting and Issuance.
- (a) The Zoning Administrator shall review the application to ensure it is complete per the requirements of this Chapter.
- (b) In cases where no other review or approvals are required under this Chapter, the Zoning Administrator shall review said application for compliance, and shall, in writing, either approve or deny said sign permit within 10 working days of the acceptance of the complete application and payment of the required fee.
- (c) When a proposed sign is associated with any development that requires a Site Plan, a sign permit shall not be granted prior to the approval of a Site Plan. In such cases, the Zoning Administrator shall review said application for compliance and shall approve or deny said sign permit based on compliance.
- (d) Denial of a sign permit shall not result in total or partial reimbursement of permit fees paid.
- (e) A granted sign permit shall expire, and shall be null and void, if the sign is not attached or erected within 180 days after the issuance of the sign permit.
- (5) Basis for Granting a Sign Permit. In deciding whether or not to grant a sign permit, the Zoning Administrator shall determine whether the proposed sign is in compliance with the provisions of this Chapter. In such review, the Zoning Administrator may also consider the following factors:
- (a) Whether the sign is designed, constructed, installed, or maintained in such a manner that it does not endanger public safety or traffic safety.
- (b) Whether the sign is in compliance with all provisions of the City of Whitewater Municipal Code and Building Code, including those related to traffic safety, traffic visibility, sign setbacks, and structural integrity.
- (6) Enforcement and Revocation of Sign Permit.
- (a) A sign permit may be revoked if the applicant has failed to comply with the provisions of this Chapter or any conditions that may have accompanied the permit at the time of issuance. Revocation requires written notice by either the Zoning Administrator for Zoning Ordinance violations or the Building Inspector for Building Code or other construction code violations.
- (b) In the event that a sign for which a permit has been issued has not been attached or erected within 180 days from the date of the issuance of such permit, said permit shall be null and void and automatically revoked. If work authorized by such permit is suspended or abandoned for a period of 90 days any time after the work is commenced, the original permit shall become null

-
- and void. In such cases, a new permit shall be obtained to complete the work and a new permit fee shall be required.
- (c) Any sign subject to a revoked permit shall be removed by the licensee, sign owner, or property owner within 60 days of such revocation.
 - (d) Revocation shall not result in total or partial reimbursement of permit fees paid.
- (7) Appeals. Any person affected by a decision of the Zoning Administrator may petition for a hearing before the Board of Zoning Appeals. The filing of such petition automatically stays removal of any sign involved and already legally erected until the Board of Zoning Appeals decides whether to sustain, modify, or withdraw the notice.
- (8) Removal of Signs in Violation of this Chapter.
- (a) If the Zoning Administrator determines that any sign exists in violation of this Chapter, the Zoning Administrator shall notify the sign permit holder or the owner of the property on which the sign is located. Said notification shall indicate that such violation shall be corrected within 60 days of receipt of said notice on penalty of automatic revocation of any sign permit, and that removal of the sign by the City may occur at the expense of the owner of the property.
 - (b) If notification is sent and the violation is not corrected within 60 days, the Zoning Administrator shall revoke the permit for any sign which is in violation of this Chapter. It shall be the duty of the Zoning Administrator to cause removal of such sign.
 - (c) The expense of removing such sign shall be charged to the owner of the property on which the sign is located. If the owner fails to pay such expense within one month of being billed therefore, or has not made arrangement for payment satisfactory to the City Attorney, then such expense shall become a lien on the property and shall be placed upon the tax roll.
 - (d) Any sign illegally placed in a public right-of-way shall be subject to immediate removal and confiscation without notice by the Zoning Administrator.

19.54.140 : SIGN PROHIBITIONS AND LIMITATIONS

The regulations contained in this Subsection apply to signs in all zoning districts.

- (1) Sign Prohibitions.
 - (a) Signs in a required vision triangle (19.51.010) near a street intersection or driveway apron
 - (b) No sign shall be erected at any location where it may, by reason of its position, shape, color or design, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, nor shall such sign make use of words such as “stop,” “look,” “danger,” or any other word, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse users of streets or highways. Signs resembling any traffic control sign.
 - (c) No signs shall project above the building parapet or eave, or be mounted on or extend above the roof, if attached to the building.
 - (d) Roof Sign. A sign displayed above the eaves or cornice of a building.
 - (e) No billboards or off-premise commercial signs shall be permitted.
 - (f) No sign shall be located within a required buffer yard or SEWRPC designated Environmental Corridors.
 - (g) Signs in public right-of-way, unless authorized by City through special events permit.
 - (h) Abandoned Sign. Any sign remaining in place on a site or a portion of a site (such as a single tenant in a multitenant building) that has been vacant, closed, or otherwise unoccupied for a period of 60 days.

-
- (i) No fluttering, undulating, swinging, rotating, or otherwise moving signs such as windsocks, motorized signs, pennants, and streamers shall be permitted. This shall not apply to Banner Signs, Flag Signs, or Feather Signs as defined in 19.54.090.
 - (j) Flashing/Scrolling/Animated/Beacon/Search Light Sign. A sign having lights or illumination which flashes, scrolls, moves, rotates, twinkles, blinks, flickers, varies in intensity of color, or uses intermittent electrical pulsations. Flashing, scrolling, or animated signs (including signs that change their appearance more often than once per 10 seconds), beacon, search lights, and strobe lights. Electronic Message Signs meeting the definition and requirements of Section 19.54.040 of this Chapter shall not be considered flashing, scrolling, or animated signs.
 - 1. No illuminated sign shall be permitted unless the illumination of the sign is so designed that the lighting element is not visible from any property within a residential zoning district (per Section 19.57.150).
 - (k) Inflatable Sign. A sign capable of being filled with and expanded by air or other gas, including animated or “dancing” inflatable signs.
 - (l) Signs that flutter, undulate, swing, rotate, or otherwise move, e.g. inflatable signs, wind socks/tubes, pennants, streamers, festoons, and pinwheels;
 - (m) Advertising Vehicle Sign. A vehicle, trailer, or other piece of equipment which contains any sign or advertising device, which is unlicensed and/or inoperable, and which is parked on a public right-of-way or in a location so as to be seen from a public right-of-way.
 - 1. Business vehicles legally parked in any of the locations described below shall not be considered Advertising Vehicle Signs.
 - a. A business vehicle parked on-site at the place of business in a parking space designated for company vehicle parking or storage on a site plan approved by the City;
 - b. A business vehicle legally parked on-site at the residence of an employee (including driveways and legal off-street parking spaces).
 - (n) Mobile/Portable Sign. A sign not permanently attached to the ground that is designed to be moved from one location to another. Also, a sign mounted on a frame or chassis designed to be easily relocated, including unlicensed or inoperable vehicles and/or trailers whose principal commercial use is for signage.
 - 1. Licensed and operable business vehicles, trailers, or other pieces of equipment shall not be considered mobile or portable signs.
 - 2. Sandwich Board Signs meeting the definition and requirements of Section 19.54.020(1)(d)2. of this Chapter shall not be considered mobile or portable signs.
 - (o) Prohibited Temporary Sign Category. Exterior signs or similar eye-catching devices with the characteristics described in Section 19.54.104(1)(1)(i) are prohibited at all times by this Chapter.
 - (p) Signs mounted on platforms, with wheels or runners, such as trailer signs, sled signs, or other portable signs.
- (2) Sign Limitations.
- (a) No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape, and no sign shall be attached to a standpipe or fire escape.
 - (b) No sign shall be placed in a manner that would impede vehicular or pedestrian safety, or impede access or visibility. Signs shall meet the visibility requirements of Section 19.51.010.

- (c) No private sign shall be attached to or painted on any natural feature (e.g. tree or rock), fence, fire hydrant, public utility pole, public light pole, or traffic regulatory structure, unless otherwise authorized by the City Engineer or designated staff.
- (d) Except for permitted Awning, Canopy, Marquee, Projecting, Suspended, On-Site Warning, On-Site Directional Signs, or unless otherwise allowed by this Chapter, no sign shall be permitted within or extend into a public right-of-way.
- (e) No person shall: paste, tape, staple, or otherwise fasten any paper or other material to, nor paint, stencil, or otherwise write or color any object, vegetation, or pavement located within any street right-of-way; nor shall any of such object, vegetation, or pavement be defaced in any manner. The only exception to these restrictions is that painting may be allowed on curbs when approved by the City Council upon receiving a favorable recommendation from the City Engineer, after his/her investigation of a written request.

19.54.150 : APPEARANCE, CONSTRUCTION AND MAINTENANCE OF SIGNAGE

- (1) All signs shall be constructed, mounted, and maintained so as to comply with the appropriate detailed provisions of the Building Code as adopted by the City relating to the design, structural members and connections. Signs shall also comply with the applicable provisions of the Electrical Code as adopted by the City.
- (2) The base or support(s) of all ground-mounted signs shall be securely anchored to a concrete base or footing, and shall meet minimum wind load capabilities of 30 pounds per square foot.
- (3) The footing and related supporting structure of a permanent Freestanding Sign, Permanent Plat Sign, or Institutional Information Sign, including bolts, flanges, and brackets, shall be concealed by landscaping using the formula of two landscaping points for every foot of sign's width as measured on the sign face or sign base – whichever is greater.
- (4) Signs shall be mounted so that the method of installation is concealed. Signs applied to masonry surfaces shall be mechanically fastened to mortar joints only and not directly into brick or stone. Drilling to provide electrical service shall follow the same rule.
- (5) No sign shall be suspended in a way that will allow the sign to swing due to wind action. Signs shall be anchored to minimize any lateral movement that would cause wear on the sign face or supporting members or connections.
- (6) All permanent signs and their supporting members shall be constructed of standardized, durable, all-weather sign materials.
- (7) Sign materials shall be compatible with the design of the face of the façade where they are placed and shall contribute to the legibility of the sign.
- (8) No combustible materials other than approved plastics shall be used in the construction of electric signs.
- (9) All signage within the jurisdiction of this Chapter shall remain in a state of proper maintenance. Proper maintenance shall be the absence of loose materials (including peeling paint, paper or other material), the lack of excessive rust, the lack of excessive vibration or shaking, and the presence of the original structural integrity of the sign, its frame and other supports, its mounting, and all components thereof.
- (10) The repainting, changing of parts, and preventive maintenance of signs which completely conform to the requirements of this Chapter, and result in absolutely no change in the appearance of the sign from that originally approved, shall not be deemed alterations requiring a sign permit.
- (11) Any signs which may be, or may hereafter become rotted, unsafe, or in a state which is not properly maintained shall be subject to fines.
- (12) If any sign is suspended or projects above a public right-of-way, the issuance and continuation of a sign permit shall be conditioned on the sign owner agreeing to hold the City harmless, and obtaining

and maintaining in force liability insurance for such a sign in such form and such amount as the City may reasonably from time to time determine, provided that the amount of such liability insurance shall be at least \$1,000,000 per occurrence per sign.

19.54.160 : NONCONFORMING SIGNS

- (1) Nonconforming Signs. Permanent signs existing as of the effective date of this Chapter, which do not conform to the provisions of this Chapter, such as brightness, scrolling, size, height, and location provisions, shall be nonconforming signs.
- (2) Continuation of a Nonconforming Sign.
 - (a) Nonconforming signs may be maintained.
 - (b) Nonconforming signs shall not be altered or moved to a new location without being brought into compliance with the requirements of this Chapter. See Subsection (3)(a), below, for what would constitute an alteration of a sign.
 - (c) When the principal structure located on the site undergoes a change of land use per the lettered land use categories described in Article III, all nonconforming signs shall be brought into conformance with the provisions of this Chapter or shall be removed.
 - (d) Whenever there is a change in the sign user (excluding off-premise signs), sign owner, or owner of the property on which the sign is located, the new sign user, sign owner, or new property owner shall forthwith notify the Zoning Administrator of the change. No new sign permit is required unless there is modification of the sign face or sign structure. The sign will continue to be considered nonconforming.
- (3) Alteration of Nonconforming Signs.
 - (a) For the purpose of this Section, alteration of a sign is considered to be any change to the sign's frame, supporting structure, lighting, material, height, location, or any other alterations as determined by the Zoning Administrator.
 - (b) Altering a sign does not include maintaining the existing appearance of the sign; changing the appearance of the sign face; replacing the sign face or the supporting structure with identical materials, colors, and messages; changing the message of a Marquee Sign; or changing the face of an Off-Premise Advertising Sign (billboard).
 - (c) A tenant sign which comprises part of a Group Development Sign may be replaced to accommodate a new tenant sign without triggering the need to bring the entire project identification sign, or any of its parts, into compliance with the provisions of this Chapter.

19.54.170 : REMOVAL OF SIGN AND SIGN STRUCTURES WHERE BUSINESS IS NO LONGER IN OPERATION

- (1) A building, portion of a building, or site shall be determined to be vacated based on the following criteria: (1) vacancy, (2) cessation of some or all utilities, or (3) lapse or termination of occupational license. Vacation of a building, structure or site shall have the following effect:
 - (a) At 60 days, nonconforming signs shall lose their legal nonconforming status.
 - (b) At 60 days, the owner of the property shall take action regarding any Permanent or Temporary Business Signs and/or sign structures associated with the vacant building, portion of a building, or site located on the property. At the property owner's option, the property owner shall do one of the following: remove all such signs and structures, or replace the face of such signs with a blank sign face. If the property owner is granted an extension under Subsection (c) below, the requirement shall not apply during the extension period.

- (c) An extension allowing signs and/or sign structures associated with vacant buildings, portions of buildings, or sites to remain on the property for an additional six-month time period after the original 60 days have lapsed may be granted under the following conditions:
 - 1. The property owner shall submit an application with the appropriate fee and allow staff to inspect the signs and/or sign structures on the vacated building, portion of a building, or site.
 - 2. Staff shall review the application and sign to determine that the sign will not be a hazard, safety concern, or blight for the duration of the extended time period.
 - 3. Signs shall be properly blanked out and contain no commercial message.
 - 4. If the sign has been damaged during the vacated period to the point it becomes a safety hazard or blight on the property, staff may have the structure removed.
 - 5. After the original six-month extension, one additional six-month extension may be approved by staff for up to one year upon submittal of a new application and fee. Any additional applications for an extension, beyond the first year, shall be approved by the Plan Commission.
 - 6. Owners of nonconforming signs may also apply for an extension; however, the sign shall not thereafter be reestablished except in full compliance with this Chapter.
- (2) Sign structures that have been left without a sign face, or where the permit holder no longer has any interest in the site as owner or tenant, any of which for a continuous period of 90 days, shall be deemed abandoned and shall be removed by the owner of the sign structure or the City shall proceed to remove such sign structure pursuant to the terms of this Chapter if the owner has not been granted an extension.
- (3) If the sign and/or sign structure(s) have not been removed, the City shall send written notification to the property owner of record and/or last known occupant, via certified mail, return receipt requested, indicating that said property owner or occupant remove the sign and/or sign structure or apply for and be granted an extension. If the sign and/or sign structure have not been removed within 60 days after the City sends notice, and an extension has not been granted, the City may have the sign and/or sign structure removed.
- (4) Any and all costs incurred by the City in the removal of a sign or sign structure pursuant to the provisions of this Section, which authorized assessment of the cost, shall constitute a lien against the property upon which the sign or sign structure existed and shall be collected in the same manner as provided elsewhere in the regulations of the City of Whitewater.

19.54.180: FEES

Fees related to signage shall be determined by the current City Fee Schedule.

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 2, 2021

The regular meeting of the Common Council was called to order at 6:40 p.m. by Council President Binnie. MEMBERS PRESENT: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. ABSENT: None. LEGAL COUNSEL PRESENT: Wallace McDonell.

It was moved by Allen and seconded by Schulgit to approve the Council minutes of 12/15/20 and to acknowledge receipt and filing of the Irvin L. Young Memorial Library Board minutes of 12/21/20; the Finance Committee minutes of 12/10/20; and the Parks and Recreation Board Minutes of 12/16/20. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None.

CITY MANAGER REPORT. City Manager Clapper announced that the Neighborhood Services position recruitment process is underway. He mentioned that two applicants have been selected for interviews to be held later in February. Clapper indicated the Streets Department is busy with snow cleaning. Clapper reported that the city uses a 23.3% solution of salt brine on the Streets before a forecasted storm. Clapper reminded citizens to clear sidewalks. Clapper also stated that the Lake drawdown project has a revised timeline. There will be a community meeting later in February (virtual meeting).

STAFF REPORTS: WHITEWATER ARTS ALLIANCE – Kristin Burton and Megan Matthews reported on activities of the Arts Alliance, including the creation of special hours and You Tube videos to allow the organization to stay open in a safe manner.

CITIZEN COMMENTS: None.

RESOLUTION AUTHORIZING THE REDEMPTION OF THE CITY'S TAXABLE GENERAL OBLIGATION COMMUNITY DEVELOPMENT BONDS (BUILD AMERICA BONDS – DIRECT PAYMENT) DATED FEBRUARY 8, 2010. Finance Director Hatton indicated that the City has the opportunity to call the bond issued by TID 4 in 2010. Hatton explained that there will be adequate fund balance and revenue to retire the debt in the distressed TID eight years earlier than scheduled. Hatton indicated that the amortization runs through 2029, but that a call option can be exercised, allowing the City to pay the borrowing off early. This will result in a \$60,000 interest savings this year, and will allow other changes with the districts. The districts can be either retired or new district(s) can be created. Hatton explained that adoption of the Resolution is the initial step to enable another action. Hatton explained that extending the TIF would create an opportunity to assist with construction of affordable housing. Hatton indicated that a discussion about options will take place at the February 18th council meeting. The Council will be asked on March 16 to take action to extend the TIF, thereby assisting with construction of affordable housing in Whitewater. Plans are for a Joint Review Board meeting to be held on April 29, 2021, where a plan for new TIF districts will be presented. Concerns about having adequate time to complete all of this on the schedule presented were raised, but city staff felt confident they could meet the deadlines.

RESOLUTION AUTHORIZING THE REDEMPTION OF
THE CITY'S TAXABLE GENERAL OBLIGATION COMMUNITY DEVELOPMENT

BONDS (BUILD AMERICA BONDS - DIRECT PAYMENT),
DATED FEBRUARY 9, 2010

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin (the "City") has issued its Taxable General Obligation Community Development Bonds (Build America Bonds - Direct Payment), dated February 9, 2010 (the "2010 Bonds"); and

WHEREAS, the outstanding 2010 Bonds are currently callable; and

WHEREAS, the City Council has determined that it is necessary and desirable to apply funds on hand from Tax Incremental District No. 4 and funds on hand (to the extent necessary) to redeem the 2010 Bonds on March 8, 2021.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, that:

Section 1. Call of the 2010 Bonds. The 2010 Bonds shall be called for redemption on March 8, 2021, at the price of par plus accrued interest to the date of redemption. The City shall provide sufficient funds for such redemption to Associated Trust Company, National Association, the fiscal agent of the City with respect to the 2010 Bonds (the "Fiscal Agent") prior to March 8, 2021.

Section 2. Call Notice to Depository. The City Clerk, in conjunction with Ehlers & Associates, Inc. ("Ehlers"), shall direct the Fiscal Agent to cause timely notice of the call of the 2010 Bonds to be given by providing a notice thereof, in substantially the form attached hereto as Exhibit A, by registered or certified mail, overnight express delivery, facsimile transmission, electronic transmission or in any other manner required by the Depository, to the registered owner at least thirty days nor more than sixty days prior to March 8, 2021.

Section 3. Additional Notice. In addition to the official notice of redemption provided for in Section 2, the City Clerk, in conjunction with Ehlers and the Fiscal Agent, shall cause further notice of the redemption of the 2010 Bonds to be provided to the Municipal Securities Rulemaking Board through its Electronic Municipal Market Access System. Further notices of redemption shall contain the information set forth in the Notice of Call provided on Exhibit A.

Adopted and recorded this 2nd day of February, 2021.

Cameron L. Clapper, City Manager

ATTEST: Michele Smith, City Clerk

EXHIBIT A

NOTICE OF FULL CALL*

CITY OF WHITEWATER
WALWORTH AND JEFFERSON COUNTIES, WISCONSIN

TAXABLE GENERAL OBLIGATION COMMUNITY DEVELOPMENT BONDS
(BUILD AMERICA BONDS - DIRECT PAYMENT)
DATED FEBRUARY 9, 2010

NOTICE IS HEREBY GIVEN that the Bonds of the above-referenced issue which mature on the dates and in the amounts; bear interest at the rates; and have CUSIP Nos. as set forth below have been called for prior payment on March 8, 2021 at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the date of prepayment:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>
12/01/2021	\$195,000	5.00%	966204KB4
12/01/2022	205,000	5.10	966204KC2
12/01/2023	210,000	5.25	966204KD0
12/01/2024	220,000	5.40	966204KE8
12/01/2025	230,000	5.55	966204KF5
12/01/2026	235,000	5.70	966204KG3
12/01/2027	245,000	5.80	966204KH1
12/01/2028	255,000	6.00	966204KJ7
12/01/2029	265,000	6.05	966204KK4

Upon presentation and surrender of said Bonds to Associated Trust Company, National Association, Green Bay, Wisconsin, the registrar and fiscal agent for said Bonds, the registered owners thereof will be paid the principal amount of the Bonds plus accrued interest to the date of prepayment.

Said Bonds will cease to bear interest on March 8, 2021.

By Order of the
City Council
City of Whitewater
City Clerk

RESOLUTION ADOPTING 2020 BUDGET AMENDMENT 2. Finance Director Hatton explained that at year end (2020), the City anticipates a balance of around \$205,000. Approximately \$120,000 of those funds are proposed to be reallocated among several special purpose sinking funds designated for specific purposes. The remaining approximately \$94,000 would remain in the general fund as unassigned fund balance, which will improve liquidity and the City's credit profile.

2020
BUDGET AMENDMENT RESOLUTION NO 2

WHEREAS, the Common Council of the City of Whitewater adopted a Budget Resolution for 2020 on November 19, 2019, setting forth the detailed estimates of revenues and expenditures required for the various purposes performed by the City,

AND WHEREAS, it is anticipated that the 2020 General Fund Budget year will result in a surplus of revenues over expenditures, additional transfers to special revenue funds are beneficial to the City's financial planning;

AND WHEREAS, several items have been identified that require correction;

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

Account	Description	Original Budget Value	Amended Budget Value	Change (\$)	Comment
100-59220-926	TRANS TO FD 216 PD VEHICLE REV	45,000.00	95,000.00	50,000.00	To enable replacement of one squad car in 2021
216-43355-52	GENERAL FUND TRANSFER	45,000.00)	(95,000.00)	(50,000.00)	To reflect increased transfer from General Fund
100-59220-918	TRANS TO FD 230 RECYCLING	397,890.00	407,890.00	10,000.00	To adjust for recycling rate increase in 2020 and improve Fund Balance
230-43355-53	GENERAL FUND TRANSFER	(397,890.00)	(407,890.00)	(10,000.00)	To reflect increased transfer from General Fund
100-59220-913	TRANS IN/OUT-OTHER FUNDS	-	8,500.00	8,500.00	To improve Fund 248 Fund Balance
248-43355-53	GENERAL FUND TRANSFER	-	(8,500.00)	(8,500.00)	To reflect transfer from General Fund
100-59230-990	TRANS TO FD 300 DEBT SERVICE	29,607.12	970,286.75	40,679.63	To improve Fund 300 Fund Balnce
300-49290-00	TRANSFER FROM GENERAL FUND	-	(40,679.63)	(40,679.63)	To reflect transfer from General Fund
100-59240-945	TRANS TO FD 452 BIRGE FOUNTAIN	1,000.00	2,500.00	1,500.00	To improve Fund 452 Fund Balnce
452-43355-57	GENERAL FUND TRANSFER	(1,000.00)	(2,500.00)	(1,500.00)	To reflect increased transfer from General Fund
200-43355-55	TRANSFER FROM OTHER FUNDS	-	23,000.00	23,000.00	To correct omitted receipt of Fund 900 transfer
440-41320-57	PILOT/DEVELOPER'S AGREEMENTS	32,171.00	18,751.00	(13,420.00)	To correct transposed values in 2020 Amendment #1
		<u>61,778.12</u>	<u>971,358.12</u>	<u>9,580.00</u>	

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 Allen who moved its adoption. Seconded by: Singer.

AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. ADOPTED: February 2, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

FIRST READING OF AN ORDINANCE PROHIBITING SMOKING AND VAPING IN CITY PARKS. Councilmember Schulgit introduced the proposed ordinance, indicating benefits of adoption. Schulgit indicated that adoption of the ordinance will assist those with weakened lungs and other respiratory issues. Councilmember Allen agreed that people should not smoke, but believes the proposed ordinance is unenforceable. Allen noted that dogs are not allowed in Cravath Lakefront Park, and yet they are there. Councilmember McCormick indicated that the proposed ordinance had come up

previously and the Parks and Recreation Board overwhelmingly wanted this passed. McCormick does have concerns, however, that at this point in time, adoption of this ordinance could be viewed as another government overreach. McCormick indicated that maybe this proposal would be better received in the future. Mentioned were the opportunities to prohibit smoking in only specific areas, such as the children's playground. Councilmember Brown does not believe things have changed since the ordinance was brought forth two years ago. She suggested that signage be erected encouraging adults to refrain from smoking in the Park. Schulgit responded that residue from smoke can persist for days and this is an area of concern to public health. Councilmember Singer agreed the ordinance is not enforceable. Councilmember Binnie mentioned that smoking is prohibited in the Treyton's Field area of Starin Park. Binnie indicated that the City has nineteen parks, and if signage was erected in all parks, it could detract from the welcoming atmosphere the City desires. Councilmember Brown would be willing to revisit the ordinance if it was more specific. Whitewater Student Government President Will Hinz indicated that a similar proposal was reviewed on campus. Will indicated that veterans sometimes use smoking to cope, and they wanted to be inclusive of their experience. Schulgit confirmed that his intent was merely for health reasons. City Manager Clapper indicated that his view revolves around public health concerns, and he would be supportive of the elimination of cigarette smoking in the parks. He believes there is nothing good in cigarettes and even though for some it is a coping mechanism, it is self-destructive. He mentioned the possibility of signage next to bleachers or dug outs to discourage people from smoking in those spaces. Parks and Recreation Director Boettcher acknowledged that this proposal was discussed previously, and the Parks and Recreation Board was supportive of adopting the ordinance. Boettcher noted that there is no smoking on school property. Boettcher understands both sides of the issue. Boettcher indicated that a POLCO survey was completed the last time this ordinance was brought forth, and the respondents were overwhelmingly not in support of the ordinance.

SECOND READING OF ORDINANCE AMENDING SECTION 2.52.030 REGARDING TERM LIMITS ON THE PARKS AND RECREATION BOARD.

ORDINANCE No. 2017A
SECOND READING OF AN ORDINANCE AMENDING SECTION 2.52.030 -
REGARDING TERM LIMITS ON THE PARKS AND
RECREATION BOARD

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

SECTION 1. Whitewater Municipal Code Chapter 2.52, Section 2.52.030 is hereby amended by deleting the following language:

Citizen members shall be limited to three consecutive terms and cannot be reappointed as a board member until one three-year term has elapsed.

Ordinance introduced by Council Member Allen, who moved its adoption. Seconded by Council Member Schulgit. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. ADOPTED: February 2, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

SECOND READING OF ORDINANCE AMENDING SECTION 2.12.011 REGARDING TERM LIMITS.

ORDINANCE No. 2018A
SECOND READING OF AN ORDINANCE AMENDING SECTION 2.12.011 -
REGARDING TERM LIMITS

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

SECTION 1. Whitewater Municipal Code Chapter 2.12, Section 2.12.011 is hereby amended to read as follows:

Chapter 2.12.011 – Appointment of boards, commission and committee members.

- (c) Unless otherwise specified by city ordinance or state statutes, no member of a board, committee or commission shall serve more than two consecutive 5-year terms or two consecutive 4-year terms or three consecutive 3-year terms as applicable for that board, committee or commission. An incumbent may continue to serve beyond this period, until their replacement has been duly appointed. An appointment to fill a partial term shall not count in the limits specified above.

Unless otherwise specified by city ordinance or state statutes, an individual who has been replaced as a result of the maximum service limits shall be eligible for reappointment after they have been off the board, committee or commission for a minimum of one year. This subsection shall not apply to the City Council.

Ordinance introduced by Council Member Allen, who moved its adoption. Seconded by Council Member Schulgit. AYES: McCormick, Majkrzak, Brown, Binnie, Schulgit, Allen, Singer. NOES: None. ABSENT: None. ADOPTED: February 2, 2021.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

HOLDING CITY COUNCIL MEETINGS VIRTUALLY VS. IN PERSON. Councilmember Binnie expressed concern about the new virus variants beginning to spread and he believes it would be wise to continue meeting virtually, especially since the variants have reached Wisconsin. Councilmember Allen believes spacing would be adequate if the group met at the Innovation Center. Majkrzak indicated that the virus numbers are improving, but does not believe it is time to “let off the gas” yet. Council agreed that all city meetings should continue to be virtual.

BIRD RIDES, INC. ELECTRIC SCOOTER RENTALS WITHIN CITY. City Manager Clapper requested removal of the item from the Agenda. Clapper is entertaining a proposal from the company, but wants to be sure all concerns are resolved internally prior to discussing at the Council level. No further action or discussion took place.

FUTURE REQUESTS: Councilmember McCormick suggested that a POLCO question regarding virtual meetings be presented to the public, and to include a hybrid option in the question. Councilmember Allen reminded staff that he had previously asked for discussion of a Library staff pay increase, but he would now like to include discussion of the addition of a paid holiday for the Library staff. McCormick – would it be worth using POLCO to see whether the public would like us to go hybrid. Councilmember Allen also requested discussion regarding the work at home policy for city employees. Councilmember Schulgit requested that POLCO questions relating to smoking prohibitions on playgrounds be pursued, as well as a question relating to installation of signage discouraging smoking in parks.

EXECUTIVE SESSION. It was moved by Binnie and seconded by Allen to adjourn to Closed Session, NOT TO RECONVENE, pursuant to Wisconsin Statutes 19.85(1)(c) “Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility.” Item to be Discussed: Annual City Manager Performance Evaluation. The meeting adjourned at 7:47 p.m.

Respectfully submitted,

Michele R. Smith, Clerk



Public Works Committee
and
Public Works Committee acting
in its Capacity as the City of Whitewater Community
Development Block Grant (CDBG) Citizen
Participation Committee
Tuesday, January 12, 2021
6:00 PM - 8:00 PM (CST)

AGENDA

1. Call to order and roll call.

The Public Works Committee and the Community Development Block Grant Citizen Participation Plan Committee meeting was called to order by McCormick at 6:00 p.m.

Present: McCormick, Binnie

Absent: Schulgit (arrived at 6:14 p.m. due to a gas leak in his building)

Others: Bard Marquardt, Cameron Clapper

2. Approval of minutes from December 8, 2020

A motion to approve the minutes from the December 8, 2020, meeting was made by Binnie and seconded by McCormick.

Ayes: All via voice vote (2)

Noes: None

3. Hearing of Citizen Comments

There were no citizen comments at that time.

4. New Business

- a. Public Hearing and Possible Action: Community Development Block Grant – Public Facilities CLOSE Program Funds.

The Public Works Committee of the City of Whitewater acting in its capacity as the City of Whitewater Community Development Block Grant Citizen Participation Plan Committee will conduct a public hearing regarding the City of Whitewater's proposed application for Community Development Block Grant – Public Facilities Program (CDBG-PF) funds. The public is invited to attend to learn about the CDBG program, to help identify additional community development needs, and to comment on the activities proposed to be included in the CDBG application.

Marquardt stated this is a public hearing and according to the application process, the City is required to have a list of who is in attendance, even if you are not here for this item. Typically, there would be a sign in sheet for people to sign as they come in. He asked the citizens in attendance to please state their name and address. The following citizens responded:

Lisa Dawsey Smith – 273 N. Fremont St., Whitewater, WI 53190

Albert Stanek – 415 Douglas Ct., Whitewater, WI 53190
Joan Domitrz - 467 S. Buckingham, Blvd., Whitewater, WI 53190
Jeff Knight – 405 Panther Ct., Whitewater, WI 53190

It was noted by Marquardt to proceed with the public hearing.

The agenda for the public hearing was:

- 1) Identification of total potential funds
- 2) Eligible CDBG activities
- 3) Presentation of identified community development needs
- 4) Identification of any community development needs by public
- 5) Presentation of activities proposed for CDBG application, including potential residential displacement.
- 6) Citizen input regarding proposed and other CDBG activities

Marquardt stated the Community Development Block Grant is a federal formula allocated grant program under the US Department of Housing and Urban Development, otherwise known as HUD. The program was created when Congress passed the Housing and Community Development Act (Title 1) in 1974, and is governed by rules set forth in the code of Federal regulations. The Wisconsin Department of Administration, Division of Energy Housing and Community Resources, administers the State Community Development Block Grant program and provides funding to units of general, local government that do not receive an annual allocation directly from HUD. The primary purpose of the CDBG program is the development of viable communities through the provision of decent, affordable housing, a suitable living environment, and the expansion of economic opportunities, principally for the benefit of persons with low and moderate income.

The funding available for the program they are applying for is roughly \$800,000. That dollar amount is coming from the close of the revolving loan fund on the CDA side of the City. Eligible activities allowed under this CDBG program include public facilities, which includes infrastructure, house rehabilitation conversion, economic development projects, planning projects, broadband high-speed internet access, and natural hazard risk mitigation projects. It should be noted these projects need to be Citywide or related to a specific project, which benefits a population of 50% or greater of individuals with low to moderate income.

Some of the City's community development needs they are looking at include public infrastructure, which would be streets or storm drainage, sanitary sewer and water main upgrades, both due to aging pipes, and housing rehabilitation. This would be converting single family homes that have been converted into multi-family tenant housing and turning them back into single family homes.

The activity the city is proposing to apply for in the CDBG application is for a new water tower on the southwest side of the City, which falls under public facilities. This would be a project that serves the entire community as a whole and meets the low to moderate income community level. This project does not entail any residential displacement. Therefore, they are not looking to purchase any property that would require them to relocate anyone.

Marquardt stated they are looking for public comments regarding any community development needs they see in the City or any comments about the project itself. This public hearing is relating to the project of the water tower and has nothing to do with the site location at this time. That will be addressed in the next agenda item.

At this time, McCormick opened the meeting to citizen input.

Jeff Knight said he would like to pass on to the committee, the City council, and the CDA that he is hoping this will be included as a TIF expenditure project. A lot of the payback of the loan and costs, as

are typical with water towers, are not only to meet current capacity but also help the community grow and take on additional capacity. He asked if this could be included in a TIF expenditure program so that the main bulk of the money to pay for this expenditure would be included in increments that would come back to the City. If the City council goes ahead and does this without it being included in as a TIF expenditure, the entire cost of building the water tower will be born by the rate payers. His concern is why this is somewhat of a problem is that we are already No. 2 in the State when you combine our sewer and water utilities. His hope was to have this included in a TIF expenditure. Otherwise, he does not have a problem with the location of the water tower.

With no more comments from the public, McCormick stated, at this time (6:13 p.m.), they would close the public hearing section of the meeting.

Marquardt suggested that the committee recommend the construction of the water tower as the preferred project and submit it to the full Council for application to the Wisconsin Department of Administration for the Community Development Block Grant Fund.

Binnie suggested Marquardt review the need for a new water tower. Marquardt stated the water tower is being proposed to replace the 120 plus year old water tower in Starin Park. They have two water towers now. If one would go out of service it would very much hamper the City's ability to provide safe drinking water throughout the City. The Starin park water tower is past its life expectancy of a water tower. The need to replace the tower, in the near future, has been talked about for a while. Now there is an opportunity to replace it using this grant money. The location of the southwest side was determined from a 2017 study. It was promoted as one of the best locations, as it would not necessarily increase pressure on the southwest side but it would help stabilize the pressure in that area. Meaning that it should help with the reduction of low pressure that does occur at times because of the vicinity of the tower in that area.

Binnie also commented that when we talk about a grant, his initial thought was this was something that we were not going to have to pay back. He now understands it as a low interest loan. Clapper stated the program that is underway with the State has motivated the City to move up the timeline for this project. The program is administered under the Community Development Authority (CDA). After looking at potential projects they anticipated using those dollars in this project. They concluded the best alternative was to go ahead and direct those dollars to the water tower. The desire is to arrange this as an internal loan from one fund to another. They would ultimately make use of the tax increment finance districts that they anticipate designating later this year to pay back those dollars. To clarify how we would do that may tie into the comments by Mr. Knight. The City is looking to stock various funding options for the project. One of those is tax increment financing. They know that the proposal will come to the Common Council within the next few months to close our existing tax increment finance districts. They will also be asking Council to take definitive action on whether or not they include any extension of opportunities from the State that would touch on housing and the possibility using dollars to help fund affordable single-family developments in the future. By the end of April, all matters will be taken care of and they will look to establish new tax increment districts at that time. By May, they anticipate bringing to Council (based on conversations in March, April and May) new tax increments finance districts. When they do that they will still only be at the design phase of the water tower project. He is hoping that the location of the water tower would be included in this tax increment district. As far as he knows, from working with their financial advisors and the Wisconsin Department of Administration, the timeline would work and that's how they would stock the funds is from a couple of different funding sources. They would anticipate paying back the dollars to the CDA for use of economic development activities.

Binnie moved they recommend to the Common Council that the CDBG application be made toward the construction of the water tower and seconded by Schulgit.

AYES: Schulgit, McCormick, Binnie. NOES: None. ABSENT: None

b. Discussion and Possible Action regarding new Water Tower Site selection.

Marquardt stated there was discussion at the December 2020 Public Work Committee meeting regarding possible locations of a new water tower on the southwest side of the City. The study completed in 2017, indicated two possible locations on the southwest side. One was property owned by Hoffmann's, south of Walworth Ave., and the other parcel was located south and west of Hwy. 12, also on property owned by Hoffmann's. In discussions with Strand, the City engineer and consulting firm, they indicated some other sites might be of interest as well. In doing so, Marquardt put together a letter and sent it out to a number of residents north of Walworth Ave. It was basically asking their priority on the five locations.

- A – State owned parcel of land, adjacent to 12” watermain on looped system
- B – Property owned by Hoffmann, adjacent to 12” watermain on looped system, 2nd highest site elevation
- C – School property, short extension needed to get to 12” watermain on looped system
- D – Located on Hoffmann property adjacent to Well # 9 and 12” watermain, on dead end system however
- E – Located on Hoffmann property, highest site elevation, additional watermain would need to be extended from Well #9, also would be on dead end system

The City did receive about 20 comments from that neighborhood. The majority of the comments were favoring sites D or E. Based on that and the staff's perspective, the staff would recommend to proceed with site D, which is adjacent to the existing well.

Marquardt stated he did have a conversation with Mark Hoffmann. He indicated his family would be in favor of that location as well as with site E. He did not have any issues with site D if the City wanted to proceed with that location.

McCormick asked to open up the meeting to the public for concerns or comments.

Joan Domitrz, 467 S. Buckingham Blvd. – She stated she did respond to the letter that was sent out by the City. Her preference was site D or site E. Domitrz thought the other sites would impact aesthetically as well as land values and would take away from future development in the area. It's much less problematic to put it on site D rather than on Walworth Ave. She just can't see driving into town and/or living across the street from a water tower. If it was already there that would have been a choice that people would have to make, but it's not.

Joe Domitrz, 1644 W. Wildwood Dr. – He stated he would second Russ Devitt's written comments. He and Russ were on the CDA together and sites A, B, C, and property to the north, at the time, were thought of as housing developments. The business park development tends to be on the east side and housing on the west. If the water tower would be put onto A, B, or C, that would really reduce the probability of getting housing development in that property area, which is something the CDA really wanted to accomplish back in those days.

Lisa Dawsey Smith – 273 N. Fremont St., - Dawsey Smith mentioned discrepancies in price based on the height of D and E. She asked Marquardt to recap the cost of site D vs E for the extension vs height difference. Marquardt stated he does not have good numbers on construction costs. There was an estimate close to \$200,000 to extend the water main from the well to site E. The cost difference in construction of the water tower, due to it being at a lower site elevation, would be less than extending a water main to site E.

Larry Kachel – 457 S. Buckingham Blvd. – He wanted to reiterate what the committee has already heard to as far as the loss of property values in the neighborhood due to the site view right on Walworth Ave. He is hoping the City can find a way to put it on site D or E as it makes the most sense. The City has a great start by revisiting the CDBG money toward the construction of the tower. However, he gets a little leery with the statement of, “It is our intention is to pay it back to the CDA.” He said you really need to

make every effort to do that because you are raiding from the economic development fund. He knows we don't know the cost but the bridge that goes to nowhere could easily become the bridge that goes to the water tower. It might also make construction a lot easier.

Joan Domitrz asked when a decision will be made regarding the location of the water tower. Marquardt stated from the staff's position, he would like a decision made tonight. The City does have until the end of 2022 to complete this project; however, there are a number of hoops to jump through to get the project started. The sooner the City can make a decision on the site, the sooner they can start soil borings, begin land acquisition and start the design so they can get the approvals from the DNR, PSC, from FAA. It all takes time. From the staff's point, he is hoping for a decision tonight.

Binnie stated this should go to Council. He thinks it is probably a significant decision and Council should have the ability to weigh in on it as well. They could still get it on next week's agenda. Marquardt agreed.

Jeff Knight, 405 Panther Ct., - He stated he did submit testimony and favored site D or E for the location. He knows there is talk about additional costs. He said what we have to realize is that there are other people that have testified about TIF districts before in this area. One of the goals was to actually get the looping done. The extension would actually benefit potential development in this district if it was done. There is a long-term benefit. He does like the idea of putting "Whitewater" on the tower. You could also use the water tower as a marketing ploy.

McCormick stated hearing no more citizen comments was there a motion to proceed with a recommendation with a site.

Binnie commented before proceeding. He wanted to comment in particular to some citizen comments made in at least one of the communications they received in advance. It expressed some reservation about any of the prospective sites. It was in regards to the potential impact on property values and a lack of ability of those undeveloped properties in the general proximity of D and E as well as a couple of other sites.

He did some research to see what was known about the impact of water towers that are in proximity to residential areas. He found there is little research that has been done on the subject as far as he could determine. However, he did procure a well-researched study by a couple of professors from Texas. It ultimately concluded after looking at five different water towers that were in close proximity to a residential area, there was no definitive correlation between proximity of water towers to residential areas. They said in reality, they felt there are a number of other items that can have much more of an impact on property values. In particular, they mentioned cell phone towers, wind turbines, and very high-powered power lines. Their feeling was that there was really no good evidence in the study to show there was a negative impact on property values by having a water tower in proximity to residential areas.

Binnie also spoke with one of the assessors at Accurate Assessor, which is our property assessor for the City. He indicated they do not have any policy to consider the proximity of a water tower in their assessments. They have not really noted that it is a frequent concern with property values. He said if someone came in to open book and said their property was immediately adjacent to City owned property for a water tower, they probably would entertain the possibility of something of an adjustment. That was about the only time he thought they would be likely to do that. He also mentioned to the assessor that some of the locations were very close to the Hwy. 12 bypass. He agreed with Binnie that in realty the impact of close proximity to a bypass would probably have much more significance in terms of property value than what the water tower would have. In fact, the discussions the city has had before about the possibility of development of that undeveloped property, south of Walworth, has been that the property closest to the bypass would be looking at multi-family rather than single family developments due to the vision impact, but also the noise impact associated with being close to a bypass. Ultimately, he does feel that D is a very appropriate location. The most likely residential areas would be across the bypass from

that and consequently probably no residential properties would be in real close proximity. He feels it is unlikely to have single families in very close proximity.

Binnie moved to recommend to Council that the water tower be sited at location D and seconded by Schulgit.

AYES: Schulgit, McCormick, Binnie. NOES: None. ABSENT: None

Marquardt thanked the audience for their comments.

c. Discussion and Possible Action regarding West Side Sanitary Sewer Study

Marquardt stated Tim Reel, Superintendent for the Wastewater was joining the meeting as well. Marquardt stated Strand was contacted to initiate a study last year to look at the areas. Marquardt then turned it over to Reel.

Reel gave a background on the study. In the report, Strand referenced a previous study that was done. At this time, the main push for this study was the aging infrastructure and it was noted very well in the study. The install date for Vanderlip lift station was in 1965, and the installation date for the lift station at Fraternity was 1960. There have certainly been some upgrades at both of those locations. However, the force mains have not been updated. There was a force main failure at Vanderlip in early 2019. Therefore, they thought it would be a good time to look at the west side and the overall age of the infrastructure. Reel, Marquardt and Strand did review future developments and the potential for population growth, land use, etc. on that side. They actually fine tuned and looked at some past recommendations based on wetland delineations and things like that. They took those into account to more accurately depict what the land use might be out there.

In the study, Figure 3 showed existing service areas for Vanderlip Lift Station while Figure 4 showed future service areas. Vanderlip does show some differences which indicated some potential for growth. Alternatively, Figures 5 and 6, in the study, show both existing and future service areas for Fraternity Lift Station. Due to the location of that service area, it is really built out. It ultimately came down to two alternative approaches from Strand. Alternative A is an approach where over time both Vanderlip Lift Station and Fraternity Lift Station would be replaced individually. Alternative B approach is where Fraternity Lane Lift Station would gravity discharge to Vanderlip Lift Station. In the end it would eliminate the need of the Fraternity Lift Station, the pumps and the infrastructure associated with that station. Reel stated those are the two alternative approaches. Engineering cost estimates were provided for those approaches. The capital costs for the combined approach (Alternative B) was slightly more. The capital costs were roughly \$30,000 difference; however, when you take into account operation and maintenance costs over a 20-year time period, the present worth cost actually came in lower for Alternative B, which is the combined approach. Reel stated there are dollars in the 2021 budget for design services with Strand. Reel did reach out to the Finance Department for the City of Whitewater regarding the potential phasing of the project. In a perfect world it would be nice for it all to be done at once, but he doesn't think that is feasible both financially and perhaps for the neighborhood. They developed and suggested a two-phase approach, meaning construction one year and finishing the approach the second year. Whatever approach they decide on, or if they develop a new approach, they need to be sure it is financially feasible. Reel asked if there were any questions.

McCormick asked by combining those two lift stations would that ultimately be better for maintenance down the road. Reel, stated yes it would. It is one touch point, it is one force main to consider and maintain versus two down the road. These stations are designed to last 50+ years.

Binnie asked if they were looking for any action tonight. Marquardt stated from the standpoint of the staff they do have money in the CIP budget that was approved for moving forward with the design this year. They would look for a recommendation from the committee to eliminate the Fraternity Lift Station

and going with just the reconstruction of Vanderlip, which is Alternative B. They hope to carry out the design this year and then put the projects up for consideration in the CIP for 2022.

Marquardt stated the motion or recommendation would be to move forward with replacing Vanderlip and removing Fraternity.

Binnie moved to approve the recommendation to (ultimately and down the road) eliminate the Fraternity Lift Station and seconded by Schulgit.

AYES: Schulgit, McCormick, Binnie. NOES: None. ABSENT: None

d. Discussion and Possible Action regarding removing the left turn arrow from eastbound Main Street to Northbound Prairie Street.

Marquardt stated this was discussed at the December meeting and there was a question as to how the arrow could be discontinued. Binnie wanted to know if that needed to be done by TAPCO or City staff. After discussions with TAPCO, they said it could be done over the phone with City staff making the modifications. Based on what the committee wants done, Marquardt will make the phone call to TAPCO.

McCormick asked Binnie if he brought this up or was it by a constituent. Binnie stated he brought it up from a constituent years ago. McCormick stated the arrow is more important when the students are in full capacity. Will it be a problem to reactivate it? Marquardt stated it should not be a problem to reactivate it, when needed. He said it would be the same phone call or if he takes good enough notes they should be able to do it without help from TAPCO.

Schulgit stated that some of the potential options had a monetary cost to them. Do we have to pay them for these instructions over the phone or would it be based on the service we already have from them. Marquardt stated he didn't think there would be a cost for their time on the phone.

Binnie's initial thought was to eliminate it now due to the fact that he felt the spring semester was going to be a lower number of students on campus, which he still thinks will be. He stated that McCormick brought up at the last meeting that students may be rushing to class, which he doesn't know if there will be much of that. However, for consistency, his suggestion would be to consider the idea of turning off the left turn signal each year at the conclusion of the University's schedule and resuming it upon the University's schedule in the fall. He doesn't see a necessity during the summer of having a left arrow, as there is not that much traffic needing to turn left at that location.

Marquardt stated he was just in a meeting with the University and that 60% of their classes are in person or a combination of hybrid in person. That is over half of their classes that are still meeting on campus and there are still students around. In addition, faculty and staff are coming to the University.

Schulgit commented that he has no issues with turning off the left turn arrow as long as it's not during the actual scholastic part of the year out of concern with kids trying to get to class. He thinks it's a fair compromise to have at this time. McCormick agreed to this as well.

Marquardt will work with the University to determine when their first and last day of school will be. He will have the left turn arrow turned on or off on a Monday and end on a Friday so it's not mid-week.

McCormick stated there is no need for a motion since all parties have agreed.

e. Discussion and Possible Action regarding the vacation of Moraine View Pkwy north of Bluff Road.

Moraine View Parkway is shown as dedicated right of way north of Bluff Road. This section of street is more than likely never going to be developed. The railroad will not grant a crossing and a detention pond is located just north of the railroad track. The short dead-end street would only serve the abutting properties to the east and west. Since those properties have access to Bluff Road, there is no need for this

section of street to ever be developed. Therefore, staff believes the best thing to do is to vacate this section of right of way and attach the land to the existing abutting properties on the east and west side. Marquardt believes all of this property is City owned. He will confirm this and work with the City Attorney on the paperwork. He feels the Public Works Committee would be the petitioner in recommending this right of way be vacated, which would then go the Common Council for approval.

McCormick stated she was concerned about private land on either side. Marquardt said GIS shows a small parcel that is privately owned; however, they do have documentation in the file that it had been sold or given to the City. Marquardt stated he will check again to make sure. If it is still owned privately, they will reach out to that property owner and have them sign the petition to vacate, which he thinks they would be willing to do.

McCormick asked if there was a motion to vacate Moraine View Parkway north of Bluff Road. Binnie moved the motion and seconded by Schulgit.

AYES: Schulgit, McCormick, Binnie. NOES: None. ABSENT: None

f. Discussion and Possible Action regarding Strand Task Order – Water Tower Design.

Marquardt stated attached is Strand's Task Order for the design, bidding and construction observation of a new water tower. Costs include surveying, design, plan and specifications, FAA, PSC and DNR approvals, bidding, and construction observation. The Contract is a not to exceed the amount of \$142,000 for design, bidding and construction observation services. Marquardt stated in the task order it noted a completion date of October 30, 2023. He did confirm with the DOA that the water tower does need to be completed by the end of 2022. Therefore, the task will be updated. This information was not included in the CIP budget. At some point, Hatton will have to do a budget amendment, which he is aware of, along with the water tower construction project. Because of that, this will need to go to Council for approval.

McCormick stated this is quite a short timeline. Marquardt commented that is why we are looking to keep the ball rolling and have the site selected so we start other things to keep the process moving.

Binnie moved to recommend to Council the approval of the Strand Task Order on the Water Tower Design and seconded by Schulgit.

AYES: Schulgit, McCormick, Binnie. NOES: None. ABSENT: None

g. Update regarding GPS units in City vehicles.

Clapper was previously asked by a council member about installing GPS in City vehicles. Clapper stated he has not had an opportunity to speak with council member Allen about what he is sharing tonight. He was the one who had an interest in this and wanted to make sure we looked into this item. Clapper thought these concerns were shared to a prior era. The concerns were whether or not City vehicles are where they should be and if we have a way of knowing that information. The City has a number of things in place in terms of a task order system as well as work lists for employees during the day. When employees go out and look at various projects the superintendent or the supervisor, in general, know where they are. In the past, there has been a desire to know where vehicles have been. Clapper did a review with Nobling regarding GPS in vehicles. It used to be that you had to buy a lot of the equipment to install and translate the data collected. That is no longer the case. They could utilize two different means to track GPS. The first option is by smart phone. This is less effective in terms of providing clear and clean data on exactly where a vehicle is located. It is not as reliable as the reporting features are generally poor, and data can be limited by the end user prior to output. The second option is the OBD vehicle tracker. It is a plug in on a vehicle from which you can install a number of gadgets. You can also use diagnostic equipment to determine what might be wrong with the vehicle. The computer in the vehicle stores data that can be pulled through the port. This device can be plugged in and left in the vehicle. It tracks vehicle data and where it's been. It can convey through wireless or through taking it out and downloading it, depending on the system you are using. It would be stored in a cloud-based program.

The two cloud-based options they looked in to were Verizon, which is \$28/vehicle or Samsara, which is \$23/vehicle. He does not have the full year cost on each company at this time. Clapper wanted this information presented to the Public Works Committee before taking it to Council. Clapper stated as a staff perspective he doesn't think anyone has anything to hide. There are some levels within the organization that there would be a message of a lack of trust if they don't frame it correctly, if they were to install any of those devices. There are a number of benefits to it but that would be the one he would be concerned about as to what message is being sent. He will bring back an update, in the future, to support and comply with the request from Allen.

McCormick asked how many vehicles does the City have? Clapper stated there are a lot. The police department is responsible for their fleet, even though Public Works maintains them through the Streets mechanic. We have the Streets, Parks, Forestry and those activities that operate with general fund dollars. They have the utilities and the Fire Department that runs as a separate entity. However, they still do hold titles for several of those vehicles. Clapper does not know the exact number.

McCormick also stated they have to put trust in their employees. She feels that may give them a sense that we don't trust them in their position. She stated this is going to be very costly. Clapper said no action was needed and he wants Allen to be a part of the discussion.

h. Update regarding the Innovation Center Building Geothermal System.

The geothermal system at the Innovation Center Building is made up of three units. One that is for heating, one for cooling and the other does both heating and cooling. In December 2020, both the heating unit and the combo unit had components that failed. These two units are currently operating at only 50% capacity. Discussions with the Tech Board and the Finance Committee were held to decide whether to repair or replace the two failed units. Each unit is \$70,00 for a total of \$140,000. Replacing two of the three geothermal units was found to be the best solution based on costs and the recommendation from our heating and cooling specialists. The two new units were ordered the week before Christmas and are expected to take 8 to 12 weeks to arrive.

McCormick asked when the initial units were installed. Clapper said they were installed when the building was constructed. He thinks it was 2011, when they moved into the building. Clapper said they looked at the life cycle of the units and discovered during the first year and a half to two years of operation that there were gaps or flaws in the reporting in the documentation of maintenance in those units. As a result of this, they do not have the ability to fall back on the builder or designer of the units or anyone else involved. At this time, we have resolved the problem with well trained and knowledgeable staff. McCormick asked if everything would have been maintained properly, what would the longevity of these units been? Clapper thought it was 30 years but wasn't positive. Innovation dollars were used to pay for the cost but he thinks a portion of the purchase amount was fronted through the fund balance.

5. Future Agenda Items

McCormick had an issue with a tenant flushing the "flushable" wipes down the sewer. She remembers Reel talking about this being a nightmare for the treatment plant. She is wondering if this is something we should bring back to the public again. They say they are flushable and they truly are not.

Binnie has often thought that they consider an ordinance that would require retailers to post a disclaimer on the product indicating that it is not to be flushed.

Clapper said we had a "No Wipes Down the Pipes" campaign in the past. He said we could certainly do that again. He did think they once explored an ordinance but the challenge is enforcement. He feels it is certainly worth looking at again. It is a challenge that continues. They claim to degrade over time and they certainly do not in a timeline that is a typical cycle for water treatment. They end up sticking to or clogging up pumps in their lift stations, and they can cause problems gathering up in pipes. They are certainly an issue.

McCormick thought it would be a good idea to notify all of the rental association members of this issue.

6. Adjournment

Schulgit moved to adjourn the Public Works meeting at 7:45 p.m. and seconded by Schulgit.

Ayes: All via voice vote (3)

Noes: None

Whitewater Community Development Authority Board of Directors Meeting Minutes

Date: Thursday, December 17, 2020

Time: 5:30 P.M.

Location: Virtual. Due to Coronavirus concerns, this meeting was held virtually (not in person).

Members Present: Jim Allen, Al Stanek, Jon Kachel, Bruce Parker, Jason Gleason, Greg Meyer, Patrick Singer.

Members Excused: None.

Staff Present: Cathy Anderson, Executive Director; Bonnie Miller, Administrative Assistant; Cameron Clapper, City Manager.

Guest(s) Presenter: None.

Minutes:

1. Administrative Items

- a. Welcome Statement (Singer): Welcome to the Whitewater CDA meeting of December 17, 2020. Before we begin the meeting this evening, each Commissioner is asked to adjust their camera and microphone, be attentive, actively listen and participate, speak in turn, only speak to items on the Agenda, and not surmise the opinions or ideas of private citizens.
- b. Call to Order: Meeting called to order at 5:30 p.m. by Chair Patrick Singer.
- c. Declaration of Conflict of Interest: None.
- d. Approval of Agenda: Moved to approve Agenda by Allen and seconded by Gleason. AYES: All by voice vote (7); NOES: None. ABSENT: None.
- e. Approval of Minutes of November 19, 2020 Meeting: Singer requested an amendment of Item 4 to add "B. Sale of Lot 4 in the Industrial Park" directly following Item 4.A. Moved by Allen and seconded by Meyer to approve the Minutes of the November 19, 2020 meeting as amended. AYES: All by voice Vote (7); NOES: None; ABSENT: None.
- f. Acceptance of Financial Statements. Director Anderson provided a detailed overview of the financial statements for period ending November 30, 2020, including introduction of a new report entitled "Fund 900 Bank Account Revenues with Comparison as to Budget" and an expansion of the Bank Account Reconciliation Sheet to include monthly account balance detail for each respective account. Director Anderson provided detail as to marketing dollars allocated in year-end 2020 on a shared basis with the Innovation Center that are not yet reflected in the financial reports for 2020. Moved by Kachel and seconded by Gleason to accept the Financial Statements for period ending November 30, 2020 as presented. AYES: All by voice vote (7); NOES: None; ABSENT: None.

2. Action Items

- a.** Reconcile USDA 1990 Façade Program dollars and retain USDA funds in the sum of \$90,321.50 in the Façade Checking Account (First Citizens State Bank Account No. xxx-442). Transfer remaining funds to the Action Bus Dev (UDAG Checking Account (First Citizens State Bank Account No. xxx-127). Director Anderson provided a summary of the status of the USDA Façade Program Fund. Pursuant to an independent Internal Controls Assessment conducted by Baker Tilly US, LLP, it was confirmed that the USDA Program dollars have been overstated by approximately \$50,000 for several years. City Finance Department, in cooperation with Baker Tilly, shall determined the estimated balance of the USDA 1990 Façade Program. The remaining funds held in the USDA 1990 Façade Program rightfully belong in and shall be transferred to the Action Business Development Fund (UDAG Checking Account). Moved by Stanek and seconded by Allen to approve the foregoing recommended accounting adjustments. AYES: All by voice vote (7); NOES: None; ABSENT: None.
 - b.** Kaliber Imaging: Anderson request to write-off Capital Catalyst Loan in the sum of \$102,500 as of 12/31/2020. CDA legal counsel conducted required due diligence to confirm this loan as uncollectable and requested copies of tax returns and appropriate documents from Judith Reinhold of Kaliber Imaging. Contingent upon receipt of all of the documents requested no later than 12/31/2020, legal counsel recommends-off of this loan. Moved to approve by Stanek and seconded by Gleason to approve write-off contingent upon receipt of the required documentation. AYES: All by voice vote (7); NOES: None; ABSENT: None.
- 3. Updates & Discussion.** Director Anderson advised the Board that those Board Members that have been assigned to participate on a specific sub-committee or board will be tasked with providing a report of such committee's activities as part of the "Updates and Discussions" portion of future Agendas for regular monthly CDA Board Meetings beginning in January 2021.
- a. Innovation Center Update:** Director Anderson reported that the Innovation Center is leased out at 98% occupancy. The buildout for the Pauquette Center for Psychological Services is nearing completion and is expected to be occupied by Pauquette for operation beginning in January of 2021 under a lease for a term of seven (7) years. Anderson encouraged Board Members to visit the Innovation Center to tour the new Pauquette Center prior to opening. Anderson further reported that the CDA, in partnership with the Innovation Center, has purchased marketing advertising in two regional publications (Walworth County Visitors Directory and Lake Geneva Lakes Visitors Directory). Al Stanek reported last year the Innovation Center operated under a deficit, and this year operated as under budget as to expenses and over budget as to revenues. Stanek went on to report that Blue Line Battery, another current business operating out of the Innovation Center, was recently recognized in Forbes Magazine as one of their 2021 "30 Under 30" Outstanding Young Business Leaders.

- b. **Grocery Update:** Director Anderson continues to work with grocery merchants, including discussions with Golden Harvest that operates out of Rhineland and Merrill. Anderson has had very preliminary discussions with the Whitewater Gro Co and Golden Harvest regarding the potential to partner to operate a grocery in Whitewater.
 - c. **Course Outline for Economic Development 101 offered by Wisconsin Economic Development Association (WEDA):** Director Anderson presented the course outline for the course provide by WEDA for local leaders and professionals and encouraged all Board Members to sign up for these classes as soon as WEDA has the ability post-COVID to provide in-person classes in Madison.
 - d. **Community Engagement Vehicle:** Director Anderson provided information regarding a community outreach program utilizing a “civic engagement” vehicle to increase awareness and encourage citizen increased civic engagement in the community. As an example, Anderson used a “Polaris GEM”, an all-electric vehicle which would be sponsored by donations from various civic partners that would then be advertised on the vehicle. This vehicle would be used to get CDA and City staff into neighborhoods to teach, influence and inspire our citizens to be involved in positive change within the community. City Manager Cameron Clapper stated that maintenance and insurance on the vehicle would be a minimal addition to the cost of operating the City fleet.
 - e. Loan Recipient Presentations:
 - i. January 21 – Blueline Battery, Dustin Herte.
 - ii. February 25 – Scanalytics, Joe Scanlin.
 - iii. March 25 - Ideawake/Inventilator, Coby Skonord.
 - iv. April 22 – iButtonLink, Rob Olson (tentative)
 - v. May 27 – Slipstream, Choton Basu.
 - vi. June 24 – Meeper, Liz Eversoll; Recruitcute, Chris Roche.
 - vii. August 26 – Bicyclewise, Liz Sotherland.
 - f. Memo: Close CDA Safe Deposit Box at First Citizens State Bank (Completed).
 - g. Memo: Write-off Uncollectable CDBG Loans YE 2020 (Completed).
 - h. Memo: Write-off Uncollectable Capital Catalyst Loans YE 2020 (Completed).
- 4. Agenda Referrals:**
- a. Improvement of physical condition of Lot 9B in the Business Park.
 - b. Discuss a detention area on Lot 6B with National Guard.
 - c. ~~ED 101 Training for Board Members and Elected Officials.~~ (Completed 12/2020)
 - d. Roles & Responsibilities of the CDA.
 - e. Update Capital Catalyst Program Manual & Application Materials.
 - f. CDA Alternative Revenue Streams.
 - g. Continue discussions of TIF extension.
 - h. Director to visit (virtual/in person) with Whitewater’s employers.
 - i. Reorganize TIDs.
 - j. Add Tax Increment.
 - k. Recruitment of a grocery store.

- l. Land Sale Policy (Finance director Steve Hatton) – Discussion of Policies and Procedures for Land Sale Transactions by the CDA on Behalf of the City.
- m. New Housing.
- n. ~~Use CDBG Closeout funds to purchase homes to create an alternate CDA Revenue source.~~ (Completed 12/20)
- o. ~~Recommendation to write off uncollectable loan receivables.~~ (Completed 12/2020)
- p. ~~Identify the funding source(s) of the Façade checking account.~~ (Completed 12/2020)
- q. ~~Research HUD qualifications for housing.~~ (Completed 11/2020).
- r. ~~Transfer Moraine View Checking Account balance to Parks and Recreation Department.~~ (Completed 12/2020)
- s. ~~Listing Contract for Lot 1, CSM 3442.~~ (Completed 11/2020)
- t. Strategic Marketing Approach.
- u. Project Manager for 206 Cravath Street Project.
- v. Correct CDA Goals/Mission as stated in 2021 City Budget Document

5. Adjournment

Moved by Kachel and seconded by Parker to adjourn. AYES: All by voice vote (7); NOES: None; ABSENT: None. Meeting adjourned at 6:47 p.m.

Respectfully submitted,
Bonnie Miller, Recorder

Minutes approved January 28, 2021.



Common Council Agenda Item

Meeting Date:	February 18, 2021
Agenda Item:	Library Director Report on Employee Salaries and Paid Holidays
Staff Contact (name, email, phone):	Cameron Clapper, cclapper@whitewater-wi.gov , 262-473-0104

BACKGROUND

(Enter the who, what when, where, why)

On February 2, Councilmember Allen requested a discussion regarding recent library board actions be added to a future agenda. Specifically mentioned were wage increases for library employees and the addition of Martin Luther King Jr. Day to the list of paid holidays for library employees.

In anticipation of the discussion, Library Director, Stacey Lunsford was asked to provide details regarding the request. Director Lunsford's email response is included as material support for this item.

Recent wage increases include wage adjustments in 2020 and budgeted wage adjustments for 2021. All of which were discussed with the city manager and discussed as part of the 2020 and 2021 budget processes.

The recent addition of Martin Luther King Jr. Day was not previously discussed with the city manager or included in discussions related to the 2021 budget.

The expectation for all departments directors and managers is that decisions related to the provision of benefits be discussed first with the city manager and then brought before the common council for consideration and approval. However, the action to add an additional paid holiday for library employees and an additional date for closure of the Irvin L. Young Memorial Library falls within the authority of the library board. Director Lunsford also made a point to promptly inform the city manager of the change.

The city manager does not oppose the additional holiday for library employees. A number of local and regional organizations observe Martin Luther King Jr. Day by providing employees with a day off of work. Many organizations also pay employees for the day. For reasons mentioned in Director Lunsford's email it may be appropriate to consider adding Martin Luther King Jr. Day to the list of paid holidays for all city employees.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

None.

FINANCIAL IMPACT

(If none, state N/A)

N/A

STAFF RECOMMENDATION

N/A

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Email from Director Stacey Lunsford
2. Minutes from the December 21, 2020 Library Board Meeting (highlights included)

Cameron Clapper

From: Stacey Lunsford
Sent: Monday, February 8, 2021 5:06 PM
To: Cameron Clapper
Cc: Anne Hartwick
Subject: Request for information from Councilmember Allen

Cameron,

At the library board of trustees meeting on Monday, December 21, I presented the annual list of 2021 paid holidays and special closings to the board for their approval. As you know, the library board included equity, diversity, and inclusivity as a major goal in the library 2019 strategic plan document. When the holiday list was presented, President Anne Hartwick said that she had been thinking about all the organizations that recognize Martin Luther King, Jr. Day and thought that the library should be one of them as part of our commitment to inclusive practices. The library board discussed this for a short time. I asked if they wanted to switch MLK Day for another holiday. I mentioned the "Spring Holiday" which is Good Friday, that is of course a religious holiday only celebrated by Christians. Board member Brienne Brown said that she didn't want to change any of the holidays that the staff were accustomed to; rather that she thought an additional holiday would be a nice thing for staff in addition to the inclusive aspect of recognizing Dr King's holiday. The board voted to add the MLK Day holiday to the list of paid holidays for the library.

The holiday pay is budget neutral as you mentioned when you and I talked about it. The library board is authorized under Chapter 43.38(4) of the Wisconsin State Statutes to "prescribe their (library employees) duties and compensation." You and I have also talked about the municipal appropriation as it pertains to library wages and benefits. For 2021, the library's budget for staff wages and benefits came to \$606,341. The city appropriation to the library is only \$470,000. The city's appropriation only pays for part of the staff wages and benefits. All other costs associated with the operation of the library -- \$136,341 of wages and benefits, purchase of office supplies, books, AV materials, program costs, telephone, copier rental, cost to be a member of the CAFÉ consortium, travel, etc. -- are all paid by money received from county reimbursements for rural usage. As you and I have also discussed, the library staff FTE falls below the state's minimum standard for FTE per 1,000 population. The basic Tier 1 level is .7 and we are at .64. I mention all this just to put everything in context.

If there is anything else I can provide for you, please let me know.

Stacey

Stacey Lunsford
Library Director
Irvin L. Young Memorial Library
431 West Center Street
Whitewater, Wisconsin 53190
262.473.0530

[Pronouns: she, her, hers](#)

"It's one of the greatest gifts that reading can give a person: easy access to peace inside, even when the world outside is in shambles." – Jennifer Williamson



Think before you print. Please consider the environment before printing this e-mail.

Irvin L. Young Memorial Library
431 W Center St
Whitewater WI 53190
Board of Trustees Regular Meeting
Online Virtual Meeting
Monday, December 21, 2020, 6:30 pm

MINUTES

Mission Statement:

We will have the space and the stuff to do the things that you want.

Our Values: Safe & welcoming; Trust; Diversity; Fun; Lifelong learning and creativity; Making connections; Service excellence

1. Call to Order at 6:34 p.m.

Present: Lisa Dawsey Smith, Brienne Diebolt-Brown, Anne Hartwick, Jennifer Motszko, Kathy Retzke, Steve Smith, Jaime Weigel, Jim Winship

Absent: Doug Anderson

Staff: Stacey Lunsford, Deana Rolfsmeyer, Torrie Thomas, Diane Jaroch

2. Consent Agenda
 - a. Approval of Minutes of the November 16, 2020 regular meeting*
 - b. Acknowledgment of Receipt of Financial Reports*
 - c. Acknowledgment of Payment of Invoices for November 2020*
 - d. Acknowledgment of Receipt of Statistical Reports for November 2020*
 - e. Acknowledgment of Receipt of Treasurer's Reports for November 2020*

MSC Jim Winship/Lisa Dawsey Smith to approve Consent Agenda.

Ayes: Lisa Dawsey Smith, Brienne Diebolt-Brown, Anne Hartwick, Kathy Retzke, Jaime Weigel, Jim Winship, Steve Smith

Nays: none

3. Hearing of Citizen Comments
 - a. No formal Library Board action will be taken during this meeting although issues raised may become a part of a future agenda. Participants are allotted a three-minute speaking period. Specific items listed on the agenda may not be discussed at this time; however, citizens are invited to speak to those specific issues at the time the Library Board discusses that particular item.
4. New Business
 - 4.I. Approval Of Invoice For Legal Services For The Library Building Project ~ see attachment.

MSC Lisa Dawsey Smith/Brienne Diebolt-Brown to approve the Invoice for Legal Services for the Library Building Project.

Ayes: Lisa Dawsey Smith, Brienne Diebolt-Brown, Anne Hartwick, Kathy Retzke, Jaime Weigel, Jim Winship, Steve Smith

Nays: none

4.II. Strategic Plan 2020 Activities Year-End Update

- Board agreed to postpone new vault lighting and carpet until the Library Expansion Project begins.
- Many projects were carried over to 2021 due to COVID-related restrictions that limited interaction with patrons.
- Stacey will put Strategic Plan Goals on the January agenda for the Board to review and opportunity to suggest new activities or update existing ones for 2021.
- The Board is encouraged to email Stacey with any ideas in the interim.

4.III. Discussion And Possible Action On Financial Planning For Library Board Funds

- Attached is a report from the meeting with financial advisory Aurelio Callope that the Board Treasurer and the Director had earlier this year. Also attached are two documents from the City Finance Director about the Local Government Investment Pool.
 - Kathy reported on a recent meeting with Aurelio Callope. She shared that we have small amounts of money spread out “in little pots.” She wondered if it would make more money if it was better organized and invested.
 - Kathy and Stacey agreed that hiring a financial consultant was needed to advise library investments, specifically the Endowment Fund which is roughly \$140,0000.
 - Lisa shared that it’s difficult in this current economic climate to make much money without being willing to take a risk. She suggested that this is a deeper conversation and that the Board needed a larger array of examples to decide upon.
 - Selling the library property was briefly discussed. Jim Winship added that managing our money would be beneficial from a PR standpoint when we begin the fundraising for the expansion project.
 - Action steps identified:
 - Ask the Endowment Fund Board to share what investments that it currently has.
 - Ask Steve Hatton for the amount to be invested and if he can assist the Board on this matter.

- Stacey will include in the January Agenda a primer on the Endowment Fund.
- Anne tasked Jim to work with Stacey on getting a current understanding of the Endowment Fund and its Board, specifically to find out if current Board members are still interested in serving.
- Kathy reported that a CD is coming due with Premier Bank in February and another CD with First Citizens in April. Will need to make a decision soon with what we want to do with those CDs.
- Kathy also shared that the portfolio is currently at \$67,362. It was agreed that we need to do something with it otherwise it will never grow.
- Lisa Dawsey Smith asked her husband, Garrett Dawsey Smith, and he agreed to sit on the Endowment Fund Board.

4.IV. Sustainable Shelves Program Through Baker & Taylor

- This is a new option for selling our weeded materials but also being able to recycle items that are not suitable for resale.
 - Stacey spends a good amount of time hauling boxes of books to Goodwill, this would be another option for books that need to be weeded. Many of them have been donated or are in unusable condition.
 - Steve suggested donating books to the Kiwanis program.
 - Board gave Stacey approval to pursue this program.

4.V. Approval Of The 2021 County Library Services Contract For Jefferson County

MSC Lisa Dawsey Smith/Brienne Diebolt-Brown to approve the 2021 County Library Services Contract For Jefferson County

Ayes: Lisa Dawsey Smith, Brienne Diebolt-Brown, Anne Hartwick, Kathy Retzke, Jaime Weigel, Jim Winship, Steve Smith

Nays: none

4.VI. Approval Of Holidays And Special Closings For 2021 ~ see attached

- Discussion took place regarding the possibility of recognizing Dr. Martin Luther King Jr. Day as a holiday.

MSC Jim Winship/Lisa Dawsey Smith to amend the recognized holidays to add Dr. Martin Luther King Day in January.

Ayes: Lisa Dawsey Smith, Brienne Diebolt-Brown, Anne Hartwick, Kathy Retzke, Jaime Weigel, Jim Winship, Steve Smith

Nays: none

MSC Jim Winship/Kathy Retzke approved the Holidays and Special Closings for 2021 as amended.

Ayes: Lisa Dawsey Smith, Brienne Diebolt-Brown, Anne Hartwick, Kathy Retzke, Jaime Weigel, Jim Winship, Steve Smith

Nays: none

5. Staff & Board Reports

8.I. Director's Report ~ see attached

- Upcoming: Feb. 16th is Library Legislative Day

8.II. Adult Services Report ~ see attached

- 45 people viewed Diane's program "Decorating with Greenery"

8.III Youth Educational Services Report ~ see attached

- Community Challenges (1,000 books before Kindergarten, 800 books before 18, and Community Reads) are being put on Beanstack so patrons have a virtual option.
- Board requested that Deana give periodic updates on her Project READY cohort.

8.IV. Programming & Makerspace Librarian Report ~ see attached

- Torrie received a lot of positive feedback from the recent Paleontology series.
- *Health, Disparity, and Race* is an upcoming virtual program to coincide with Dr. Martin Luther King Jr. Day. Jim requested that it be advertised on the Banner several times.

8.V. Bridges Library System Staff Report ~ see attached

6. Board Request for Future Agenda Items

- Jim asked if there was a way for attendees from asynchronous programs to be asked for their feedback.

7. Adjournment Into Closed Session

I. Adjournment into Closed Session NOT TO RECONVENE per Wisconsin State Statute 19.85(1) (c) "Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility."

Item to be discussed:

- a) Performance evaluation for the Library Director

Did not confirm the date of our next meeting since it was previously scheduled for January 18, 2020, which is Dr. Martin Luther King Jr. Day.

Adjourned into closed session at 7:51 PM.

Minutes respectfully submitted by Jaime Weigel on January 1, 2021



Council Agenda Item

Meeting Date: February 18, 2021

Agenda Item: Relocation Order

Staff Contact (name, email, phone): Brad Marquardt, bmarquardt@whitewater-wi.gov, 262-473-0139

BACKGROUND

(Enter the who, what when, where, why)

To initiate the process to acquire land for the new water tower, a Relocation Order must be approved by Council. The Relocation Order identifies the lands to be acquired and the reason behind the acquisition.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

The Public Works Committee and the Common Council both approved in January, 2021 to move forward with acquiring land owned by the Hoffmann's lying adjacent to, and east of, the City's Well 9 site.

FINANCIAL IMPACT

(If none, state N/A)

The financial impact is unknown at this time. An appraisal will be obtained to determine the value of the parcel. The owner will also have the right to obtain an appraisal at City cost. The appraisals will be used to facilitate negotiations between the City and the owner.

STAFF RECOMMENDATION

Staff recommends approval of the resolution Adopting the Relocation Order and Use of Eminent Domain.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Relocation Order – Resolution
2. Relocation Order – Relocation Order
3. Relocation Order – Map and Legal Description

RESOLUTION

RE: ADOPTION OF RELOCATION ORDER AND USE OF EMINENT DOMAIN

WHEREAS, the City of Whitewater, Walworth-Jefferson Counties, Wisconsin, has two elevated water tanks and a ground level reservoir that provide water pressure, storage, and distribution to the general public;

WHEREAS, the Starin Park elevated water tank was constructed in 1889 and is past its useful life;

WHEREAS, the City of Whitewater has applied for Community Development Block Grant funding to replace the Starin Park elevated water tank and corresponding ground level reservoir with a new elevated tank or tower (“Southwest Elevated Tank Project” or “Project”);

WHEREAS, the Project is necessary for the health, safety and welfare of the public, and in particular for the provision of adequate drinking water and water pressure to the general public;

WHEREAS, it is necessary to acquire certain lands and interests for the construction and maintenance of the Project;

NOW, THEREFORE, BE IT RESOLVED:

1. Due to the public necessity and purpose stated above, the Common Council adopts, makes, and issues the Relocation Order attached hereto and incorporated herein.
2. The Common Council authorizes legal counsel to negotiate an agreed price, subject to Common Council Approval, for the acquisition of necessary lands and interests pursuant to Wis. Stat. § 32.05.

PASSED AND ADOPTED by the Common Council at a regular meeting held on February 18, 2021.

CITY OF WHITEWATER

By: _____
Cameron Clapper
City Manager

Attest: _____
Michelle Smith

City Clerk

**RELOCATION ORDER
TO ACQUIRE LAND OR INTERESTS THEREIN**

The City of Whitewater, Wisconsin (the “City”) finds and determines that the City, located in the County of Walworth and County of Jefferson, State of Wisconsin, requires the acquisition of lands and interests in lands, as shown on the map attached as **Exhibit A**, located in the City, County of Walworth, State of Wisconsin, and legally described as in the legal description attached as **Exhibit B**.

The acquisition of such lands and interests therein is necessary and for the public purpose of constructing and maintaining a future elevated water tank or tower providing drinking water to the City.

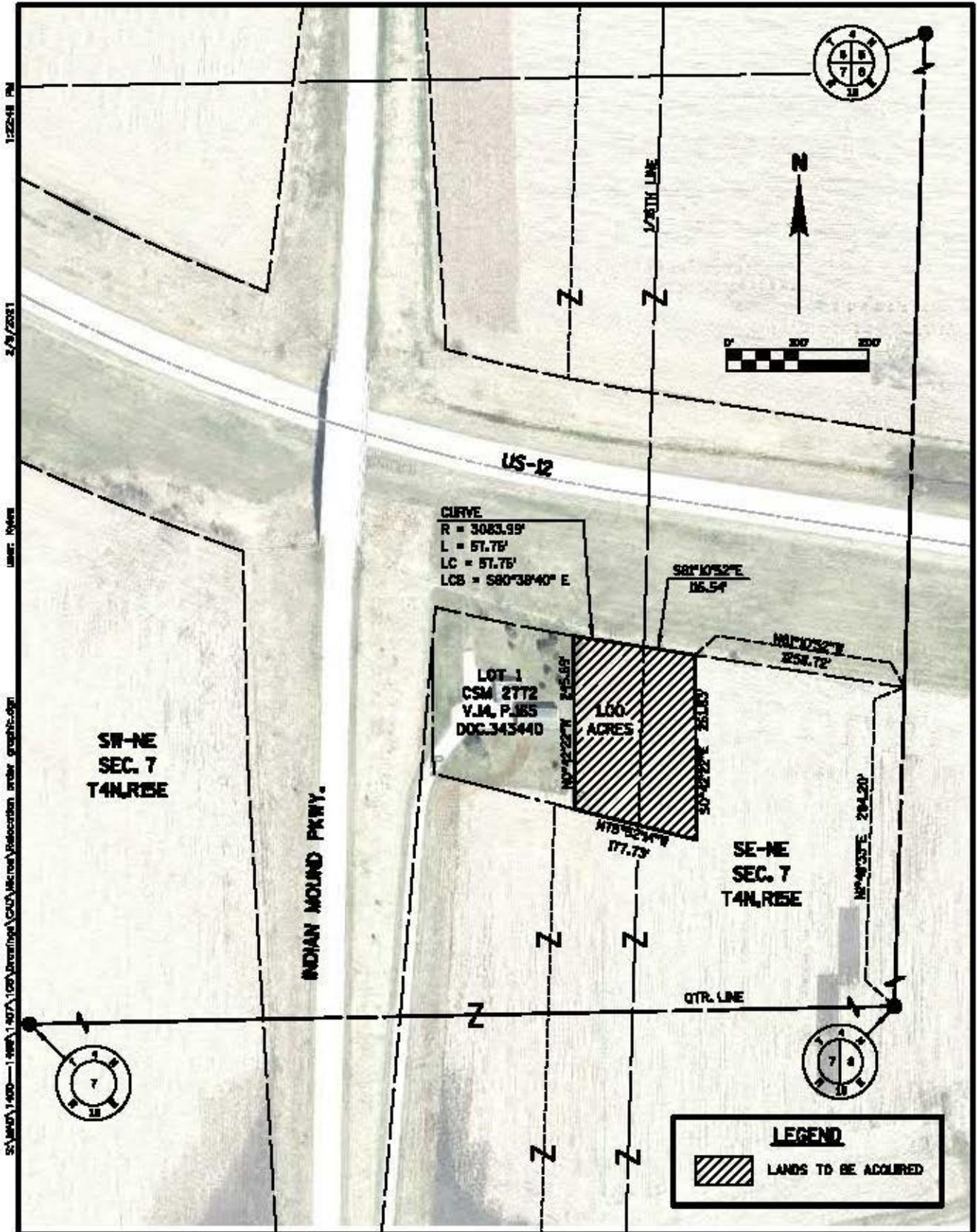
This Order is a Relocation Order in accordance with the provisions of Wis. Stat. § 32.05(1) for the purpose of the within described public improvement project, and it is also a determination of necessity for that project in accordance with Wis. Stat. § 32.07(2).

This Order is issued by the City of Whitewater this ____ day of February, 2021.

CITY OF WHITEWATER

By: _____
Cameron Clapper
City Manager

Attest: _____
Michelle Smith
City Clerk



**RELOCATION ORDER MAP
 WATER TOWER SITE
 CITY OF WHITEWATER
 WALWORTH COUNTY, WISCONSIN**



FIGURE NO. 1
 JOB # 1407.201

EXHIBIT B TO RELOCATION ORDER

Part of the southwest 1/4 and the southeast 1/4 of the northeast 1/4 of Section 7, Township 4 North, Range 15 East, in the City of Whitewater, Walworth County, Wisconsin more fully described as follows:

Commencing at the East 1/4 corner of Section 7, Township 4 North, Range 15 East;
Thence North 1° 48' 33" East, 284.20 feet along the east line of the Southeast 1/4 of the Northeast 1/4 of said Section 7 to the southerly right-of-way of US-12;
Thence North 81° 10' 52" West, 1,258.72 feet along said southerly right-of-way line to the point of beginning;

Thence South 0° 42' 22" East, 261.83 feet;
Thence North 75° 52' 14" West, 177.73 feet to the east line of Lot 1 of CSM 2772 recorded in volume 14 on page 165 as document number 343440 at the Walworth County Register of Deeds;
Thence North 0° 42' 22" West, 245.69 feet along said east line to a point of circular curve to the left having a radius of 3083.99 feet being on the southerly right-of-way of US-12;
Thence continuing along the southerly right-of-way of US-12, 57.76 feet along the arc of said circular curve whose long chord bears South 80° 38' 40" East, 57.76 feet;
Thence South 81° 10' 52" East, 116.54 feet to the point of beginning

Containing 43561 square feet (1.00 acres) more or less.



Common Council Agenda Item

Meeting Date:	February 18, 2021
Agenda Item:	Presentation on TID Closure & Extension Process
Staff Contact (name, email, phone):	Cameron Clapper, cclapper@whitewater-wi.gov , 262-473-0104

BACKGROUND

(Enter the who, what when, where, why)

City staff members as well as a representative from Ehlers will be present to provide information to the common council regarding the process for closing current tax increment districts (TIDs) as well as the opportunity presented to the City of Whitewater via the TID Affordable Housing Extension (TID Extension). The Extension allows for a final year of tax increment to be set aside and use for the development of affordable housing. Affordable in this case means, "housing that costs no more than 30 percent of the household's gross monthly income."

The term affordable housing usually refers to low-to-moderate income housing. Low-to-moderate income housing is subsidized housing intended for people whose incomes are low to moderate when compared to prevailing incomes. This is not the case in the context of the TID Extension.

The TID Extension has no maximum income limit for future program participants. Elected officials would be responsible for setting any desired program limits. The TID Extension would enable the City of Whitewater to begin funding development that accommodates the needs of those currently seeking homes in Whitewater. This would include teachers working in the Whitewater Unified School District, faculty and staff working at UW-Whitewater, and skilled laborers and others with professional degrees working in the Whitewater Business and Technology Parks.

Even with the current changes in rental housing options due to declining university enrollment, there is a shortage of desirable housing opportunities for those in multiple stages of the household life cycle, including young professionals, couples, young families, and families with adolescent children.

The TID Extension is a unique opportunity to generate financial resources for housing development without placing an additional debt burden on whitewater residents or on the books of a future TID.

In the presentation on February 18, staff members will provide information and details to support the above statements as well as the following questions.

1. What is the impact for all local taxing jurisdictions when the current TIDs are closed?
2. What is the impact for all local taxing jurisdictions if the TID Extension is used?
3. Would new TIDs be established once current TIDs are closed?
4. What would be the timeline associated with the closing or extending of existing TIDs?
5. What would be the timeline for creation of new TIDs?
6. If the TID Extension is used, who gets to decide what housing types get built and where said housing is constructed?
7. What funds, if any, would be distributed to taxing jurisdictions in 2021 when the TIDs are closed?

These are just a few of the questions staff will seek to answer for the community on February 18. Community members wishing to ask additional questions or share thoughts/concerns may do so at the meeting or any time before or after the February 18 meeting via phone or email (see memo heading for contact information).

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

2021.01.26 – Finance Committee recommended use of the TID Extension or TID 4 in order to generate a final year of increment for use future housing development.

2021.01.28 – CDA recommended use of the TID Extension or TID 4 in order to generate a final year of increment for use future housing development.

FINANCIAL IMPACT

(If none, state N/A)

Staff estimates fund balances distributed from the closing TIDs 5-9 and revenues generated by exercising the TID Extension would be as follows:

1. Approximately 25% of the remaining balance of funds in TIDs 5-9. The overall TID surplus in currently anticipated to be ~\$700,000.
2. Anticipated revenues for exclusive use in housing development via the TID Extension estimated at \$2.0MM

STAFF RECOMMENDATION

Formal action to support the following (resolutions would be presented for discussion and approval on March 16, 2021):

1. Closing TIDs 5-9 by resolution before April 15, 2021
2. Exercising the Affordable Housing Extension for TID 4 by resolution before April 15, 2021
3. Closing TID 4 by resolution after April 15, 2021 but before September 2021

Also understood is the fact that staff would bring forward a timeline for the development of future TID plans as well as details regarding stakeholder participation in that process.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Ehlers Presentation from the January 28, 2021 CDA meeting
-



TIF Closures, Affordable Housing Extension, & Creations

Greg Johnson, Senior Municipal Advisor

January 28, 2021



Whitewater TID Objectives

1. Close TID #5, #6, #7, #8, and #9 in 2021.
 - ✓ Common Council must adopt a termination resolution prior to April 15, 2021. Resolution provided to Department of Revenue.
 - ✓ Within 6 months of passing resolution property tax lister is notified of TID closure; final audit is completed; and remaining funds are distributed to all taxing jurisdictions.
 2. Implement affordable housing extension for TID #4.
 - ✓ Common Council must adopt resolution prior to April 15, 2021 to use increment collected in 2022 for the housing extension.
 3. Close TID #4
 - ✓ Termination resolution can be adopted as soon as May 2021.
 - ✓ Allows City to create new TID's immediately.
-



Affordable Housing Extension

- TID extended one year; additional year of tax increment can be used as follows:
 - ✓ At least 75% of the funds must be used for affordable housing, meaning housing that costs a household no more than 30 percent of the household's gross monthly income.
 - ✓ Remaining portion must be used to improve housing stock.
- Funds can be used anywhere in the community and funds do not have to be spent within one year.



Housing Extension Approval

- Approval by Joint Review Board not required but should advise them it's occurring.
- Resolution adopted by Governing Body must include:
 - ✓ How the funds are going to be spent in compliance with statutory requirements.
 - ✓ State the year the final tax increment was or will be received.
 - ✓ State the length of the extension, not to exceed 12 months.



Requirements for TID creation

- Combination of increment value of existing TID(s) and proposed base value of new district(s) CANNOT exceed 12% of total Equalized Value.
- Boundary consists of whole, contiguous parcels.
- At least 50% of land area in proposed TID is either:
 - ✓ Blighted
 - ✓ In need of conservation/rehabilitation
 - ✓ In need of environmental remediation
 - ✓ Suitable for any combination of industrial, residential, or commercial development.



Blighted means any of the following:

- An area, including a slum area, in which the structures, buildings or improvements, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.
- An area which is predominantly open and which consists primarily of an abandoned highway corridor, as defined in s. 66.1333 (2m) (a), or that consists of land upon which buildings or structures have been demolished and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.

"Blighted area" does not include predominantly open land area that has been developed only for agricultural purposes.



Rehabilitation or Conservation means any of the following:

- Carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements.
- Acquisition of real property and demolition, removal or rehabilitation of buildings and improvements on the property where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, reduce traffic hazards, eliminate obsolete or other uses detrimental to the public welfare, to otherwise remove or prevent the spread of blight or deterioration, or to provide land for needed public facilities.
- Installation, construction or reconstruction of streets, utilities, parks, playgrounds, and other improvements necessary for carrying out the objectives of the urban renewal project.
- The disposition, for uses in accordance with the objectives of the urban renewal project, of any property acquired in the area of the project.



Mixed Use & Industrial

- Mixed Use
 - ✓ Must have two of 3 land uses: commercial, industrial, or residential.
 - ✓ Residential area limited to 35% of the total area of the TID.
 - ✓ Project Costs may only be incurred for newly platted residential development that has an average density of at least three units per acre, is located within a conservation subdivision, or is located within a traditional neighborhood design.
- Industrial
 - ✓ Must be suitable and zoned for industrial development.
 - ✓ if industrial zoning is not yet in place for at least 50% of the TID area, the zoning change must occur prior to governing body approval of the resolution creating the TID.



District types summary

Type	Max Life	At Least 50% Of Proposed District Area Must Be	Newly Platted Residential
Mixed Use	20 Years	Suitable for a combination of industrial, commercial and residential uses	Max 35% (Plus Density Requirement)
Industrial	20 Years	Zoned and suitable for industrial development	Not Allowed
Blighted Area	27 Years	Blighted	Not Allowed
Conservation or Rehabilitation	27 Years	In need of conservation or rehabilitation	Not Allowed
Environmental Remediation	27 Years	Most of the territory consists of areas that contain significant environmental pollution	Not Allowed



Council Agenda Item

Meeting Date:	February 18, 2021
Agenda Item:	Citizen Committee Appointment
Staff Contact (name, email, phone):	Cameron Clapper, cclapper@whitewater-wi.gov , 262-473-0104

BACKGROUND

(Enter the who, what when, where, why)

The process for the appointment of board, commission, and committee members is outlined in the Whitewater Municipal Code 2.12.011:

- (a) The city manager and the common council president shall review all board, commission and committee applicants and recommend nominees to the common council.
- (b) After considering the candidates nominated to the various boards, commissions, and committees, the common council shall appoint the members of said boards, commissions, or committees.

The Common Council President and City Manager have reviewed the included application. The candidate was also interviewed.

We were impressed with Mr. Schanen, not only for his genuine interest in serving the Whitewater community, but also for his professional experience. We recommend appointment.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

None.

FINANCIAL IMPACT

(If none, state N/A)

N/A

STAFF RECOMMENDATION

Recommend the appointment of Brian Schanen to the Community Involvement and Cable Television Commission.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Mr. Schanen's application

From: noreply@civicplus.com
To: [Lynn Binnie](#); [Kathy Boyd](#)
Subject: Online Form Submittal: Citizen Service Information Form
Date: Tuesday, January 5, 2021 11:38:16 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Citizen Service Information Form

This form is used to apply to City of Whitewater Boards, Committees or Commissions.

Date 1/5/2021

Applicant Information

First Name Brian

Last Name Schanen

Home Address 1199 E BLUFF RD, Apt 203

City WHITEWATER

State WI

Zip Code 53190

Home Phone Number 2626892335

Cell Number 2626892335

Email Address bschanen92@gmail.com

Business/Employer Information

Business/Employer Name University of Wisconsin-Whitewater

Business/Employer Address 800 W Main St.

City Whitewater

State WI

Zip Code 53190

2626892335

Business/Employer
Phone Number

Boards/Committees/Commissions of Interest

Select all Boards,
Committees &
Commissions you are
applying for by
checking each box:

Community Involvement & Cable TV Commission

Give a brief overview of
your background,
experience, interest, or
concerns pertaining to
the selected board(s),
committee(s) or
commission(s).

I have extensive experience in media and marketing. As a student at UW-Whitewater I was heavily involved with the campus television station, UWWTV. I worked on numerous broadcasts in many different roles including director, camera operator, graphics and replay, as well as managed the station's website and social media. I also worked in the media production studio for the College of Business and Economics at UW-Whitewater.

I assist with the marketing efforts for Baird Group in Fort Atkinson, WI.

I currently teach media production, film studies, and public speaking at UW-Whitewater.

Optional: Upload
supportive documents
(resume,
recommendation letter,
etc.)

Field not completed.

Reference #1 Full
Name

Kristin Baird

Reference #1 Address
& Phone Number

201 N. Main St.
Third Floor, Suite 320
Fort Atkinson, WI 53538
(866) 686-7672

Reference #2 Full
Name

Jonathon Kelley

Reference #2 Address
& Phone Number

1102 Arndt Ct
Fort Atkinson, WI 53538
9207282961

Regular Board, Committee and Commission members are expected to attend at least three-quarters of the meetings each year. Alternate members are always welcome to attend all meetings, but are not required to attend meetings unless requested.



Council Agenda Item

Meeting Date: February 18, 2021

Agenda Item: Water Tower Sizing

Staff Contact (name, email, phone): Brad Marquardt, bmarquardt@whitewater-wi.gov, 262-473-0139

BACKGROUND

(Enter the who, what when, where, why)

The 2017 Water Study Report provided two options for the new elevated tank storage to meet the estimated 2037 maximum day needs plus fire flow demands. The first option looked at the Starin Park elevated tank out of service. In this scenario, the storage deficit was at 419,000 gallons. Therefore, a 500,000 gallon elevated tank would be required. The second option looked at taking the ground reservoir out of service in addition to the Starin Park tower. In this scenario, the storage deficit was at 652,000 gallons. Therefore, a 750,000 gallon elevated tank would be required.

The ground reservoir is the same age as the Starin Park elevated tank, both built in 1889. The last inspection report in 2018 indicated the reservoir was in relatively good shape for its age, but one major flaw is the wood roof system that exists. It does not meet DNR regulations anymore and will need to be replaced at some point in the future. Recent conversations with the DNR indicated that touching any component of the roof would initiate the replacement of the roof. The 2018 inspection report did note that the main center roof vent needed attention. Any work on this vent would initiate the roof replacement.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

The Public Works Committee discussed the sizing of the new water tower at their February 9, 2021 meeting. Their recommendation was to proceed with decommissioning both the Starin Park tank and the ground level reservoir and proceeding with the design for a 750,000 gallon reservoir.

FINANCIAL IMPACT

(If none, state N/A)

According to the 2017 Water Study Report, the difference in a 500,000 gallon tank versus a 750,000 gallon tank was \$350,000. Strand provided a rough estimate of \$200,000 to \$500,000 for a new roof at the ground level reservoir.

STAFF RECOMMENDATION

Staff recommends proceeding with the 750,000 gallon elevated tank and decommissioning the Starin Park elevated tank and the ground level reservoir. At 130 years old, the ground reservoir is well past its useful life. The roof will be required to be replaced in the near future. To replace the roof, a more in depth structural analysis will need to be done to make sure the walls are structurally sound and possibly opening up other areas of concern to be addressed.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Water Tower Sizing – 2017 Conclusions and Recommendations

7.01 GENERAL

The following sections summarize the findings of this report and describe the recommended improvements for the City of Whitewater. The following opinions of probable cost are based on 2017 dollars.

7.02 WATER SUPPLY AND SYSTEM DEMANDS

A. 2017

The estimated 2017 maximum day equals 3.917 mgd or 2,720 gpm. The current firm well capacity with the largest well out of service (Well No. 6) equals 5.004 mgd or 3,475 gpm. During a maximum day demand, the system is projected to have a reserve capacity of 1.087 mgd or 755 gpm. Therefore, no additional well capacity is required to meet 2017 maximum day demands.

B. 2037

The estimated 2037 maximum day equals 4.545 mgd or 3,156 gpm. The projected firm well capacity was assumed to not change from the 2017 design year and equals 5.004 mgd or 3,475 gpm. During a maximum day demand, the system is projected to have a reserve capacity of 0.459 mgd or 319 gpm. Therefore, no additional well capacity is required to meet 2037 maximum day demands.

7.03 STORAGE CAPACITY

A. Summary

The total amount of elevated storage within the City equals 680,000 gallons and includes the Starin Park elevated tank (180,000 gallons) and the Cravath Street elevated tank (500,000 gallons). The total amount of ground-level storage equals 860,000 gallons and only consists of the Well No. 7 reservoir adjacent to the Starin Road WTP. No additional storage required to meet current maximum day and peak hour demands.

The existing Starin Park elevated tank and Well No. 7 reservoir were both constructed in 1889. Each of these facilities have reached the end of their useful life and replacement should be considered. Potential abandonment of the Well No. 7 reservoir will determine the size of the elevated tank to replace the Starin Park elevated tank.

B. 2017

The estimated 2017 maximum day plus fire flow equals 8.957 mgd or 6,220 gpm. The current firm well capacity equals 5.004 mgd or 3,475 gpm. The elevated storage capacity equals 3.375 mgd or 2,344 gpm after removing volume for operational requirements and supplying peak hourly demands. The Well No. 7 reservoir storage capacity equals 1.865 mgd or 1,295 gpm, assuming only half of the existing storage is usable and after removing volume for operational requirements. During a 180-minute fire event, the system is projected to have a reserve capacity of 894 gpm or approximately 161,000 gallons. Therefore, no additional storage is needed to meet 2017 maximum day plus fire demands.

C. 2037

The estimated 2037 maximum day plus fire flow equals 9.585 mgd or 6,656 gpm. The projected firm well capacity equals 5.004 mgd or 3,475 gpm. The elevated storage capacity, including the Starin Park elevated tank, equals 0.520 mgd or 361 gpm after removing volume for operational requirements and supplying peak hourly demands. The Well No. 7 reservoir storage capacity equals 1.865 mgd or 1,295 gpm assuming only half of the existing storage is usable and after removing volume for operational requirements. During a 180-minute fire event, the system is projected to have a storage deficit of 1,525 gpm or approximately 275,000 gallons. Therefore, additional storage is needed to meet 2037 maximum day plus fire demands.

The storage deficiency may be addressed in the form of well supply, booster pump capacity, or storage capacity is recommended. However, it was noted that the City wants to remove the Starin Park elevated tank because of its advanced age and difficulty in balancing system operations.

After removing the Starin Park elevated tank storage capacity, the City is estimated to have a storage deficit of approximately 419,000 gallons. Under this situation, it is recommended that the City construct a 500,000-gallon elevated tank to meet projected maximum day domestic demands plus fire flow.

Additionally, if the City decides to abandon the Well No. 7 reservoir without replacement, the City is estimated to have a storage deficit of approximately 652,000 gallons. Under this situation, it is recommended that the City construct a 750,000 gallon-elevated tank to meet projected maximum day domestic demands plus fire flow.

It is further recommended that an additional study be completed to investigate the operational limitations of the Well No. 7 Reservoir and the potential remaining service of the facility. If the result of the study determines that the Well No. 7 reservoir be abandoned, the study will also need to identify improvements necessary to connect Well No. 7 directly to the distribution system and identify opinions of probable cost for all of the recommended improvements.

7.04 NEW ELEVATED STORAGE TANK

Four sites were evaluated for locating a new elevated storage tank. The recommended site for a new elevated tank is the High School Site. The height to overflow would be 104 feet and the capacity would range between 500,000- and 750,000-gallons, depending on the disposition of the Well No. 7 reservoir. Although the tank is not required to be constructed in 2017 to meet current demands, a new elevated tank is recommended to be constructed before the removal of the existing Starin Park elevated tank. See Table 7.04-1 below for a cost opinion of each sized tank. The opinion of probable cost includes the price obtained from a tank manufacturer, a tank construction shroud, cathodic protection, an altitude valve, electrical and HVAC, site work and development, \$100,000 for site acquisition, and 25 percent for contingencies and professional services. The opinion of probable costs assumes the tank will be constructed using a standard shallow foundation. Upon preliminary design of an elevated tank, it is recommended to hire a soils engineer to determine the compatibility of the soils under the tank. If a deep foundation is required, additional project costs should be added. It is recommended to verify the cost of site acquisition to determine the actual price before moving forward with tank design for budgeting purposes.

	Alternative 1 - 500,000 gallons	Alternative 2 - 750,000 gallons
Tank Construction Costs	\$ 1,500,000	\$ 1,850,000
Construction Shroud	\$ 100,000	\$ 100,000
Cathodic Protection	\$ 15,000	\$ 15,000
Altitude Valve	\$ 30,000	\$ 30,000
Electrical and HVAC	\$ 60,000	\$ 60,000
Site Work	\$ 145,000	\$ 145,000
Land Acquisition	\$ 100,000	\$ 100,000
Subtotal	\$ 1,950,000	\$ 2,300,000
Contingency and Professional Services (25%)	\$ 488,000	\$ 575,000
Total	\$ 2,438,000	\$ 2,875,000

Table 7.04 Elevated Tank Opinion of Probable Construction Costs

7.05 FUTURE WATER MAIN IMPROVEMENTS

The City has several portions of the distribution system located on long dead-ends at the perimeter of the City. In the event of a water main break, these areas of the system will be isolated and have no source of water. Five priority transmission water main connections were identified as critical projects to be completed. By constructing the recommended looping water main connections, there will be redundancy within the system. See Figure 5.05-1 for a map of the improvements. The probable costs presented in Table 7.05-1 below are budgetary, include 30 percent for contingencies and professional services, and excludes any rock excavation. All costs should be confirmed during design.

Transmission Main Looping	Location	Pipe Diameter (in)	Approximate Length (feet)	Opinion of Probable Cost
Priority #1	Franklin St. to S. Wisconsin St.	12	7,000	\$1,360,000
Priority #2	LSP to Enterprise Blvd.	10	5,500	\$1,180,000
Priority #3	Well No. 9 to Railroad	12	2,600	\$ 470,000
Priority #4	Tratt St to Prairie Village	12	5,200	\$ 910,000
Priority #5	Pearson Ln. and W. Main St.	12	2,200	\$ 450,000

Table 7.05-1 Transmission Main Looping Opinions of Probable Cost



Common Council Agenda Item

Meeting Date:	February 18, 2021
Agenda Item:	Liability Claim
Staff Contact (name, email, phone):	Steve Hatton, shatton@whitewater-wi.gov , 262-473-1380

BACKGROUND

(Enter the who, what when, where, why)

The claim is being brought before the Common Council as the body to take action on claims against the City.

On September 30, 2020, a minor local resident was injured when using the skate park. The family filed a claim with the City to recover \$1,800.00 of costs incurred to treat the injuries.

Our insurance carrier, CVMIC, was consulted for guidance to review the circumstances and the application of recreational immunity created under state statute. CVMIC confirmed that the statute is broad in nature and confirmed there is no legal liability to the City. If the City were liable, we maintain a Liability Policy under which the City is responsible for the first \$25,000 of expense for each claim, up to four claims per year. Our policy covers the excess after this first \$25,000 amount to a limit.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

January 26, 2021 Finance Committee recommended denial of claim under recreational immunity.

FINANCIAL IMPACT

(If none, state N/A)

The claim is for \$1,800.00. Any amount approved would be drawn against Fund 271: Insurance-SIR (Self-Insured Retention)

STAFF RECOMMENDATION

Staff recommends denial of claim under Recreational Immunity per State Statute.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Claim and Police Report
2. State Statute 895.52

CITY OF WHITEWATER

NOTICE OF CLAIM

Name: Sam Zimmormann/Brandon Incident/Accident Information
 Address: 351 N. Newcomb St. IA Date: 9-30-20
Whitewater WI Time: _____
 Phone: 262-337-4430 Place: _____

CIRCUMSTANCES OF CLAIM

In the space below briefly describe the circumstances of your claim. (Attach additional sheets, if necessary.) For auto damages, attach a copy of police report, if any, and attach a diagram of the accident scene indicating north, south, east or west corners if the accident occurred at an intersection. For bodily injury, indicate nature of injury and whether or not medical attention was given and give the name of the physician. Also identify any witnesses to the incident/accident.

In front of several skater at your city maintained skatepark, my son Brandon failed to negotiate the corners of areas in disrepair and crashed caused him to lose 3 teeth, slight concussion, and several bruises and scrapes. I have many pictures of an incomprehensibly deteriorated skate park 4 Kids

Signed: [Signature] Date: _____

CLAIM

(NOTE: You are not required to make a claim at this time. As long as you have filed the above Notice of Claim you may file a claim with the City/Village at any time consistent with the applicable statute of limitations. However, in order for the City/Village to formally accept or deny your claim at this time, the following claim must be completed and signed.)

The undersigned hereby makes a claim against the City/Village of arising out of the circumstances described above in the amount of \$ 1800.00

To process this claim it is necessary to detail all damages being sought.

Signed: [Signature] Date: 11-15-21
 Address: 351 N. Newcomb Apt A Whitewater

2013 Wisconsin Act 116, section 32 (1) (b), shall be payable only from funds of the authority.

History: 2013 a. 20, 116; 2015 a. 55, 85.

895.515 Civil liability exemption; equipment or technology donation. (1) In this section:

(a) “Commercial equipment or technology” means goods or related procedures used or bought for use primarily in a business, including farming and a profession.

(b) “Institution of higher education” means an institution within the University of Wisconsin System, a technical college or a private, nonprofit institution of higher education located in this state.

(2) Any person engaged in the sale or use of commercial equipment or technology, for profit or not for profit, who donates any commercial equipment or technology to a public or private elementary or secondary school, a tribal school, as defined in s. 115.001 (15m), or an institution of higher education or who accepts reimbursement in an amount not to exceed overhead and transportation costs for any commercial equipment or technology provided to a public or private elementary or secondary school, to a tribal school, or to an institution of higher education is immune from civil liability for the death of or injury to an individual caused by the commercial equipment or technology.

(3) This section does not apply if the death or injury was caused by a willful or wanton act or omission of the person who donated or accepted reimbursement for the commercial equipment or technology.

(4m) This section does not apply to the manufacturer of the donated commercial equipment or technology.

History: 1995 a. 112; 1997 a. 237; 2005 a. 155; 2009 a. 302.

895.517 Civil liability exemption: solid waste donation or sale. (1) In this section:

(a) “Charitable organization” has the meaning given in s. 895.51 (1) (b).

(b) “Municipality” has the meaning given in s. 289.01 (23).

(c) “Qualified food” has the meaning given in s. 895.51 (1) (e).

(d) “Responsible unit” has the meaning given in s. 287.01 (9).

(e) “Solid waste” has the meaning given in s. 289.01 (33).

(2) Any person who donates or sells, at a price not exceeding overhead and transportation costs, solid waste, or a material that is separated from mixed soil waste, to a materials reuse program that is operated by a charitable organization, municipality or responsible unit is immune from civil liability for the death of or injury to an individual or the damage to property caused by the solid waste or material donated or sold by the person.

(3) This section does not apply if the death or injury was caused by willful or wanton acts or omissions.

(4) This section does not apply to the sale or donation of qualified food.

History: 1997 a. 60; 2005 a. 155.

895.519 Civil liability exemption; private campgrounds. (1) In this section:

(am) “Inherent risk of camping” means a danger or condition that is an integral part of camping, including dangers posed by any of the following:

1. Features of the natural world, such as trees, tree stumps, roots, brush, rocks, mud, sand, and soil.
2. Uneven or unpredictable terrain.
3. Natural bodies of water.
4. Another camper or visitor at the private campground acting in a negligent manner, where the campground owner or employees are not involved.
5. A lack of lighting, including lighting at campsites.
6. Campfires in a fire pit or enclosure provided by the campground.
7. Weather.

8. Insects, birds, and other wildlife.

(bm) “Private campground” means a facility that is issued a campground license under s. 97.67 and that is owned and operated by a private property owner, as defined in s. 895.52 (1) (e).

(2) Except as provided in sub. (3), a private campground, an owner or operator of a private campground, and any employees and officers of a private campground or private campground owner or operator are immune from civil liability for acts or omissions related to camping at a private campground if a person is injured or killed, or property is damaged, as a result of an inherent risk of camping.

(3) The immunity of sub. (2) does not apply if the person seeking immunity does any of the following:

(a) Intentionally causes the injury, death, or property damage.

(b) Acts with a willful or wanton disregard for the safety of the party or the property damaged. In this paragraph, “willful or wanton disregard” means conduct committed with an intentional or reckless disregard for the safety of others.

(c) Fails to conspicuously post warning signs of a dangerous inconspicuous condition known to him or her on the property that he or she owns, leases, rents, or is otherwise in lawful control or possession of.

(4) This section does not limit the immunity created under s. 895.52.

(5) Nothing in this section affects the assumption of risk under s. 895.525 by a person participating in a recreational activity including camping.

History: 2015 a. 293; 2017 a. 365 ss. 87, 110.

The Exculpatory Contract and Public Policy. Anzivino. 102 MLR 747 (2019).

895.52 Recreational activities; limitation of property owners’ liability. (1) DEFINITIONS. In this section:

(ag) “Agricultural tourism activity” means an educational or recreational activity that takes place on a farm, ranch, grove, or other place where agricultural, horticultural, or silvicultural crops are grown or farm animals or farmed fish are raised, and that allows visitors to tour, explore, observe, learn about, participate in, or be entertained by an aspect of agricultural production, harvesting, or husbandry that occurs on the farm, ranch, grove, or other place.

(ar) “Governmental body” means any of the following:

1. The federal government.
2. This state.
3. A county or municipal governing body, agency, board, commission, committee, council, department, district or any other public body corporate and politic created by constitution, statute, ordinance, rule or order.
4. A governmental or quasi-governmental corporation.
5. A formally constituted subunit or an agency of subd. 1., 2., 3. or 4.

(b) “Injury” means an injury to a person or to property.

(c) “Nonprofit organization” means an organization or association not organized or conducted for pecuniary profit.

(d) “Owner” means either of the following:

1. A person, including a governmental body or nonprofit organization, that owns, leases or occupies property.
2. A governmental body or nonprofit organization that has a recreational agreement with another owner.

(e) “Private property owner” means any owner other than a governmental body or nonprofit organization.

(f) “Property” means real property and buildings, structures and improvements thereon, and the waters of the state, as defined under s. 281.01 (18).

(g) “Recreational activity” means any outdoor activity undertaken for the purpose of exercise, relaxation or pleasure, including practice or instruction in any such activity. “Recreational activity” includes hunting, fishing, trapping, camping, picnicking, exploring caves, nature study, bicycling, horseback riding, bird-

watching, motorcycling, operating an all-terrain vehicle or utility terrain vehicle, operating a vehicle, as defined in s. 340.01 (74), on a road designated under s. 23.115, recreational aviation, ballooning, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, water sports, sight-seeing, rock-climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, participating in an agricultural tourism activity, sport shooting and any other outdoor sport, game or educational activity. “Recreational activity” does not include any organized team sport activity sponsored by the owner of the property on which the activity takes place.

(h) “Recreational agreement” means a written authorization granted by an owner to a governmental body or nonprofit organization permitting public access to all or a specified part of the owner’s property for any recreational activity.

(hm) “Recreational aviation” means the use of an aircraft, other than to provide transportation to persons or property for compensation or hire, upon privately owned land. For purposes of this definition, “privately owned land” does not include a public-use airport, as defined in s. 114.002 (18m).

(i) “Residential property” means a building or structure designed for and used as a private dwelling accommodation or private living quarters, and the land surrounding the building or structure within a 300-foot radius.

(2) NO DUTY; IMMUNITY FROM LIABILITY. (a) Except as provided in subs. (3) to (6), no owner and no officer, employee or agent of an owner owes to any person who enters the owner’s property to engage in a recreational activity:

1. A duty to keep the property safe for recreational activities.
2. A duty to inspect the property, except as provided under s. 23.115 (2).
3. A duty to give warning of an unsafe condition, use or activity on the property.

(b) Except as provided in subs. (3) to (6), no owner and no officer, employee or agent of an owner is liable for the death of, any injury to, or any death or injury caused by, a person engaging in a recreational activity on the owner’s property or for any death or injury resulting from an attack by a wild animal.

(3) LIABILITY; STATE PROPERTY. Subsection (2) does not limit the liability of an officer, employee or agent of this state or of any of its agencies for either of the following:

(a) A death or injury that occurs on property of which this state or any of its agencies is the owner at any event for which the owner charges an admission fee for spectators.

(b) A death or injury caused by a malicious act or by a malicious failure to warn against an unsafe condition of which an officer, employee or agent knew, which occurs on property designated by the department of natural resources under s. 23.115 or designated by another state agency for a recreational activity.

(4) LIABILITY; PROPERTY OF GOVERNMENTAL BODIES OTHER THAN THIS STATE. Subsection (2) does not limit the liability of a governmental body other than this state or any of its agencies or of an officer, employee or agent of such a governmental body for either of the following:

(a) A death or injury that occurs on property of which a governmental body is the owner at any event for which the owner charges an admission fee for spectators.

(b) A death or injury caused by a malicious act or by a malicious failure to warn against an unsafe condition of which an officer, employee or agent of a governmental body knew, which occurs on property designated by the governmental body for recreational activities.

(5) LIABILITY; PROPERTY OF NONPROFIT ORGANIZATIONS. Subsection (2) does not limit the liability of a nonprofit organization or any of its officers, employees or agents for a death or injury caused by a malicious act or a malicious failure to warn against an unsafe condition of which an officer, employee or agent of the

nonprofit organization knew, which occurs on property of which the nonprofit organization is the owner.

(6) LIABILITY; PRIVATE PROPERTY. Subsection (2) does not limit the liability of a private property owner or of an employee or agent of a private property owner whose property is used for a recreational activity if any of the following conditions exist:

(a) The private property owner collects money, goods or services in payment for the use of the owner’s property for the recreational activity during which the death or injury occurs, and the aggregate value of all payments received by the owner for the use of the owner’s property for recreational activities during the year in which the death or injury occurs exceeds \$2,000. The following do not constitute payment to a private property owner for the use of his or her property for a recreational activity:

1. A gift of wild animals or any other product resulting from the recreational activity.
2. An indirect nonpecuniary benefit to the private property owner or to the property that results from the recreational activity.
3. A donation of money, goods or services made for the management and conservation of the resources on the property.
4. A payment of not more than \$5 per person per day for permission to gather any product of nature on an owner’s property.
5. A payment received from a governmental body.
6. A payment received from a nonprofit organization for a recreational agreement.
7. A payment made to purchase products or goods offered for sale on the property.

(b) The death or injury is caused by the malicious failure of the private property owner or an employee or agent of the private property owner to warn against an unsafe condition on the property, of which the private property owner knew.

(c) The death or injury is caused by a malicious act of the private property owner or of an employee or agent of a private property owner.

(d) The death or injury occurs on property owned by a private property owner to a social guest who has been expressly and individually invited by the private property owner for the specific occasion during which the death or injury occurs, if the death or injury occurs on any of the following:

1. Platted land.
2. Residential property.
3. Property within 300 feet of a building or structure on land that is classified as commercial or manufacturing under s. 70.32 (2) (a) 2. or 3.

(e) The death or injury is sustained by an employee of a private property owner acting within the scope of his or her duties.

(7) NO DUTY OR LIABILITY CREATED. Except as expressly provided in this section, nothing in this section, s. 101.11, or s. 895.529 nor the common law attractive nuisance doctrine creates any duty of care or ground of liability toward any person who uses another’s property for a recreational activity.

History: 1983 a. 418; 1985 a. 29; 1989 a. 31; 1995 a. 27, 223, 227; 1997 a. 242; 2011 a. 93, 208; 2013 a. 20, 269, 318; 2015 a. 195.

NOTE: 1983 Wis. Act 418 contains a statement of legislative intent in section 1.

A municipality is immune from liability for a defective highway or public sidewalk only when the municipality has turned the highway or sidewalk over, at least in part, to recreational activities and when damages result from recreational activity. *Bystery v. Village of Sauk City*, 146 Wis. 2d 247, 430 N.W.2d 611 (Ct. App. 1988). See also *Langenhahn v. West Bend Mutual Insurance Co.*, 2019 WI App 11, 386 Wis. 2d 243, 926 N.W.2d 210, 17–2178.

“Recreational activity” does not apply to random wanderings of a young child that are not similar to activities listed in sub. (1) (g). *Shannon v. Shannon*, 150 Wis. 2d 434, 442 N.W.2d 25 (1989).

The state’s role as trustee of public waters is equivalent to ownership, giving rise to recreational immunity. *Sauer v. Reliance Insurance Co.*, 152 Wis. 2d 234, 448 N.W.2d 256 (Ct. App. 1989).

Indirect pecuniary benefits constitute “payment” under sub. (6) (a). *Douglas v. Dewey*, 154 Wis. 2d 451, 453 N.W.2d 500 (Ct. App. 1990).

“Injury” under sub. (1) (b) includes death. *Moua v. Northern States Power Co.*, 157 Wis. 2d 177, 458 N.W.2d 836 (Ct. App. 1990).

By providing a lifeguard a landowner does not assume a duty to provide lifeguard services in a non-negligent manner. *Ervin v. City of Kenosha*, 159 Wis. 2d 464, 464 N.W.2d 654 (1991).

For purposes of sub. (4) (b), conduct is “malicious” when it is the result of hatred, ill will, or revenge, or is undertaken when insult or injury is intended. *Ervin v. City of Kenosha*, 159 Wis. 2d 464, 464 N.W.2d 654 (1991).

Immunity is not limited to injuries caused by defects in property itself, but applies to all injuries sustained during use. *Johnson v. City of Darlington*, 160 Wis. 2d 418, 466 N.W.2d 233 (Ct. App. 1991).

A young child’s inability to intend to engage in recreational activity does not render landowner immunity inapplicable when the activity is recreational in nature. *Nelson v. Schreiner*, 161 Wis. 2d 798, 469 N.W.2d 214 (Ct. App. 1991).

Illegal gambling conducted by a club occupying city park land placed the club outside the protection of the immunity statute. *Lee v. Elk Rod & Gun Club Inc.*, 164 Wis. 2d 103, 473 N.W.2d 581 (Ct. App. 1991).

A party is not immune as an occupant when evidence unequivocally shows intentional and permanent abandonment of the premises had occurred. *Mooney v. Royal Ins. Co.*, 164 Wis. 2d 516, 476 N.W.2d 287 (Ct. App. 1991).

Walking to or from a non-immune activity does not change a landowner’s status. *Hupf v. City of Appleton*, 165 Wis. 2d 215, 477 N.W.2d 69 (Ct. App. 1991).

Sub. (2) (b) does not require a person injured by a wild animal to be engaged in a recreational activity for immunity to attach to the property owner. A captive deer is a wild animal. *Hudson v. Janesville Conservation Club*, 168 Wis. 2d 436, 484 N.W.2d 132 (1992).

A municipal pier was the type of property intended to be covered by the recreational immunity statute. *Crowbridge v. Village of Egg Harbor*, 179 Wis. 2d 565, 508 N.W.2d 15 (Ct. App. 1993).

A church that paid a fee to reserve park space, including a ball diamond, for a picnic where a “pickup” softball was played was not a sponsor of an organized team sport activity under sub. (1) (g). *Weina v. Atlantic Mutual Ins. Co.*, 179 Wis. 2d 774, 508 N.W.2d 67 (Ct. App. 1993).

Whether a person intended to engage in recreational activity is not dispositive in determining whether recreational activity is engaged in. The nature and purpose of the activity must be given primary consideration. *Linville v. City of Janesville*, 184 Wis. 2d 705, 516 N.W.2d 427 (1994).

Recreational immunity does not extend to activities of the landowner acting independently of its functions as owner. Immunity did not apply to city paramedics providing service to an accident victim at a city park. *Linville v. City of Janesville*, 184 Wis. 2d 705, 516 N.W.2d 427 (1994).

Limited liability for nonprofit organizations is not unconstitutional on equal protection grounds. *Szarzynski v. YMCA, Camp Minikani*, 184 Wis. 2d 875, 517 N.W.2d 135 (1994).

Visiting a neighbor to say hello is not a recreational activity under this section. *Sievert v. American Family Mut. Ins. Co.*, 190 Wis. 2d 413, 528 N.W.2d 413 (1995).

That a local firefighter’s picnic generated profits that were used for park maintenance and improvements and the purchase of fire equipment did not result in the event being a commercial, rather than recreational, activity under this section. *Fischer v. Doylestown Fire Department*, 199 Wis. 2d 83, 549 N.W.2d 575 (Ct. App. 1995), 95–0796.

Land need not be open for recreational use for immunity to apply under this section. The focus is on the activity of the person who enters on and uses the land. Immunity applies without regard to the owner’s permission. *Verdoljak v. Mosinee Paper Corp.*, 200 Wis. 2d 624, 547 N.W.2d 602 (1996), 94–2549.

An activity essentially recreational in nature will not be divided into component parts, at one moment recreational and at another not, in applying this section. *Verdoljak v. Mosinee Paper Corp.*, 200 Wis. 2d 624, 547 N.W.2d 602 (1996), 94–2549.

Recreational immunity does not attach to a landowner when an act of the landowner’s officer, employee, or agent that is unrelated to the maintenance or condition of the land causes injury to a recreational land user. *Kosky v. International Association of Lions Clubs*, 210 Wis. 2d 463, 565 N.W.2d 260 (Ct. App. 1997), 96–2532.

A portable ice shanty located on a frozen lake does not qualify as recreational “property,” and its presence on the lake is insufficient to establish its owner as an “occupant” of the lake entitled to recreational immunity. *Doane v. Helenville Mutual Insurance Co.*, 216 Wis. 2d 345, 575 N.W.2d 734 (Ct. App. 1998), 97–1420.

Walking for exercise through a park on the way to do errands was a recreational activity. *Lasky v. City of Stevens Point*, 220 Wis. 2d 1, 582 N.W.2d 64 (Ct. App. 1998), 97–2728.

To find immunity under this section, the court must examine not only the plaintiff’s reason for being on the property, but also the activity taking place on the property. While a spectator’s presence at a school football game is recreational, the exception from landowner immunity for injuries incurred in recreational activities for sponsors of organized sports extends to spectators, not just participants. *Meyer v. School District of Colby*, 226 Wis. 2d 704, 595 N.W.2d 339 (1999), 98–0482.

An attendee at a fair who was injured while attempting to capture a runaway steer was engaged in recreational activity. There is no “Good Samaritan” exception to the recreational immunity provided by this section. *Schultz v. Grinnell Mutual Reinsurance Co.*, 229 Wis. 2d 513, 600 N.W.2d 243 (Ct. App. 1999), 98–3466.

Immunity for nonprofit organizations is not limited to those that act in the public interest and gratuitously open their land to the general public. It is not a violation of equal protection to treat “non-charitable” nonprofit organizations differently than private property owners. *Bethke v. Lauderdale of LaCrosse, Inc.*, 2000 WI App 107, 235 Wis. 2d 103, 612 N.W.2d 332, 99–1897.

Although individual condominium unit owners held title to an undivided interest in common areas, a condominium association was an occupant and therefore an owner under sub. (1) (d). *Bethke v. Lauderdale of LaCrosse, Inc.*, 2000 WI App 107, 235 Wis. 2d 103, 612 N.W.2d 332, 99–1897.

An “owner” under sub. (1) (d) 1. includes an “occupant.” A child who is an occupant is capable of extending an invitation that triggers the social guest exception under sub. (6) (d). A guest’s continuous act that begins on an owner’s property but propels the guest a few feet from the property where an injury occurs compelled the conclusion that sub. (6) (d) must be construed to allow for the extension of the social guest status to the injuries suffered. *Waters v. Pertzborn*, 2001 WI 62, 243 Wis. 2d 703, 627 N.W.2d 497, 99–1702.

The owner of property subject to an easement is an “owner” under sub. (1) (d). The plaintiff’s walking across the easement to gain access to a boat was recreational as the walk was inextricably connected to recreational activity. The plaintiff user of the easement, who was granted the right to use it by a 3rd-person holder of the easement, was not a social guest of the land owner under sub. (6) (d) expressly and individually invited to use the property. The fact that the easement owner granted the right of use as part of the sale of the boat did not render the landowner exempt from immunity under sub. (6) (a). *Urban v. Grasser*, 2001 WI 63, 243 Wis. 2d 673, 627 N.W.2d 511, 99–0933.

This section is liberally construed in favor of property owners when the activity in question is not specifically listed but is substantially similar to listed activities or when the activity is undertaken in circumstances substantially similar to the circumstances of a recreational activity. *Minnesota Fire & Casualty Insurance Co. v. Paper Recycling of LaCrosse*, 2001 WI 64, 244 Wis. 2d 290, 627 N.W.2d 527, 99–0327.

Because a child’s subjective assessment of recreational activity could include every form of child’s play, an objective, reasonable adult standard must be applied to determine whether a child’s play is recreational. Crawling through stacks of baled paper at an industrial site while lighting matches and starting fires was not recreational activity. *Minnesota Fire & Casualty Insurance Co. v. Paper Recycling of LaCrosse*, 2001 WI 64, 244 Wis. 2d 290, 627 N.W.2d 527, 99–0327.

The nature of property can be a significant factor in determining whether an activity is recreational, although it is not dispositive. That a commercial site is used only for a business purpose that is not open to the public, as indicated by a fence to keep people away, argues against children’s mischievous conduct on the premises being substantially similar to a recreational activity. *Minnesota Fire & Casualty Insurance Co. v. Paper Recycling of LaCrosse*, 2001 WI 64, 244 Wis. 2d 290, 627 N.W.2d 527, 99–0327.

A suit by an elementary school student injured while playing during a mandatory school recess was not barred by this section because the student did not enter the school property to engage in a recreational activity, but for education purposes in order to comply with the state’s compulsory attendance and truancy laws. *Auman v. School District of Stanley-Boyd*, 2001 WI 125, 248 Wis. 2d 548, 635 N.W.2d 762, 00–2356.

A deer stand is a “structure” under sub. (1) (f). A structure or improvement need not be owned by the owner of the underlying land to constitute “property” under sub. (1) (f). *Peterson v. Midwest Security Insurance Co.*, 2001 WI 131, 248 Wis. 2d 567, 636 N.W.2d 727, 99–2987.

Sponsorship under sub. (1) (g) contemplates a relationship between the person or organization paying for or planning the project or activity and the intended beneficiary and envisions a relationship between the sponsor and the activity resulting in financial benefits to the sponsor. That a city sponsored one soccer association did not mean it was a sponsor of all organized soccer team activities on city fields. *Miller v. Wausau Underwriters Insurance Co.*, 2003 WI App 58, 260 Wis. 2d 581, 659 N.W.2d 494, 02–1632.

As long as one of the purposes for engaging in the activity is recreation, the statute attaches and bars a claim. *Kautz v. Ozaukee County Agricultural Society*, 2004 WI App 203, 276 Wis. 2d 833, 688 N.W.2d 771, 03–3281.

That plaintiff’s claim was she was injured when she became infected with E Coli as a result of climbing on farm equipment and not as a result of an activity on land or improvements to land was irrelevant. Whether or not the equipment was property within the meaning of this section, the injuring mechanism was not the farm equipment, but rather the bacteria from animal waste tracked onto the equipment from the defendant’s real property and was directly related to the condition or maintenance of the defendant’s real property. *Kautz v. Ozaukee County Agricultural Society*, 2004 WI App 203, 276 Wis. 2d 833, 688 N.W.2d 771, 03–3281.

An owner under sub. (1) (d) 1. includes a person who has the actual use of the property without legal title, dominion, or tenancy and encompasses a resident of land who is more transient than either a lessee or an owner. An owner under sub. (1) (d) 2. is a governmental body or nonprofit organization that has a written authorization granted by an owner permitting public access to the owner’s property for any recreational activity. It would be unreasonable to allow a snowmobile association immunity if it were granted an easement directly, but disallowing it if the easement went first to a government entity, which then arranged with the association to manage, maintain, and construct the trails necessary for recreational access. *Leu v. Price County Snowmobile Trails Association, Inc.*, 2005 WI App 81, 280 Wis. 2d 765, 695 N.W.2d 889, 04–1859.

Walking may or may not be a recreational activity under the statute, depending on the circumstances. Mere presence on property suitable for recreational activity when a plaintiff is injured does not, ipso facto, make this section applicable. Although the injured person’s subjective assessment of the activity is pertinent, it is not controlling. A court must consider the nature of the property, the nature of the owner’s activity, and the reason the injured person is on the property. A court should consider the totality of circumstances surrounding the activity, including the intrinsic nature, purpose, and consequences of the activity. *Rintelman v. Boys & Girls Clubs of Greater Milwaukee, Inc.*, 2005 WI App 246, 288 Wis. 2d 394, 707 N.W.2d 897, 04–2669.

The legislature did not enact this section to stop landowners from engaging in negligent behavior, but to induce property owners to open their land for recreational use. Recreational users are to bear the risk of the recreational activity. *Held v. Ackerville Snow Club*, 2007 WI App 43, 300 Wis. 2d 498, 730 N.W.2d 428, 06–0914.

This section does not distinguish between active and passive negligence. Claims for passive negligence, such as a snowmobile club’s alleged failure to retrieve grooming equipment from a trail, were no more viable than claims for active negligence, such as an alleged decision to leave the disabled equipment partially on the trail in a blind curve. All of the acts alleged were related to the condition or maintenance of the snowmobile trail. *Held v. Ackerville Snow Club*, 2007 WI App 43, 300 Wis. 2d 498, 730 N.W.2d 428, 06–0914.

Sub. (1) (c) does not define nonprofit by referencing the chapter under which corporations were incorporated, either ch. 180 or 181, so that factor is not dispositive of the question. It would be an absurd result to read this section as making a for-profit organization out of an organization that throughout its existence has been governed by articles of incorporation that define it as a nonprofit, has been documented by state agencies as a nonprofit, and has been in compliance with IRS regulations as a nonprofit. *De La Trinidad v. Capitol Indemnity Corp.*, 2009 WI 8, 315 Wis. 2d 324, 759 N.W.2d 586, 07–0045.

An occupant under sub. (1) (d) 1. includes persons who, while not owners or tenants, have the actual use of land. Occupant includes one who has the actual use of

property without legal title, dominion, or tenancy. In order to give meaning to “occupies,” the term should be interpreted to encompass a resident of land who is more transient than either a lessee or an owner. *Milton v. Washburn County*, 2011 WI App 48, 332 Wis. 2d 319, 797 N.W.2d 924, 10–0316.

By including “cutting or removing wood” within the definition of “recreational activity,” the legislature made a policy choice that engaging in the activity of “cutting or removing wood” is a recreational activity. In cases in which an individual was injured while engaging in an activity specifically enumerated under the statute, the courts have determined that the activity is “recreational,” without examining the various aspects or the purposes of the activity. *WEA Property & Casualty Insurance Company v. Krisik*, 2013 WI App 139, 352 Wis. 2d 73, 841 N.W.2d 290, 11–1335.

For purposes of this section, sub. (1) (d) 1. defines an “owner,” as a person “that owns, leases or occupies property.” It is not the rule that one occupies property for purposes of the recreational immunity statute only when there is express permission to enter the property. *WEA Property & Casualty Insurance Co. v. Krisik*, 2013 WI App 139, 352 Wis. 2d 73, 841 N.W.2d 290, 11–1335.

Case law makes clear that the act of walking to or from an immune activity constitutes recreational activity. *Carini v. ProHealth Care, Inc.*, 2015 WI App 61, 364 Wis. 2d 658, 869 N.W.2d 515, 14–1131.

Recreational immunity applies when a temporary condition is placed upon the land. The length of time the allegedly negligent unsafe condition is present does not matter. A temporary, artificial condition may constitute a “condition” of the land under sub. (2) (a) 3. *Carini v. ProHealth Care, Inc.*, 2015 WI App 61, 364 Wis. 2d 658, 869 N.W.2d 515, 14–1131.

The defendant hot air balloon company was not entitled to recreational immunity because the defendant was not an “occupier” of land under sub. (1) (d) 1. None of the prior cases interpreting this section has granted immunity to a third party not responsible for opening up the land to the public. Defining the defendant as an “occupier” would not further the policy of opening as much property as possible for recreational use because the land was already open for public recreational purposes. *Roberts v. T.H.E. Insurance Co.*, 2016 WI 20, 367 Wis. 2d 386, 879 N.W.2d 492, 14–1508.

The defendant hot air balloon company was not an owner of property under sub. (1) (d) 1. as the balloon was not a structure and not “property” under sub. (1) (f). The hot air balloon ride was not constructed on real property. It was transient, designed to be moved at the end of the day, and not designed to remain in one place. *Roberts v. T.H.E. Insurance Co.*, 2016 WI 20, 367 Wis. 2d 386, 879 N.W.2d 492, 14–1508.

“Supervising” other persons, who are themselves engaged in recreational activities, is a “recreational activity” within the meaning of sub. (1) (g). Such supervision involves actively overseeing or directing the performance of the recreational activity of another. Thus, “supervision” is akin to, and subsumed within, “practice” and “instruction” in a recreational activity, which the legislature specifically identified as giving rise to immunity. *Wilmet v. Liberty Mutual Insurance Co.*, 2017 WI App 16, 374 Wis. 2d 413, 893 N.W.2d 251, 15–2259.

Each recreational immunity case poses an intensely fact–driven inquiry. The court applies a multi–factor test to ascertain whether a particular activity is “substantially similar” to those enumerated in the statute, including: 1) the activity’s intrinsic nature; 2) the purpose of the activity; 3) the activity’s consequences; 4) the property user’s intent and reason for being on the property; 5) the nature of the property; and 6) the property owner’s intent. *Wilmet v. Liberty Mutual Insurance Co.*, 2017 WI App 16, 374 Wis. 2d 413, 893 N.W.2d 251, 15–2259.

This section does not define the term “agent.” An agent is one who acts on behalf of and is subject to reasonably precise control by the principal for the tasks the person performs within the scope of the agency. An agent may be either an employee or an independent contractor. An independent contractor may or may not be an agent. Whether an independent contractor is an agent is a fact–specific inquiry. In this case, there was no evidence that the property owner either controlled the details of the contractor’s work or formulated any reasonably precise specifications for that work. The contractor was not the owner’s agent for purposes of this section. *Westmas v. Creekside Tree Service, Inc.*, 2018 WI 12, 379 Wis. 2d 471, 907 N.W.2d 68, 15–1039. But see *Lang v. Lions Club of Cudahy Wisconsin, Inc.*, 2020 WI 25, 390 Wis. 2d 627, 939 N.W.2d 582, 17–2510.

The definition of “occupy” in the context of this section is “to take and hold possession.” A tree trimming company that moved from temporary location to temporary location for the limited purpose of trimming trees that did not have authority to open up the land to the public and that could not be said to have taken and held possession of the property was not an occupier and thus not a statutory owner of the property for purposes of this section. *Westmas v. Creekside Tree Service, Inc.*, 2018 WI 12, 379 Wis. 2d 471, 907 N.W.2d 68, 15–1039.

Discussing what constitutes an agency relationship for purposes of recreational immunity under sub. (2). *Lang v. Lions Club of Cudahy Wisconsin, Inc.*, 2020 WI 25, 390 Wis. 2d 627, 939 N.W.2d 582, 17–2510.

The Exculpatory Contract and Public Policy. *Anzivino*. 102 MLR 747 (2019). Wisconsin’s Recreational Use Statute: Towards Sharpening the Picture at the Edges. 1991 WLR 491.

Minnesota Fire & Casualty Insurance Co. v. Paper Recycling of LaCrosse: Why Property Owners Should Fear the Mischief of Boys at Play and Wisconsin Supreme Court Justices at Work. *Salva*. 2002 WLR 999.

Wisconsin’s Recreational Use Statute. *Pendleton*. Wis. Law. May 1993. Recreational Liability: Plaintiff–friendly Standards Remain. *Pendleton*. Wis. Law. Oct. 2017.

As I See It: Trouble by Design: Recreational Immunity Statute a Barrier to Justice. *Rogers*. Wis. Law. Nov. 2017.

895.523 Recreational activities in a school building or on school grounds; limitation of liability. (1) DEFINITIONS. In this section:

(a) “Governing body of a charter school” means the person that operates a charter school established under s. 118.40 (2) or (2m) or the entity that operates a charter school established under s. 118.40 (2r) or (2x).

(b) “Injury” means an injury to a person or to property.

(c) 1. Except as provided in subd. 2., “recreational activity” means all of the following:

a. Any indoor physical activity, sport, team sport, or game, whether organized or unorganized, undertaken for the purpose of exercise, relaxation, diversion, education, or pleasure.

b. Any outdoor activity undertaken for the purpose of exercise, relaxation, or pleasure, including practice or instruction in any such activity. In this subd. 1. b., “outdoor activity” includes hunting, fishing, trapping, camping, picnicking, exploring caves, nature study, bicycling, horseback riding, bird–watching, motorcycling, operating an all–terrain vehicle, ballooning, hang gliding, hiking, tobogganing, sledding, sleigh riding, snowmobiling, skiing, skating, water sports, sight–seeing, rock–climbing, cutting or removing wood, climbing observation towers, animal training, harvesting the products of nature, sport shooting, and any other outdoor sport, game, or educational activity.

2. “Recreational activity” does not include any indoor or outdoor organized team sport or activity organized and held by a school district, school board, or governing body of a charter school.

(d) “Recreational agreement” means a written authorization granted by a school board or the governing body of a charter school to a person that permits public access to all or a specified part of the school grounds for the purpose of any recreational activity and that satisfies the requirements under sub. (5).

(e) “School board” means the school board or board of school directors in charge of the public schools of a school district.

(f) “School building” means a building designed for and used as a school by a school district, by a school board, or by the governing body of a charter school.

(g) “School grounds” means real property, and any school buildings, accessory buildings, structures, and improvements thereon, owned, leased, or rented by a school district, by a school board, or by the governing body of a charter school and used primarily for public school purposes.

(gm) “Spectator” means a person who attends or watches a recreational activity but does not engage or participate in or intend to engage or participate in the recreational activity.

(h) “Sport” means an activity requiring physical exertion and skill and which, by its nature and organization, is competitive and includes a set of rules for play.

(2) NO DUTY; IMMUNITY FROM LIABILITY. (a) Except as provided in sub. (3), no school district, no school board, no governing body of a charter school, and no officer, employee, or agent of a school board or of a governing body of a charter school, owes to any person who enters the school grounds of the school board or of the governing body of a charter school to engage or participate in a recreational activity held pursuant to a recreational agreement any of the following:

1. A duty to keep the school grounds safe for the recreational activity.

2. A duty to inspect the school grounds.

3. A duty to give warning of an unsafe condition, use, or activity on the school grounds.

(b) Except as provided in sub. (3), no school district, no school board, no governing body of a charter school, and no officer, employee, or agent of a school board or of a governing body of a charter school, is liable for the death of, any injury to, or any death or injury caused by, a person engaging or participating in a recreational activity held pursuant to a recreational agreement and taking place on the school grounds of the school board or of the governing body of a charter school.

(3) LIABILITY. Subsection (2) does not limit the liability of a school district, a school board, a governing body of a charter school, or an officer, employee, or agent of the school board or of the governing body of a charter school for any of the following:

(a) A death or injury caused by a malicious act or by a malicious failure to warn against an unsafe condition of which an offi-

**RESOLUTION FOR THE PURCHASE OF 336 NORTH
FREMONT STREET, WHITEWATER, WISCONSIN**

WHEREAS, the property located at 336 North Fremont Street in the City of Whitewater, Wisconsin is presently available for purchase, and

WHEREAS, the property is adjacent to property owned by the City of Whitewater and if the City purchases said property it will provide the City with substantially increased options to use the property owned by it in the area for City purposes, and

WHEREAS, it is in the City of Whitewater's best interest to purchase said property.

Now, therefore, **BE IT RESOLVED** that the City Manager and the City Clerk are hereby authorized to sign any and all documents necessary to purchase the property located at 336 North Fremont Street, Whitewater, Wisconsin, Tax ID# /S 00016, for the purchase price of One Hundred Fifty-Two Thousand Five Hundred (\$152,500) Dollars.

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

AYES:

NOES:

ABSENT:

ADOPTED:

Cameron Clapper, City Manager

Michele Smith, City Clerk