



Common Council Meeting

Whitewater Municipal Building Community Room,
312 West Whitewater St., Whitewater, WI 53190
*In Person and Virtual

Tuesday, January 16, 2024 - 6:30 PM

**Citizens are welcome (and encouraged) to join our webinar via computer, smart phone, or telephone.
Citizen participation is welcome during topic discussion periods.**

Please click the link below to join the webinar:

https://us06web.zoom.us/j/83698371976?pwd=DgGdfH5_oCwf2Jk9cHo9kGdyNSEvuA.42gU4QzY3bRjU8M2

Or Telephone: +1 312 626 6799 US (Chicago)

Webinar ID: 836 9837 1976

Passcode: 745504

Please note that although every effort will be made to provide for virtual participation, unforeseen technical difficulties may prevent this, in which case the meeting may still proceed as long as there is a quorum. Should you wish to make a comment in this situation, you are welcome to call this number: (262) 473-0108.

AGENDA

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

1. Moment of Silence for the Late Council President James (Jim) Allen.
2. Proclamation Recognizing the Contributions of James "Jim" Allen to the City- **Hicks**
3. Public remarks about the Late Common Council President James "Jim" Allen.

APPROVAL OF AGENDA

A councilmember can choose to remove an item from the agenda or rearrange its order; however, introducing new items to the agenda is not allowed. Any proposed changes require a motion, a second, and approval from the Council to be implemented. The agenda shall be approved at each meeting even if no changes are being made at that meeting.

SWEARING IN

4. Swearing in of City Clerk Heather Boehm.

CLOSED SESSION

5. Adjourn to closed session, to **reconvene in open session**, pursuant to Chapter 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 Aquatic and Fitness Center Agreement with School District.

CONSIDERATIONS

6. Discussion and possible action regarding the Whitewater Aquatic Fitness Center lease agreement between the City of Whitewater and the Whitewater Unified School District. - **City Manager/Park and Rec**

CONSENT AGENDA

Items on the Consent Agenda will be approved together unless any council members requests that an item be removed for individual consideration.

- [7.](#) Approval of Common Council Meeting Minutes from November 21, 2023.
- [8.](#) Approval of Library Board Minutes from November 20, 2023.
- [9.](#) Finance Committee Meeting Minutes from October 12, 2023, October 16, 2023, October 24, 2024 and November 28, 2023.
- [10.](#) Ethics Committee Meeting Minutes from December 21, 2023.
- [11.](#) CDA Minutes from October 19, 2023 and November 16, 2023.

CITY MANAGER REPORT**STAFF REPORTS**

- [12.](#) Update on Core Services-**HR**

HEARING OF CITIZEN COMMENTS

No formal 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

- [13.](#) Resolution requesting approval of Final Plat for Meadow View Subdivision. Parcel number /MM00001 to MM00021.

ORDINANCES**Second Reading**

- [14.](#) **Ordinance 2081** an ordinance amendment of Chapter 5.20.030 Alcohol Beverages Licensee Conditions. - **Police/City Clerk**
- [15.](#) **Ordinance 2080** an ordinance amending 19.51.180 Truck, Trailer, Mobile Home and Equipment Parking Restrictions. - **Neighborhood Services**
- [16.](#) **Ordinance 2082** an ordinance amending Title 20 Property Maintenance. - **Neighborhood Services**

CONSIDERATIONS

- [17.](#) Discussion and possible action regarding appointment of Council President. - **City Manager**
- [18.](#) Discussion and possible action regarding the vacancy of the At Large/Even Council position. -**City Manager**
- [19.](#) Discussion and possible action regarding the vacancy of the District 1 Council position. -**City Manager**
- [20.](#) Discussion and possible action regarding appointment of vacant seats for CDA, Public Works (2), Finance, Parks and Rec, Urban Forestry, and ALC. - **City Manager**
- [21.](#) Discussion and possible action regarding Board of Zoning Appeals appointment. - **City Manager**
- [22.](#) Set date for Special Meeting to discuss changes to Governance Manual. - **City Clerk**
- [23.](#) Discussion and Possible Action regarding Strand Task Order 24-02, Stormwater Quality Management Plan Update. - **Public Works**
- [24.](#) Discussion and Possible Action regarding Amendment No. 1 to Task Order No. 23-02, New Vehicle Storage Garage at Whitewater Water Department. -**Public Works**
- [25.](#) Discussion and Possible Action regarding 1st Revision to State Municipal Agreement for Walworth Avenue.-**Public Works**
- [26.](#) Discussion and Possible Action regarding Cash Allowances for the Water Utility Vehicle Storage Garage Project awarded to RR Walton & Company, LTD. -**Public Works**
- [27.](#) Discussion and Possible Action regarding a Change Order for Unsuitable Material related to the Water Utility Vehicle Storage Garage Project. -**Public Works**
- [28.](#) Discussion and Possible Action regarding Transmission Facilities Agreement with Whitewater Solar, LLC for an easement across the Wastewater Facility property.-**Public Works**
- [29.](#) Discussion and Possible Action regarding Lease Agreement with Cellco Partnership for tower and ground space to erect, operate and maintain communication facilities at the Southwest Water Tower located at 797 Indian Mound Parkway, Parcel Number: /A277200001.-**Public Works**

- [30.](#) Discussion and possible action on Items C- Code Conduct and D- Enforcement, of the Council Action Plan. - **HR**
31. Councilmember Requests for Future Agenda Items or Committee items. Questions

FUTURE AGENDA ITEMS

32. Staff update on Procurement Policy - **Gerber/Attorney - Q1 2024**
33. Special Assessments for Mobile Home Parks - **City Manager/Hicks - Q2**
34. **Ordinance 2063** Ordinance amending Chapter 11.16.15, adding No Stopping, Standing or Parking on east side of Elizabeth Street at Court Street and Laurel Street. - **Public works**
35. Salary Compensation Survey. - **Gerber/Hicks Q2 2024**
36. **Ordinance 2079** an ordinance regarding revisions to Chapter 12.22 Construction Standards Adopted. - **Public Works March 2024**
- [37.](#) Immigration Letter from Common Council. - **City Manager February 6, 2024**
38. Update on 2024 Gala. -**Chief of Staff Q2**

CLOSED SESSION

39. Adjourn to closed session, to **reconvene in open session**, Chapter 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:
 - 1) City Manager's Performance Evaluation.
 - 2) Deliberation regarding the engagement of legal counsel from the VonBriesen law office to provide guidance to the city council on personnel-related issues.

Pursuant to Chapter 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." Items to be discussed: 3) Review and discuss possible options for resolution of the Walton excessive real estate tax assessment claim.
 - 4) Review and discuss Development Agreement for Meadowview Subdivision. Parcel number /MM00001 to /MM00021.
 - 5) Review and discuss Development Agreement for US Shelter Homes. Parcel number /MM00001 to /MM00021.

CONSIDERATIONS

40. Discuss and possible action regarding City Manager's Performance Evaluation. - **HR**
41. Discussion and possible action regarding engagement of legal counsel from the VonBriesen law office to provide guidance to the city council on personnel-related issues.- **HR**

42. Discussion and possible action regarding Walton assessment review. - **Finance**
43. Discuss and possible action regarding the Development Agreement for Meadowview Subdivision. Parcel number /MM00001 to /MM00021.-**CDA/Economic Development**
44. Discussion and possible action regarding Development Agreement for US Shelter Homes. Parcel number /MM0001 to /MM0021.- **CDA/Economic Development**

ADJOURNMENT

Anyone requiring special arrangements is asked to call the Office of the City Manager / City Clerk (262-473-0102) at least 72 hours prior to the meeting.

2023-2025 City of Whitewater's 5 strategic goals: Build single-family homes, Communicate with the community without the newspaper, Support a thriving business community, Recruitment and retention efforts with a focus on diversity, and Prioritization of expenditures with available resources.



Council Agenda Item

Meeting Date:	January 16, 2024
Agenda Item:	Proclamation
Staff Contact (name, email, phone):	Heather Boehm hboehm@whitewater-wi.gov 262-473-0102

BACKGROUND

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

Proclamation Recognizing the Contributions of James "Jim" Allen to the City of Whitewater will be read live, after the moment of silence.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

N/A

FINANCIAL IMPACT

(If none, state N/A)

N/A

STAFF RECOMMENDATION

N/A

ATTACHMENT(S) INCLUDED

(If none, state N/A)

The Proclamation is still a work in progress and will be read live at the meeting January 16, 2024



Common Council Meeting

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312 West Whitewater St., Whitewater, WI 53190
*In Person and Virtual

Tuesday, November 21, 2023 - 6:30 PM

MINUTES

CALL TO ORDER

The meeting was called to order by President Allen at 6:30pm

ROLL CALL

Council President Jim Allen
Councilmember Brienne Brown
Councilmember Lisa Dawsey Smith
Councilmember Jill Gerber
Councilmember Neil Hicks
Councilmember Lukas Schreiber
Councilmember David Stone
City Attorney Jonathan McDonell
City Manager John Weidl
Public Works Director Brad Marquardt
City Clerk Karri Anderberg

APPROVAL OF AGENDA

Motion made by Councilmember Schreiber, Seconded by Councilmember Hicks to approve the agenda.
Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith,
Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

CONSENT AGENDA

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber to approve the
Consent Agenda.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith,
Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

1. Approval of Common Council Meeting Minutes from October 17, 2023
2. Approval of Special Common Council and Unified Whitewater School District Meeting Minutes from October 11, 2023
3. Public Works Committee Minutes from September 12, 2023
4. Plan & Architectural Review Meeting Minutes from October 09, 2023
5. Library Board of Trustees Special Meeting Minutes from October 09, 2023
6. Park and Recreation Board Meeting Minutes from September 20, 2023
7. Financial Report for October 2023

PUBLIC HEARING**8. Public Hearing regarding 2024/2025 City of Whitewater Budget - Finance**

Public Hearing opened at 6:48 pm

Finance Director Rachelle Blich gave an update to the budget.

Councilmember Gerber - Stated under the City Manager, City Clerk, and HR expense detail, it is budgeted \$10,000 for supplies. And last year the City did \$659, so it's like a \$9,400 increase.

Councilmember Gerber asked if it was supposed to be \$1,000 and not \$10,000.

City Manager Weidl stated that it was an error and the budget would be updated

Councilmember Gerber asked about the City Manager's goals, if the goals that are adopted and that you need to adhere to for the whole year or is it's gonna be another set of goals that the Council create?

Councilmember Gerber specifically asked a couple times for there to be a goal, to develop a percentage that departments achieve their goals. Councilmember Gerber stated she did not want to adopt the budget unless there is a percentage.

Motion made by Councilmember Gerber, Seconded by Council President Allen to add another city manager goal that the City Manager must achieve 85% and all departments must reach 85% of their goals within the year.

City Manager Weidl stated he was happy to have a goal in there that states that Council needs to come up with a meaningful target by the end of January and that's what we're going to go with for the rest of the year.

Motion made by Councilmember Schreiber, Seconded by Councilmember Dawsey Smith to amend the motion have a goal that staff by the end of January- develop a growth metric- based on last year's performance and achievement of goals and the goals for the following years.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

Motion made by Councilmember Hicks, Seconded by Councilmember Dawsey Smith to spend up to \$120,000 from the undesignated fund balance for one-time expenses including referendum education and technology upgrades with staff pre-funding from 2023 funds unaccounted fund surplus and cash forward.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

Larry Katchel (457 South Buckingham) - stated that the city has 13 additional employees for the health insurance and had questions as to if those were new employees.

Public Hearing closed at 7:11 pm

CITY MANAGER REPORT

City Manager Weidl gave his bi-monthly update of City events and accomplishments, including reports from the following departments: Public Works, IT, Neighborhood Services, Library, Parks and Recreation, Police, and Human Resources.

STAFF REPORTS**9. Update on Collection of Room Tax - Finance**

Finance Director Rachele Blitch explained how room tax was collected and the math behind it.

10. Lakes Update - Park and Rec

Park and Rec Events Programmer Michelle Dujardin gave an update on Cravath and Tripp Lakes and what is happening with the cattails.

11. Aquatic Center Update - Park and Rec

Park and Rec Director Kevin Boehm gave an update on the Aquatic Center and the results of the September 29th. Director Boehm also gave a brief update on plans for the facility.

12. Immigration Roundtable Update - Police

Police Chief Meyer read the following statement - On November 10th, 2023 at 12.45pm Senator Ron Johnson and Representative Bryan Steil held a roundtable discussion with law enforcement representatives regarding local impacts of immigration. During the meeting I shared the included PowerPoint slides regarding impacts of demographic change in the City of Whitewater. The majority of this information has already been shared with all of you in open session previously. We also have a recording of that press conference at the link in the agenda item document here for anybody that hasn't seen it and would like to. But what I'd really like to comment on is that most of the questions that were posed during that public press conference were directed to the politicians that were present, and the discussion became hyperpolitical rather than focusing on the issues that impact us here locally. With that said, the message that I guess, if I had the opportunity that I would like to present, is that nothing about immigration is comfortable to talk about. I struggle to think of a more complex and polarizing topic in today's world. That said, I see it as my job to make sure that we're having those uncomfortable conversations in a way that brings us together, rather than pulls us apart. Our community depends on that. The issue of immigration and the associated demographic change we're seeing here in Whitewater is a critical challenge. The impact is acute and affects us here as much if not more than some of the larger cities we hear about on the news. Some of the cases that our officers have handled this year are shocking and difficult to process. But as with anything else, it's critical that we don't lose sight of the fact that these are outcomes of individual choices and not a reflection of a group of people. I've been presenting our data, the trends that we're seeing, to anyone willing to listen because it's my job to ensure that we have resources needed to properly and proactively serve our entire community. But I do want to remind everyone that law enforcement is just a portion of the equation. And we need to have a holistic view and approach to this topic in order to fully address the challenges we're facing. I urge you not to consider not just the law enforcement staffing when thinking about this issue, but also in what ways the city can support organizations like non-profit entities that are working to improve the quality of life for those who have migrated here.

13. Police Staffing 2024 - Police

Police Chief Meyer read the following statement - Given the challenge that we currently are having in the police department to provide a proactive police presence, it was requested that I provide a memo outlining our staffing plan as we look forward. So I'm going to hit on first what is our staffing need? What have we done about that in 2023? And then how we are strategizing to address staffing in 2024 and beyond. So first, what is the staffing need? We are currently staffed at 24 sworn officers. We've been at that level since 2008. Since 2008, census data shows that Whitewater's population has increased over

11%. In addition to that, these last 15 years has brought change that impacts law enforcement globally. Just one example of that, nearly every major investigation that we now have includes an analysis of cell phone or electronic data in some manner. That is very time-consuming. It often will include multiple cell phone or computers that need to be analyzed. So just to kind of give you a, if you haven't done that, just to give you a little bit of basic knowledge of what that entails, you have to apply for a search warrant. We have to physically obtain those devices. We have to send those devices to outside entities to be analyzed. We then have to review the records that we get back, which is extensive. Even the cell phones now, they're miniature computers, so there's a ton of data in those. And then ultimately we store those devices in evidence long term. So again, that's an example of a global impact. It's not just us that's being impacted by that. It's all law enforcement. However, in the last two years, we've also experienced acute challenges related to demographic change, which very few communities, especially communities our size, have experienced. Some of the challenges that we're seeing with that are overcoming a lack of trust in law enforcement that some people have based on the environment in their home country. Another is communicating with a large population of non-native English speakers. Also protecting juveniles who are being victimized living in non-familial living situations. Encountering a large number of unlicensed drivers as we continue to enforce our traffic laws. Ensuring that we're accurately identifying and documenting our interactions with individuals who in some cases are intentionally deceiving officers with false documents. And finally, educating individuals about our laws and ordinances. So that's the staffing need. What have we done about that in 2023? In the absence of added staffing, our strategy this year has been to focus on technology as a means of making our officers as safe as possible and as efficient as possible. We've utilized Propio to help officers communicate. We've purchased two drones and formed a drone team. We've installed three automated license plate readers. And all of these things have greatly increased our investigative capabilities and made us a better police department, but ultimately they haven't replaced the staff. So when we look forward to 2024 and beyond, we've got three, or two primary strategies that we have identified. So the first one is gonna be ensuring that we maximize the staffing that we do have funding for. We know that we're gonna have a vacancy in our detective lieutenant position, and that's gonna be beginning January 2nd. We're working off the assumption that it's gonna be filled by internal promotion. And therefore, we've posted a patrol officer opening that will eventually backfill that opening created by whoever's promoted. That officer is actually going to be the 25th sworn officer with our department, which is one above our women of 24. However, I'm confident that that's not going to have any adverse impact financially to the city due to having an officer that is away on military leave until fall of 2024 and knowing that we have a very high likelihood of at least one retirement between now and then. So a second strategy is conducting a staffing study. The city has pre-funded \$50,000 to have a third party consultant conduct a staffing study for the police department in the subject as well as an unbiased perspective give an opinion on what our need truly is. Ultimately based on the results of the staffing study, the likely next step would be likely. April of 2024, an RFP would be created to hire a consultant to provide services related to a referendum. Estimated cost, about \$65,000. May of 2024, a consultant would be selected. August of 2024, Council would confirm the referendum question for the ballot based on data provided by the staffing study and RFP consultant. And then April 2025, the referendum question would go on the ballot for the spring election. So that was our strategy going into this. And now, since then, I've been asked to consider what options would exist in the event council were to approve additional funding for law enforcement resources in 2024, in addition to what is currently planned for that proposed 2024-2025 budget.

14. Whitewater Middle School Parking Update - Public Works

Public Works Director Brad Marquardt - Stated that he reached out to Strand Associates who has someone on staff who deals with school traffic patterns. Strand is in the process of reviewing the site and is working with the School District to come up with a solution.

15. Von Briesen & Roper Resumes for 3 Labor and Employment Specialty Attorneys - HR

HR Director Sara Marquardt presented the three Labor and Employment attorneys that Council asked for.

HEARING OF CITIZEN COMMENTS

No Citizen Comments

RESOLUTIONS

16. Resolution adopting 2024-2025 City of Whitewater Municipal Budget - Finance

Motion made by Councilmember Stone, Seconded by Councilmember Schreiber to adopt the 2024-2025 municipal budget as amended at the public hearing earlier with allowance for staff to amend the school credit and lottery credit values.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

ORDINANCES

First Reading

17. Ordinance 2077 an ordinance creating section 2.52.100 Pedestrian and Bicycle Advisory Commission - Park and Rec

Parc and Rec Director Kevin Boehm stated last council meeting we were advised to put this as an ad hoc committee underneath the Parks and Recreation Board with two citizen members and one City Council representative.

Motion made by Councilmember Stone, Seconded by Councilmember Dawsey Smith to approve Ordinance 2077.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone.

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber to waive second reading.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

Second Reading

18. Ordinance 2075 An ordinance repealing Chapter 2.51 Pedestrian and Bicycle Advisory Committee (PBAC) - Park and Rec

Motion made by Councilmember Stone, Seconded by Councilmember Schreiber to approve Ordinance 2075

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

19. Ordinance 2076 an ordinance amending Chapter 5.36 Mobile Homes and Mobile Home Parks - Neighborhood Services

City Manager Weidl stated that Allison Schwark made all changes from last meeting and those are outlined in red.

Motion made by Council President Allen Councilmember Brown, Seconded by Councilmember Hicks to approve Ordinance 2076

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

20. Ordinance 2073 an ordinance amending Chapter 5.36 Mobile Homes and Mobile Home Parks - City Manager

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Schreiber.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

CONSIDERATIONS

21. Discussion and possible action regarding Class Action Settlement with DuPont regarding PFAS - Public Works

Public Works Director Brad Marquardt stated that this is a class action lawsuit, it's a settlement that 3M and DuPont have come to. This settlement went to all water utilities throughout the nation. It is in the City's best interest to either opt in or opt-out. After discussions going to conferences and listening to webinars, the only way we would get money is if the City had a detection of PFAS, which the City has had no detection in our drinking water system. So the city doesn't get any money from opting in through the settlement. If in the future the City runs into some problems and can point our finger at 3M or DuPont, the City would still have the ability to go after them for some settlement. Staff recommendation at this point is to opt out of both the 3M and the DuPont settlements.

Motion made by Councilmember Stone, Seconded by Councilmember Dawsey Smith to opt out of the class action settlement with DuPont regarding PFAS.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

22. Discussion and possible action regarding Class Action Settlement with 3M regarding PFAS - Public Works

Motion made by Councilmember Stone, Seconded by Councilmember Dawsey Smith to opt out of the class action settlement with 3M regarding PFAS.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

23. Discussion and possible action regarding RFP for Ride Shared Taxi - Finance

Finance Director Rachelle Blich stated Brown Cab was the only one who actually submitted a proposal. Their rates have increased. They're going to increase the first year from \$36.65 to \$40.26 per hour. And that's going to cost the City an additional \$18,470.24

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Hicks to approve RFP.
Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

24. Discussion and possible action regarding the Proposed Nonconforming Use Agreement for Keinbaum Iron & Metal. Tax Property Id # /A76200001 - City Attorney/Neighborhood Services

City Attorney Jonathan McDonell stated the situation here is for several decades Keinbaum Iron and Metal has been using the property that is now zoned as R1, essentially as a scrapyard. Attorney McDonell did some background investigation including talking to Bruce Parker who confirmed that this has been used as a scrapyard. it would be a non-conforming use, a pre-existing non-conforming use. Because the property has gone into the trust and is essentially being sold, the Buyers want some sort of assurance that issues won't pop up after the transfer of this property between the children. So, Attorney Dillon drafted this lawful non-conforming use agreement between the Keinbaum and Metal Corporation and the City of Whitewater that would allow them to continue this non-conforming use.

Councilmember Dawsey Smith asked if it in the best interest of the city to consider that the portion of the statement that says a covenant that runs with the land could be limited specifically to their heirs and successors?

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Hicks postpone the approval of this agreement until questions have had an opportunity to be answered by legal counsel.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

25. Discussion and possible action regarding Virtual Meeting Policy - Allen/HR

President Allen stated at a recent CDA meeting and several people were thankfully online, but couldn't make it. It just makes meetings much slower and more difficult to attend. President Allen noticed on other boards and commissions too. Allen stated it's not a convenience factor. The City is not dealing with COVID. Committee members shouldn't be dialing it in.

Councilmember Brown stated she recently attended a meeting after her father died and she needed to be in Texas. The Library Board has a number of teachers on the Library Board who really can't make it in person, but they are incredible people on the Library Board who are very useful and do a great job, but they do not make it in person because they live out of town. They need to get home and feed their kids. Councilmember Brown thinks it's a bad idea to get rid of hybrid.

City Manager Weidl suggested staff drafting a correspondence to send to all Committee Members on the issue.

Motion made by Councilmember Dawsey Smith, Seconded by Councilmember Hicks to request that staff prepare communication for boards and commissions regarding decorum and best practices for virtual meeting attendance.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

26. Discussion and possible action regarding the City Manager Performance Review Tool and Feedback Surveys - HR

President Allen and Councilmember Hicks stated they do not want to see 5 across the board and that it has been an issue in the past with Deplanement Heads giving their staff all 5 across the board.

Motion made by Councilmember Brown, Seconded by Councilmember Dawsey Smith to approve Performance Review Tool and Feedback Surveys.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

Motion to amend made by Council President Allen to change 5 to consistently, 4 to almost always. No second was made the amendment died.

27. Discussion and possible action regarding the formation of a council action plan to address Common Council self-governance- Common Council/HR

HR Director Sara Marquardt passed out Robert's Rules of Order books to all Councilmembers and went over the outline of the potential action plan.

City Manager Weidl went over the training opportunities that staff and elected officials can take.

Motion made by Councilmember Brown, Seconded by Councilmember Dawsey Smith to approve with action plan outline with the allowance of staff suggesting a timeline for going through the actual plan.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

28. Councilmember Requests for Future Agenda Items or Committee items. Questions

Councilmember Dawsey Smith - Job Fair Metrics, Mill Rates update, Economic Development Director Introduction, and the City Manager Policy update

Councilmember Gerber - Good Governance Manual update, Compensation Survey

Councilmember Hicks- Mobile Home Special Assessment update

CLOSED SESSION

35. Adjourn to closed session, to **reconvene in open session**, Chapter 19.85(1)(f) "Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations." **Item to be discussed:** 1) Discussion regarding complaints received by the Human Resources Department

Motion made by Council President Allen, Seconded by Councilmember Dawsey Smith to go into closed session.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

Council went into closed session at 8:59 pm

Council came out of closed session at 9:18 pm

CONSIDERATIONS

36. Discussion and possible action regarding matters addressed in closed session in response to a complaint received by the Human Resources Department. - HR/Employment Attorney

No action taken

ADJOURNMENT

Motion made by Councilmember Schreiber, Seconded by Councilmember Hicks.

Voting Yes: Council President Allen, Councilmember Brown, Councilmember Dawsey Smith, Councilmember Gerber, Councilmember Hicks, Councilmember Schreiber, Councilmember Stone

Irvin L. Young Memorial Library
431 W Center St
Whitewater WI 53190
Board of Trustees Regular Meeting
Online Virtual Meeting
Monday, November 20, 2023, 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 6:59 pm

2. ROLL CALL

Present: Doug Anderson, Brienne Diebolt-Brown, Jennifer Motszko, Alyssa Orłowski, Kathy Retzke, Jaime Weigel

Absent: Sallie Berndt

Staff: Diane Jaroch

Guests:

APPROVAL OF AGENDA

A councilmember can choose to remove an item from the agenda or rearrange its order; however, introducing new items to the agenda is not allowed. Any proposed changes require a motion, a second, and approval from the council to be implemented. The agenda shall be approved at each meeting even if no changes are being made at that meeting.

MSC Diebolt-Brown/Retzke to approve the Agenda.

Ayes: Doug Anderson, Brienne Diebolt-Brown, Jennifer Motszko, Alyssa Orłowski, Kathy Retzke, Jaime Weigel

Nays: none

CONSENT AGENDA

Items on the Consent Agenda will be approved together unless any committee member requests that an item be removed for individual consideration.

1. Approval of Minutes of October 16, 2023

2. Acknowledgement of Receipt of Financial Reports
3. Approval of Payment of Invoices
4. Acknowledgment of Receipt of Statistical Report
5. Acknowledgement of Receipt of Treasurer's Report

MSC Diebolt-Brown/Anderson to approve the Consent Agenda.

Ayes: Doug Anderson, Brienne Diebolt-Brown, Jennifer Motszko, Alyssa Orlowski, Kathy Retzke, Jaime Weigel

Nays: none

HEARING OF CITIZEN COMMENTS

No formal Committee 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 Committee 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.

OLD BUSINESS

6. Discussion and possible action regarding formation of a Library Expansion Building Committee.

- a. Architects are looking to have a building committee made of board, staff, and community members. This committee would decide on furnishings and the building.

7. Library Building Project update.

- a. There has been a room by room synopsis. The architects would like feedback from the committee about flooring, windows, etc.
- b. ML Structural, local engineers - engineers from Illinois and Wisconsin.

NEW BUSINESS

8. Review and approve Staff Vacation Policy.

MSC Diebolt-Brown/Anderson to approve the Staff Vacation Policy.

Ayes: Doug Anderson, Brienne Diebolt-Brown, Jennifer Motzsko, Alyssa Orlowski, Kathy Retzke, Jaime Weigel
Nays: none

9. Review and approval of Closed Holidays.

MSC Diebolt-Brown/Weigel to approve the Closed Holidays.

Ayes: Doug Anderson, Sallie Berndt, Brienne Diebolt-Brown, Jennifer Motzsko, Alyssa Orlowski, Kathy Retzke, Jaime Weigel

Nays: none

10. Approval of the CAFE Addendum.

This is the addendum we sign each year to update our member agreement with the CAFE consortium.

MSC Anderson/Retzke to approve the CAFE Addendum.

Ayes: Doug Anderson, Brienne Diebolt-Brown, Jennifer Motzsko, Alyssa Orlowski, Kathy Retzke, Jaime Weigel

Nays: none

STAFF REPORTS

11. Director Report.

- a. Final vote for budget 11/21.
- b. Stacey's farewell event was a big success!

12. Assistant Director.

- a. Attended WLA, got to see the keynote speaker.
- b. Effigy Mounds program was highly attended.

13. Youth Educational Services.

- a. Cookbook contest was greatly appreciated by community members. Awesome way to connect with generations.

14. Programming & Makerspace Librarian.

15. Library Bridges Staff Reports.

FUTURE AGENDA ITEMS

- a. Opportunities for schools to get library cards.
- b. Short update on process of interviewing Library Directors.
- c. Trustee Training Week
- d. Vote on new Secretary at December's meeting.

ADJOURNMENT

MSC Diebolt-Brown/Weigel to adjourn.

Confirmation of the next meeting December 18th at 6:30pm.

Meeting adjourned at 7:35 pm.

Minutes respectfully submitted by Alyssa Orlowski on November 20, 2023.

ABSTRACT/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL ACTIONS OF THE FINANCE COMMITTEE OF THE CITY OF WHITEWATER, WALWORTH AND JEFFERSON COUNTIES, WISCONSIN

Special Finance Committee Meeting Minutes of October 12, 2023

1. Call to Order and Roll Call

Chairperson Lisa Dawsey-Smith called the meeting to order at 6:00 pm.

Present at the meeting were committee members David Stone, Jill Gerber, and Lisa Dawsey Smith.

Absent: N/A. Staff and guests present: Finance Director Rachelle Blitch, Brad Marquardt, Ben Mielke, and Jim Bergner.

2. Hearing of Citizen Comments

None

3. 2024-2025 Budget Review (2 of 3)

- a. Public Works (Administration, Shop/Fleet Operations, Street Maintenance, Street Ice/Snow, and Street Lights)** – Marquardt noted there was nothing out of the usual in the budget items. Gerber asked about the engineering expense being low and Marquardt explained that those are for services not tied to a specific project. Gerber asked about the electricity expense as she had expected it to go down after the bulb replacements. Marquardt stated that only some of the bulbs have been replaced. Dawsey-Smith added that she recalled that while they were more efficient there was a higher fee being assessed by WE Energies. Marquardt noted that when replacing the bulbs it can take up to seven years to see the cost decrease and that the upfront cost to replace is higher but the electricity is actually lower. Stone wondered if the city had considered using shorter street lights as an option so when a bulb needs to be replaced the city can do it instead of having WE Energies do it. Marquardt responded that those lights are similar to the decorative lighting in downtown and that the city is responsible for the maintenance and costs associated with them. Dawsey-Smith asked if some of the costs of the lighting in 2023 could be expensed to the associated TIDs. Marquardt stated it could and he would check into it.
- b. Fund 215 Equipment Replacement** –Stone inquired about the 2023 expenses in the Rolling Stock line item as it was projected to be significantly over budget but also noted that the 2024 vs 2025 budget were significantly different. Marquardt said he would need the full document to answer the question about the 2023 anticipated expenses and Dawsey-Smith explained the difference with the 2024-2025 budgeted items was because they didn't have anything scheduled to be purchased/replaced in 2025.
- c. Fund 230 Solid Waste Recycling** –Stone inquired about the rate increases and Marquardt explained the Council had already approved the rate increase and that it will be included in the revised budget and that he does expect John's Disposal to do another rate increase in 2025. Dawsey-Smith explained that they are allowed to ask for an increase each year that corresponds to CPI. Marquardt explained the increase for 2024 was \$0.27 which came to approximately \$12,000.
- d. Forestry** – Marquardt noted it was the year to treat Ash trees and that's the reason for the increase from 2023.

- e. **Street Repair** – Dawsey-Smith inquired if this was an area that potential surplus could be allocated and Marquardt stated he does typically ask for additional funds to be set aside when possible. Marquardt stated they have plans to repave Pearson Ct, Pearson Ln, Meadowview Ct in anticipation of development, multiple streets being seal-coated along with the asphalt at the wastewater plant, and some of the projects will get charged out.
- f. **Water Utility** – Stone was concerned regarding the reallocation of the Vanderlip Lift Station between water and sewer. Marquardt explained that the sewer user rate charges must be used on sewer projects but the borrowing is something that can be switched between projects. Stone asked if we would be borrowing additional money for the lift station and Marquardt responded that we would but 50% of the borrowing is eligible for principle forgiveness from the clean water loan. Gerber asked about the 300 accounts with a budget of 1.8M. Blitch explained the amount was the summary of all of the accounts. Stone asked if the Well 7 modification was getting rid of the reservoir and Bergner confirmed it was.
- g. **Wastewater Utility** – Stone asked if the rate increase took effect in March of 2022 and Marquardt responded that it did. Gerber questioned the revenue amounts between 2024 and 2025 as it appeared we were losing revenue. Marquardt speculated that it could be due to the increased water credit going from three months to six months. Stone inquired about the amount of interest on debt. Marquardt explained that the city had a \$22M project and that it was to be expected. Dawsey-Smith also explained that the city saved a lot of money by doing the borrowing for two years versus one year. Stone asked for the status on the Vanderlip project and Marquardt explained that it would be constructed in 2024 and that Karen (Comptroller) was working to complete the CIP list and would update the summary pages to reflect those costs.
- h. **Stormwater Utility** – Marquardt stated we should look at the cost per ERU as it was last updated in December of 2015 from 558 to 617 and we will have projects coming up for detention ponds. He further explained the city would be able to handle the majority of the projects however, there are a couple that will need to be contracted out.
- i. **Rock River Stormwater Group** – Stone asked if we were the only ones participating in this group. Marquardt stated there are approximately twelve municipalities in the group and potentially two other towns joining. Dawsey-Smith noted the professional services cost is causing the city to draw from the reserves. Marquardt explained the city has a couple of invoices for marketing that are not posted yet but that there is a plan to spend the balance. Stone asked if the dam repairs were for Tripp or Cravath. Marquardt noted the city has repairs that were required to be done on Cravath in 2023 however, because it wasn't budgeted for permission was given by the DNR to do those repairs in 2024.
- j. **Media Services** – Gerber inquired about the \$45,000 transfer to the fund and Blitch explained it's from the general fund to support the activities of media services since the fund isn't self-sufficient. Gerber inquired whether the chief of staff's salary was split and included in this fund. Blitch stated she believed it was but would verify that information. Gerber asked if the position of the Media Coordinator would be filled. Blitch confirmed that the city is accepting applications until October 22nd. Blitch explained that the \$45,000 transfer listed on the budget document would be updated since the city is expected to have a surplus in 2023 in which they will prefund this transfer. Gerber asked about the engagement numbers and was concerned the cost of the cable tv station might not be

worth keeping it. Dawsey-Smith explained the city has requested the information from Charter but they will not release the data.

- k. **Parking Permits** – Stone asked what the target fund balance of \$120,000 is for and Dawsey-Smith explained the fund balance is used to pave/repair parking lots and Blitch added that once the target fund balance is reached the city would stop allocating funds in years that have an adequate fund balance.
- l. **Rideshare Grant Program** – Gerber asked if we had received any funding this year and Blitch stated the city did receive the \$49,000 and that she had recently spoken to WisDOT who said they were behind on processing the reports and that we should receive the revenue by the end of the month. Dawsey-Smith inquired about the contract for the next five years and Blitch explained that she had just received the one proposal the day before and the cost was a 9% increase from previous years.
- m. **Sick Leave Severance** – Stone asked about who qualifies for this and Dawsey-Smith explained that only the people who were hired before 2011 are eligible and only a handful of people remain.
- n. **Insurance SIR** – No comments.
- o. **Birge Fountain** – Marquardt stated there is a project on the horizon that Landmarks is requesting the city do but this is not something the city typically sets money aside for so it would need to be fundraised or borrowed for. Stone stated he heard concerns from citizens who wanted to make donations but were worried the money would be spent on something else and asked if there was a way to get reassurance that the money donated would be spent on the project. Blitch explained that is the essence of fund accounting and that the money received stays with the associated fund and must be used on approved projects.
- p. **Depot Restoration** – No comments.
- q. **Innovation Center** – The expenses were missing from the packet. Stone made a motion to move this to the October 16th meeting. Gerber seconded the motion.

4. Future Agenda Items

- Update on Library expansion funding
- Starin Water Tower
- Employee bonus update
- Compensation study update
- Updated Financials

5. Discussion of Next Meeting Date

Next regular meeting date was set for October 24, 2023 at 4:30pm.

Special finance committee meetings for budget review were set as follows:

October 16th at 3:30pm

6. Adjournment

Gerber moved, Dawsey-Smith seconded adjournment. Motion carried on unanimous voice vote. Meeting adjourned at 7:00 pm.

Respectfully submitted,

Rachelle Blitch

Director of Finance and Administrative Services.

ABSTRACT/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL ACTIONS OF THE FINANCE COMMITTEE OF THE CITY OF WHITEWATER, WALWORTH AND JEFFERSON COUNTIES, WISCONSIN

Special Finance Committee Meeting Minutes of October 16, 2023

1. Call to Order and Roll Call

Chairperson Lisa Dawsey-Smith called the meeting to order at 6:00 pm.

Present at the meeting were committee members David Stone, Jill Gerber, and Lisa Dawsey Smith.

Absent: N/A. Staff and guests present: Finance Director Rachelle Blitch, Brad Marquardt, Michelle Dujardin, and Kevin Boehm.

Hearing of Citizen Comments

None

2. 2024-2025 Budget Review (3 of 3)

- a. **Innovation Center** –Stone asked if we were still using DPW for maintenance and grounds expenses and Dawsey-Smith responded the Tech Park Board made the decision to contract it out since it was beyond the scope of what DPW could do. Marquardt confirmed that was accurate. Gerber inquired why some accounts were highlighted yellow. Dawsey-Smith stated it was due to the leases not being adjusted at the beginning of the year so the revenue would be off.
- b. **Parks & Recreation** –Stone asked if there would be any funds for professional development. Blitch confirmed they have money for conferences and training. Geber inquired about what the “Community Events and Awards” account is for. Gerber asked what the \$11,000 under Senior Citizen’s Program was for and Dujardin responded that it is for concerts in the park and other events like Halloween. Gerber asked if it was strictly for seniors and Dujardin responded that these events are community wide. Stone inquired about the WAFC contributions and whether these numbers would change after the vote three nights ago. Dawsey-Smith confirmed these numbers would not change.
- c. **Building Repair** – Dawsey-Smith noted that this is one of the City’s opportunities to look at towards the end of the year whether it’s needed or not. Blitch made note to follow up.
- d. **Skate Park** – No comments.
- e. **Parkland Acquisition** – Stone was concerned if anyone is ensuring that funds are collected when there’s a new development and Dawsey-Smith responded that she assumes it goes through Neighborhood Services when there’s a permit. Marquardt confirmed.
- f. **Parkland Development** – Stone was concerned there aren’t funds set aside for the Effigy Mounds because there is an interest in keeping them maintained. Dawsey-Smith asked if he was asking for consideration to fund a capital outlay account for the Effigy Mounds and Stone confirmed.
- g. **Field of Dreams** –Dawsey-Smith inquired when the field was due to be replaced. Dujardin responded they are working with Hunter on this. Dawsey-Smith asked if there was a target fund balance and Blitch responded it was \$100,000.
- h. **Aquatic Center** – Gerber requested an explanation of the front desk staff overages. Dujardin explained during the lifeguard shortage they were using front desk staff to complete some of the tasks and they were training more new staff. Gerber asked if the aquatics line is where the lifeguards are budgeted and was concerned because it appears as

if we are doubling that line item. Dujardin explained during the shortage we increased the wages from \$9/hour to \$13/hour and Blich added that the budget amount reflects the center fully staffed. Gerber asked about the facility rentals as it appears we are budgeting to bring in more than usual. Dujardin confirmed and explained they have done some marketing but they have to have at least two parties to break even and it's difficult to do with the space so that's something they are working on. Stone requested that every three months the committee be provided with an update on the WAFC so it can be monitored.

- i. **Parks & Rec Special Revenue** – Stone asked if there was any interest in youth volleyball or basketball. Dujardin responded that volleyball will be coming back and that we do youth basketball but all travel ball is done through club. Gerber stated it appears that a lot of what was budgeted for 2023 won't be achieved. Dujardin replied they don't have instructors for dance or gymnastics and have advertised but have been unable to recruit. Gerber inquired about the after-school program citing revenues appear to be down \$20,000. Dujardin responded that those should be increasing as they currently have high enrollment numbers.
- j. **Lakes Improvement** –Stone requested we come up with a long-term plan, possibly get a consultant for the lakes because there seems to be all sorts of concerns about what the problems are. Dujardin responded that they are working on it and that they had a tour today and have talked to the company they used in 2011. She further explained that she and John met with them to refresh the plan to move forward but exact costs are not known yet but they also have plans to start the lakes advisory committee to work through these issues. Marquardt asked if the company does this for free and Dujardin responded that they charge for staff hours but they are not a private consultant so the fees are cheaper and they are educated on our lakes and community. Gerber stated it's going to depend on the direction the council wants to take.
- k. **General Fund** –Stone asked what the Expenditure Restraint Program was and Dawsey-Smith explained that it's a payment from the state received as an incentive to control the budgets growth from year to year and the city didn't qualify because of the referendum for Fire/EMS. Gerber asked if the MSP payment was correct because she thought we weren't supposed to receive it for 2024-2025. Blich responded that it's only for one year. Stone inquired about the city planning services and wanted to know if this was something we were contracting out. Dawsey-Smith replied that occasionally we are asked to do something additional but it's rare. Stone asked if the city could set aside \$25,000 in contingencies in case the community would like a project done. Dawsey-Smith stated it might be something we could address at the end of the year if there's additional surplus.
- l. **Neighborhood Services** – Stone inquired if the drop in salaries was due to not having a FT employee. Dawsey-Smith noted that if you look at the professional services line, those funds were moved because it's being contracted out. Gerber inquired whose salaries are allocated to Neighborhood Services. Blich responded that the admin assistant and the GIS analyst are reflected in that line. Marquardt clarified that only a portion of the GIS analyst is allocated to Neighborhood Services.
- m. **Administration** –Stone noted the Whitewater Grant used to be \$30,000 and it's only \$25,000 now and asked if this is something we could consider and Dawsey-Smith replied it's something we can consider in future years.
- n. **General Administration** – No comments.

- o. **Legislative Support** –no comments.
- p. **Contingencies** – Nothing but noted for future considerations.
- q. **Legal** – Dawsey-Smith requested we verify the amount for the union attorney as it is low. Gerber responded it was likely due to it not being a union negotiation year.
- r. **Municipal Court** – No comments.
- s. **IT** – Dawsey-Smith noted it appears we are taking on another person. Gerber inquired why another person was needed. Blitch explained there is a need for an entry level desktop support technician to help so the director can focus on the larger projects and server upgrades and the new position would be able to provide additional support to the police department. Gerber inquired whether this meant we would be cutting down on the professional services line. Blitch responded that it would but not this year as there are still several big projects to complete. Gerber stated she didn't know why we would need an additional person and asked if it would be part of the salary resolution. Blitch confirmed. Gerber stated she would wait to see it there. Dawsey-Smith stated it would be for general tickets like a laptop that isn't working. Gerber requested that data be collected to justify the position. Blitch stated as of date there were 760 tickets resolved. Gerber requested we go back to the budget document when the previous IT Administrator was here to get ticket data. Marquardt stated that many times when the prior IT was called a ticket was never created. Gerber said she is just asking for the data. Blitch agreed to look for it.
- t. **Finance** – Gerber stated the salaries and benefits looked higher than the projected raises are for the next year. Dawsey-Smith responded that the accountant position was benchmarked when it was vacant in 2023. Gerber requested the salaries for everyone in the finance department. Blitch stated the salaries are split among the funds. Dawsey-Smith asked if it was split with the utilities. Blitch confirmed. Gerber asked if that means the salaries are actually higher than what she sees in this fund and requested the salary information with the splits. Blitch asked if she was okay with the information in a follow up email. Gerber stated she was and requested it to be sent to everyone on the committee.
- u. **Insurance/Risk Management** – No comments.
- v. **Emergency Preparedness** – No comments.
- w. **Elections** – Stone inquired whether the election workers would receive a raise since it's hard to get people to work the elections. Dawsey-Smith stated she's not sure there is an increase in wages but that the amount is more because there are more elections this year. She also noted that the transfers are fairly consistent so there isn't such a shock on the bigger election years as it builds reserves and then draws it down.
- x. **Transfers** – Stone inquired about the 27th payroll transfer. Blitch explained that the fund was no longer needed since we are cash accounting and a transfer was made to close it out.
- y. **Economic Development** – Dawsey-Smith asked for confirmation that there was a change in status from part time to full time for the admin assistant. Blitch confirmed.
- z. **TID 4** – Dawsey-Smith asked if we anticipate the transfer out for admin costs to continue through 2026 and what the cap is. Blitch stated she would look into this.
- aa. **TID 10** – Stone asked if the amounts shown were wishful thinking or if there was something being built. Dawsey-Smith noted that something was being built. Gerber stated the contractor costs were in 2025 so something must be being built and Dawsey-Smith stated it was something Council had already approved.

bb. TID 11 – No comments.

cc. TID 12 – Stone stated his concern about budgeting without having projects because it is difficult for downtown businesses to be successful.

dd. TID 13 – Stone asked if the transfer out to the water utility was for the water tower.

Dawsey-Smith responded that there are portions of the water tower and Vanderlip project that the TIDs are covering. Marquardt stated it was only the water tower since the Vanderlip project hadn't been completed yet.

ee. TID 14 – No comment.

ff. CIP – Blitch explained that Ehler's ran two separate scenarios for the borrowing of the library and noted that tax years 2029 and 2030 would have considerable increases. Stone stated that it looks to almost double and asked if we could have Ehler's use \$200,000 for the average property value instead of the \$400,000. Blitch stated that comparing whether to borrow in 2024 versus 2025 wouldn't be a significant difference. Stone noted that the \$7.5 million for the DPW garage significantly impacts the borrowing and wondered if there would be a way it could be scaled back or if we could delay something. Gerber stated the big item was the DPW garage. Dawsey-Smith noted that it's a future item and will be something that is discussed and that it's something he can request as a future agenda item. Stone inquired if the budget can be passed without passing all of the projects on the CIP list. Dawsey-Smith stated that they are only approving the items for 2024-2025 at this time. Gerber asked if they approve it does that mean it approved the library. Dawsey-Smith confirmed and noted that they are only giving a recommendation to the Council and they will either approve it or remove it. Gerber asked if we could confirm what the \$100,000 and the \$110,000 shown for the lakes is for. Blitch stated she would follow up with an answer. Gerber requested that the library come off as a discussion item for the Common Council. Stone inquired whether Walworth Ave. is being done in 2025 was due to funding. Marquardt responded that the DOT sets the year for those projects. Gerber asked if they needed to recommend scenario 1 or 2. Dawsey-Smith responded they would present it to Council as it is and the only reason to delay borrowing would be if there was a high level of certainty that interest rates would go down. Geber stated her concern for the upcoming lakes projects and the potential costs associated and the changes in the funding for the Aquatics Center. Dawsey-Smith stated she would like to know the impact on the City's credit rating would be if we waited to borrow. Gerber stated that if it's between the lakes and the library she would prefer to spend the money on the lakes. Dawsey-Smith stated they already have \$3 million in donations for the library. Gerber responded that she wasn't suggesting putting it off indefinitely but waiting to see what the lakes cost first.

gg. Debt Service – No comments.

hh. Capital Project Fund 450 – Gerber inquired whether the \$125,000 was for the dredging of the lakes. Blitch confirmed. Dawsey-Smith noted the roof replacement for the municipal building was on Ehler's list but wasn't reflected in the budget and asked to look into that.

3. 2024 Budget Recommendation

Chairperson Dawsey-Smith recommended the 2024 budget to Council. Gerber seconded.

Yes: Dawsey-Smith, Gerber, Stone

No: None

4. Future Agenda Items

- Starin Water Tower
- Employee bonus update
- Compensation study update
- Updated Financials

5. Discussion of Next Meeting Date

October 24, 2023 at 4:30pm.

6. Adjournment

Gerber moved, Stone seconded adjournment. Motion carried on unanimous voice vote. Meeting adjourned at 7:03 pm.

Respectfully submitted,

Rachelle Blitch

Director of Finance and Administrative Services.

ABSTRACT/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL ACTIONS OF THE FINANCE COMMITTEE OF THE CITY OF WHITEWATER, WALWORTH AND JEFFERSON COUNTIES, WISCONSIN

Finance Committee Meeting Minutes of October 24, 2023

1. Call to Order and Roll Call

Chairperson Dawsey-Smith called the meeting to order at 4:30 pm.

Present at the meeting were committee members David Stone, and Lisa Dawsey Smith.

Absent: Jill Gerber. Staff and guests present: Finance Director Rachelle Blitch.

2. Hearing of Citizen Comments

None

3. Staff Updates

- a. **Financial Update – YTD through September 2023** – Blitch gave a brief overview of the financial statements and noted the changes in revenue for wastewater were due to the changes at the power plant as it relates to the 2024-2025 budget. Stone inquired about the general fund tax revenue 2023 budgeted versus actual with a difference of \$101,000. Blitch made note to look into it. Stone also inquired about a transfer to the fire department because it only showed a partial. Blitch explained that they would still get those funds when the Comptroller makes the next transfer. Stone asked if we would be receiving the remaining budgeted funds for the shared revenues. Blitch stated she would look into it and thinks those might be some of the payments the City is waiting for. Stone inquired about the 12-month inflation graph and Dawsey-Smith explained that even though the rate for September was close to the rate in January doesn't mean the prices are back to what they were but rather than inflation is growing at a slower rate. Stone asked for clarification regarding the general fund operating yield graph. Blitch explained that it's the rate we are receiving for the balance in our operating fund and not a special investment account. Dawsey-Smith further explained that looking at inflation is the pressure on the cost of operations including wages, and that the graph for treasury shows what bonds will be looking like for when we borrow again.

4. Wastewater Rate Increase

- a. Blitch explained that Ehler's had previously done a long-term cash analysis and that they anticipated a rate increase of 5% in 2024, but because some of the projects have shifted since we weren't able to complete the Vanderlip lift station they are updating the cash analysis to reflect those changes and it would be reasonable to assume the rate increase could be lowered. Dawsey-Smith inquired about the borrowing we had previously done for the Vanderlip project and Blitch explained that those funds had to be reallocated to other projects since the project had to be pushed back which meant we had to update the borrowing to reflect the projects that were funded. Stone stated his reason for concern with the rate increase was being able to give the community enough of a notice before the rate increase became effective and if possible requested the rate be a lower amount and spread out over a couple of years. Blitch stated she would notify the committee once the updated cash flow analysis was available and they could determine

whether the committee would need to meet again before the November 21st Council meeting.

5. Starin Water Tower

- a. Stone inquired if the recommendation was whether or not the referendum would be for this year. Dawsey-Smith explained that there was no official action taken so it would need to go back to Council to decide and that there was a discussion to send this to the finance committee but without direction. Stone noted that he hadn't heard a lot of interest at this time. Dawsey-Smith responded she wouldn't recommend putting a referendum question on the ballot in 2024 as she believes it would be affected by the presidential election. She also noted the expected life of the tower would be 5-10 years with maintenance needing to start after the 5-year mark. Blitch explained that Gerber's concern is that we would need to start putting funds aside for the project; however, we would need to know what project we are saving for since the PSC would only allow utilizing funds for demolition and not for restoration. She further explained that if the City decided to restore the water tower those funds would need to come from the general fund and it's not something she would recommend however, if there's enough interest in saving the water tower it's something they could try to fundraise for through another committee.

6. Compensation Study Update

- a. Blitch stated she has been working on an internal equity study in which they identified employees with 20+ years of service who were not at the top of the range and adjusted their wages. Dawsey-Smith noted that Gerber would like to have staff look at those with 10 years of experience next and then 5 years. She further explained that she wanted those earning under \$55,000 to be looked at to see if there was anything else that could be done since those individuals are most vulnerable to inflation. Stone stated he would like to see those at 15 years, to also be looked at. Blitch stated she had already looked at those individuals and that she is able to identify groups and ask questions but doesn't have the knowledge of their prior experience that was considered when placed. She further explained that it's not an exact science but it does give the opportunity to ask necessary questions about whether or not the placement is reasonable or whether an adjustment needs to be made. Stone agreed that it's tough. Dawsey-Smith stated there's only so far you can take this before it starts to put a strain on their budget for their ability to be flexible within performance-based increases as well. She stated she is not personally tied to anything as long as there is conscious thoughtful consideration on ways to retain people. Blitch explained that's the other side of retention, you can only throw so much money at employees. Dawsey-Smith stated it's only one piece of a very complex puzzle of why people stay at jobs. Blitch explained that manageable workloads, clear expectations, and culture that drive retention even when you cannot pay top dollar. She further explained that when you create environments that are focused on growth in which employees aren't afraid to make mistakes you can keep them longer. Stone asked if the City has funds if employees want additional training. Blitch stated that the city manager is very supportive of professional development and that funds are available. Dawsey-Smith stated that the city manager has also extended that opportunity to Council as well

through CVMIC which includes leadership training. Stone noted he tried but had issues with the password. Dawsey-Smith stated she appreciates the thoughtfulness that goes into it and for her, discretion is within staff's expertise. Stone agreed stating that whatever system staff comes up with is satisfactory with him as well. Dawsey-Smith explained that this keeps coming up because there was a description of a system that was not being followed, being that 20% of the positions were supposed to be benchmarked each year and it wasn't being done. She further explained that it was only being done when the position was vacated or when an employee said they were going to leave if they couldn't get a raise. Blitch explained that compensation plans should be updated every 2-3 years within reason and that while there will always be budget constraints, you should still do what you can in other areas like manageable workloads and providing a good culture. Blitch added that a manageable workload is one of the reasons she left the previous employer. Stone asked if this is something that people bring up or if they're saying they're overwhelmed and wanted to know if there's anything we can do to support them. Dawsey-Smith noted that's why we're asking for an additional IT position. Blitch noted she included a graph on employee turnover explaining that it costs on average 33% of an employee's salary and most of it is soft costs. Stone asked for clarification on whether the figure is what we didn't pay in salaries and how it was calculated. Blitch explained that the \$514,000 is actually the cost of turnover and that the figures were broken out by department. Stone asked if this would include advertising costs. Blitch confirmed that is one of the many costs. Stone asked if the police and fire had the highest number of employees and that city administration should have less employees. Blitch explained that the percentages represented the portion of the turnover costs by department for the last 12 months and isn't based on the number of employees. Dawsey-Smith stated it can cost upwards of \$40,000 to hire a recruiter. Blitch responded that it includes the time and effort of interviewing and onboarding which removes time needed to complete other important tasks such as completing the employee handbook or being able to look at compensation studies. She further noted it makes it difficult to be proactive since all of the time and effort goes into being reactive and that consistent turnover puts pressure on both finance and HR, some of those costs are quantifiable and some are soft costs. Stone asked if the \$514,000 was more than what was saved in salaries. Dawsey-Smith stated it is close to even however it doesn't include the opportunity costs of all the things that went undone because so much time was spent on this. Blitch explained that those are the soft costs. Stone noted that others were having to pick up the workload. Blitch explained that when the previous finance director left, those tasks were picked up by the comptroller and when this happens after so long employees get burnt out, they feel rushed and mistakes happen more often.

7. Additional IT Position

- a. Dawsey-Smith shared Gerber's concerns, noting it was whether what was proposed was the best and most sustainable solution to the pain points. Blitch explained that the city manager asked every department head how they could be better supported and IT was consistently mentioned. She further explained that the previous administrator's skillset was more than IT and it's been difficult for anyone coming in to get things done and

because some things hadn't been done, we're having to get those things caught up before we can move on to other projects like updating servers. Blitch also noted that it is difficult to keep up and the PD needs additional support so having them take time from their day to deal with technology issues puts added pressure on them. Dawsey-Smith stated Gerber's concern about adding an additional position was whether or not the intent was to wean off the additional IT services received from Digicorp. Blitch confirmed that was the plan however, it wouldn't happen until 2025 since they are needed for several big projects in 2024. Dawsey-Smith noted that another concern for Gerber was whether this was a less expensive option than simply outsourcing all of IT. Blitch explained that from her personal experience with the previous employer outsourcing IT after the director left that it ended up costing them three times the employees salary and that PD really needs someone in house to assist with the devices in their cars and since we aren't able to provide them with extra bodies at the time, having someone support them in this area would be beneficial. Stone asked how we could alleviate that pressure. Blitch stated by adding the extra position for IT. Stone asked if this new position would be responsible for assisting the PD as well. Blitch confirmed. Dawsey-Smith stated the memo from the current administrator of what's going on, for her the most important thing to note is there are only four positions that are on-call 24/7; IT, the police chief, fire chief, and the city manager, and that's a lot particularly for the salary range of the IT administrator. Blitch noted it's not a department you want only one person to be responsible for and part of disaster planning is to ensure that the department has coverage should something happen. Stone noted that the memo stated months back the city had a cyber security audit and a lack of manpower in the city's IT department is a significant vulnerability and that Digicorp wrote a memo to management about inadequacies of only having one person in the department and noted that it seems like we definitely need to do this. He also asked if there was a way to give the PD a half FTE or if the budget was too tight. Blitch explained that the budget is tight but we are currently looking at the options of how and when to go to referendum. Dawsey-Smith noted that it is difficult with our population to have an informed audience during big election cycles. Blitch noted that there would have to be a 2025 referendum with funds available in 2026. Dawsey-Smith noted Gerber's last concern was whether or not it's possible to see the details of the audit and the memo where they specifically asked for more for transparency purposes and Dawsey-Smith recommended it go with the salary resolution so the Council would have the necessary information to decide. Dawsey-Smith asked if staff was looking for a recommendation from the committee and Blitch confirmed. Stone made a motion to recommend adding the Information Support Technician to Council. Dawsey-Smith seconded. Dawsey-Smith noted that if staff could include the audit and memo it would add weight to the recommendation. Blitch stated she would request it and follow up.

8. Employee Bonus

- a. Blitch explained that she would like this to be a guided discussion instead of just giving a blanket recommendation and that it would be easier to wait until later in November to see what funds are available to work with but they needed to start identifying who they wanted to give bonuses to and determining eligibility. Stone stated he's supportive of

bonuses but wants to ensure they are equitable. Dawsey-Smith recommended benchmarking what it would cost to purchase the necessary items to provide a holiday meal for a family and noted food is something that has been severely affected by inflation. Stone noted if every employee receives a bonus it would be fair and that it would be the easiest way to administer it. Dawsey-Smith stated she thought it would be meaningful on a culture side if the managers would be able to hand those out to their employees and that she would like something in writing when we make the decision that the finance committee made the recommendation as part of a retention strategy to address culture and the things not paycheck related.

9. Future Agenda Items

- Employee bonus update

10. Discussion of Next Meeting Date

Next regular meeting date was set for November 28, 2023 at 5:00pm.

11. Adjournment

Stone moved, Dawsey-Smith seconded adjournment. Motion carried on unanimous voice vote. Meeting adjourned at 5:25 pm.

Respectfully submitted,

Rachelle Blitch
Director of Finance and Administrative Services.

ABSTRACT/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL ACTIONS OF THE FINANCE COMMITTEE OF THE CITY OF WHITEWATER, WALWORTH AND JEFFERSON COUNTIES, WISCONSIN

Finance Committee Meeting Minutes of November 28, 2023

1. Call to Order and Roll Call

Chairperson Dawsey-Smith called the meeting to order at 5:00 pm.

Present at the meeting were committee members David Stone, Jill Gerber, and Lisa Dawsey Smith.

Absent: None. Staff and guests present: Finance Director Rachelle Blitch.

2. Hearing of Citizen Comments

None

3. Staff Updates

a. Financial Update – YTD through September 2023

- a. Dawsey-Smith stated she had sent two questions to the finance director earlier so she would have time to research and answer. She explained her first question was regarding the negative revenue amount for mobile homes. Blitch explained that the City has to send the school district the lottery fees earlier in the year and we will bill the mobile home park in December. Dawsey-Smith stated her second question was regarding the weights and measure recovery which has nothing reported so far. Blitch explained that the City has to pay the state \$1,600 a year to test gas pumps and then we bill the business and those invoices just went out yesterday. Stone inquired about the revenue for the juvenile officer and whether the school district is contributing for that position. Blitch confirmed the contract is for the school district to be responsible to pay the salary and benefits for the school resource officer. Gerber asked if the GL detail was included as part of the updated financials or if it was a separate item. Blitch confirmed it was part of the financials. Gerber stated this request was due to the access of \$10,000 in administrative supplies in which she requested the GL detail. She further explained that her concerns are whether some of the items in the detail were placed in the wrong account such as the copier lease, laptops, and breakroom supplies. Blitch responded that she verified with the comptroller that these items were coded correctly. She further explained that the copier expense has been charged to this account for the last several years, the laptops are considered supplies, and that the account for the break room had been created in the middle of the year so the items purchased after were charged to the breakroom account and all supplies for the break room will be charged to it moving forward. Gerber stated her last concern was regarding the purchase of breakroom supplies as she was unaware the City was purchasing water, coffee, and snacks for employees and requested that an account be created for any department that chose to do the same so it is transparent for the taxpayers. Blitch confirmed accounts would be created for all departments who would purchase these items.

4. 2024 Salary Resolution

- a. Blitch explained she added an additional column for comments and highlighted all of the changes such as titles, FTE's, new, and eliminated positions. Stone stated he was concerned about how the approval of the new position for Assistant Parks, Recreation, & Community Events Director would be perceived by the police department as they need additional officers. Blitch inquired whether he would be supportive if the Recreation & Community Event Manager position was eliminated so it doesn't appear as if an additional position was being added. Stone stated he would not but he would be supportive of changing the salary range on the Recreation & Community Events Manager position as a possibility. Gerber agreed. Dawsey-Smith stated that whatever position would not be filled in 2024 should probably be eliminated from the resolution and if the position is needed in the future it can be brought back to Council. Gerber stated she didn't agree with the use of ERP (Expenditure Restraint Program) as a means to move the salary ranges since it's a total of 16.4% over the past two years. She further explained she didn't feel it was needed and the only way she would agree to this is if she was able to see the results of a compensation study and asked what CPI-U was currently. Blitch stated she couldn't recall if the current CPI-U was either 3.2% or 3.7% and that she would verify and follow up with the committee. Gerber stated she would be more likely to go with CPI-U without having the results of the compensation study. She further explained that she was aware of the changes for the Economic Development Director, the Assistant Fire Chief, but the changes to FTE's for the Media Coordinator and Producer were concerns for her. Gerber stated she is not supportive of increasing the FTE's in the Media department because it is a sinking fund, she's unsure if it brings a service to enough people to warrant the 3 FTE's, and job descriptions were not included for her to compare what the Media Coordinator and Producer do compared to the Chief of Staff. Gerber suggested the City may need to reevaluate what and who we are serving with the cable television station. Gerber stated her concerns with changing the title from IT Administrator to IT Director and asked if the salary was changing. Blitch stated it was not, only the title because his current duties align more with what an IT Director does than with what an IT Administrator does. Gerber asked for the supporting documentation for this change. Gerber stated she was not supportive of the Information Support Technician because we need more police officers and especially because the City is still relying on the services of Digicorp. She acknowledged she would be supportive if she knew the funding for the outside IT services was being cut. Gerber stated she would like to know how we are paying for all of this. Blitch responded that all of the changes with the exception of the potential \$25,000 in unbudgeted wages if ERP is used, are all in the budget already. Geber stated she would rather pay for two new officers instead of the other positions. Dawsey-Smith stated her understanding is that Media Services encompasses more than the cable television station, it's Vimeo and recording the school districts meetings as well. Gerber stated she was told the Chief of Staff was responsible for that and if her duties changed, the information had not been relayed back to Council. Blitch responded asking if she wanted the job descriptions of the Chief of Staff, Media Coordinator, and Media Producer. Gerber stated she wants the information of whatever has changed as she doesn't feel the City should be investing in something we don't know how many people it's reaching. Blitch clarified

that the Media Coordinator was moving from a .8 to a 1 FTE and the Media Producer was moving from a .6 to a 1 FTE. Dawsey-Smith stated she thought they used to have more than one part time media producer. Stone responded that he believes they had three before. Dawsey-Smith stated they had three plus the PR & Communication Manager. Stone asked what percentage the City was using to move the salary ranges. Gerber responded it was ERP, 8.2% to both the top and bottom of the range and the City had given 3% raises so there is some leeway and she is suggesting the use of CPI-U. Dawsey-Smith explained that the previous finance director used ERP as a way to continually address the wage ranges so nothing was catastrophically out of synch. Blitch asked if she should include both ERP and CPI-U options to Council. Gerber confirmed and asked to provide the list of employees who would be affected by moving the bottom of the range by 3.2%. Blitch stated no employees would be affected.

Motion: to present the 2024 Salary Resolution for consideration to Council with additional information regarding the use of ERP versus CPI-U for wage range treatment and additional information requested regarding position changes on a motion by Dawsey-Smith and seconded by N/A.

Motion: to amend the motion to include the removal of the Assistant Parks, Recreation, & Community Events Director position on a motion by Stone and seconded by N/A.

Dawsey-Smith explained that her motion would be to consider and not directly ask for approval so there would be an opportunity for the full body to discuss. Stone explained that he isn't comfortable with that because he doesn't want it to appear to the police department that he sent this for approval. Gerber stated she agreed with Stone.

Motion: to send the 2024 Salary Resolution to Council with job descriptions, the comparison of ERP versus CPI-U, and with the removal of the Assistant Parks, Recreation, & Community Events Manager position by Stone and seconded by N/A.

Gerber stated she thought there was a policy that stated ERP needed to be used to move the wage ranges and included the procedures for reevaluating the wages when a position vacated and requested that information be presented as well. Blitch responded that she hasn't found a policy that stated ERP needed to be used. Dawsey-Smith noted that the prior policy was that 20% of positions would be benchmarked each year but that it hadn't been followed. Blitch stated that the policy review has been put on as a future agenda item and was requested by Stone. She further explained that she asked HR to get a list of the policies so they can be brought to the committee and a schedule can be developed to start the review process.

5. Employee Bonuses

- a. Blitch explained the two options provided based on the information requested from a previous meeting. Gerber asked if the number of employees included those less than a year. Blitch confirmed. Gerber stated she likes the flat rate option but doesn't feel that employees with less than a year should be eligible. Gerber requested the number of

employees be sent in a follow up email. Stone stated he preferred to give all employees a flat rate.

Motion: to make a recommendation for 2023 surplus funds for employee bonuses with additional information to be provided for Council for consideration on a motion by Dawsey-Smith and seconded by Stone. Aye: Dawsey-Smith, Gerber, and Stone. No: None.

6. Future Agenda Items

- Policy Review
- Compensation Study

7. Discussion of Next Meeting Date

Next regular meeting date was set for December 26, 2023 at 5:00pm.

8. Adjournment

Stone moved, Gerber seconded adjournment. Motion carried on unanimous voice vote. Meeting adjourned at 5:57 pm.

Respectfully submitted,

Rachelle Blitch
Director of Finance and Administrative Services.



Ethics Committee Meeting

Cravath Lakefront room 2nd floor 312 West
Whitewater Str, Whitewater, WI, 53190 *In Person
and Virtual

Thursday, December 21, 2023 - 5:00 PM

MINUTES

CALL TO ORDER

Meeting called to order at 5:00 pm by Clerk Karri Anderberg

ROLL CALL

PRESENT

Board Member Robin Fox

Board Member Kelsey Price

Board Member Mariann Scott

Chairperson Sherry Stanek

Board Member Marjorie Stoneman

Clerk Karri Anderberg

HR Director Sara Marquardt

Attorney Mark Kapocius

APPROVAL OF AGENDA

Motion made by Chairperson Stanek, Seconded by Board Member Fox.

Voting Yes: Board Member Fox, Board Member Price, Board Member Scott, Chairperson Stanek, Board Member Stoneman

NEW BUSINESS

1. Election of Chairperson

Motion made by Board Member Fox, Seconded by Board Member Stoneman to elect Sherry Stanek as Chairperson.

Voting Yea: Board Member Fox, Board Member Price, Board Member Scott, Chairperson Stanek, Board Member Stoneman

2. Election of Vice Chairperson

Motion made by Board Member Scott, Seconded by Board Member Fox to elect Marjorie Stoneman.

Voting Yes: Board Member Fox, Board Member Price, Board Member Scott, Chairperson Stanek, Board Member Stoneman

3. Election of Secretary

Motion made by Board Member Fox, Seconded by Board Member Stoneman to elect Kelsey Price

Voting Yes: Board Member Fox, Board Member Price, Board Member Scott, Chairperson Stanek, Board Member Stoneman

4. Discussion and possible retention of outside legal counsel

Attorney Kapocius explained the need for outside legal counsel.

Motion made by Board Member Stoneman, Seconded by Chairperson Stanek to approve outside legal counsel.

Voting Yes: Board Member Fox, Board Member Price, Board Member Scott, Chairperson Stanek, Board Member Stoneman

5. Discussion and possible action regarding setting rules for the Ethics Committee

Attorney Kapocius went over the rules that are set by ordinance and suggested the committee approval of Roberts Rules.

Motion made by Board Member Fox, Seconded by Board Member Scott to approve Roberts Rules of Order.

Voting Yes: Board Member Fox, Board Member Price, Board Member Scott, Chairperson Stanek, Board Member Stoneman

6. Set future meeting date(s)

Clerk Anderberg gave possible dates for the next meeting.

The committee agreed to January 9th at 5 pm

ADJOURNMENT

Motion made by Board Member Fox, Seconded by Chairperson Stanek.

Voting Yes: Board Member Fox, Board Member Price, Board Member Scott, Chairperson Stanek, Board Member Stoneman

Meeting Adjourned at 5:31pm



Community Development Authority Board of Directors Meeting (In Person & Virtual)

Whitewater Municipal Building Community Room,
312 West Whitewater St., Whitewater, WI 53190
*In Person and Virtual

Thursday, October 19, 2023 - 5:30 PM

MINUTES

CALL TO ORDER: Chairman Singer called the meeting to order at 5:30 p.m.

ROLL CALL

PRESENT

Vice Chairperson Jim Allen
Board Member Thayer Coburn
Board Member Jon Kachel
Board Member Jeff Knight
Board Member Joseph Kromholz
Board Member Lukas Schreiber
Chairperson Patrick Singer

STAFF PRESENT: Brad Marquardt (Public Works Director), Rachele Blich (Finance Director), Kristen Fish-Peterson (CDA Consultant), John Weidl (City Manager).

DECLARATON OF CONFLICTS OF INTEREST.

Would any member(s) of the Board wish to declare any known conflict of interest with the items presented on today's CDA Board Agenda?

Thayer Coburn declared that he was the requester for Agenda Item #5 (Coburn Company owns property in the Whitewater Business Park).

HEARING OF CITIZEN COMMENTS: None.

APPROVAL OF MINUTES.

1. Approval of CDA Minutes for 09/21/2023 meeting.

Board Member Kromholz raised an objection to the items included as an attachment to the Minutes regarding Item 6 of the Agenda beginning at pages 7-14 that were distributed to the Board at the meeting that were not made available to the public. Moved by Kromholz to approve the Minutes with pages 7-14 stricken from the record. After discussion by the Board, the motion was seconded by Board Member Coburn. Coburn stated that those items were not relevant to the item up for consideration by the Board. After further discussion, a roll call vote was taken.

Motion made by Board Member Kromholz, Seconded by Board Member Coburn.
Voting Yea: Board Member Coburn, Board Member Kachel, Board Member Kromholz,
Chairperson Singer

Voting Nay: Board Member Knight, Board Member Schreiber. (Note: Board Member Allen unable to vote due to technical difficulties.)

REVIEW & ACKNOWLEDGE FINANCIAL STATEMENTS

2. Review and acknowledge Financial Statements for period ending 09/30/2023.

Finance Director Rachele Blich was introduced to the Board and welcomed to the meeting. Coburn stated that on Page 17 of the packet at Item #2 "whitewatercda.com domain renewal" on 9/1/2023 in the amount of \$39.98 was paid. Coburn reported that the domain name does not point to anything on the internet and suggested that the domain name should be re-routed to Economic Development on the City website. Staff will follow up with Tim Neubeck (IT Administrator).

Motion by Board Member Schreiber and seconded by Board Member Kromholz to acknowledge the financials as presented. Motion passed by unanimous voice vote.

ACTION ITEMS:

3. Discussion and possible action regarding acceptance of proposed Real Estate Listing Contract for brokerage services for sale of City-owned properties.

Kristen Fish-Peterson summarized that we received two proposals, heard presentations from both of the proposers, and that is what is up for vote tonight. Staff is asking for the CDA Board to approve one of the two proposals from the two applicants that replied to the RFP (Request for Proposal). Coburn requested a preference from Ms. Fish-Peterson, who recommended Anderson as well. Kachel raised the issue of a previous motion at the 9/21/2023 CDA meeting and approval from the Board to invite the other broker with the existing contract expiring on 10/31/2023 to the October meeting to be allowed to present a proposal. Ms. Fish-Peterson stated that the other broker did not follow the request of the RFP and were not considered a candidate for this work. After a brief discussion, Larry Kachel, 457 S. Buckingham Blvd., stated his concern for the RFP process but stated his support of selecting Anderson. Board Member Allen also stated his support of selecting Anderson.

Motion to accept the proposal by Anderson Commercial Group based on experience and qualifications made by Board Member Knight, Seconded by Board Member Kromholz. Chairman Singer called a halt to the discussion and called for a roll call vote. Voting Yea: Vice Chairperson Allen, Board Member Coburn, Board Member Kachel, Board Member Knight, Board Member Kromholz, Board Member Schreiber, Chairperson Singer.

UPDATES & DISCUSSIONS:

4. CDA Rules of Procedure (adopted 04/18/2022) distributed for Board Member review prior to discussion at the November 16, 2023 Board Meeting.

Ms. Fish-Peterson stated that the CDA Rules of Procedure were presented for the benefit of new members of the Board and that no changes were currently under consideration. Chairman Singer stated that this item would be on the November 16, 2023 Agenda and directed the Board to bring any questions they may have back to the body for discussion at that time

5. Discussion regarding amending the Declaration of Covenants & Restrictions for the Whitewater Business Park to allow for natural landscaping elements.

Board Member Coburn restated his potential conflict of interest due to the fact that Coburn Company owns property in the Business Park. Board member Knight stated that in the past, there were concerns regarding deed restrictions from a Perlman Roque (n/k/a Martin Brauer). Ms. Miller stated that from her experience working for Attorney Simon who served as legal counsel to the CDA prior to his death, the process to amend the Covenants would require written approval from every member in the Business Park. Ms. Miller also made reference to the excerpt from the Covenants included in the packet that stated that all landscaping was subject to review by the Plan & Architectural Review Commission and may offer an opportunity to make exceptions. Board Member Kromholtz would like to know how landscaping restrictions contained in the Covenants compare to restrictions in the ordinances that are applied to the rest of the City and any modifications that might be allowed. Other members stated a concern for not being too restrictive. Chairman Singer directed Staff to come back with recommendations for discussion at a future meeting.

6. Discussion regarding housing strategy going forward.

Ms. Fish-Peterson provided a summary of the City's efforts to attract a developer for single-family housing. Board Member Knight suggested doing a community forum (housing summit) for the local property owners included in that map ("Potential Development" map) and inform the local developers about the City's efforts to develop housing to find out who is interested and who brings in the best proposal. Geoff Hale, 599 S. Franklin, expressed concern that the City was going to get into the real estate business. Russell Walton (no address given) also expressed concern that the City make opportunities available to all. Larry Kachel, Buckingham Blvd., asked if there was a deadline to use the funds. Ms. Fish-Peterson confirmed that there was no deadline. Board Member Allen would prefer that the City give first chance to local developers. Board Member Kachel stated that he would prefer that the City Manager attend meetings regarding housing.

7. Update and discussion regarding status of CDA Loan to Fine Food Culture LLC (The Black Sheep).

After a brief discussion, the matter was tabled to bring back in Closed Session at the November CDA meeting.

8. Economic Development Activities Update

Ms. Fish-Peterson provided an update regarding ongoing Staff efforts to meet with couple of developers regarding potential residential developments, and the Development Agreements for the Aldi's project and the Chapman project have reached the final stages. Ms. Fish-Peterson reported that she and HR Director Marquardt conducted initial screening for 7 potential candidates the Economic Development position and have narrowed it to 3 candidates, with final interviews on Monday October 30.

FUTURE AGENDA ITEMS

Status of CDA Action Fund Loan to Fine Food Culture LLC.
Discussion of CDA Rules & Procedures.

ADJOURNMENT. Motion by Kromholz, seconded by Schreiber approved by unanimous voice vote. Chairman Singer adjourned the meeting at 6:40 p.m.

Respectfully submitted,

Bonnie Miller, Recorder

Minutes approved by the CDA Board November 16, 2023.



Community Development Authority (CDA)

Whitewater Municipal Building Community Room,
312 West Whitewater St., Whitewater, WI 53190

*In Person and Virtual

Thursday, November 16, 2023

MINUTES

CALL TO ORDER: Chairman Singer called the meeting to order at 5:30 p.m.

ROLL CALL: Board Members Present: Jon Kachel, Patrick Singer, Thayer Coburn, Joe Kromholz, Jeff Knight, Lukas Schreiber; ABSENT: Jim Allen. CITY STAFF PRESENT: Jonathan McDonell, Esq. (City Attorney), Rachelle Blicht (Finance Director), Kristen Fish-Peterson (CDA Consultant), Bonnie Miller (CDA Administrative Assistant).

DECLARATION OF CONFLICTS OF INTEREST. None.

HEARING OF CITIZEN COMMENTS: None.

APPROVAL OF MINUTES: Moved by Schreiber to approve the Minutes of the 10-19-2023 CDA Board Meeting as presented; seconded by Kachel. Motion passed by unanimous voice vote.

REVIEW & ACKNOWLEDGE FINANCIAL STATEMENTS: Moved by Schreiber to acknowledge the CDA Financial Statements for period ending 10/31/2023 as presented; seconded by Kromholz. Motion passed by unanimous voice vote.

UPDATES & DISCUSSION.

3. Kristin Parks of Anderson Commercial Group provided an overview of marketing strategies for the sale of City-Owned lots, followed by a brief discussion with the Board.
4. **Update regarding status of Economic Development Director position.** Miller reported that City Manager John Weidl offered the position of Economic Development Director to Calli Berg, who has accepted. She will be starting on December 5, 2023. The CDA has the authority to subsequently appoint the Economic Development Director to serve as the CDA Director. Board Member Kromholz participated in the interview process on behalf of the CDA Board. Kristen Fish-Peterson will be retained to update and assist the Economic Development Director with regard to ongoing development projects.
5. **Update regarding renewal and status of CDA domain name "www.whitewatercda.com".**
6. **Update regarding 2021 Potential Development Site Map as an Economic Development Tool.** Miller updated with regard to the map and how it was used in November of 2021 to communicate in writing with landowners to invite anyone interested in developing their property to meet with City Staff. Boardmember Knight would like to create a public meeting to extend that invitation to landowners again to meet with City Staff to further that effort to identify potential development projects.
7. **Summary of economic development activity involving City-Owned Land and/or TIF Incentives. (Kristen Fish-Peterson).** Ms. Fish-Peterson provided an overview of the chart included in the packet reflecting public/private participation in current economic development

efforts. Ms. Fish-Peterson stated that compared to other communities, the percentages reflect an appropriate amount of public support.

8. **Review and discussion of CDA Rules of Procedure (adopted 4/28/2022).** Chairman Singer provided background regarding the historical attempts to codify the rules going forward. The consensus was to bring this back at a future meeting. Ms. Fish-Peterson stated that she has reviewed the Policy Manual and found that the first several pages outline the statutory guidelines for a CDA that are standard. The remainder of the Manual starting at No. 13 is the ethics section. Newer Board members would benefit from reading that section. John Kachel would like clarification as to how the salary of the CDA Director is funded in the budget. It was acknowledged by Chairman Singer that the CDA does not have any statutory authority over staff. It was agreed that Policies and Procedures would be brought back after the Economic Development Director is on board
9. **Economic Development Activities Update.** Miller reported that the City has satisfied all of its obligations under the Development Agreement, and final action rests with DLK Enterprises, Inc. Neighborhood Services has received confirmation from Aldi's that they have their state-approved plans and will be submitting applications for their City permits. The Development Agreement has been submitted to legal counsel for Buyer for final review regarding the A-1 Packaging Project. Ms. Fish-Peterson updated the Board regarding a meeting with representatives of local Banks for feedback as to the need for the proposed Commercial Rehabilitation Grant/Loan Program and anticipated participation from the Banks, followed by a brief discussion by the Board. Miller reported that Becker & Bolton submitted an application for site plan review at the December 11, 2023 Plan and Architectural Review Meeting.

EXECUTIVE SESSION: Moved by Singer and seconded by Coburn to 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." Items to be discussed:

10. Innovation Center Memorandum of Understanding between City and UW-Whitewater - Update Only (Kromholz).
11. Discussion and possible action regarding Action Fund Loan to Fine Food Culture LLC (The Black Sheep).

Motion passed by unanimous roll call vote.

RECONVENE INTO OPEN SESSION: Moved by Schreiber and seconded by Coburn to reconvene to open session to take possible action on closed session item(s). Motion passed by unanimous voice vote. No action taken.

FUTURE AGENDA ITEMS.

ADJOURNMENT: Moved by Schreiber and seconded by Kachel to adjourn. Chairman Singer adjourned the meeting at 6:23 p.m.

Minutes approved at the December 21, 2023 CDA meeting.



Core Services Report

As of 01/09/2024

Classification & Compensation

Open New Position/Reclassification Requests

Current Job Position	Current Salary Range	Requested Job Position	Requested Salary Range	Request Date
Programming & Makerspace Librarian	\$18.69 - \$22.99 non-exempt	No Change	\$48,623.92 - \$59,798.52 exempt	Under Staff Review

Completed New Position/Reclassification Requests

Original Job Position/Salary Range	Requested Job Position/Salary Range	Approved Job Position/Salary Range	Approval Date	Effective Date
IT Administrator	IT Director/No Change	IT Director	12/5/2023	1/1/2024
	IT Technology Support Technician \$27.83 - \$32.21	IT Technology Support Technician \$27.83 - \$32.21	12/5/2023	1/1/2024
	Assistant Parks, Recreation & Community Events Director \$57,056.66 - \$78,275.09	Assistant Parks, Recreation & Community Events Director \$57,056.66 - \$78,275.09	12/5/2023	1/1/2024
First Assistant Chief PT-non-exempt \$33.08	First Assistant Chief FT-exempt \$87,091.18 - \$94,079.94	First Assistant Chief FT-exempt \$87,091.18 - \$94,079.94	12/5/2023	1/1/2024

Employee Benefits

Family Medical Leave (YTD)

Requests Received	Approved	Pending	Denied/Canceled
1			1

FMLA Denial Reasons

Denial Reason	Count	Denial Reason	Count
Paperwork not returned		Condition does not qualify	
		Canceled	

Workers Compensation (YTD)

Item 12.	Number of Claims	Lost Time	Medical Only	Denied

--	--	--	--

Employee and Labor Relations

Grievances (YTD)

Number of Grievances	Open Grievances	Closed Grievances

Open Grievances

Issue	Date Filed	Status

Closed Grievanceews

Issue	Date Filed	Status

Recruitment & Selection

New Hires

Name	Department	Job Title	Hire Date
Reagan Godek	Parks & Rec	Activity Instructor	1/5/2024
Lynn Kennedy	PD	Dispatcher	1/16/2024
Matt Seaver	DPW	Laborer	1/22/2024

Transfers

Original Position	New Position	Date
Patrol Lieutenant	Detective Lieutenant	1/8/2024

Promotions

Original Position	New Position	Date
Patrol Officer	School Resource Officer	1/1/2024
Patrol Officer	Patrol Lieutenant	

Separations (YTD)

Total Separations	Resignations	Retirements	Terminations
4	3	1	0

Active Recruitments

Job Title	# of Vacancies	Date Vacant	Status
Patrol Officer	1	1/5/2024	Final Background
Patrol Lieutenant	1	1/8/2024	PFC Approval
Deputy Clerk	1	12/28/2023	Closes 1/26/2024
Fire Department POC	Various		Ongoing
Lifeguard	Various		Ongoing
WAFC Manager	1		Offer Pending
GIS Analyst	1	1/12/2024	Closes 1/26/2024

Recruitment Misses

Withdrew Before Interview	Withdrew After Interview		
6			

Job Offer Declines

Stayed with Current Job	
1	

Flexible Work Arrangements

Job Title	Arrangement	Date Approved/Denied	6 Month Review Date	Notes
GIS Analyst	Mondays work from home	A-5/24/2023	Reviewed-7/31/23 - Schedule was modified to PT to accommodate employee's school schedule	Reviewed in December - Employee separated employment effective 1/12/2024
IT Director	Tuesdays work from home	A-5/24/2023	11/24/2023	Employee has not utilized the benefit
Water & Wastewater Employees	Summer hours implemented year round	A-9/19/2023	3/19/2024	
Confidential	Monday and Fridays work from home from Jan to Aug	Tentative Approval 1/5/24	7/5/2024	

Employee Handbook Modifications

Section Modified	Modification	Date



Council Agenda Item

Meeting Date:	January 16, 2024
Agenda Item:	Meadowview Subdivision Final Plat
Staff Contact (name, email, phone):	Allison Schwark, Zoning Administrator

BACKGROUND

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

The applicant is requesting Final Plat approval for a multi-unit, zero lot line duplex development within the City of Whitewater. The development includes 38 parcels, 38 units, and 19 buildings with infrastructure, engineering, stormwater, easement requirements, and grading already in place.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

January 8, 2024 Plan Commission and Architectural Review Committee- Recommends approval to Common Council.

FINANCIAL IMPACT

(If none, state N/A)

N/A

STAFF RECOMMENDATION

Staff recommends that the City of Whitewater Common Council APPROVE the Final Plat with the following conditions:

- a) Location, width, and names of all proposed streets and walkways are listed.
- b) Plat shows layout and scale dimensions of all lots and proposed lot and block numbers.
- c) Plans show the proposed locations for streets, walkways, drainageways and public easements, including planned future extensions for reasonable distance beyond the limits of the proposed subdivision when requested.
- d) Final engineering design plans, approved by the director of public works prior to approval of the preliminary plat. In the event the director of public works waives or postpones this requirement, the city shall require a statement from a licensed engineer representing the project which certifies that the technical requirements of this chapter will be met when final engineering design plans (including plans and profiles for public improvements (e.g., city sanitary sewer and water) and grading erosion control and stormwater management plans) are submitted.
- e) A surface water drainage plan for the plat shall be provided. The plan shall indicate but not be limited to the following: elevation of streets, existing and proposed topography, proposed drainage swales, proposed yard swales, proposed finished first floor elevation ranges, and indications of the direction of drainage.
- f) A surface water drainage plan for the plat. The plan shall indicate but not be limited to the following: elevation of streets, existing and proposed topography, proposed drainage swales, proposed yard swales, proposed finished first floor elevation ranges, and indications of the direction of drainage.

g) Arrows to indicate the direction of drainage swales required for intra-block drainage and the following note shall be shown: "Arrows indicate direction of drainage swale construction during grading and said swales shall be maintained by the lot owner unless modified with approval of the city's director of public works."

h) A minimum ten-foot wide drainage easement (five feet on each side of the property line) shown along all joint property lines on the plat. Such easement shall be designated as a stormwater drainage easement and shall conform to the drainage plan.

i) The surveyor shall record a copy of the approved final plat with the appropriate register of deeds, but only after certificates of city council, surveyor, owner, and other certificates required by Section 236.21, Wisconsin Statutes are placed on the face of the plat.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

Resolution Approving Final Plat
Meadowview Subdivision Final Plat

RE-PLAT OF MEADOWVIEW SUBDIVISION

BEING ALL OF LOTS 1 THROUGH 21 OF MOUND MEADOWS, IN THE NW 1/4 AND NE 1/4 OF THE SE 1/4, SECTION 6, T4N, R15E, CITY OF WHITEWATER, WALWORTH COUNTY, WISCONSIN

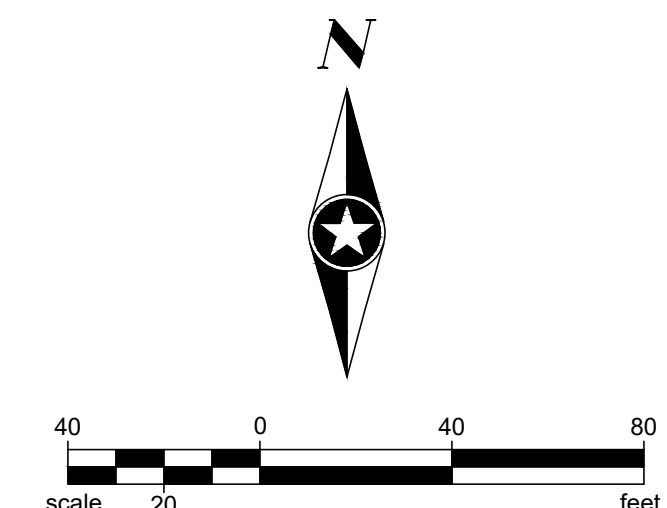
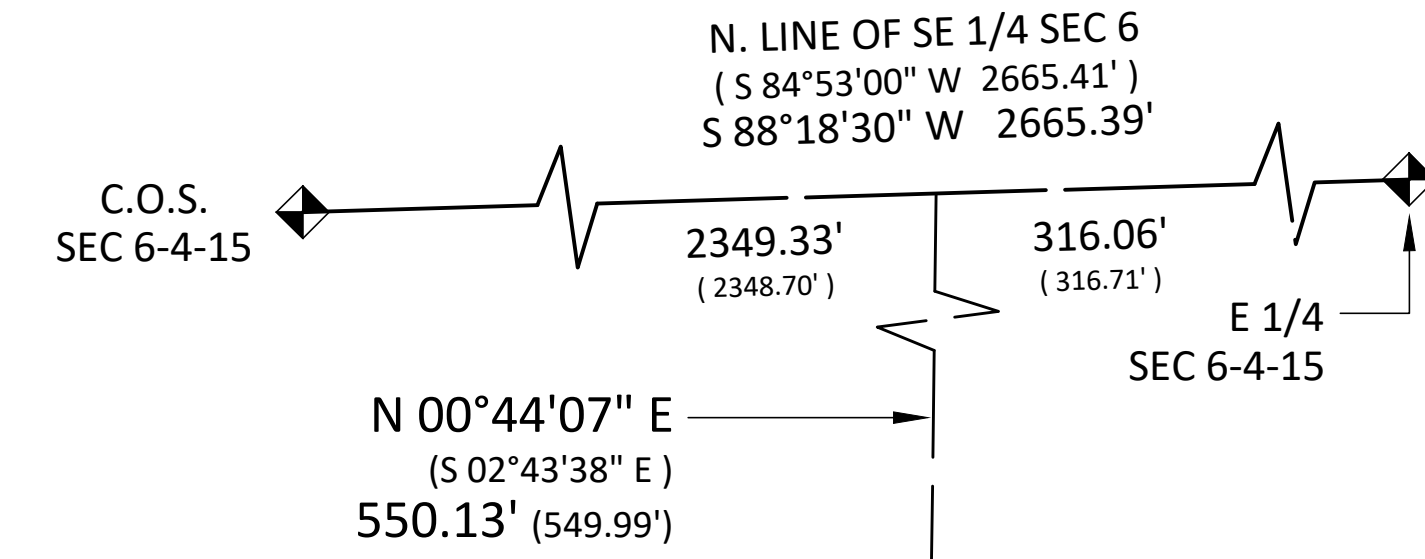
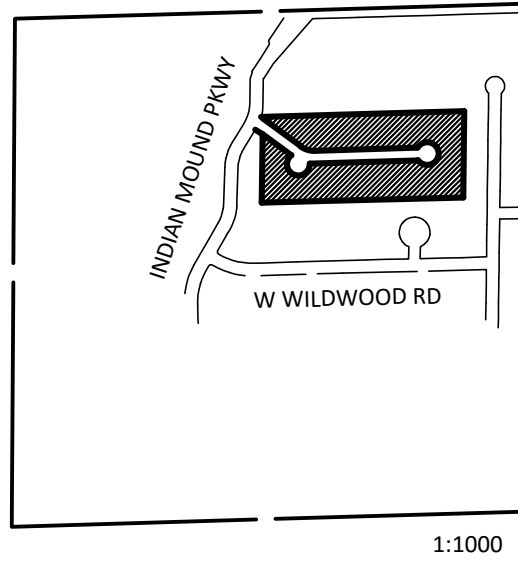
LEGAL DESCRIPTION

ALL OF LOTS 1 THROUGH 32 OF MEADOW MOUNDS SUBDIVISION IN THE NORTHEAST 1/4 AND NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 15 EAST, IN THE CITY OF WHITEWATER, WALWORTH COUNTY WISCONSIN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING ALL LOTS 1 THROUGH 32 OF MEADOW MOUNDS SUBDIVISION.

LOCATION MAP

SE 1/4 SEC 6-4-15



LEGEND

- ◆ - CONCRETE SECTION CORNER MONUMENT W/ BRASS CAP FOUND
- - 2.375" O.D. IRON PIPE SET, 18" LONG, WT. = 3.65 LBS./LIN. FT. 11/16" REBAR SET, 18" LONG, WT. = 1.13 LBS./LIN. FT., AT ALL OTHER LOT & OUTLOT CORNERS
- ⊙ - 3/4" REBAR FOUND (UNLESS OTHERWISE STATED)
- "X" - CHISELED X
- (XXXXXX) - RECORDED AS / DEEDED AS
- ↓ ↓ ↓ ↓ ↓ - WETLANDS PER WDNR

SURVEYOR
KEITH A. KINDRED, PLS S-2082
SEH, INC.
501 MAPLE AVE
DELAFIELD, WI 53018
(262) 370-0165
KKINDRED@SEHINC.COM

SURVEY FOR
JOHN SORENSON,
U.S. SHELTER HOMES I L.L.C.
N. ELLIS DR. UNIT 213
VOLO, ILLINOIS, 60073
(847) 742-8200

There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis Stats. as provided by s. 236.12, Wis. Stats.

Certified _____, 20__

Department of Administration

DATED 12-11-2023

RE-PLAT OF MEADOWVIEW SUBDIVISION

BEING ALL OF LOTS 1 THROUGH 21 OF MOUND MEADOWS, IN THE NW 1/4 AND NE 1/4 OF THE SE 1/4, SECTION 6, T4N, R15E, CITY OF WHITEWATER, WALWORTH COUNTY, WISCONSIN

SURVEYOR'S CERTIFICATE

I, Keith A. Kindred, Professional Land Surveyor hereby certify;

That I have surveyed, divided and mapped lands being all of Lots 1 through 32 of Meadow Mounds, in the Northeast 1/4 and Northwest 1/4 of the Southeast 1/4 of Section 6, T4N, R15E, City of Whitewater, Walworth County, Wisconsin more particularly described as follows:

Being all of Lots 1 through 32 of Meadow Mounds Subdivision.

Said lands contain 393,839 Sq.Ft. or 9.04 Acres.

That I have made such survey, land division and plat by the direction of the owner of said lands.

That such plat is a correct representation of all the exterior boundaries of the lands surveyed and the division thereof made.

That I have fully complied with the provisions of Chapter 236 of the Wisconsin State Statutes and the subdivision regulations of the City of Whitewater in surveying, dividing and mapping the same.

Dated this the 12th day of December, 2023.

Keith A Kindred, PLS 2082

GENERAL NOTES

- ALL EASEMENTS SHOWN HEREIN ARE CREATED BY THE ORIGINAL SUBDIVISION PLAT OF MEADOW MOUNDS, AND ARE UTILIZED AND HONORED IN THIS DEVELOPMENT WITH THE EXCEPTION OF THE 5' SIDEWALK EASEMENT SHOWN ALONG THE RIGHT OF WAY OF LOTS 17 THROUGH 26 WHICH IS GRANTED TO THE CITY OF WHITE WATER .

- ALL EASEMENTS GRANTED TO THE CITY OF WHITEWATER, UNLESS OTHERWISE NOTED.

- NO DRAIN TILE WAS WITNESSED AT THE TIME OF FIELD WORK.

- ENTIRE PROPERTY FALLS WITHIN UNSHADED AREA, MINIMAL FLOOD HAZARD RISK, PER FEMA TILE 55127C0009E EFFECTIVE 9/3/2014

- ALL LOTS ARE TO BE SERVED BY CITY OF WHITEWATER SANITARY SEWER AND WATER MAIN.

- THE PLACEMENT OF DECKS, PATIOS, FENCES, OR ANY TYPE OF DECORATIVE LANDSCAPING, DRIVEWAYS OR ADDITIONAL HARD SURFACES WITHIN ANY PART OF A EASEMENT IS PROHIBITED. AN EASEMENT INFRINGEMENT AGREEMENT MAY BE ENTERED INTO WITH THE CITY, IF APPROVED.

- ALL SIDE YARD GRADES MUST BE ADHERED TO, COINCIDENT WITH THE APPROVED MASTER GRADING PLAN FOR THE SUBDIVISION TO ENSURE PROPER STORM WATER DRAINAGE.

- FENCES CANNOT BE CONSTRUCTED IN EASEMENTS WHERE PUBLIC WATER MAIN, SANITARY SEWER, AND STORM SEWER EXIST NOR IN ACCESS ROUTES TO STORM WATER MANAGEMENT FACILITIES).

- ALL HOMES SHALL HAVE DRIVEWAYS PITCHED BACK TO STREET.

- THE WATER VALVE CURB BOX SHALL NOT BE LOCATED IN A DRIVEWAY, NOR SIDEWALK.

- CITY OF WHITEWATER TO BE RESPONSIBLE FOR SNOW CLEARING WITHIN MEADOWVIEW COURT

- THE HEIGHT OF ALL PLANTINGS, BERMS, FENCES, SIGNS AND OTHER STRUCTURES WITHIN THE VISION CORNER EASEMENT IS LIMITED TO 24 INCHES ABOVE THE ELEVATION OF THE CENTER OF THE INTERSECTION. NO ACCESS TO ANY ROADWAY SHALL BE PERMITTED WITHIN THE VISION CORNER EASEMENT.

CONSENT OF CORPORATE MORTGAGEE

_____, a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin mortgagee of the above described land, does hereby consent to the surveying, dividing, mapping and dedication of the land described on this plat, and does hereby consent to the above certificate of U.S. Shelter Homes, LLC., Owner, this __ day of _____, 20__.

_____, Commercial Lender

STATE OF _____)

_____ COUNTY) SS)

Personally came before me this __ day of _____, 20__, the above named

_____, of the above named corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such, and acknowledged that they executed the foregoing instrument as such Commercial Lender as the deed of said corporation, by its authority.

(Notary Seal) _____

Notary Public, _____

Name _____

My commission expires _____.

CORPORATE OWNER'S CERTIFICATE OF DEDICATION

U.S. Shelter Homes, LLC., a limited liability corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, as owner, does hereby certify that said corporation caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on this plat.

U.S. Shelter Homes, LLC., does further certify that this plat is required by S236.10 or S236.12 to be submitted to the following for approval or objection:

- 1) City of Whitewater
- 2) Walworth County
- 3) Department of Administration

IN WITNESS WHEREOF, said _____, has caused these presents to be signed by _____, member at _____, and its corporate seal to be hereunto affixed on this __ day of _____, 20__.

STATE OF _____)

_____ COUNTY) SS)

Personally came before me this ____ day of _____, 20__, the above named

_____, member , of the above named limited liability company, to me known to be such member of said limited liability company, and acknowledged that they executed the foregoing instrument as such officers as the deed of said limited liability company, by its authority.

Notary Public

Name

_____ County, Wisconsin

My Commission Expires _____

CURVE TABLE								
		RADIUS	DELTA	ARC DIST	CHORD DIST	CHORD BEARING	TAN BEARING 1	TAN BEARING 2
A	R/W	60.00	234°07'33"	245.18	106.86	S65°37'00"E	S51°26'47"W	N02°40'46"W
	LOT 1	60.00	47°55'01"	50.18	48.73	S27°29'16"W	S51°26'47"W	S03°31'45"W
	LOT 2	60.00	32°12'50"	33.73	33.29	S12°34'40"E	S03°31'45"W	S28°41'05"E
	LOT 3	60.00	21°08'11"	22.13	22.01	S39°15'10"E	S28°41'05"E	S49°49'16"E
	LOT 4	60.00	25°46'02"	26.98	26.76	S62°42'17"E	S49°49'16"E	S75°35'18"E
	LOT 5	60.00	31°35'49"	33.09	32.67	N88°36'48"E	S75°35'18"E	N72°48'54"E
	LOT 6	60.00	32°36'05"	34.15	33.68	N56°30'51"E	N72°48'54"E	N40°12'49"E
	LOT 7	60.00	42°53'35"	44.92	43.88	N18°46'02"E	N40°12'49"E	N02°40'46"W
B	LOT 36	117.00	37°52'27"	77.34	75.94	S72°45'38"E	S53°49'25"E	N88°18'08"E
C	R/W	60.00	293°15'58"	307.11	66.00	N01°41'58"W	S35°03'59"E	S31°40'04"W
	LOT 17	60.00	36°40'40"	38.41	37.76	S53°24'19"E	S35°03'59"E	S71°44'39"E
	LOT 18	60.00	30°46'02"	32.22	31.83	S87°07'40"E	S71°44'39"E	N77°29'20"E
	LOT 19	60.00	20°43'42"	21.71	21.59	N67°07'29"E	N77°29'20"E	N56°45'39"E
	LOT 20	60.00	24°49'02"	26.00	25.79	N44°21'07"E	N56°45'38"E	N31°56'36"E
	LOT 21	60.00	32°57'28"	34.51	34.04	N15°27'51"E	N31°56'36"E	N01°00'53"W
	LOT 22	60.00	30°35'43"	32.04	31.66	N16°18'44"W	N01°00'53"W	N31°36'35"W
	LOT 23	60.00	29°00'55"	30.38	30.06	N46°07'03"W	N31°36'35"W	N60°37'30"W
	LOT 24	60.00	28°45'57"	30.12	29.81	N75°00'29"W	N60°37'30"W	N89°23'27"W
	LOT 25	60.00	27°54'52"	29.23	28.94	S76°39'06"W	N89°23'27"W	S62°41'40"W
	LOT 26	60.00	31°01'37"	32.49	32.10	S47°10'52"W	S62°41'40"W	S31°40'04"W

CITY OF WHITEWATER PLAN COMMISSION APPROVAL

THIS SUBDIVISION PLAT APPROVED BY THE CITY PLAN COMMISSION THIS _____ DAY OF _____, 2023

NEIL HICKS, CITY COUNCIL REP.

KARRI ANDERBERG, CLERK

CITY OF WHITEWATER CLERK APPROVAL

THIS SUBDIVISION PLAT APPROVED BY THE CITY CLERK THIS _____ DAY OF _____, 2023

KARRI ANDERBERG, CLERK

CITY OF WHITEWATER CITY COUNCIL APPROVAL

THIS SUBDIVISION PLAT APPROVED BY THE CITY COUNCIL THIS _____ DAY OF _____, 2023

JOHN WEIDL, CITY MANAGER

KARRI ANDERBERG, CLERK

There are no objections to this plat with respect to Secs. 236.15, 236.16, 236.20 and 236.21(1) and (2), Wis Stats. as provided by s. 236.12, Wis. Stats.

Certified _____, 20__

Department of Administration

DATED 12-11-2023

SHEET 2 OF 2

RESOLUTION APPROVING FINAL PLAT FOR MEADOWVIEW SUBDIVISION

WHEREAS, the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, supports orderly development of the community in accordance with adopted City plans and policies, and the efficient provision of municipal services to serve such development,

AND WHEREAS, a private developer has proposed a residential subdivision known as "Meadowview Subdivision", which is in conformance with adopted City plans and policies, and which requires municipal services from the City,

AND WHEREAS, said private developer has submitted a preliminary and final plat for said subdivision in accordance with the procedural requirements of Title 18 of the City Code of Ordinances (Land Division and Subdivision), the City Plan and Architectural Review Commission and Common Council have approved the preliminary plat, and the Plan and Architectural Review Commission has recommended approval of the final plat,

AND WHEREAS, said Title 18 includes standards for public improvements and fees applicable to all subdivisions within the City, including but not limited to public parks, street grading, street surfacing, curb and gutter, sidewalks, sanitary sewerage systems, storm water drainage facilities, public water supply facilities, street lights, street trees, and street signs.

AND WHEREAS, the Common Council finds that the attached final plat and development agreement are consistent with the requirements of Title 18, other City ordinances, and the City's comprehensive (master) plan, and will promote the health, safety, and general welfare of the City.

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Whitewater approves the final plat for the Meadowview subdivision for 38 parcels, and 38 units within 19 duplex townhomes, and authorizes the City Manager and the City Clerk to execute said agreement. Any changes to said final plat shall be reviewed by both City Common Council and Plan Commission.

Resolution introduced by Allison Schwark, Zoning Administrator

AYES:

NAYES:

ABSENT:

ADOPTED:



Council Agenda Item

Meeting Date: 01/16/2024

Agenda Item: WW Ordinance 5.20.030

Staff Contact (name, email, phone): Dan Meyer
dmeyer@whitewater-wi.gov
262-473-1371

BACKGROUND

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

The police department is tasked with checking all establishments applying for a Class A or Class B liquor license annually. In 2023, it was apparent that the language in ordinance 5.20.030 related to window visibility (5.20.030(a)(3)) was problematic. City staff have proposed the included draft language as an improvement to the ordinance.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

First reading – 12/19/2023

FINANCIAL IMPACT

(If none, state N/A)

N/A

STAFF RECOMMENDATION

Approve draft ordinance language. City staff believes this will make the window visibility requirements easier for business owners to understand, and easier to enforce.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. WW Ordinance 5.20.030 draft edit



Council Agenda Item

Meeting Date: 01/16/2024

Agenda Item: WW Ordinance 5.20.030

Staff Contact (name, email, phone): Dan Meyer
dmeyer@whitewater-wi.gov
262-473-1371

BACKGROUND

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

The police department is tasked with checking all establishments applying for a Class A or Class B liquor license annually. In 2023, it was apparent that the language in ordinance 5.20.030 related to window visibility (5.20.030(a)(3)) was problematic. City staff have proposed the included draft language as an improvement to the ordinance.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

First reading – 12/19/2023

FINANCIAL IMPACT

(If none, state N/A)

N/A

STAFF RECOMMENDATION

Approve draft ordinance language. City staff believes this will make the window visibility requirements easier for business owners to understand, and easier to enforce.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. WW Ordinance 5.20.030 draft edit

ORDINANCE No. _____
AN ORDINANCE AMENDING SUBSECTION 5.20.030
LICENSEE – CONDITIONS

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

SECTION 1. Whitewater Municipal Code Chapter 5.20 Subsection 5.20.030 is hereby amended to read as follows:

5.20.030 – Licensee – Conditions.

- (a) All retail Class "A" and "B" licenses granted under this chapter shall be granted subject to the following conditions, and all other conditions of this chapter are subject to all other ordinances and regulations of the city applicable thereto:
- (1) Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the city at all reasonable hours for the purpose of inspection and search, and consents to the removal from the premises of all things and articles there had in violation of city ordinances or state laws, consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
 - (2) It is a condition of any license issued under this chapter that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the city without any warrant, and application for a license under this chapter shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued under this chapter and shall be deemed a violation of this section.
 - (3) Any licensed premise shall provide by clear glass window a clear view into the entire licensed premises. Storefront windows must have a clear vision zone starting at four feet from the floor and extending vertically to a point seven feet above the floor on all glass windows. In the clear vision zone, there shall be no partitions, boxes, stalls, screens, curtains, signs, stickers, or any other devices which shall obstruct the view of the room from the general observation of persons. Licensed premises that have storefront windows located outside the clear vision zone (four to seven feet above the floor) shall have a minimum 50% clear and unobstructed view in those windows.
 - (4) No retail Class "A" or "B" licensee shall sell or offer for sale any alcohol beverage to any person on credit excepting credit extended by a hotel to a resident guest or a club to a bona fide member, and by grocers and druggists who maintain a credit system in connection with their other business. It is unlawful for any licensee to sell intoxicating liquors or wines to any person on a passbook or store order, or to receive from any person any goods, wares, merchandise or other articles in exchange for intoxicating liquor.
 - (5) No licensee shall sell, offer for sale or give away any alcohol beverage to any underage person.

- (6) Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- (7) No gambling or games of chance of any sort shall be permitted in any form upon the licensed premises. Slot machines or any devices of chance are prohibited and shall not be kept upon the premises.
- (8) No alcohol beverage shall be given away free by the licensee or any employee of the licensee or member of his family at any time.
- (9) No alterations, changes, or additions shall be made to such designated licensed premises without first securing a permit for such alterations, changes or additions from the inspector of buildings.
- (10) Wearing Apparel.
 - (A) All persons involved in the operation of any licensed premises under this section, whether as a licensee, member of the immediate family of licensee, licensed operator, unlicensed operator under supervision of the licensee or licensed operator, officer or agent of the licensed corporation, waiter, waitress, entertainer, dancer, or any other employee, shall observe the following applicable minimum standards for such licensed premises:

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

Seconded by Council Member _____.

AYES:
 NOES:
 ABSENT:
 ADOPTED:

 John Weidl, City Manager

 Karri Anderberg, City Clerk

ORDINANCE No. _____
AN ORDINANCE AMENDING SUBSECTION 5.20.030
LICENSEE – CONDITIONS

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

SECTION 1. Whitewater Municipal Code Chapter 5.20 Subsection 5.20.030 is hereby amended to read as follows:

5.20.030 – Licensee – Conditions.

- (a) All retail Class "A" and "B" licenses granted under this chapter shall be granted subject to the following conditions, and all other conditions of this chapter are subject to all other ordinances and regulations of the city applicable thereto:
- (1) Every applicant procuring a license thereby consents to the entry of police or other duly authorized representatives of the city at all reasonable hours for the purpose of inspection and search, and consents to the removal from the premises of all things and articles there had in violation of city ordinances or state laws, consents to the introduction of such things and articles in evidence in any prosecution that may be brought for such offenses.
 - (2) It is a condition of any license issued under this chapter that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the city without any warrant, and application for a license under this chapter shall be deemed a consent to this provision. Any refusal to permit such inspection shall automatically operate as a revocation of any license issued under this chapter and shall be deemed a violation of this section.
 - (3) Any licensed premise shall provide by clear glass window a clear view into the entire licensed premises. ~~Storefront windows must have a clear vision zone starting at four feet from the floor and extending vertically to a point seven feet above the floor on all glass windows. In the clear vision zone, there shall be no partitions, boxes, stalls, screens, curtains, signs, stickers, or any other devices which shall obstruct the view of the room from the general observation of persons; provided, however, that partitions, subdivisions, or panels not higher than forty eight inches from the floor shall not be construed as in conflict with the foregoing. But such partitions, boxes, stalls, screens, curtains, or other devices shall not be so constructed as to interfere with the clear view of the entire premises.~~ Licensed premises that have storefront windows located outside the clear vision zone (four to seven feet above the floor) shall have a minimum 50% clear and unobstructed view in those windows.
 - (4) No retail Class "A" or "B" licensee shall sell or offer for sale any alcohol beverage to any person on credit excepting credit extended by a hotel to a resident guest or a club to a bona fide member, and by grocers and druggists who maintain a credit system in connection with their other business. It is unlawful for any licensee to sell intoxicating liquors or wines to any person on a passbook or store order, or to receive from any

person any goods, wares, merchandise or other articles in exchange for intoxicating liquor.

- (5) No licensee shall sell, offer for sale or give away any alcohol beverage to any underage person.
- (6) Each licensed premises shall at all times be conducted in an orderly manner, and no disorderly, riotous or indecent conduct shall be allowed at any time on any licensed premises.
- (7) No gambling or games of chance of any sort shall be permitted in any form upon the licensed premises. Slot machines or any devices of chance are prohibited and shall not be kept upon the premises.
- (8) No alcohol beverage shall be given away free by the licensee or any employee of the licensee or member of his family at any time.
- (9) No alterations, changes, or additions shall be made to such designated licensed premises without first securing a permit for such alterations, changes or additions from the inspector of buildings.
- (10) Wearing Apparel.
 - (A) All persons involved in the operation of any licensed premises under this section, whether as a licensee, member of the immediate family of licensee, licensed operator, unlicensed operator under supervision of the licensee or licensed operator, officer or agent of the licensed corporation, waiter, waitress, entertainer, dancer, or any other employee, shall observe the following applicable minimum standards for such licensed premises:

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

Seconded by Council Member _____.

AYES:
NOES:
ABSENT:
ADOPTED:

John Weidl, City Manager

Karri Anderberg, City Clerk



Too many signs give customers an impression of clutter and disorganization.

How do you make sure customers know your business exists? Most businesses answer that question with one word: signs. They know signs promote awareness of their business name, products, hours, and special features that attract an impulse shopper.

But when it comes to signs, “more” isn’t “better.” Research shows signs like those in the picture above don’t attract shoppers. As shoppers search for information among so many competing signs, the message of each one is lost. Based on the impression they receive from the signs, shoppers may conclude the store is disorganized and cluttered.

There’s another reason “more” isn’t “better.” Milwaukee’s zoning ordinance restricts the amount and type of signs that businesses may display. Businesses are subject to citations from a building inspector if they have more signs than the code allows, types of signs not allowed by the code, signs installed without permits, and damaged or abandoned signs.

This customer information sheet tells you what kinds of signs you may display, how to get sign permits, and sources of assistance to pay for quality signs for your business.

What kind of permanent signs may I have for my business?

Permanent signs contain information like the business name, type of services or products available, hours of operation, and so on. Businesses are allowed to display this information on permanent wall signs, projecting signs, lettering painted on clear window glass, neon signs, and lettering on the edge of window awnings.

Several types of wall signs are permitted: a professionally painted board-type sign, a cabinet box-type sign with a lexan or plastic panel insert, or individual letters mounted on the building.

All permanent signs require a permit from the Milwaukee Development Center. If your business is in a locally designated historic district, the Historic Preservation Commission must also approve the sign.

What kind of permanent signs are not allowed?

Exterior signs made of paper, cardboard, or flexible plastic are not allowed. Banners are not allowed.

Guide to Storefront Signs

How large can my permanent signs be?

How many can I have?

The amount of signage you may display depends on the zoning district in which the property is located.

In the most restrictive zoning districts, businesses are allowed to have a maximum of 18 square feet of wall signage. This can be one sign or multiple signs; however, the total of all the signs added together may not exceed 18 square feet. In the most restrictive zoning districts, businesses may also have one projecting wall sign, no more than 12 square feet in area. If you have a non-lighted awning, you can have 10 square feet of signage on the awning.

Any information or graphics relating to your business painted directly on an exterior wall will be treated as signs, and counted in the calculation of how much signage you are allowed to have.

Some zoning districts allow more signage. Call the Milwaukee Development Center at (414) 286-8210 to determine the amount of signage allowed for your building. You must provide the exact address of your building.

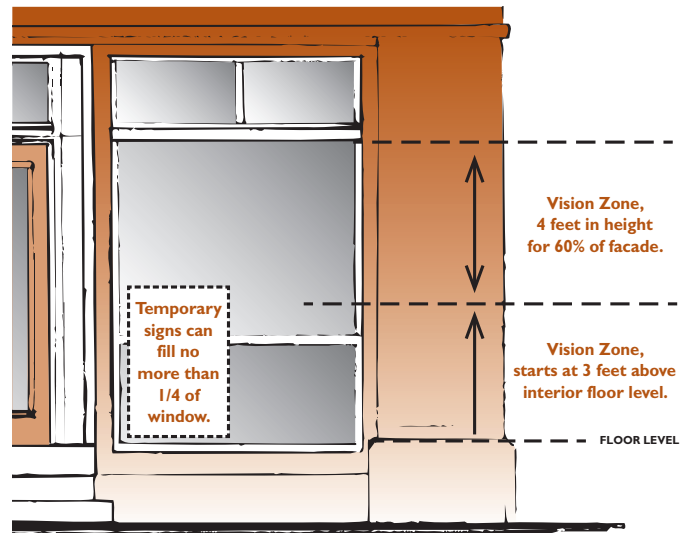
Are temporary signs OK?

Temporary signs are typically paper or plastic signs and displays that advertise special sales or promotions. Temporary signs are allowed under these conditions:

1. The sign must be installed **inside the window**, not on the exterior of the building.
2. The sign must be displayed for **no more than 30 days**.
3. All temporary signs, added together, may cover no more than 25% (one-fourth) of the business's windows.

Temporary signs do not require a permit. However, if the temporary signs you install do not meet these three conditions, you are subject to a citation from the building inspector.

If you currently have temporary signs that are mounted outdoors, have been up for more than 30 days, or cover more than 25% of the window area, you must remove them now.



Special rules for store windows

Milwaukee ordinances require windows on retail businesses. At a minimum, windows must exist in a clear vision zone that starts about 3 feet from the floor and extends vertically to the spot 7 feet above the floor.

New buildings must be designed and built to meet these ordinances. For existing buildings, existing windows must be maintained and may be enlarged, but generally may not be reduced in size. Existing windows may not be painted over, blocked or filled in to restrict the view into the business from the street.

The window requirement affects the amount and type of signs that may be displayed in windows. It also affects what fixtures may be placed in front of windows inside the store.

Here are the rules:

1. Only two kinds of permanent signs are allowed in windows: individual letters painted on clear window glass, and neon signs consisting of individual letters. The permanent sign in the window may not obscure the view into the store in the vision zone. Permanent signs in the window may cover up to 25% (one-fourth) of the window area.
2. Display racks, point of purchase displays, and other items that significantly obscure the view in and out of the store may not be placed in front of windows in the vision zone.
3. Temporary signs may cover no more than 25% (one-fourth) of the store's window area.

Guide to Storefront Signs

What is an illegal sign?

Any permanent sign that was hung or mounted on a building or in a window without a sign permit is an illegal sign. Any temporary sign that doesn't meet the conditions listed on the previous page is an illegal sign. This is true even if a previous operator of the business put up the sign.

Anything put up for more than 30 days that displays the name of the business, services or products offered, special promotions, or even graphics depicting products is a sign and needs a permit. There are some small exceptions, such as small, neatly applied emblems relating to credit cards accepted, business associations, and hours of operation.

What should I do if I have an illegal sign at my business?

If no permits exist, you may either remove the sign, or apply for a permit for the sign. The permit will be granted if the size and other factors are allowed by City ordinances. If the existing sign does not meet the ordinances, you'll be required to remove it or alter it to meet the law. If you fail to take action to correct or remove illegal signs, you will receive a citation from the building inspector.

How can I find out if any of my existing signs are illegal?

The existing signs on your business may remain if they were installed with permits. If you cannot find permits in your files for each of the signs on your building, you can check the city files at the Milwaukee Development Center to verify that you or the previous operator took out permits. Permit files are available for public inspection from 8 a.m. to 4:30 p.m., Monday through Friday. The Development Center is located at 809 N. Broadway, first floor.

What are the penalties for illegal signs?

If a building inspector orders removal of illegal signs, and the property owner does not remove them, the owner faces significant financial penalties. The owner is subject to reinspection fees that range from \$50 to \$300 per reinspection. An owner who failed to remove illegal signs for a year would be charged reinspection fees of nearly \$3,000. The owner also is subject to citations that carry a fine of up to \$320 a day, and a municipal court fine of up to \$150 per day.

When I close or move my business, what should I do about the signs?

When a business leaves a location, the signs pertinent to that business must be removed. If you are a tenant, talk to your landlord to decide whether you or the landlord will remove the signs.

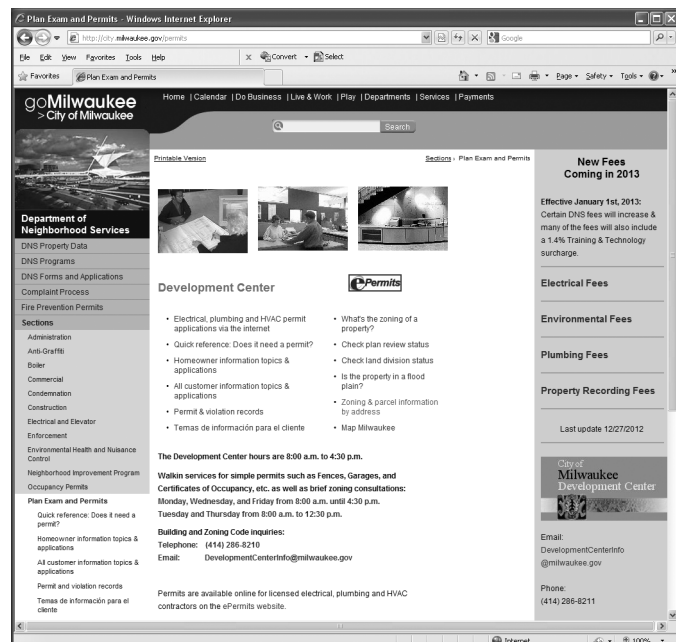
If a new business will be moving in immediately, a box-type sign cabinet may be re-used by the new business operator by inserting a new "face" in the sign. A permit is required to put this new face in. If a new business is not moving in within 90 days of the former leaving, a blank panel may be inserted temporarily until a new business rents the space. In no case can a sign box be left with a broken or missing sign panel for any length of time.

In cases where totally new signs or awnings are being put up for a business, the old signs they replace must be completely removed.

If signs belonging to a former business are not removed, the property owner will receive a citation from the building inspector.

Where do I apply for sign permits?

You can contact the Development Center at (414) 286-8210 or visit us at www.milwaukee.gov/permits for information about the permit process. Please also check the website for the most current customer service hours.



How can I improve the signs on my business?

Following these guidelines will help you achieve signage that conveys a positive image of your business.

1. Many buildings were designed with sign bands. These are areas above the front door with space for signage. If your building has a sign band, install your sign in the band rather than at some other spot.
2. If you want signage on a building awning, choose an unlighted cloth style, rather than a lighted plastic model. You'll be allowed to devote a larger portion of the awning to your message, and your building will have a more distinctive look than would be achieved with a "pre-fab" plastic awning.
3. If the windows of your business have been blocked in or painted over, open them up! Remove the paint! Install clear glass that allows your customers to see inside your business.

4. Avoid painting sign information directly on the wall. Painted wall signs are vulnerable to graffiti, and they're hard to maintain.

5. If you've got a broken sign at your business, repair or remove it. Broken signs are illegal, and they send a negative message about your business and your neighborhood.

The Department of City Development provides modest grants to business and property owners in a number of commercial districts to help improve the exterior facade of properties. Funds are used for items such as awnings, signs, special window treatments, and historic restoration. Funds are available on a one-to-one matching basis, and may be used in designated commercial areas.

For more information, contact the Facade Grant hotline at (414) 286-8201, email FacadeGrants@milwaukee.gov or visit www.milwaukee.gov/facadegrants.



Minimal signage gives customers an impression of organization and provides clear messaging.

19.51.180 - Truck, trailer, mobile home and equipment parking restrictions.

In all residential and commercial districts provided for in the zoning chapter, it is permissible to park or store a recreational vehicle, camper, trailer, watercraft or boat and boat trailer on private property in the following manner:

A. One panel or pickup truck, exceeding three-quarter ton but not exceeding one and one-half tons, shall be permitted;

B. The unenclosed parking of any unoccupied house trailer, motor home, unoccupied camp trailer, boat trailer, trailers for all terrain vehicles (ATVs) or snowmobiles, and all other private residential-type trailers shall only be permitted in the side yard, or rear yard on a improved surface, provided that the unit(s) are parked at least five feet from the lot lines; motor homes shall also abide by all restrictions relating to motor vehicle parking per Title 20, Section (D)(16). Improved surface shall mean a surface of concrete, asphalt, paver, or other material other than grass, such as crushed rock, gravel or other materials, laid over subsoil, which provides a hard driving surface, resists rutting, provides for sufficient water runoff and is graded and drained to dispose of all surface water.

1. An exemption to the five foot setback requirement shall be granted by the Neighborhood Services Department if the parking is approved in writing by the current adjacent property owners in which the recreational vehicle encroaches, and the parking is in accordance with all other requirements set forth.

C. Camper trailers and boats shall only be permitted to park in front yards for the purposes of active loading, unloading, and servicing.

D.. The neighborhood services manager may issue a permit to a person with a disability allowing a recreational vehicle, camper, trailer, watercraft or boat and boat trailer not exceeding thirty feet in length to be parked in the front yard driveway of their residence from April through November. A person shall be considered a person with a disability if they have been issued a current disabled parking identification permit by the Wisconsin Department of Transportation. In addition, an individual shall be considered a person with a disability if they provide the neighborhood services manager with a statement by a health care specialist verifying that the party needs a front yard boat parking permit, for a stated period of time, to allow that person reasonable access to their boat and trailer.

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TITLE 20 PROPERTY MAINTENANCE

A. INTENT, PURPOSES.

- (1) **Intent.** This Chapter is adopted to preserve and promote the public health, safety, morals, comfort, convenience, prosperity and general welfare of the people of the City and its environs, including, but not limited to, physical, aesthetic, and monetary values. The establishment and enforcement of minimum standards of habitation and property conservation is necessary to preserve and promote the private and public interest.
- (2) **Purpose.** The purpose of this Chapter is to recognize the private and public benefits resulting from the safe, sanitary and attractive maintenance of residential and non-residential buildings, structures, yards and vacant areas by adopting minimum standards. Attractive and well-maintained property will enhance the neighborhood and the City as a whole by maintaining physical, aesthetic and monetary values. With respect to rental housing, it is necessary to adopt minimum regulations regarding human habitation to protect the health, safety, and general welfare of tenants within the City.

B. APPLICABILITY.

- (1) **General.** The provisions of this Chapter shall apply to all properties and buildings within the City and its jurisdiction.

C. GENERAL MAINTENANCE REQUIRED; DEFINITION.

- (1) The exterior of all properties and premises including the open space of the property or premises shall be maintained in a clean, safe and sanitary condition, free from accumulation of any combustible or non-combustible materials, debris and refuse.
- (2) “Debris and refuse” shall include but not be limited to: broken concrete, bricks, blocks or other mineral matter; bottles, porcelain and other glass or crockery; boxes; new and used lumber or other wood that is not part of a structure or that is not used as firewood and is not stacked or stored in a neat manner on the property; paper, rags, animal waste, cardboard, rubber, plastic, wire, tin and metal materials; discarded household goods or appliances, junk lawn mowers, snow blowers, tires, tire rims or used motor vehicle parts, machine parts, junked boats or junked recreational vehicles; tar paper residue from burning or similar materials which constitute health, fire or safety hazards or any other materials that have a detrimental visual and aesthetic impact upon the neighborhood in which the property is located or the City in general, which tend to cause a blighted condition as defined under state law, or which emit a noxious, foul or offensive odor.

- (3) The provision of this section shall not apply to materials stored or maintained on a property in conjunction with any business, manufacturing or other use which meets applicable City ordinance including but not limited to fire, building and zoning code requirements and restrictions.

D. SPECIFIC MAINTENANCE REQUIRED.

(1) Exterior Walls and Foundations.

- (a) Every foundation and exterior wall shall be reasonably weather tight, rodent proof, insect proof and shall be kept in a good and sound condition and state of repair. The foundation elements shall adequately support the building at all points. Any sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breeching shall be so constructed and maintained so as to ensure that they safely and properly remove the products of combustion from the building.
- (b) Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
- (c) All cornices, moldings, lintels, sills, oriel windows, and similar projections shall be kept in good repair and free from cracks and defects which make them hazardous or unsightly.

- (2) Paint and Other Preservatives.** Exterior surfaces of buildings, fences and other structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. Missing or damaged siding shall be promptly replaced.

(3) Doors, Windows and Basement Hatchways.

- (a) Every window, screen, exterior door and basement hatchway shall be tight and shall be kept in a good and sound condition and state of repair. Every window sash shall be fully supplied with glass windowpanes or an approved substitute which is without open cracks or holes. Every window sash shall be in good condition and fit well within its frame.
- (b) Every exterior door, door hinge and door latch shall be maintained in a good and sound condition and state of repair. Exterior doors, when closed, shall fit well within their frames.

- (c) **Insect screens.** During the period from April to October, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved, tightly fitting screens.
 - i. Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.
- (d) **Guards for basement windows.** Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.
- (4) **Porches, Railings, Stairways, Decks, Balconies, Platforms and Patios.** Every outside stair, porch, balcony, platform, patio and appurtenance thereto, shall be so constructed to be safe to use and capable of supporting normal loads as required by the Building Code and shall be kept in a good and sound condition and state of repair.
 - (a) **Handrails and Guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (5) **Roofs and Drainage.**
 - (a) All roofs shall be maintained so as not to leak and all water shall be so drained and conveyed therefrom so as to not cause damage to the exterior walls, interior walls, eaves, soffits or foundations.
 - (b) All courts, yards or other areas on the premises shall be properly graded to divert water away from the building. Ground surface adjacent to the building shall be sloped away from the structure where possible and shall not cause nuisance water to flow onto neighboring properties.
- (6) **Fence and Retaining Wall Requirements.**
 - (a) All fences shall be properly maintained and kept in a good and sound state of repair.
 - (b) Retaining walls shall be structurally sound. No retaining wall shall be constructed or maintained in such a manner as to cause a repeated spillage of mud, gravel or debris upon any public sidewalk, street, alley or adjoining property.

- (7) **Exterior Property Areas.** All exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, rubbish or garbage, or physical hazards, rodent harborage and infestation, or animal feces.
- (8) **Grading and Drainage of lots.** Every yard, court, vent passageway, driveway, and other portion of the lot on which the building stands shall be graded and drained so as to prevent the accumulation of water on any such surface or on adjacent property. Driveways shall be maintained in good repair.
- (9) **Landscaping.** All exterior property areas shall be kept free from noxious weeds as defined in Chapter 10 of these ordinances. Landscaping, plantings and other decorative surface treatments including common species of grass shall be installed if necessary and maintained to present an attractive appearance in all court and yard areas.
 - (a) Landscaping material. No person shall accumulate, allow to accumulate or store landscaping material in an unused state and open to the public view for a period exceeding ten days.
- (10) **Decorative features.** Cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- (11) **Overhand extensions.** Overhand extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and properly anchored so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (12) **Accessory structures.** All accessory structures shall be maintained in a state of good repair and vertical alignment. All exterior appurtenances or accessory structures which serve no useful purpose and are deteriorated or dilapidated condition, which are not economically repairable, shall be removed. Such structures include, but shall not be limited to, porches, terraces, entrance platforms, garages, driveways, carports, walls, fences, and miscellaneous sheds.
- (13) **Motor Vehicles.** Except as provided for in other regulations, inoperative or unlicensed motor vehicles, or motor vehicle parts shall not be parked, kept or stored on any premises, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.
 - (a) **Exception.** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a

structure or similarly enclosed area designed and approved for such purposes.

- (14) **Residential yard parking regulations.** The parking of any vehicle upon a residential lot shall be in compliance with the following standards:

- (a) The parking of any vehicle within the front yard or (street) side yard shall be on an improved surface driveway or parking pad. Improved surface shall mean a surface of concrete, asphalt, or other material other than grass, such as crushed rock, gravel or other materials, laid over subsoil, which provides a hard driving surface, resists rutting, provides for sufficient water runoff and is graded and drained to dispose of all surface water. The remainder of the required front yard setback, and the streetside yard setback on any corner lot, shall not be considered a part of the permitted parking area and shall be landscaped.
- (b) No parking pad shall be allowed in the minimum front yard setback or minimum street side yard setback established for the district except that one additional parking pad up to ten feet wide may be added directly abutting a single-width or double-width driveway leading to an approved parking area, provided the parking pad shall not be located in front of a home.
- (c) Parking is prohibited within a driveway right-of-way.

- (15) **Pools, Spas and Hot Tubs.**

- (a) **Swimming pools.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.
- (b) **Enclosures.** Private swimming pools, hot tubs and spas, containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier not less than 48 inches in height above the finished ground level measured on the side of the barrier away from the pool.
 - i. **Exception.** If a hot tub is outfitted with a securely locking, tightly fitted cover, the hot tub will not require an enclosure.

- (16) **Storage and parking of recreational vehicles and trailers.** In all residential and commercial districts provided for in the zoning chapter, it is permissible to park or store a recreational vehicle, camper, trailer, watercraft or boat and boat trailer on private property in the following manner:

- (a) Parking is permitted inside any enclosed structure, which otherwise conforms to the zoning requirements of the particular zoning district where located.
- (b) Parking is permitted outside in the side yard or rear yard provided it is not nearer than five feet to the lot line and on a Improved Surface. Improved surface shall mean a surface of concrete, asphalt, paver, or other material other than grass,

such as crushed rock, gravel or other materials, laid over subsoil, which provides a hard driving surface, resists rutting, provides for sufficient water runoff and is graded and drained to dispose of all surface water.

1. An exemption to the five foot setback requirement shall be granted by the Neighborhood Services Department if the parking is approved in writing by the current adjacent property owners in which the recreational vehicle encroaches, and the parking is in accordance with all other requirements set forth.
- (c) A part of the unit may extend over the improved surface in which it is parked, however, the improved surface shall cover the entire area in which the recreational vehicle, or trailer is driven on for parking purposes. Additionally, the unit shall not extend over the public sidewalk or public right-of-way.
- (d) No unit shall be parked on public streets, highways, intersections, or public land or parking lots for an extended period exceeding 48 hours.
- (e) Parking is permitted only for storage purposes. Recreational vehicles or boats shall not be:
 - a. Used for dwelling or cooking purposes.
 - b. Permanently connected to sewer lines, water lines, or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - c. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
- (f) Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.
- (g) The unit shall be owned by the resident on whose property the unit is parked for storage.
- (h) The number of units on any property within City jurisdiction shall not exceed two (2), and units shall not exceed 30 feet in length.

E. ACCESS TO PROPERTY.

After presenting proper identification, the Building Inspector, Neighborhood Services Officer, Code Enforcement Officer, or the Police Chief, or their respective deputies or designees, shall be permitted to enter upon any property at any reasonable time for the purpose of making inspections to determine compliance with this Chapter and related ordinances. If denied access, the Code Official may acquire a special inspection warrant for such access, pursuant to Sec. 66.0119, Wis. Stat., as amended from time-to-time.

F. ENFORCEMENT.

(1) Enforcement.

- (a) **Order to correct conditions.** Whenever the City, through its agents or employees shall, upon inspection of the premises within the City, find the condition of the property or premises is in violation of this Chapter, an order

shall be issued to the owner (and occupant if different from owner) of the premises or property to correct said condition by the Building Inspector or designee.

- (b) Contents of the order shall include:
 - i. A description of the premises and the violation of the Chapter;
 - ii. A statement of the correction necessary to bring the property into compliance;
 - iii. A statement specifying the time within which the owner and occupant shall comply with the order; and
 - iv. A statement of the penalty section of the ordinance for noncompliance.
 - v. A statement specifying accessibility needs, and request for language translation.

G. SERVICE.

The order shall be served on the owner (and occupant if different from owner) by delivering the same to and leaving it with any adult competent person in charge of the premises or in case no such person is found upon the premises by affixing a copy thereof in a conspicuous place near the entrance of the premises and by regular mail to the owner and occupant of the premises.

H. FAILURE TO COMPLY; DECLARATION OF PUBLIC NUISANCE.

- (1) **Failure to comply.**
 - (a) **Citation.** Any person, firm or corporation violating any provision of this Chapter shall be subject to the general penalty provisions of this code found in Section 1.20 of the City's Code of Ordinances. A citation may be issued pursuant to Sec. 1.20 of the City's Code or Ordinances.
 - (b) **Cause work to be done.** Upon failure to comply with an order where there is proof of service of said order which requires that any premises or property be cleaned or condition abated or improved in accordance with this Chapter, the City may cause such cleaning, improvement, abatement or removal of the offending combustible or incombustible materials, debris or refuse. Such repair or removal shall be deemed a special benefit to such property and the costs of the same shall be charged against the owner(s) of the property. If the cost of the same is not paid within 60 (sixty) days, it shall

be levied as a special charge against the property as authorized by Section 66.0627 of the Wis. Stat.

- (c) **Injunctive Relief.** In addition to other applicable enforcement procedures the City shall have the right to abate any violation of this Chapter by an action for injunctive relief in Walworth or Jefferson County Circuit Court.

(2) **Abatement**

- (a) **Enforcement.** The chief of police, the chief of the fire department, the building inspector, neighborhood services officer, or other designee shall enforce those provisions of this chapter that come within the jurisdiction of their offices and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.
 - (b) **Summary abatement.** If the inspecting officer shall determine that a public nuisance exists within the village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the president may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
 - (c) **Abatement after notice.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten days. If such nuisance is not removed within such ten days, the proper officer shall cause the nuisances to be removed as provided in subsection (b) of this section.
 - (d) **Other methods not excluded.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the state.
 - (e) **Court order.** Except when necessary under subsection (b) of this section, no officer hereunder shall use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.
- (3) **Cost of abatement.** In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

I. REINSPECTION FEES

The following fees shall be imposed for the administration of this Chapter.

- (1) First re-inspection fee of \$75.00 per property upon verification of continued violation by City Building Inspector, Neighborhood Services Officer, Code Enforcement Officer or designee.
- (2) For a second reinspection, a fee of \$200.00
- (3) For a third reinspection a fee of \$400.00, and for each subsequent reinspection for the same condition.

If a property owner fails to pay such fees after billing, the City may impose such fees as against the property pursuant to applicable law and collect such charges on the property tax bill each year.

J. APPEAL

Any person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this section may request and shall be granted a hearing before the Common Council. Requests for such hearing will be filed with the Clerk no later than 5 business days from the date of the final notice of the order.

DRAFT

TITLE 20 PROPERTY MAINTENANCE

A. INTENT, PURPOSES.

- (1) **Intent.** This Chapter is adopted to preserve and promote the public health, safety, morals, comfort, convenience, prosperity and general welfare of the people of the City and its environs, including, but not limited to, physical, aesthetic, and monetary values. The establishment and enforcement of minimum standards of habitation and property conservation is necessary to preserve and promote the private and public interest.
- (2) **Purpose.** The purpose of this Chapter is to recognize the private and public benefits resulting from the safe, sanitary and attractive maintenance of residential and non-residential buildings, structures, yards and vacant areas by adopting minimum standards. Attractive and well-maintained property will enhance the neighborhood and the City as a whole by maintaining physical, aesthetic and monetary values. With respect to rental housing, it is necessary to adopt minimum regulations regarding human habitation to protect the health, safety, and general welfare of tenants within the City.

B. APPLICABILITY.

- (1) **General.** The provisions of this Chapter shall apply to all properties and buildings within the City and its jurisdiction.

C. GENERAL MAINTENANCE REQUIRED; DEFINITION.

- (1) The exterior of all properties and premises including the open space of the property or premises shall be maintained in a clean, safe and sanitary condition, free from accumulation of any combustible or non-combustible materials, debris and refuse.
- (2) “Debris and refuse” shall include but not be limited to: broken concrete, bricks, blocks or other mineral matter; bottles, porcelain and other glass or crockery; boxes; new and used lumber or other wood that is not part of a structure or that is not used as firewood and is not stacked or stored in a neat manner on the property; paper, rags, animal waste, cardboard, rubber, plastic, wire, tin and metal materials; discarded household goods or appliances, junk lawn mowers, snow blowers, tires, tire rims or used motor vehicle parts, machine parts, junked boats or junked recreational vehicles; tar paper residue from burning or similar materials which constitute health, fire or safety hazards or any other materials that have a detrimental visual and aesthetic impact upon the neighborhood in which the property is located or the City in general, which tend to cause a blighted condition as defined under state law, or which emit a noxious, foul or offensive odor.

- (3) The provision of this section shall not apply to materials stored or maintained on a property in conjunction with any business, manufacturing or other use which meets applicable City ordinance including but not limited to fire, building and zoning code requirements and restrictions.

D. SPECIFIC MAINTENANCE REQUIRED.

(1) Exterior Walls and Foundations.

- (a) Every foundation and exterior wall shall be reasonably weather tight, rodent proof, insect proof and shall be kept in a good and sound condition and state of repair. The foundation elements shall adequately support the building at all points. Any sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breeching shall be so constructed and maintained so as to ensure that they safely and properly remove the products of combustion from the building.
- (b) Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
- (c) All cornices, moldings, lintels, sills, oriel windows, and similar projections shall be kept in good repair and free from cracks and defects which make them hazardous or unsightly.

- (2) **Paint and Other Preservatives.** Exterior surfaces of buildings, fences and other structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. Missing or damaged siding shall be promptly replaced.

(3) Doors, Windows and Basement Hatchways.

- (a) Every window, screen, exterior door and basement hatchway shall be tight and shall be kept in a good and sound condition and state of repair. Every window sash shall be fully supplied with glass windowpanes or an approved substitute which is without open cracks or holes. Every window sash shall be in good condition and fit well within its frame.
- (b) Every exterior door, door hinge and door latch shall be maintained in a good and sound condition and state of repair. Exterior doors, when closed, shall fit well within their frames.

- (c) **Insect screens.** During the period from April to October, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved, tightly fitting screens.
 - i. Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.
- (d) **Guards for basement windows.** Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.
- (4) **Porches, Railings, Stairways, Decks, Balconies, Platforms and Patios.** Every outside stair, porch, balcony, platform, patio and appurtenance thereto, shall be so constructed to be safe to use and capable of supporting normal loads as required by the Building Code and shall be kept in a good and sound condition and state of repair.
 - (a) **Handrails and Guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- (5) **Roofs and Drainage.**
 - (a) All roofs shall be maintained so as not to leak and all water shall be so drained and conveyed therefrom so as to not cause damage to the exterior walls, interior walls, eaves, soffits or foundations.
 - (b) All courts, yards or other areas on the premises shall be properly graded to divert water away from the building. Ground surface adjacent to the building shall be sloped away from the structure where possible and shall not cause nuisance water to flow onto neighboring properties.
- (6) **Fence and Retaining Wall Requirements.**
 - (a) All fences shall be properly maintained and kept in a good and sound state of repair.
 - (b) Retaining walls shall be structurally sound. No retaining wall shall be constructed or maintained in such a manner as to cause a repeated spillage of mud, gravel or debris upon any public sidewalk, street, alley or adjoining property.

- (7) **Exterior Property Areas.** All exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, rubbish or garbage, or physical hazards, rodent harborage and infestation, or animal feces.
- (8) **Grading and Drainage of lots.** Every yard, court, vent passageway, driveway, and other portion of the lot on which the building stands shall be graded and drained so as to prevent the accumulation of water on any such surface or on adjacent property. Driveways shall be maintained in good repair.
- (9) **Landscaping.** All exterior property areas shall be kept free from noxious weeds as defined in Chapter 10 of these ordinances. Landscaping, plantings and other decorative surface treatments including common species of grass shall be installed if necessary and maintained to present an attractive appearance in all court and yard areas.
 - (a) Landscaping material. No person shall accumulate, allow to accumulate or store landscaping material in an unused state and open to the public view for a period exceeding ten days.
- (10) **Decorative features.** Cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- (11) **Overhand extensions.** Overhand extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and properly anchored so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
- (12) **Accessory structures.** All accessory structures shall be maintained in a state of good repair and vertical alignment. All exterior appurtenances or accessory structures which serve no useful purpose and are deteriorated or dilapidated condition, which are not economically repairable, shall be removed. Such structures include, but shall not be limited to, porches, terraces, entrance platforms, garages, driveways, carports, walls, fences, and miscellaneous sheds.
- (13) **Motor Vehicles.** Except as provided for in other regulations, inoperative or unlicensed motor vehicles, or motor vehicle parts shall not be parked, kept or stored on any premises, and vehicles shall not at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.
 - (a) **Exception.** A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a

structure or similarly enclosed area designed and approved for such purposes.

- (14) **Residential yard parking regulations.** The parking of any vehicle upon a residential lot shall be in compliance with the following standards:

- (a) The parking of any vehicle within the front yard or (street) side yard shall be on an improved surface driveway or parking pad. Improved surface shall mean a surface of concrete, asphalt, or other material other than grass, such as crushed rock, gravel or other materials, laid over subsoil, which provides a hard driving surface, resists rutting, provides for sufficient water runoff and is graded and drained to dispose of all surface water. The remainder of the required front yard setback, and the streetside yard setback on any corner lot, shall not be considered a part of the permitted parking area and shall be landscaped.
- (b) No parking pad shall be allowed in the minimum front yard setback or minimum street side yard setback established for the district except that one additional parking pad up to ten feet wide may be added directly abutting a single-width or double-width driveway leading to an approved parking area, provided the parking pad shall not be located in front of a home.
- (c) Parking is prohibited within a driveway right-of-way.

- (15) **Pools, Spas and Hot Tubs.**

- (a) **Swimming pools.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.
- (b) **Enclosures.** Private swimming pools, hot tubs and spas, containing water more than 24 inches in depth shall be completely surrounded by a fence or barrier not less than 48 inches in height above the finished ground level measured on the side of the barrier away from the pool.
 - i. **Exception.** If a hot tub is outfitted with a securely locking, tightly fitted cover, the hot tub will not require an enclosure.

- (16) **Storage and parking of recreational vehicles and trailers.** In all residential and commercial districts provided for in the zoning chapter, it is permissible to park or store a recreational vehicle, camper, trailer, watercraft or boat and boat trailer on private property in the following manner:

- (a) Parking is permitted inside any enclosed structure, which otherwise conforms to the zoning requirements of the particular zoning district where located.
- (b) Parking is permitted outside in the side yard or rear yard provided it is not nearer than five feet to the lot line and on a Improved Surface. Improved surface shall mean a surface of concrete, asphalt, paver, or other material other than grass,

such as crushed rock, gravel or other materials, laid over subsoil, which provides a hard driving surface, resists rutting, provides for sufficient water runoff and is graded and drained to dispose of all surface water.

1. An exemption to the five foot setback requirement shall be granted by the Neighborhood Services Department if the parking is approved in writing by the current adjacent property owners in which the recreational vehicle encroaches, and the parking is in accordance with all other requirements set forth.
- (c) A part of the unit may extend over the improved surface in which it is parked, however, the improved surface shall cover the entire area in which the recreational vehicle, or trailer is driven on for parking purposes. Additionally, the unit shall not extend over the public sidewalk or public right-of-way.
- (d) No unit shall be parked on public streets, highways, intersections, or public land or parking lots for an extended period exceeding 48 hours.
- (e) Parking is permitted only for storage purposes. Recreational vehicles or boats shall not be:
 - a. Used for dwelling or cooking purposes.
 - b. Permanently connected to sewer lines, water lines, or electricity. The recreational vehicle may be connected to electricity temporarily for charging batteries and other purposes.
 - c. Used for storage of goods, materials, or equipment other than those items considered to be part of the unit or essential for its immediate use.
- (f) Notwithstanding the above, a unit may be parked anywhere on the premises during active loading or unloading, and the use of electricity or propane fuel is permitted when necessary to prepare a recreational vehicle for use.
- (g) The unit shall be owned by the resident on whose property the unit is parked for storage.
- (h) The number of units on any property within City jurisdiction shall not exceed two (2), and units shall not exceed 30 feet in length.

E. ACCESS TO PROPERTY.

After presenting proper identification, the Building Inspector, Neighborhood Services Officer, Code Enforcement Officer, or the Police Chief, or their respective deputies or designees, shall be permitted to enter upon any property at any reasonable time for the purpose of making inspections to determine compliance with this Chapter and related ordinances. If denied access, the Code Official may acquire a special inspection warrant for such access, pursuant to Sec. 66.0119, Wis. Stat., as amended from time-to-time.

F. ENFORCEMENT.

(1) Enforcement.

- (a) **Order to correct conditions.** Whenever the City, through its agents or employees shall, upon inspection of the premises within the City, find the condition of the property or premises is in violation of this Chapter, an order

shall be issued to the owner (and occupant if different from owner) of the premises or property to correct said condition by the Building Inspector or designee.

- (b) Contents of the order shall include:
 - i. A description of the premises and the violation of the Chapter;
 - ii. A statement of the correction necessary to bring the property into compliance;
 - iii. A statement specifying the time within which the owner and occupant shall comply with the order; and
 - iv. A statement of the penalty section of the ordinance for noncompliance.
 - v. A statement specifying accessibility needs, and request for language translation.

G. SERVICE.

The order shall be served on the owner (and occupant if different from owner) by delivering the same to and leaving it with any adult competent person in charge of the premises or in case no such person is found upon the premises by affixing a copy thereof in a conspicuous place near the entrance of the premises and by regular mail to the owner and occupant of the premises.

H. FAILURE TO COMPLY; DECLARATION OF PUBLIC NUISANCE.

- (1) **Failure to comply.**
 - (a) **Citation.** Any person, firm or corporation violating any provision of this Chapter shall be subject to the general penalty provisions of this code found in Section 1.20 of the City's Code of Ordinances. A citation may be issued pursuant to Sec. 1.20 of the City's Code or Ordinances.
 - (b) **Cause work to be done.** Upon failure to comply with an order where there is proof of service of said order which requires that any premises or property be cleaned or condition abated or improved in accordance with this Chapter, the City may cause such cleaning, improvement, abatement or removal of the offending combustible or incombustible materials, debris or refuse. Such repair or removal shall be deemed a special benefit to such property and the costs of the same shall be charged against the owner(s) of the property. If the cost of the same is not paid within 60 (sixty) days, it shall

be levied as a special charge against the property as authorized by Section 66.0627 of the Wis. Stat.

- (c) **Injunctive Relief.** In addition to other applicable enforcement procedures the City shall have the right to abate any violation of this Chapter by an action for injunctive relief in Walworth or Jefferson County Circuit Court.

(2) **Abatement**

- (a) **Enforcement.** The chief of police, the chief of the fire department, the building inspector, neighborhood services officer, or other designee shall enforce those provisions of this chapter that come within the jurisdiction of their offices and they shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. No action shall be taken under this section to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist.
 - (b) **Summary abatement.** If the inspecting officer shall determine that a public nuisance exists within the village and that there is great and immediate danger to the public health, safety, peace, morals or decency, the president may direct the proper officer to cause the same to be abated and charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.
 - (c) **Abatement after notice.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall serve notice on the person causing or maintaining the nuisance to remove the same within ten days. If such nuisance is not removed within such ten days, the proper officer shall cause the nuisances to be removed as provided in subsection (b) of this section.
 - (d) **Other methods not excluded.** Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the City or its officials in accordance with the laws of the state.
 - (e) **Court order.** Except when necessary under subsection (b) of this section, no officer hereunder shall use force to obtain access to private property to abate a public nuisance but shall request permission to enter upon private property if such premises are occupied and if such permission is denied, shall apply to any court having jurisdiction for an order assisting the abatement of the public nuisance.
- (3) **Cost of abatement.** In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the City shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

I. REINSPECTION FEES

The following fees shall be imposed for the administration of this Chapter.

- (1) First re-inspection fee of \$75.00 per property upon verification of continued violation by City Building Inspector, Neighborhood Services Officer, Code Enforcement Officer or designee.
- (2) For a second reinspection, a fee of \$200.00
- (3) For a third reinspection a fee of \$400.00, and for each subsequent reinspection for the same condition.

If a property owner fails to pay such fees after billing, the City may impose such fees as against the property pursuant to applicable law and collect such charges on the property tax bill each year.

J. APPEAL

Any person affected by any notice or order which has been issued in connection with the enforcement of any of the provisions of this section may request and shall be granted a hearing before the Common Council. Requests for such hearing will be filed with the Clerk no later than 5 business days from the date of the final notice of the order.

DRAFT



Office of the City Manager
312 W. Whitewater Street, P.O. Box 178
Whitewater, Wisconsin 53190

MEMORANDUM

www.whitewater-wi.gov
Telephone: (262) 473-0104
Fax: (262) 222-5901

To: Common Council
From: John Weidl, City Manager; Taylor Zeinert, Chief of Staff
Date: December 29, 2023
Re: Filling the Common Council Vacancies

City Staff is sad to hear of the passing of Council President Allen. In response to his passing City Staff has looked at ordinances to guide the Council on how to proceed in these circumstances.

According to Ordinance 2.08.020, subsection A "If a president is unable or unwilling to serve permanently a new president shall be elected, rather than the president pro tem automatically becoming president."

At this time staff is requesting that you elect a new Council President.

Warm regards,

A handwritten signature in cursive script that reads "John S. Weidl".

John S. Weidl, City Manager

JSW/TKZ

2.08.020 Presiding officer.

- (a) **President to Preside.** The president of the council, who shall be elected at the first meeting after the election of new councilmembers (second regularly-scheduled meeting in April), shall at the hour stated call the meeting to order. At the first meeting of each year, the council shall also elect a president pro tem who shall act as president in the absence of the regular president. If a president is unable or unwilling to serve permanently a new president shall be elected, rather than the president pro tem automatically becoming president.
- (b) **Duties.** The presiding officer shall preserve order and decorum, decide all questions of order, and conduct the proceedings of the meeting in accordance with the parliamentary rules contained in Robert's Rules of Order, unless otherwise provided by statute or by these rules. Any member shall have the right to appeal from a decision of the presiding officer. An appeal shall be sustained by a two-third vote of the members present exclusive of the presiding officer.

(Ord. No. 1764A, § 1, 5-4-2010)



Office of the City Manager
312 W. Whitewater Street, P.O. Box 178
Whitewater, Wisconsin 53190

MEMORANDUM

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Telephone: (262) 473-0104
Fax: (262) 222-5901

To: Common Council
From: John Weidl, City Manager; Taylor Zeinert, Chief of Staff
Date: December 29, 2023
Re: Filling the Common Council Vacancy of the Member at Large/ Even

City staff reviewed internal policies, state laws, and collaborated with Attorney Claire Silverman from the League of Municipalities regarding procedures for filling vacancies. In 2021, guided by President Binnie, the Common Council established a policy for handling council vacancies. This policy was utilized in 2021 when a vacancy occurred on the Common Council, leading to the appointment of Lukas Schreiber.

City staff has looked internally at policy, state statutes, and worked with Attorney Claire Silverman, at the League of Municipalities about the next steps to fill these vacancies. During 2021 the Common Council, under the guidance of President Binnie created a policy of what to do when a vacancy occurs on Common Council. This was the guide post in 2021, as a vacancy on the Common Council was made and Lukas Schreiber was appointed.

This same policy has once again guided staff as to what to do in this challenging time. A crucial note about this policy is that it is based on Wisconsin State Statutes 17.03 and 17.23.

Mr. Allen's vacancy falls under 17.03 (1). Once the validity of the vacancy is established, the next step is determining the factor for the timeline in which the vacancy occurred. Due to the timeline of Mr. Allen's passing, we would follow Section 2, Subsection B. This states that the council is to appoint a successor for these vacancies.

Following our policy, we will publicly announce the vacancy at this Council meeting and have a notice to follow in the Register, the City Official Newspaper, and various posts on social media. Applications will be available on our website and in person at the municipal building. **At this Council meeting, the staff is requesting that the Council set a deadline for applications.** Once all of the applications are submitted, City Staff will prepare them and send them to the Common Council for review. Once the Council has reviewed the applications they are to interview the applicants. Once the Council has concluded this process they are to appoint a person to fill the appropriate vacancy.

Warm regards,

A handwritten signature in black ink that reads "John S. Weidl".

John S. Weidl, City Manager

CITY OF WHITEWATER POLICY FOR
FILLING COUNCILMEMBER POSITION VACANCIES

- General: In order to provide the citizens of the City of Whitewater with appropriate representation, a uniform procedure shall be used by the Common Council to fill vacancies in the elected position of councilmember.
- Procedures: 1. Whenever a councilmember position becomes vacant under the conditions listed in Sec. 17.03, Stats., the vacancy is filled by Common Council appointment, except when a recall election is held. A councilmember shall be chosen from interested candidates residing in the affected district, or in the case of an at-large position, from interested candidates residing in the City. A person so appointed shall hold office until a successor is elected and qualified.
2. According to Sec. 17.23(1)(a):
- a) If a vacancy occurs on or before December 1, and the term does **not** expire the following April, unless otherwise ordered by the Council, a successor is chosen at the spring election.
 - b) If the vacancy occurs after December 1 preceding the first Tuesday in April, a successor is appointed and the election is held in April of the second year following the December cutoff date.
 - c) If a vacancy occurs between January 1 and May 31 of the second year of the unexpired term, Council appoints a person to fill the vacancy and has the option to order a special election concurrent with the November election.
3. At the next meeting of the Common Council after a position becomes vacant, the Council will declare the position to be vacant and may request that the City Clerk advertise the vacant position through a news release, through an advertisement in the City's official newspaper, and through any other means deemed appropriate. At this time the Council will establish a deadline for applications to be received from interested candidates. Such deadline should be at least one week prior to the meeting when candidates will be interviewed. (The Council, where authorized by the Wisconsin statutes, by a majority of those present, may, on the first Council meeting following a vacancy, elect to follow the alternative procedure of holding a special election, which election would be ordered as soon as possible, pursuant to the procedures and time frames set forth in the Wisconsin Statutes, as they are interpreted by the Government Accountability Board.
4. Applicants will be required to submit a completely filled out Letter of Interest to Serve on Common Council. This form will be available on the City website or upon request of the City Clerk. Candidates may submit reference letters. Only applications received by the published deadline will be considered.
5. Interviews are conducted in open session Common Council meetings. As with all open sessions, interested news media and public may be present throughout the entire process. No public input will be taken during the interview or voting process.
6. The candidates will be notified of the date when applications will be considered and requested to attend.

7. Each candidate will be given an opportunity to make a presentation to the Council and the Council may ask candidates questions. All candidates may be present throughout the process.
8. After the presentations have been concluded, the Council may discuss qualifications of candidates. The Council may recall individual candidates to clarify any issues previously discussed. The Council may decide not to choose a candidate at the current meeting and decide on a different process for the appointment.
9. Each councilmember votes for one candidate. Voting may be conducted by roll call or by paper ballot. If paper ballots are used, ballots must contain the name of the person voting. The individual receiving the least number of votes on the first ballot will no longer be considered a candidate and additional balloting continues using the same process until only one candidate receives a majority of votes cast. There may be additional discussion by councilmembers between each vote. A candidate must receive a majority of votes cast to be elected. An abstention by a councilmember during the voting process is not considered a vote.
10. Following the completion of balloting, the prevailing candidate shall be appointed to complete the unexpired term of office.
11. The oath of office shall be administered by the City Clerk and the responsibilities and term of office shall be assumed immediately.
12. The individual appointed may seek candidacy for the elected office.
13. This policy may be amended at any time.

Adopted 12/4/2012



Office of the City Manager
312 W. Whitewater Street, P.O. Box 178
Whitewater, Wisconsin 53190

MEMORANDUM

www.whitewater-wi.gov
Telephone: (262) 473-0104
Fax: (262) 222-5901

To: Common Council
From: John Weidl, City Manager; Taylor Zeinert, Chief of Staff
Date: December 29, 2023
Re: Filling the Common Council Vacancy for District 1

City staff reviewed internal policies, state laws, and collaborated with Attorney Claire Silverman from the League of Municipalities regarding procedures for filling vacancies. In 2021, guided by President Binnie, the Common Council established a policy for handling council vacancies. This policy was utilized in 2021 when a vacancy occurred on the Common Council, leading to the appointment of Lukas Schreiber.

City staff has looked internally at policy, state statutes, and worked with Attorney Claire Silverman, at the League of Municipalities about the next steps to fill these vacancies. During 2021 the Common Council, under the guidance of President Binnie created a policy of what to do when a vacancy occurs on Common Council. This was the guide post in 2021, as a vacancy on the Common Council was made and Lukas Schreiber was appointed.

This same policy has once again guided staff as to what to do in this challenging time. A crucial note about this policy is that it is based on Wisconsin State Statutes 17.03 and 17.23.

Mr. Stone's vacancy falls under 17.03 (2). Once the validity of the vacancy is established, the next step is determining the factor for the timeline in which the vacancy occurred. Due to the timeline of Mr. Stone's resignation, we would follow Section 2, Subsection B. This states that the council is to appoint a successor for these vacancies.

Following our policy, we will publicly announce the vacancy at this Council meeting and have a notice to follow in the Register, the City Official Newspaper, and various posts on social media. Applications will be available on our website and in person at the municipal building. **At this Council meeting, the staff is requesting that the Council set a deadline for applications.** Once all of the applications are submitted, City Staff will prepare them and send them to the Common Council for review. Once the Council has reviewed the applications they are to interview the applicants. Once the Council has concluded this process they are to appoint a person to fill the appropriate vacancy.

Warm regards,

A handwritten signature in black ink that reads "John S. Weidl".

John S. Weidl, City Manager

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FILLING COUNCILMEMBER POSITION VACANCIES

- General: In order to provide the citizens of the City of Whitewater with appropriate representation, a uniform procedure shall be used by the Common Council to fill vacancies in the elected position of councilmember.
- Procedures: 1. Whenever a councilmember position becomes vacant under the conditions listed in Sec. 17.03, Stats., the vacancy is filled by Common Council appointment, except when a recall election is held. A councilmember shall be chosen from interested candidates residing in the affected district, or in the case of an at-large position, from interested candidates residing in the City. A person so appointed shall hold office until a successor is elected and qualified.
2. According to Sec. 17.23(1)(a):
- a) If a vacancy occurs on or before December 1, and the term does **not** expire the following April, unless otherwise ordered by the Council, a successor is chosen at the spring election.
 - b) If the vacancy occurs after December 1 preceding the first Tuesday in April, a successor is appointed and the election is held in April of the second year following the December cutoff date.
 - c) If a vacancy occurs between January 1 and May 31 of the second year of the unexpired term, Council appoints a person to fill the vacancy and has the option to order a special election concurrent with the November election.
3. At the next meeting of the Common Council after a position becomes vacant, the Council will declare the position to be vacant and may request that the City Clerk advertise the vacant position through a news release, through an advertisement in the City's official newspaper, and through any other means deemed appropriate. At this time the Council will establish a deadline for applications to be received from interested candidates. Such deadline should be at least one week prior to the meeting when candidates will be interviewed. (The Council, where authorized by the Wisconsin statutes, by a majority of those present, may, on the first Council meeting following a vacancy, elect to follow the alternative procedure of holding a special election, which election would be ordered as soon as possible, pursuant to the procedures and time frames set forth in the Wisconsin Statutes, as they are interpreted by the Government Accountability Board.
4. Applicants will be required to submit a completely filled out Letter of Interest to Serve on Common Council. This form will be available on the City website or upon request of the City Clerk. Candidates may submit reference letters. Only applications received by the published deadline will be considered.
5. Interviews are conducted in open session Common Council meetings. As with all open sessions, interested news media and public may be present throughout the entire process. No public input will be taken during the interview or voting process.
6. The candidates will be notified of the date when applications will be considered and requested to attend.

7. Each candidate will be given an opportunity to make a presentation to the Council and the Council may ask candidates questions. All candidates may be present throughout the process.
8. After the presentations have been concluded, the Council may discuss qualifications of candidates. The Council may recall individual candidates to clarify any issues previously discussed. The Council may decide not to choose a candidate at the current meeting and decide on a different process for the appointment.
9. Each councilmember votes for one candidate. Voting may be conducted by roll call or by paper ballot. If paper ballots are used, ballots must contain the name of the person voting. The individual receiving the least number of votes on the first ballot will no longer be considered a candidate and additional balloting continues using the same process until only one candidate receives a majority of votes cast. There may be additional discussion by councilmembers between each vote. A candidate must receive a majority of votes cast to be elected. An abstention by a councilmember during the voting process is not considered a vote.
10. Following the completion of balloting, the prevailing candidate shall be appointed to complete the unexpired term of office.
11. The oath of office shall be administered by the City Clerk and the responsibilities and term of office shall be assumed immediately.
12. The individual appointed may seek candidacy for the elected office.
13. This policy may be amended at any time.

Adopted 12/4/2012

NOTICE OF VACANT ALDERMANIC DISTRICT 1 COUNCIL SEAT

The Councilmember Seat for Aldermanic District 1 (Wards 1, 2 and 3) is currently vacant, and the Common Council of the City of Whitewater is seeking Applications for Appointment from individuals who reside in Aldermanic District 1 (Wards 1,2 and 3), and who are willing to serve on the Common Council. Council meetings are held at 6:30 p.m. on the 1st and 3rd Tuesdays of each month. Occasionally there are additional meetings. Each Common Council member also serves as a representative to various Boards or Commissions. The Common Council will review Applications from applicants, and will consider appointment of an applicant to the position at the _____council meeting. The appointment will be until the Tuesday, April 15, 2025, at which time the councilmember elected at the April 1 , 2025 election. For those unsure of their Aldermanic District, please contact the City Clerk at 262-473-0102.

An application must be submitted to City Clerk Heather Boehm, 312 W. Whitewater Street, Whitewater, WI 53190 by **4:30 p.m. on _____**The Clerk can be reached by e-mail at: hboehm@whitewater-wi.gov or by telephone at 262-473-0102.

Heather Boehm
City Clerk
262-473-0102

Publish In:

Whitewater Register

E-Mail to:

WhitewaterWise
Whitewater Banner

Post on City of Whitewater Website

Post to:

Irvin L. Young Memorial Library
City of Whitewater Municipal Building
City of Whitewater Senior Center

APPLICATION FOR APPOINTMENT TO COMMON COUNCIL

Please consider this application my intent to seek City of Whitewater Common Council appointment to fill the remaining term for the position of Councilmember AD 1 (This term will expire on April 15, 2025)

Full Name: _____

Street Address: _____

City, State, Zip: _____

Phone # _____ E-Mail: _____

If appointed, I plan to run for the Councilmember AD 1 position in the April 1, 2025 election.
(Circle One)

Yes

No

Undecided

Employment History:

Educational Background:

Political Experience:

(include any elected or appointed positions or committees you have served on)

Community Service Experience:

(include volunteer work or other community activities)

Signature of Applicant: _____ Date: _____

Submit your application to the City Clerk at 312 W. Whitewater Street, Whitewater, WI 53190 or by email to cityclerk@whitewater-wi.gov on or before: 4:30 p.m.



Office of the City Manager
312 W. Whitewater Street, P.O. Box 178
Whitewater, Wisconsin 53190

MEMORANDUM

www.whitewater-wi.gov
Telephone: (262) 473-0104
Fax: (262) 222-5901

To: Common Council
From: John Weidl, City Manager; Taylor Zeinert, Chief of Staff
Date: December 29, 2023
Re: Filling the Common Council Vacancies

Due to the passing of Council President Allen and the resignations of Councilperson Stone, there is a considerable amount of vacancies left on several Boards, Commissions, and Committees. Please see the below list of vacancies:

- Alcohol Licensing Committee
- Community Development Authority
- Finance Committee
- Parks and Recreation Board
- Public Works Committee- 2 Spots
- Urban Forestry (as the Park and Recreation Board Representative)

Since these are all positions that need to be filled by a Common Council Representative staff suggest that we mirror the same process that is conducted after the spring election. This process is that the Clerk will send out a spreadsheet of the Boards, Commissions, and Committees that have vacancies. This spreadsheet was emailed to each council person at the time of the electronic publishing of the agenda. Additionally, the spreadsheet has been attached to this memo for your convenience. Upon receipt, the Councilperson will fill out the spreadsheet ranking their interests per each Board, Commission, and Committee.

Warm regards,

A handwritten signature in black ink that reads "John S. Weidl".

John S. Weidl, City Manager

JSW/TKZ

<i>Board / Commission</i>	<i>No. Openings</i>	<i>Current Council Person Serving</i>	<i>Dawsey- Smith</i>	<i>Hicks</i>	<i>Brown</i>	<i>Gerber</i>	<i>Schreiber</i>	<i>Comments</i>
Alcohol Licensing Comm	1	Dawsey- Smith, Hicks						
CDA	1	Schreiber						
Finance	1	Gerber, Dawsey- Smith						
Parks & Recreation Board	1							
Public Works	2	Gerber						
Urban Forestry	1							Must be a Park and Recreation Representative



Office of the City Manager
312 W. Whitewater Street, P.O. Box 178
Whitewater, Wisconsin 53190

MEMORANDUM

www.whitewater-wi.gov
Telephone: (262) 473-0104
Fax: (262) 222-5901

To: Common Council
From: John Weidl, City Manager; Taylor Zeinert, Chief of Staff
Date: December 13, 2023
Re: Recommendation to the Boarding Zoning Appeals

The City Manager and Council President interviewed Justin Wesolek for the Board of Zoning Appeals (BZA). BZA is looking to fill a vacancy. Justin is a recent graduate of UW- Whitewater and has come to love the Whitewater Community. Due to his love for Whitewater, he decided to work in the community. Mr. Wesolek has noted that he not only wants to work and live in the City of Whitewater but also become an active contributor to the community.

During his time at the University Mr. Wesolek served in student government which allowed him to work with state legislators, the governor's office, and other political organizations. These experiences allowed him to foster leadership skills by becoming a committee chairman and other prominent roles.

Mr. Wesolek lovingly refers to himself as a numbers and government nerd and would be thrilled to be a part of BZA. After the interview both the City Manager and Council President noted the obvious recommendation to the BZA. With that being said it is the joint recommendation to the Common Council that Justin Wesolek be a member of the BZA.

Warm regards,

A handwritten signature in cursive script that reads "John S. Weidl".

John S. Weidl, City Manager

JSW/TKZ

From: [Wesolek, Justin D](#)
To: [Taylor Zeinert](#)
Subject: RE: Board and Commission Application
Date: Monday, November 6, 2023 2:21:22 PM
Attachments: [image001.png](#)

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.

Hi Taylor,

Congrats on your new position! I submitted my application a while ago now (probably in September or October) and I am/was interested in serving on the ethics board, board of zoning appeals, the disability rights commission, and would also be interested in the police and fire commission.

Best,

Justin D. Wesolek

Complex Director - Pulliam Hall

WesolekJD22@uww.edu | 262-472-6912 | [Webex](#)

[Click this link to schedule a meeting with me \(students only\)](#)

Learn More at: [Live! Learn! Engage!](#) <- (Click to learn more)

From: Taylor Zeinert <tzeinert@whitewater-wi.gov>
Sent: Monday, November 6, 2023 2:18 PM
To: Wesolek, Justin D <WesolekJD22@uww.edu>
Subject: Board and Commission Application

EXTERNAL EMAIL

Hello Justin,

I have recently forwarded a message that you sent to a different city employee about your board and commission application. I am relatively new to the City. Would you be able to share when you submitted your application and what committees you were interested in serving on?

Thanks,

Taylor Zeinert



Chief of Staff

City Manager's Office



312 W. Whitewater St., Whitewater, WI 53190
262-473-0101 | tzeinert@whitewater-wi.gov
www.whitewater-wi.gov

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



Council Agenda Item

Meeting Date:	January 16, 2024
Agenda Item:	Strand Task Order 24-02
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND

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

The City of Whitewater has a Municipal Separate Storm Sewer System (MS4) permit from the DNR. One requirement of this permit is to update the City's Stormwater Quality Management Plan (SQMP). The SQMP updates where the City stands in compliance with Phosphorus and Total Suspended Solids removal in meeting the Rock River total maximum daily load (TMDL) criteria. The SQMP also provides alternative analysis and an implementation plan on how the City plans on meeting the TMDL criteria in the future. The last update to the SQMP was done in 2017.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

N/A

FINANCIAL IMPACT

(If none, state N/A)

The estimated cost on an hourly rate basis plus expenses is \$85,000. A DNR Planning Grant in the amount of \$42,500 has already been awarded to the City to help offset the expense.

STAFF RECOMMENDATION

Staff recommendation is to approve Task Order 24-02.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Draft Task Order 24-02, Stormwater Quality Management Plan Update

Task Order No. 24-02
City of Whitewater, Wisconsin (OWNER)
and Strand Associates, Inc.® (ENGINEER)
Pursuant to Agreement for Technical Services dated December 30, 2020

Project Information

Services Name: Stormwater Quality Management Plan (SQMP) Update

Services Description: Prepare a SQMP update to the existing 2017 plan in accordance with OWNER's municipal separate storm sewer system (MS4) permit and the Rock River total maximum daily load (TMDL) criteria. This project is partially funded by a Wisconsin Department of Natural Resources (WDNR) Urban Nonpoint Source and Stormwater Grant.

Scope of Services

ENGINEER will provide the following services to OWNER.

Administration and Meetings

1. Submit a draft task order to WDNR for approval prior to execution by OWNER and ENGINEER. Prepare and submit WDNR Final Report (Form 3400-189).
2. Participate in one in-person kickoff meeting, two virtual progress meetings, and one in-person presentation meeting.

Stormwater Quality Modeling, Alternatives Analysis, and Implementation Plan

1. Submit a data request to OWNER for existing stormwater-related reports, existing stormwater Best Management Practices (BMP) information, and existing geographic information system (GIS) files showing locations of existing stormwater quality BMPs for which OWNER seeks pollutant reduction credit. Review existing reports and data.
2. Update OWNER's baseline and existing conditions stormwater quality models in accordance with the WDNR's October 20, 2014, TMDL Guidance for MS4 Permits: Planning, Implementation, and Modeling Guidance (recertified on September 16, 2019). Modeling will be performed in WinSLAMM for total suspended solids and total phosphorus (TP). OWNER's existing grass-lined swales, street sweeping, catch basin cleaning, and up to 2 publicly-owned, and 9 privately-owned stormwater BMPs with maintenance agreements will be incorporated into the models based on OWNER-provided stormwater BMP information. Privately-owned BMPs without maintenance agreements will not be modeled. The WinSLAMM models created for the 2017 SQMP will be updated to the current WinSLAMM version. Provide a database of BMP information in spreadsheet format based on information provided by OWNER. If additional BMPs are requested to be modeled by the OWNER, the additional modeling will be provided through an amendment to this Task Order. Modeling of University of Wisconsin—Whitewater lands is not included.
3. Provide a tabular summary of stormwater quality modeling for OWNER in accordance with Wisconsin Pollutant Discharge and Elimination System (WPDES) Permit No. WI-S050075-3.

JHL:sem/R:\MAD\Documents\Agreements\W\Whitewater, City of (WI)\ATS.2020\TO\2024\1407.138.24-02.docx

4. Re-evaluate the three alternatives that were analyzed in the 2017 plan to assist in meeting the TMDL criteria within the city limits consisting of a combination of up to ten potential component stormwater BMPs that were analyzed in the 2017 plan. Up to three total additional potential component stormwater BMPs will be analyzed after consideration of the previously proposed alternatives in the 2017 plan. Prepare a figure, analysis, opinion of probable construction cost (OPCC), and total 20-year present worth cost for up to 13 potential component stormwater BMPs. Costs will be presented in terms of total cost and cost per pound TP removed. Provide a figure showing the locations of the 13 potential component stormwater BMPs.
5. Provide a narrative in the plan discussing potential options for achieving TMDL compliance through water quality trading (with other MS4s, private point dischargers, and agricultural lands). Develop concept level 20-year present worth cost for water quality trading (with agricultural lands) to assist in meeting TMDL wasteload allocations.
6. Develop a potential project implementation plan considering feasibility, water quality benefit, available funding sources, land availability, and proximity to wetlands. The Implementation Plan will include prioritization of improvements, potential schedule of improvements, budgeting plan, and review of potential funding sources based on OWNER's input. This plan will consist of a table in the SQMP update.
7. Prepare and submit a watershed map (storm sewer system, municipal boundary, TMDL reachsheds, existing stormwater BMPs, and areas excluded from modeling), WinSLAMM land use map, and soils classification map in accordance with WPDES Permit No. WI-S050075-3 and in accordance with OWNER-provided information.

SQMP Update

Prepare a SQMP update documenting the plan services and submit to OWNER in draft, draft final, and final format. The draft plan will include introduction, contributing watershed characteristics, and stormwater quality modeling report sections. The draft final plan will include the alternatives analysis report section. The draft plan and associated WinSLAMM stormwater quality models will be submitted to WDNR for concurrence with the submitted existing conditions WinSLAMM stormwater quality models. Provide one portable document format (PDF) file of the draft, draft final, and final SQMP update. Submit PDF files of the final plan to OWNER and WDNR.

Service Elements Not Included

In addition to those listed in the associated Agreement for Technical Services, the following service elements are not included in this Task Order. If such services are required, they shall be provided through an amendment to this Task Order.

1. Data Gathering of Public or Private Stormwater BMP Information: Any services related to gathering public or private BMP data or other information.
2. Topographic Survey of Additional Public or Private Stormwater BMPs: Any services to provide topographic survey, information processing, and WinSLAMM modeling if record drawings of public or private stormwater BMPs are insufficient to prepare WinSLAMM models of public or private BMPs.

Whitewater, Wisconsin
 Task Order No. 24-02
 Page 3
 December 20, 2023

DRAFT

3. WinSLAMM Modeling of Additional Public or Private Stormwater BMPs: If OWNER desires additional WinSLAMM modeling of public or private stormwater BMPs, the additional services to provide information processing and WinSLAMM modeling will be provided through an amendment to this Task Order.

Compensation

OWNER shall compensate ENGINEER for Services under this Task Order on an hourly rate basis plus expenses an estimated fee of \$85,000.

Schedule

Services will begin upon execution of this Task Order, which is anticipated the week of January 1, 2024. Services are scheduled for completion on June 30, 2025.

OWNER's Responsibilities

In addition to those items found in the associated Agreement for Technical Services, OWNER shall be responsible for the following:

1. Provide a stormwater inlet sump inventory of visual observation and measurement of each stormwater inlet/catch basin on OWNER's property if OWNER intends to seek stormwater quality credit for stormwater inlet sumps. This information will be used in the water quality model to provide OWNER credit for the inlets that have sumps in them. OWNER shall provide a map of the locations and depths of inlets with sumps and maintenance schedule.
2. Provide information regarding existing stormwater management programs including public education and outreach, public involvement and participation, illicit discharge detection and elimination, stormwater pollution prevention for municipal operations, street sweeping, deicing and snow removal, leaf and yard waste management, municipal garage and storage area management, and turf maintenance policies.
3. Provide a list of new development, redevelopment, and in-fill development projects with a notice of intent submitted after 2016, and a map showing the location of each.
4. Provide a list, locations, design drawings (grading plans and details), and stormwater management reports for all known existing stormwater BMPs (including privately owned) and practices for which stormwater quality credit is pursued, as available. Provide existing stormwater maintenance agreements for privately-owned stormwater BMPs. For stormwater BMPs, minimum necessary information includes stage/storage, outlet structure/pipes, and approximate current depth of water in the pond today for wet detention basins, as available.
5. Provide available existing soil borings at dry detention basins, infiltration basins, and other stormwater facilities.
6. Provide the most recent version of the following maps in digital format:
 - a. Stormwater system map including locations of storm sewer, storm structures, grass lined ditches, outfalls, and stormwater BMPs.



Council Agenda Item

Meeting Date:	January 16, 2024
Agenda Item:	Amendment 1 to Strand Task Order 23-02
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND

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

Strand Task Oder 23-02 was approved for the design and bidding of the Vehicle Storage Garage at the Water Department. The Amendment to the Task Order includes contract administration, shop drawing reviews, pay request reviews, site visits for periodic inspections, respond to contractor's questions and provide record drawings.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

The Common Council approved the original Task Order 23-02 on January 17, 2023.

FINANCIAL IMPACT

(If none, state N/A)

The estimated compensation for the additional work is \$20,000, raising the compensation for the Task Order from an estimated fee not to exceed \$90,000 to \$110,000.

STAFF RECOMMENDATION

Staff recommendation is to approve Amendment No. 1 to Task Order 23-02.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Draft Amendment No. 1 to Task Order 23-02, New Vehicle Storage Garage at Water Department

Amendment No. 1 to Task Order No. 23-02
City of Whitewater, Wisconsin (OWNER)
and Strand Associates, Inc.® (ENGINEER)
Pursuant to Agreement for Technical Services dated December 30, 2020

This is Amendment No. 1 to the referenced Task Order.

Project Name: New Vehicle Storage Garage at Whitewater Water Department

Under **Scope of Services**, ADD the following.

“Construction-Related Services

1. Provide contract administration services including attendance at preconstruction conference, review of contractor’s shop drawing submittals, review of contractor’s periodic pay requests, attendance at construction progress meetings, periodic site visits, and participation in project closeout.
2. Attend up to three virtual construction progress meetings. Two personnel will attend and construction schedule will be reviewed at each meeting.
3. Review initial construction schedule and contractor-prepared schedule of values.
4. Provide up to 60 hours to review contractor’s shop drawing submittals.
5. Provide up to ten hours to respond to contractor’s requests for information.
6. Prepare changes to the Contract Documents after contract execution through the use of cost proposal requests and change orders.
7. Process and recommend payment by OWNER for the contractor’s monthly pay requests. ENGINEER will rely on OWNER’s review of the contractor’s progress. ENGINEER’s review of Payment Requests from contractor(s) will not impose responsibility to determine that title to any of the work has passed to OWNER free and clear of any liens, claims, or other encumbrances. Any such service by ENGINEER will be provided through an amendment to this Task Order.
8. Provide a site visit by one person during construction to meet with OWNER and contractor and review construction progress.
9. Provide a site visit by three personnel to develop a substantial completion list of items to be completed or corrected by contractor.
10. Provide record drawings in electronic format from information compiled from contractor's records. ENGINEER is providing drafting Services only for record drawings based on the records presented to ENGINEER by contractor and OWNER. ENGINEER will not be liable for the accuracy of the record drawing information provided by contractor and OWNER.”



Council Agenda Item

Meeting Date:	January 16, 2024
Agenda Item:	1 st Revision Walworth SMA
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND

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

In 2022, the City applied for and was awarded a Surface Transportation Project (STP) – Urban for the repaving of Walworth Avenue from Janesville Street west to the City limits. The City entered into a State Municipal Agreement (SMA) where the State (using Federal funds) pays 80% and the City pays 20% toward participating construction activities. During the design of the project it was determined that additional monies would be needed to adequately address the deteriorated pavement and lack of base course in sections of Walworth Avenue. The City, through Strand Associates, reached out to the DOT for additional funding. The 1st Revision of the SMA adjusts the funding values. Construction is scheduled for 2025.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

The Common Council approved the SMA at the February 7, 2023 Council meeting.

FINANCIAL IMPACT

(If none, state N/A)

The original cost of the project was increased by \$515,284 to a new estimated total of \$3,240,224. Federal funding is capped at \$2,539,619. City funding is estimated at \$700,605, (up from \$581,548) with \$45,700 contributed to non-participating items such as water valve and sanitary manhole adjustments.

STAFF RECOMMENDATION


Staff recommendation is to approve the 1st Revision to the Walworth Avenue SMA.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. 1st Revision Walworth Avenue SMA

STP-Rural and small STP-Urban (206) Standard SMA Template

 <p style="text-align: center;">1st Revision STATE/MUNICIPAL AGREEMENT FOR A STATE- LET STP Rural PROJECT</p> <p><i>This agreement supersedes the agreement signed by the Municipality on February 14, 2023, and signed by State on February 21, 2023</i></p> <p>Program Name: STP-Urban 5,000-20,000</p> <p>Sub-program #: 206 Cycle: 2023-2026</p>	<p>Revised Date: December 26, 2023</p> <p>Date: January 18, 2023</p> <p>I.D.: 3835-05-04/74</p> <p>Road Name: WALWORTH AVE</p> <p>Limits: W CITY LIMITS TO S JANESVILLE ST</p> <p>County: WALWORTH</p> <p>Roadway Length: 1.58</p> <p>Functional Classification: Minor Arterial</p> <p>Project Sponsor: City of Whitewater</p>
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The signatory, City of Whitewater, hereinafter called the Municipality, through its undersigned duly authorized officers or officials, hereby requests the State of Wisconsin Department of Transportation, hereinafter called the State, to initiate and effect the highway or street improvement hereinafter described.

The authority for the Municipality to enter into this agreement with the State is provided by Sections 86.25(1), (2), and (3) and Section 66.0301 of the Statutes.

NEEDS AND ESTIMATE SUMMARY:

All components of the project must be defined in the environmental document if any portion of the project is federally funded. The Municipality agrees to complete all participating and any non-participating work included in this improvement consistent with the environmental document. No work on final engineering and design may occur prior to approval of the environmental document.

Existing Facility - Describe and give reason for request: **The far western portion of Walworth Avenue is a rural section with turn lanes and gravel shoulders with no sidewalk. From Indian Mound Parkway to the east, Walworth Avenue is an urban section with sidewalk on the north side up to the High School and then on both sides the rest of the way to Janesville Street. The rural section of Walworth Avenue is showing excessive raveling with numerous patched potholes. Block and alligator cracking and pavement edge deterioration is also prevalent. Block and alligator cracking and some surface raveling is common throughout the rest of the project.**

Proposed Improvement - Nature of work: **The proposed project includes a full reconstruction between the curbs to the E of Woodland Dr. and a full depth mill and relay W of Woodland Dr. Asphalt and gravel shouldering will be required in the rural section. Some curb and gutter replacement will be necessary for updating pedestrian curb ramps to meet ADA standards along with some spot replacement. Besides pedestrian curb ramp replacement, some spot sidewalk replacement will also be necessary to alleviate deteriorated sidewalk and tripping hazards. Pavement marking and striping is included in the scope. Locally funded items consist of adjustments to water valve boxes and sanitary sewer manhole castings.**

Describe non-participating work included in the project and other work necessary to completely finish the project that will be undertaken independently by the Municipality. Please note that non-participating components of a project/contract are considered part of the overall project and will be subject to applicable federal requirements: work could include, but may not be limited to, adjustment of water service boxes, gate valves, and manholes; adjustment of sanitary sewer manholes, placing of new sanitary manhole seals and covers, haul road.

STP-Rural and small STP-Urban (206) Standard SMA Template

The Municipality agrees to the following 2023-2026 STP-Urban project funding conditions:

Project ID 3835-05-74 costs are funded with up to 80% federal funding up to a funding limit of \$2,539,619. The Municipality agrees to provide the remaining 20% and any funds in excess of the \$2,539,619 federal funding limit. **Design, real estate, railroad, and utility costs are 100% locally funded.** Non-participating costs are 100% the responsibility of the Municipality. Any work performed by the Municipality prior to federal authorization is not eligible for federal funding. The Municipality will be notified by the State that the project is authorized and available for charging.

This project is currently scheduled in State Fiscal Year **2025**. Sunset date: **June 30, 2030**

Sunset Date is determined based on the date a project is scheduled to be authorized. Sunset date is calculated as six years from the beginning of the state fiscal year (SFY) in which a project is initially scheduled.

Extensions may be available upon approval of a written request by or on behalf of the Municipality to State. The written request shall explain the reasons for project implementation delay and revised timeline for project completion.

The dollar amounts shown in the Summary of Costs Table below are estimates. The final Municipal share is dependent on the final federal participation, and actual costs will be used in the final division of cost for billing and reimbursement. In no event shall federal funding exceed the estimate of \$2,539,619 in the Summary of Costs Table, unless such increase is approved in writing by the State through the State's Change Management Policy prior to the Municipality incurring the increased costs.

PHASE	SUMMARY OF COSTS				
	Total Est. Cost	Federal Funds *	%	Municipal Funds	%
ID 3835-05-04					
State Review	\$20,000	\$0	0%	\$20,000	100%
ID 3835-05-74					
Participating Construction	\$2,618,594	\$2,094,875	80%	\$523,719	20% + BAL
Construction review	\$535,930	\$428,744	80%	\$107,186	20% + BAL
Non-Participating Construction	\$45,700	\$0	0%	\$45,700	100%
State Review	\$20,000	\$16,000	80%	\$4,000	20% + BAL
Total Est. Cost Distribution	\$3,240,224	\$2,539,619	N/A	\$700,605	N/A

*Design ID# 3835-05-04 federal funding is limited to \$0.

*Construction ID# 3835-05-74 federal funding is limited to \$2,539,619.

This request is subject to the terms and conditions that follow and is made by the undersigned under proper authority to make such request for the designated Municipality and upon signature by the State and delivery to the Municipality shall constitute agreement between the Municipality and the State. No term or provision of neither the State/Municipal Agreement nor any of its attachments may be changed, waived or terminated orally but only by an instrument in writing executed by both parties to the State/Municipal Agreement.

Signatures certify the content has not been altered by the municipality.
Signed for and in behalf of: City of Whitewater (please sign in blue ink.)

Name	Title	Date
------	-------	------

Signed for and in behalf of the State:

Name	Title: SE Region Planning Chief	Date
------	---------------------------------	------

STP-Rural and small STP-Urban (206) Standard SMA Template

GENERAL TERMS AND CONDITIONS:

1. All projects must be in an approved Transportation Improvement Program (TIP) or State Transportation Improvement Program (STIP) prior to requesting authorization.
2. Work prior to federal authorization is ineligible for federal funding.
3. The Municipality, throughout the entire project, commits to comply with and promote all applicable federal and state laws and regulations that include, but are not limited to, the following:
 - a. Environmental requirements, including but not limited to those set forth in the 23 U.S.C. 139 and National Environmental Policy Act (42 U.S.C. 4321 et seq.)
 - b. Equal protection guaranteed under the U.S. Constitution, WI Constitution, Title VI of the Civil Rights Act and Wis. Stat. 16.765. The municipality agrees to comply with and promote applicable Federal and State laws, Executive Orders, regulations, and implementing requirements intended to provide for the fair and equitable treatment of individuals and the fair and equitable delivery of services to the public. In addition the Municipality agrees not to engage in any illegal discrimination in violation of applicable Federal or State laws and regulations. This includes but is not limited to Title VI of the Civil Rights Act of 1964 which provides that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” The Municipality agrees that public funds, which are collected in a nondiscriminatory manner, should not be used in ways that subsidize, promote, or perpetuate illegal discrimination based on prohibited factors such as race, color, national origin, sex, age, physical or mental disability, sexual orientation, or retaliation.
 - c. Prevailing wage requirements, including but not limited to 23 U.S.C 113.
 - d. Buy America Provision and its equivalent state statutes, set forth in 23 U.S.C. 313 and Wis. Stat. 16.754.
 - e. Competitive bidding and confidentiality requirements set forth in 23 U.S.C 112 and Wis. Stat. 84.06. This includes the sharing of financial data prior to the conclusion of the competitive bid period.
 - f. All applicable Disadvantaged Business Enterprise (DBE) requirements that the State specifies.
 - g. Federal statutes that govern the Surface Transportation Program (STP), including but not limited to 23 U.S.C. 133.
 - h. General requirements for administering federal and state aids set forth in Wis. Stat. 84.03.

STATE RESPONSIBILITIES AND REQUIREMENTS:

4. Funding of each project phase is subject to inclusion in Wisconsin’s approved 2023-2026 STP-Urban program. Federal funding will be limited to participation in the costs of the following items, as applicable to the project:
 - a. The grading, base, pavement, and curb and gutter, sidewalk, and replacement of disturbed driveways in kind.
 - b. The substructure, superstructure, grading, base, pavement, and other related bridge and approach items.
 - c. Storm sewer mains necessary for the surface water drainage.
 - d. Catch basins and inlets for surface water drainage of the improvement, with connections to the storm sewer main.

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- e. Construction engineering incident to inspection and supervision of actual construction work (except for inspection, staking, and testing of sanitary sewer and water main).
 - f. Signing and pavement marking.
 - g. New installations or alteration of street lighting and traffic signals or devices.
 - h. Landscaping.
 - i. State review services for construction.
5. The work will be administered by the State and may include items not eligible for federal participation.
6. As the work progresses, the State will bill the Municipality for work completed that is not chargeable to federal/state funds. Upon completion of the project, a final audit will be made to determine the final division of costs subject to funding limits in the Summary of Costs Table. If reviews or audits show any of the work to be ineligible for federal/state funding, the Municipality will be responsible for any withdrawn costs associated with the ineligible work.

MUNICIPAL RESPONSIBILITIES AND REQUIREMENTS:

7. Work necessary to complete the 2023-2026 STP-Urban improvement project to be financed entirely by the Municipality or other utility or facility owner includes the items listed below.
- a. New installations of or alteration of sanitary sewers and connections, water, gas, electric, telephone, telegraph, fire or police alarm facilities, parking meters, and similar utilities.
 - b. Damages to abutting property after project completion due to change in street or sidewalk widths, grades or drainage.
 - c. Detour routes and haul roads. The municipality is responsible for determining the detour route.
 - d. Conditioning, if required and maintenance of detour routes.
 - e. Repair of damages to roads or streets caused by reason of their use in hauling materials incident to the improvement.
 - f. All work related to underground storage tanks and contaminated soils.
 - g. Street and bridge width in excess of standards, in accordance with the current WisDOT Facilities Development Manual (FDM).
 - h. Preliminary engineering and design.
 - i. State review services for design
 - j. Real estate for the improvement.
 - k. Other 100% Municipality funded items: adjustments to water valve boxes and sanitary sewer manhole castings.
8. The construction of the subject improvement will be in accordance with the appropriate standards unless an exception to standards is granted by State prior to construction. The entire cost of the construction project, not constructed to standards, will be the responsibility of the Municipality unless such exception is granted.
9. Work to be performed by the Municipality without federal funding participation necessary to ensure a complete improvement acceptable to the Federal Highway Administration and/or the State may be done in a manner at the election of the Municipality but must be coordinated with all other work undertaken during construction.

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10. The Municipality is responsible for financing administrative expenses related to Municipal project responsibilities.
11. The Municipality will include in all contracts executed by them a provision obligating the contractor not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Wis. Stat. 51.01 (5), sexual orientation as defined in Wis. Stat. 111.32 (13m), or national origin.
12. The Municipality will pay to the State all costs incurred by the State in connection with the improvement that exceed federal/state financing commitments or are ineligible for federal/state financing. To guarantee the Municipality's foregoing agreements to pay the State, the Municipality, through its above duly authorized officers or officials, agrees and authorizes the State to set off and withhold the required reimbursement amount as determined by the State from any moneys otherwise due and payable by the State to the Municipality.
13. In accordance with the State's sunset policy for Local Bridge Program projects, the subject 2023-2026 STP improvement must be constructed and in final acceptance within six years from the beginning of the state fiscal year (SFY) in which a project is initially scheduled. Extensions may be available upon approval of a written request by or on behalf of the Municipality to State. The written request shall explain the reasons for project implementation delay and revised timeline for project completion.
14. If the Municipality should withdraw the project, it will reimburse the State for any costs incurred on behalf of the project.
15. The Municipality will at its own cost and expense:
 - a. Maintain all portions of the project that lie within its jurisdiction (to include, but not limited to, cleaning storm sewers, removing debris from sumps or inlets, and regular maintenance of the catch basins, curb and gutter, sidewalks and parking lanes [including snow and ice removal]) for such maintenance in a manner consistent with reasonable industry standards, and will make ample provision for such maintenance each year.
 - b. Regulate [or prohibit] parking at all times in the vicinity of the proposed improvements during their construction.
 - c. Regulate [or prohibit] all parking at locations where and when the pavement area usually occupied by parked vehicles will be needed to carry active traffic in the street.
 - d. Assume general responsibility for all public information and public relations for the project and to make fitting announcement to the press and such outlets as would generally alert the affected property owners and the community of the nature, extent, and timing of the project and arrangements for handling traffic within and around the project.
 - e. Provide complete plans, specifications, and estimates to State upon request.
 - f. Provide relocation orders and real estate plats to State upon request.
 - g. Use the *WisDOT Utility Accommodation Policy* unless it adopts a policy, which has equal or more restrictive controls.
 - h. Provide maintenance and energy for lighting.
 - i. Provide proper care and maintenance of all landscaping elements of the project including replacement of any plant materials damaged by disease, drought, vandalism or other cause.
16. It is further agreed by the Municipality that:

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- a. The Municipality assumes full responsibility for the design, installation, testing and operation of any sanitary sewer and water main infrastructure within the improvement project and relieves the state and all of its employees from liability for all suits, actions, or claims resulting from the sanitary sewer and water main construction under this agreement.
- b. The Municipality assumes full responsibility for the plans and special provisions provided by their designer or anyone hired, contracted or otherwise engaged by the Municipality. The Municipality is responsible for any expense or cost resulting from any error or omission in such plans or special provisions. The Municipality will reimburse State if State incurs any cost or expense in order to correct or otherwise remedy such error or omission or consequences of such error or omission.
- c. The Municipality will be 100% responsible for all costs associated with utility issues involving the Contractor, including costs related to utility delays.
- d. All signs and traffic control devices and other protective structures erected on or in connection with the project including such of these as are installed at the sole cost and expense of the Municipality or by others, will be in conformity with such *Manual of Uniform Traffic Control Devices* as may be adopted by the American Association of State Highway and Transportation Officials, approved by the State, and concurred in by the Federal Highway Administration.
- e. The right-of-way available or provided for the project will be held and maintained inviolate for public highway or street purposes. Those signs prohibited under federal aid highway regulations, posters, billboards, roadside stands, or other private installations prohibited by federal or state highway regulations will not be permitted within the right-of-way limits of the project. The Municipality, within its jurisdictional limits, will remove or cause to be removed from the right-of-way of the project all private installations of whatever nature which may be or cause an obstruction or interfere with the free flow of traffic, or which may be or cause a hazard to traffic, or which impair the usefulness of the project and all other encroachments which may be required to be removed by the State at its own election or at the request of the Federal Highway Administration, and that no such installations will be permitted to be erected or maintained in the future.
- f. The Municipality is responsible for any damage caused by legally hauled loads, including permitted oversize and overweight loads. The contractor is responsible for any damage caused to haul roads if the contractor does not obey size and weight laws, use properly equipped and maintained vehicles, and does not prevent spilling of materials onto the haul road (*WisDOT Standard Specifications* 618.1, 108.7, 107.8). The local maintaining authority can impose special or seasonal weight limitations as defined in Wis. Stat. 349.16, but this should not be used for the sole purpose of preventing hauling on the road.

The bid item 618.0100 Maintenance and Repair of Haul Roads (project) is ineligible for federal funding on local program projects as per the State/Municipal Agreement. The repair of damages as a result of hauling materials for the project is the responsibility of the Municipality as specified in the State/Municipal Agreement Terms and Conditions under “Municipal Responsibilities and Requirements.”

LEGAL RELATIONSHIPS:

- 17. The State shall not be liable to the Municipality for damages or delays resulting from work by third parties. The State also shall be exempt from liability to the Municipality for damages or delays resulting from injunctions or other restraining orders obtained by third parties.
- 18. The State will not be liable to any third party for injuries or damages resulting from work under or for the Project. The Municipality and the Municipality's surety shall indemnify and save harmless the State, its officers and employees, from all suits, actions or claims of any character brought because of any injuries or damages received or sustained by any person, persons or property on account of the operations of the Municipality and its sureties; or on account of or in consequence of any neglect in safeguarding the work; or because of any act or omission, neglect or misconduct of the Municipality or its sureties; or because of any claims or amounts recovered for any infringement by the Municipality and its sureties of patent, trademark or copyright; or from any claims or amounts arising or recovered under the Worker's Compensation Act,

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relating to the employees of the Municipality and its sureties; or any other law, ordinance, order or decree relating to the Municipality's operations.

19. Contract modification: This State/Municipal Agreement can only be modified by written instruments duly executed by both parties. No term or provision of either this State/Municipal Agreement or any of its attachments may be changed, waived or terminated orally.
20. Binding effects: All terms of this State/Municipal Agreement shall be binding upon and inure to the benefits of the legal representatives, successors and executors. No rights under this State/Municipal Agreement may be transferred to a third party. This State/Municipal Agreement creates no third-party enforcement rights.
21. Choice of law and forum: This State/Municipal Agreement shall be interpreted and enforced in accordance with the laws of the State of Wisconsin. The Parties hereby expressly agree that the terms contained herein and in any deed executed pursuant to this State/Municipal Agreement are enforceable by an action in the Circuit Court of Dane County, Wisconsin.

PROJECT FUNDING CONDITIONS

22. Non-appropriation of funds: With respect to any payment required to be made by the State under this State/Municipal Agreement, the parties acknowledge the State's authority to make such payment is contingent upon appropriation of funds and required legislative approval sufficient for such purpose by the Legislature. If such funds are not so appropriated, either the Municipality or the State may terminate this State/Municipal Agreement after providing written notice not less than thirty (30) days before termination.
23. Maintenance of records: During the term of performance of this State/Municipal Agreement, and for a period not less than three years from the date of final payment to the Municipality, records and accounts pertaining to the performance of this State/Municipal Agreement are to be kept available for inspection and audit by representatives of the State. The State reserves the right to audit and inspect such records and accounts at any time. The Municipality shall provide appropriate accommodations for such audit and inspection.

In the event that any litigation, claim or audit is initiated prior to the expiration of said records maintenance period, the records shall be retained until such litigation, claim or audit involving the records is complete.

24. The Municipality agrees to the following 2023-20026 STP-Urban project funding conditions:
 - a. ID 3835-05-04: Design is funded 100% by the Municipality. This phase includes plan development, and state review. The work includes project review, approval of required reports and documents and processing the final Plan, Specification & Estimate (PS&E) document for award of the contract. Costs for this phase include an estimated amount for state review activities.
 - b. Real estate is funded 100% by the Municipality. Real estate acquisition is 100% the responsibility of the Municipality.
 - c. ID **3835-05-74**: Construction:
 - i. Costs for pavement replacement of Walworth Avenue: are funded with 80% federal funding up to a funding limit of \$2,539,619, when the Municipality agrees to provide the remaining 20%, and any funds in excess of the \$2,539,619 federal funding limit.
 - ii. non-participating costs for adjustments to water valve boxes and sanitary sewer manhole castings are funded 100% by the Municipality. Costs include construction delivery.
 - iii. Costs for this phase include an estimated amount for state review activities, to be funded 80% with federal funding and 20% by the Municipality for participating activities and 100% Municipal for non-participating activities.

[End of Document]



Council Agenda Item

Meeting Date:	January 16, 2024
Agenda Item:	Water Utility Storage Garage
Staff Contact (name, email, phone):	Brad Marquardt, bmarquardt@whitewater-wi.gov , 262-473-0139

BACKGROUND

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

The City advertised and opened bids for the Water Utility Vehicle Storage Garage on August 21, 2023. Two bids were received, RR Walton & Company, LTD at \$824,500 and Gilbank Construction Inc at \$948,700. The bid was a lump sum bid, but it provided for cash allowances for certain items where quantities could fluctuate. The cash allowances were to be added into the lump sum bid. At the preconstruction meeting for the project, Russ Walton of RR Walton & Company indicated he did not include the cash allowances in the lump sum price. He is now asking for consideration that they be included and added to the lump sum.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

The Common Council approved awarding the Water Utility Vehicle Storage Garage Contract to RR Walton & Company, LTD at the September 5, 2023 Council meeting.

FINANCIAL IMPACT

(If none, state N/A)

Five items were included for cash allowances totaling \$32,001.20

Item Number	Description	Estimated Quantity Included in the Lump Sum Base Bid	Unit	Bid Unit Price	Total Bid Price Included in the Lump Sum Base Bid
1.	New Service for Electric Utility Section 26 21 00–Electrical Service System	1	LS	\$5,000	\$5,000
2.	Unsuitable Foundation Material for Structures and Roads Section 31 23 00–Excavation, Fill, Backfill, and Grading	430	CY	\$ 40.00	\$ 17,200.00
3.	Unsuitable Foundation Material for Utility Trenches Section 31 23 00– Excavation, Fill, Backfill, and Grading	50	CY	\$ 40.00	\$ 2,000.00
4.	Geotextile Below Pavement Subgrade Stabilization for Unsuitable Material for Roads Section 31 32 19–Geotextiles	940	SY	\$ 2.98	\$ 2,801.20
5.	New Service for Gas Utility Section 33 52 16–Fuel Gas Distribution Utilities	1	LS	\$5,000	\$5,000

STAFF RECOMMENDATION

Though the contract is very clear, staff believes it was an honest mistake from RR Walton & Company. Adding \$32,001.20 to their lump sum bid would still put RR Walton & Company as the low bid. Staff would recommend approval of including the cash allowances for payment.

Staff would like to point out that these cash allowances are only paid if the item is used. For instance, the gas service was installed and billed directly to the City, therefore, the \$5,000 cash allowance attributed to this item will not be paid to RR Walton & Company.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Contract Information for Allowances
-

Water Utility Vehicle Storage Garage, Contract 3-2023, City of Whitewater, Wisconsin (#8608953)

Owner: City of Whitewater

Solicitor: Strand Associates, Inc.

08/21/2023 01:00 PM CDT

Section Title	Line Item	Item Code	Item Description	UofM	Quantity	RR Walton & Company LTD		Gilbank Construction Inc.	
						Unit Price	Extension	Unit Price	Extension
Water Utility Vehicle Storage Garage	1	LS	Lump Sum Bid	LS	1	\$824,500.00	\$824,500.00	\$948,700.00	\$948,700.00
Base Bid Total:							\$824,500.00		\$948,700.00

12.11 All Bids shall be signed in the presence of and be notarized by a Notary Public or other Officer authorized to administer oaths.

ARTICLE 13–BASIS OF BID

13.01 Lump Sum

A. Bidders shall submit a Bid on a Lump Sum basis as set forth in the Bid Form.

13.02 Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

13.03 For Cash Allowances the Contract Price shall include such amounts as the Bidder deems proper for Contractor's overhead, costs, profit, and other expenses on account of Cash Allowances, if any, named in the Contract Documents as provided for in Paragraph 13.02.B of the General Conditions. The final Contract Price will be adjusted to reflect actual costs on account of Cash Allowances.

13.04 The following Cash Allowances shall be included in the Bid for Contract(s).

New Service for Electric Utility	Section 26 21 00–Electric Service System
Unsuitable Foundation Material for Structures and Roads	Section 31 23 00–Excavation, Fill, Backfill, and Grading
Unsuitable Foundation Material for Utility Trenches	Section 31 23 00–Excavation, Fill, Backfill, and Grading
Geotextile Below Pavement Subgrade Stabilization for Unsuitable Material for Roads	Section 31 32 19–Geotextiles
New Service for Gas Utility	Section 33 52 16–Fuel Gas Distribution Utilities

ARTICLE 14–SUBMITTAL OF BID

14.01 Bids will be received for all divisions of the Specifications and all other provisions of the Bidding Documents.

14.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the Advertisement or Invitation to Bid.

14.03 Bids received after the date and time prescribed for the opening of Bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

ARTICLE 15–MODIFICATION AND WITHDRAWAL OF BIDS

15.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time set for receiving Bids.

BIDDER: RR Walton & Company LTD

BID FORMS

CITY OF WHITEWATER
WHITEWATER, WISCONSIN
WATER UTILITY VEHICLE STORAGE GARAGE
CONTRACT 3-2023

Prepared by:

STRAND ASSOCIATES, INC.®
910 West Wingra Drive
Madison, WI 53715
www.strand.com

Issued for Bid
August 3, 2023



SECTION 00 41 00

BID

CITY OF WHITEWATER
WHITEWATER, WISCONSIN
WATER UTILITY VEHICLE STORAGE GARAGE
CONTRACT 3-2023

A. Table of Contents

- ARTICLE 1. BID RECIPIENT
- ARTICLE 2. BIDDER'S ACKNOWLEDGEMENTS
- ARTICLE 3. BIDDER'S REPRESENTATIONS
- ARTICLE 4. BIDDER'S CERTIFICATIONS
- ARTICLE 5. BASIS OF BID
- ARTICLE 6. TIME OF COMPLETION
- ARTICLE 7. ATTACHMENTS TO THIS BID
- ARTICLE 8. DEFINED TERMS
- ARTICLE 9. COMMUNICATIONS
- ARTICLE 10. BID SUBMITTAL

ARTICLE 1-BID RECIPIENT

1.01 Bids to be received until 1 P.M., local time, Monday, August 21, 2023.

1.02 Online electronic Bidding through QuestCDN.com is the only way the Bid will be accepted. To access the electronic Bid Form, download the Project Documents and click the Online Bidding button.

1.03 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2-BIDDER'S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD, INSTRUCTIONS, AND RECEIPT OF ADDENDA

2.01 Bid Acceptance Period

A. This Bid will remain subject to acceptance for 85 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of OWNER.

2.02 Instructions to Bidders

A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

2.03 In submitting this Bid, Bidder represents the following:

A. Bidder has examined and carefully studied the Bidding Documents, and any data and reference items identified in the Bidding Documents, and hereby acknowledges receipt of the addenda.

2.04 Bidder will sign and deliver the required number of counterparts of the Agreement with the bonds, insurance certificates, and other documents required by the Bidding Requirements within 15 days after the date of OWNER's Notice of Award.

ARTICLE 3-BIDDER'S REPRESENTATIONS

3.01 Bidder's Representations

A. In submitting this Bid, Bidder represents the following:

1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.

2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.

4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.

5. Bidder has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.

6. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, if selected as CONTRACTOR; and (c) Bidder's (CONTRACTOR's) safety precautions and programs.

7. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.

8. Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.

9. Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

10. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

11. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

ARTICLE 4–BIDDER’S CERTIFICATIONS

4.01 Bidder certifies the following:

A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.

B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.

C. Bidder has not solicited or induced any individual or entity to refrain from Bidding.

D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:

1. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the Bidding process.

2. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the Bidding process to the detriment of OWNER, (b) to establish Bid prices at artificial non-competitive levels, or (c) to deprive OWNER of the benefits of free and open competition.

3. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of OWNER, a purpose of which is to establish Bid prices at artificial, non-competitive levels.

4. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the Bidding process or affect the execution of the Contract.

ARTICLE 5-BASIS OF BID

5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

The following abbreviations may be used in this Bid:

CIP	-	Complete in Place	LS	-	Lump Sum
CY	-	Cubic Yard	LT	-	Left
DI	-	Ductile Iron	MBF	-	Thousand Board Feet
DIA	-	Diameter	MFOB	-	Thousand Freight-On-Board
EA	-	Each	MH	-	Manhole
EST	-	Estimate(d)	RCP	-	Reinforced Concrete Pipe
EXCL	-	Excluding	RT	-	Right
FT	-	Feet	SF	-	Square Foot
GAL	-	Gallon	STA	-	Station
HERCP	-	Horizontal Elliptical RCP	SY	-	Square Yard
HRS	-	Hours	T	-	Ton
IN	-	Inch	VLF	-	Vertical Linear Foot
INCL	-	Including	W/	-	With
LBS	-	Pounds	W/O	-	Without
LF	-	Linear Foot			

BIDDERS SHOULD NOT ADD ANY CONDITIONS OR QUALIFYING STATEMENTS TO THIS BID OR THE BID MAY BE DECLARED IRREGULAR AS NOT BEING RESPONSIVE TO THE INSTRUCTIONS TO BIDDERS.

BID
CITY OF WHITEWATER
WHITEWATER, WISCONSIN
WATER UTILITY VEHICLE STORAGE GARAGE
CONTRACT 3-2023

LUMP SUM BID:

_____ Dollars \$ _____
(Words) (Numbers)

See Section 01 29 00–Contract Considerations for discussion of Cash Allowances to include in the Bid.

BID
CITY OF WHITEWATER
WHITEWATER, WISCONSIN
WATER UTILITY VEHICLE STORAGE GARAGE
CONTRACT 3-2023

CASH ALLOWANCES

The following Cash Allowances shall be included in the Lump Sum Base Bid. The Cash Allowances for non-Lump Sum items shall be equal to the product of the quantity included in the Lump Sum Base Bid and the Unit Price. The Cash Allowances will be adjusted in the event that estimated quantities to be included in the Lump Sum Base Bid are different from final measured quantities. A single Unit Price shall be bid for each item. Failure to include one or more of the following Unit Price items may result in rejection of the entire Bid as nonconforming. For items with a quantity of 1, the Cash Allowance shall be adjusted based on actual final costs.

Item Number	Description	Estimated Quantity Included in the Lump Sum Base Bid	Unit	Bid Unit Price	Total Bid Price Included in the Lump Sum Base Bid
1.	New Service for Electric Utility Section 26 21 00—Electrical Service System	1	LS	\$5,000	\$5,000
2.	Unsuitable Foundation Material for Structures and Roads Section 31 23 00—Excavation, Fill, Backfill, and Grading	430	CY	\$ 40.00	\$ 17,200.00
3.	Unsuitable Foundation Material for Utility Trenches Section 31 23 00— Excavation, Fill, Backfill, and Grading	50	CY	\$ 40.00	\$ 2,000.00
4.	Geotextile Below Pavement Subgrade Stabilization for Unsuitable Material for Roads Section 31 32 19—Geotextiles	940	SY	\$ 2.98	\$ 2,801.20
5.	New Service for Gas Utility Section 33 52 16—Fuel Gas Distribution Utilities	1	LS	\$5,000	\$5,000

Total = \$32,001.20

A. For all Work, at the prices stated in CONTRACTOR's Bid, attached hereto as an exhibit.

B. All specific Cash Allowances are included in the Contract Price and have been computed in accordance with Paragraph 13.02 of the General Conditions.

Article 6. PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. CONTRACTOR shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as established at the preconstruction conference during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in Paragraph 2.05.A of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, OWNER will retain an amount equal to 5% of each progress payment application until 50% of the Work has been completed. At 50% completion, further progress payment applications shall be paid in full to CONTRACTOR and no additional amounts will be retained unless ENGINEER certifies to OWNER that the job is not proceeding satisfactorily. Amounts previously retained shall not be paid to CONTRACTOR until substantial completion of the Work. At 50% completion of the Work, or any time thereafter when the character and progress of the Work is not satisfactory to OWNER on recommendation of ENGINEER, additional amounts may be retained, but in no event shall the total retainage be more than 10% of the value of the work completed.

2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 98% of the Work completed, less such amounts as ENGINEER shall determine in accordance with Paragraph 15.01.C.5 and 15.01.C.6 of the General Conditions and less 100% of ENGINEER's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said Paragraph 15.06.

6.04 Consent of Surety

A. OWNER will not make final payment unless CONTRACTOR submits written consent of the surety to such payment, return, or release.

Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price on the basis of Cost of the Work will be determined in accordance with Paragraph 11.07.C.2.

- E. *Documentation and Audit:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor and pertinent Subcontractors will establish and maintain records of the costs in accordance with generally accepted accounting practices. Subject to prior written notice, Owner will be afforded reasonable access, during normal business hours, to all Contractor's accounts, records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner. Pertinent Subcontractors will afford such access to Owner, and preserve such documents, to the same extent required of Contractor.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.
- B. *Cash Allowances:* Contractor agrees that:
1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment for any of the foregoing will be valid.
- C. *Owner's Contingency Allowance:* Contractor agrees that an Owner's contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor for Work covered by allowances, and the Contract Price will be correspondingly adjusted.

13.03 Unit Price Work

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision

SECTION 01 29 00

CONTRACT CONSIDERATIONS

PART 1–GENERAL

1.01 SUMMARY

- A. Work Included:
 - 1. Cash Allowances.
 - 2. Measurement and Payment–Lump Sum.

1.02 CASH ALLOWANCES

- A. See Paragraph 13.02 of the General Conditions for costs to be included in allowances.
- B. Refer to sections of the specifications identified in the Bid Form for specific information on use of cash allowances.
- C. The Bid shall include the amount equal to the specified quantity times the unit price.

1.03 MEASUREMENT AND PAYMENT–LUMP SUM

- A. Payment for Lump Sum projects will be based on the accepted schedule of values for the project.
- B. An acceptable schedule of values will include the following features:
 - 1. Schedule shall list the installed value of the component parts of the work in sufficient detail to serve as a basis for computing values for progress payments during construction. Schedule shall be subdivided as necessary by specification section and work area.
 - 2. Identify each line item with the number and title of the respective Specification Section.
 - 3. For each major line item list sub-values of major products or operations under the item.
 - 4. For the various portions of the work:
 - a. Each item shall include a directly proportional amount of CONTRACTOR's overhead and profit.
 - b. For items on which progress payments will be requested for stored materials, break down the value into:
 - (1) The cost of the materials, delivered and unloaded, with taxes paid. Paid invoices are required for materials upon request by ENGINEER.
 - (2) The total installed value.
 - 5. The sum of all values listed in the schedule shall equal the total Contract Sum.
 - 6. Schedule shall include a separate listing of general items such as bonds, insurance, mobilization, demobilization, field supervision, and record documents.
- C. Once a schedule of values is accepted, it shall not be revised, except for changes associated with subsequently executed change orders.
- D. No separate measurement for payment will be performed for Lump Sum Work.
- E. CONTRACTOR shall estimate percentage of Work completed. ENGINEER will review CONTRACTOR's estimate of quantity of Work completed.

SECTION 26 21 00

ELECTRICAL SERVICE SYSTEM

PART 1–GENERAL

1.01 SUMMARY

- A. Work Included:
 - 1. Utility company.
 - 2. Secondary service characteristics.
 - 3. Definitions.
 - 4. Underground electrical service.
- B. Allowances: CONTRACTOR shall include in the Bid the cost of the following items specified in this Section. Refer to the individual sections listed below for a complete description of the Work required. Electric Utility Service Entrance, Paragraph 1.07–Underground Electrical Service.
- C. Related Sections and Divisions: Applicable provisions of Division 01 shall govern work in this section.
- D. See Division 01 for temporary service requirements. This section applies to permanent services only.

1.02 UTILITY COMPANY

- A. The Utility Company is WE Energies.

1.03 SECONDARY SERVICE CHARACTERISTICS

- A. The secondary service will be 120/208-volt, 4-wire, three-phase.

1.04 DEFINITIONS

- A. Service: As defined in the NEC, Article 100.
- B. Primary Voltage: Above 600 volts.
- C. Secondary Voltage: 600 volts and below.

1.05 UNDERGROUND ELECTRICAL SERVICE

- A. Provide complete underground electrical service except for items provided by the Utility Company.
- B. Provide electrical service system, except the Utility Company will provide:
 - 1. Transformer (pad by CONTRACTOR).
 - 2. Cable from transformer to building.
 - 3. Primary conduit and cabling.

- C. Coordinate the new electrical service with the Utility. An allowance of \$5,000 shall be included in the Lump Sum Bid for the work provided by the Utility and will be adjusted at final payment in accordance with actual Utility charges. All other costs for the electrical service shall be included in the Lump sum Bid.

PART 2–PRODUCTS

NOT APPLICABLE

PART 3–EXECUTION

3.01 UTILITY COORDINATION

- A. Division 26 Contractor shall obtain all required permits and licenses, pay all charges and fees, and give all notices necessary for utilities to perform the Work. Division 26 Contractor shall comply with all permit requirements whether the permit is issued to CONTRACTOR, the state, or the maintaining authority.
- B. Division 26 Contractor shall complete all required electrical service applications and forms based on the Drawings and Division 26 Contractor's means and methods for the work required.

END OF SECTION

SECTION 31 23 00

EXCAVATION, FILL, BACKFILL, AND GRADING

PART 1—GENERAL

1.01 SUMMARY

- A. Work Included: Excavating, filling, backfilling, and grading for this work includes, but is not necessarily limited to:
1. Excavating for footings, foundations, roads, utilities, sidewalks, driveways, parking lots, restoration, and miscellaneous areas.
 2. Furnishing and placing all fill and backfill.
 3. Provide compaction of all fill and backfill.
 4. Furnishing and placing vapor barrier and granular cushion below interior slabs on grade.
 5. Furnishing and placing of crushed stone mat below structures where required.
 6. Rough and finish grading prior to paving, seeding, etc.
- B. Related Sections and Divisions: Applicable provisions of Division 01 shall govern work in this section.
- C. Allowances:
1. CONTRACTOR shall INCLUDE in the Bid the cost of replacing 430 cubic yards of unsuitable foundation material for structures and roads as defined in this section. The unit price shall include the cost of dewatering and slope stabilization and other incidental items associated with this work. Payment to CONTRACTOR for unsuitable foundation material for structures and roads will be adjusted, add or deduct, based upon the actual unsuitable material excavated (more or less than 430 cubic yards) and the unit price for replacing unsuitable foundation material. Volume shall be as measured in the ground. Extra payment will not be made for specified undercutting and filling or gravel bedding material required for placing concrete above water level as required under the concrete specifications. The Bid shall include any removal and replacement of excavated material so indicated on the Drawings or specified herein.
 2. CONTRACTOR shall INCLUDE in the Bid the cost of replacing 50 cubic yards of unsuitable foundation material for utility trenches as defined in this section. The unit price shall include the cost of dewatering and slope stabilization and other incidental items associated with this work. Payment to CONTRACTOR for unsuitable foundation material for utility trenches will be adjusted, add or deduct, based upon the actual unsuitable material excavated (more or less than 50 cubic yards) and the unit price for replacing unsuitable foundation material. Volume shall be as measured in the ground. Extra payment will not be made for specified undercutting, filling, or bedding. The Bid shall include any removal and replacement of excavated material so indicated on the Drawings or specified herein.
- D. Payment: Common excavation shall be included in the Lump Sum Price Bid and shall include all excavation specified, undercutting, fill, backfill and grading, including rock excavation but not including unsuitable foundation material, as hereinafter described.

SECTION 31 32 19

GEOTEXTILES

PART 1–GENERAL

1.01 SUMMARY

- A. Work Included: Geotextiles for pavement subgrade stabilization.
- B. Related Sections and Divisions: Applicable provisions of Division 01 shall govern work in this section.

1.02 PAYMENT

- A. CONTRACTOR shall INCLUDE in the Bid a cash allowance for the cost of 940 square yards of geotextile below pavement subgrade stabilization for unsuitable material for roads as defined in this section. The unit price shall include the cost of all incidental items associated with this work. Payment to CONTRACTOR for geotextile below pavement subgrade stabilization for unsuitable material for roads will be adjusted, add or deduct, based upon the actual geotextile used (more or less than 940 square yards) and the unit price for the geotextile.

PART 2–PRODUCTS

2.01 MATERIALS

- A. Geotextile below pavement subgrade stabilization for unsuitable material for roads shall be Tensar Biaxial BX Geogrid BX1100, or equal. Use allowance as specified.

PART 3–EXECUTION

3.01 INSTALLATION

- A. Geotextile shall be installed in accordance with manufacturer's recommendations.
- B. Geotextile shall be lapped a minimum of 24 inches.
- C. CONTRACTOR shall protect the construction fabric from exposure to the sun until installation. Construction fabric shall be covered with stone or soil immediately upon placement.

END OF SECTION

- C. The secondary service pressure after the utility provided meter will be 2 psig, 500 MBH minimum, for the space heating.
- D. The tertiary service pressure and demand supplied to individual buildings shall be as shown on the Drawings.
- E. An allowance of \$5,000 shall be included by CONTRACTOR in the Lump Sum Bid for the scope of work provided by the Utility. Coordinate the natural gas service with the Utility. This allowance shall be adjusted by change order (up or down), based on the actual cost of the natural gas service from the Utility to CONTRACTOR.

PART 2-PRODUCTS

2.01 NATURAL GAS-ABOVEGROUND

- A. See Section 23 11 23-Facility Fuel Gas Piping for specifications.

2.02 BURIED NATURAL GAS PIPING

- A. Manufacturers: Performance Pipe, a division of Chevron Phillips Chemical Company LP, JM Eagle, or equal.
- B. Buried natural gas pipe tubing, fittings, and joints shall be PE 2708 (PE 2406) polyethylene, SDR-11 or less, ASTM D2513 and D3350 pipe and fittings. Provide butt-weld fittings conforming to ASTM D3261 or socket-type fittings conforming to ASTM D2683.
- C. Polyethylene pipe tubing, fitting, and joint materials shall be compatible and by same manufacturer. Fabricated fittings shall not be used. Match fittings to service rating of pipe.
- D. Provide an anodeless riser connection between buried plastic gas service piping and metallic riser in accordance with the local codes. Provide a metallic riser consisting of HDPE fused coating on steel pipe for connection to aboveground building distribution piping. Underground horizontal metallic portion of riser shall be at least 24 inches in length before connecting to the plastic service pipe. An approved transition fitting or adaptor meeting design pressure rating and plastic pipe manufacturers recommendations shall be used where the plastic joins the metallic riser. Provide Elster, George Fischer Central Plastics, or equal.
- E. Gas Transition Fittings: Provide manufactured steel transition fittings approved for joining steel and polyethylene pipe, conforming to AGA XR0603 requirements for transition fittings. Transition fittings shall be manufactured by Continental, Elster, George Fischer Central Plastics, or equal.
- F. Underground installation of piping shall conform with ASTM D2774.
- G. Provide tracer wire as specified.

2.03 VENTS AND RELIEF VALVES

- A. Use pipe and pipe fittings as specified for the system to which the relief valve or vent is connected.



Council Agenda Item

Meeting Date:	January 16, 2024
Agenda Item:	Cash Allowance Unsuitable Material
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND

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

The contract for the Water Utility Vehicle Storage Garage included a cash allowance for unsuitable material which included excavation, fill, backfill and grading. The estimated quantity was 430 cubic yards which was based off of soil borings. During construction the contractor, RR Walton & Company, ran into a greater quantity of unsuitable material than anticipated, resulting in a quantity of 1,652 cubic yards. A change order for the additional 1,222 (1652 – 430) cubic yards should be approved for payment.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

The Common Council approved awarding the Water Utility Vehicle Storage Garage Contract to RR Walton & Company, LTD at the September 5, 2023 Council meeting.

FINANCIAL IMPACT

(If none, state N/A)

The cash allowance included a price of \$40 per cubic yard of unsuitable material and a quantity of 430 cubic yards for a total cash allowance of \$17,200. The additional 1,222 cubic yards would cost an additional \$48,880.

STAFF RECOMMENDATION

The material was required to be removed in order to provide for a stable foundation for the new structure. Staff recommends approval of the additional payment through a change order.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. N/A



Council Agenda Item

Meeting Date:	January 16, 2024
Agenda Item:	Whitewater Solar
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND

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

Ranger Power, on behalf of Whitewater Solar, LLC, is requesting a 100-foot easement across the northern portion of the property owned by the Wastewater Facility to locate transmission facilities. The easement is being requested to provide connectivity from proposed solar arrays east of Whitewater to the WE Energies Whitewater Generating Station. The original proposed Agreement language provided the flexibility of either buried transmission lines or above ground structures housing the transmission lines. Per the Public Works Committee direction, the Agreement has been edited to only allow underground installation. Other suggested edits are also redlined. The City Attorney is also in the process of review.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

The Public Works Committee met on Dec 12, 2023 and recommended continuing negotiations as an underground only easement, and including a termination clause if no activity occurs in a stated period.

FINANCIAL IMPACT

(If none, state N/A)

Whitewater Solar will pay the City \$1,000 in consideration of the City executing the Agreement, \$1,500 as consideration for the grant of the Easements and a yearly sum of \$1.00/linear foot of the transmission line constructed in the Easement Area (approximately \$1,325) for 47 years.

STAFF RECOMMENDATION

Staff does not have a concern with granting an easement in the proposed area, as watermain and gas currently exist within the 100 foot proposed easement. If the Council is in favor of granting this easement, Staff's recommendation would be to direct staff to continue negotiations with Whitewater Solar to finalize the Agreement and bring back to Council for final approval. If there are any concerns or questions with the terms of Exhibit D, Payment Addendum, a closed session could be included at the next council meeting.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Request Letter
2. Draft Transmission Facilities Agreement
3. Draft PWC Minutes



November 20, 2023

By E-Mail Only, BMarquardt@whitewater-wi.gov

City of Whitewater Department of Public Works
c/o Brad Marquardt, Director
312 W Whitewater St, Whitewater, WI 53190

Re: Whitewater Solar, LLC Request for Transmission Facilities Agreement

Dear Mr. Marquardt:

Thank you for taking the time to meet earlier this month. As discussed, my company, Ranger Power, is in the early stages developing the Whitewater Solar Project ("Project") in Jefferson and Walworth Counties, Wisconsin. We plan to interconnect the Project into the existing 138 kV University Substation located on County Road U.

We are seeking a 100' wide Transmission Facilities Easement from the City of Whitewater to locate electrical cables near the northern boundary of parcel #: 292-0515-3313-000. This Easement will provide the project with connectivity necessary to reach the adjacent University Substation.

Included in this email are:

Attachment 1: Mapping, which depicts the approximate location of the proposed 100' wide Easement area, the Project's proposed transmission facilities, the existing gas and water lines.

Attachment 2: Draft Transmission Facilities Agreement

We appreciate your consideration of this request and would be happy to answer any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Drew Vielbig".

Drew Vielbig

Senior Development Manager
Ranger Power, LLC
drew@rangerpower.com

TRANSMISSION FACILITIES AGREEMENT

THIS TRANSMISSION FACILITIES AGREEMENT (this “**Agreement**”) is made, dated and effective as of _____, 20__ (the “**Effective Date**”), between **City of Whitewater, a municipal corporation**, (together with their successors, assigns and heirs, “**Owner**”), and **Whitewater Solar, LLC**, a Delaware limited liability company whose principal business address is 320 N. Sangamon St. #1025 Chicago, Illinois 60607 (together with its transferees, successors and assigns, “**Company**”), and in connection herewith, Owner and Company agree, covenant and contract as set forth in this Agreement. Owner and Company are sometimes referred to in this Agreement as a “**Party**” or collectively as the “**Parties**”.

RECITALS

A. Owner owns certain real property located in Jefferson County, State of Wisconsin, described on **Exhibit A** attached hereto and by this reference made a part hereof (the “**Premises**”).

B. Company desires to obtain certain easements and rights over a portion of the Premises, and Owner desires to grant such easement and rights, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual obligations and covenants of the Parties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties hereto agree as follows:

1. Grant of Easements.

(a) Simultaneous with the execution of this Agreement, Owner shall execute the Deed of Easement attached hereto as **Exhibit C** (the “**Deed of Easement**”), granting certain easement rights (the “**Easements**”) to Company over a portion of the Premises (such portion being more particularly defined in the Deed of Easement and **Exhibit B** and referred to herein as the “**Easement Area**”). Owner hereby consents to the recordation of the Deed of Easement on or after the Effective Date.

(b) Title to Transmission Facilities. Company shall at all times retain title to any facilities installed by it or its authorized agents (such facilities being more particularly defined in the Deed of Easement and referred to herein as the “**Transmission Facilities**”) within the Easement Area and shall have the right to remove them (or to allow them to be removed by an authorized third party) from the Easement Area at any time. Nothing in this Agreement, however, shall be construed as requiring Company to (i) construct, install or operate any Transmission Facilities, or (ii) exercise any rights granted herein or under the Deed of Easement. Owner acknowledges that the Transmission Facilities installed by Company may consist of “high-voltage transmission lines” as defined under Wis. Stat. § 196.491(1)(f), and in accordance with Wis. Stat. § 182.017 and Wis. Admin. Code PSC § 113.0509, **Exhibit E** attached hereto and by this reference made a part hereof sets forth Owner’s rights relative to this Agreement as well as Owner’s express waiver of certain rights under this Agreement. Prior to installation of any high-voltage transmission lines, Owner and Company shall enter into an amendment of this Agreement specifying the length and width of the Easement Area, and the ~~number, type and maximum height of all structures to be erected in connection with such transmission lines, the minimum height of the transmission lines above the landscape, and the~~ number and maximum voltage of the underground lines to be constructed (collectively, the “**Transmission Line Specifications**”).

2. Term.

(a) Term. The term of this Agreement (the “**Term**”) shall be a period of forty-seven (47) years running from the Effective Date. During the Term, the Company shall have the right to (A) perform any and all due diligence necessary to determine the feasibility of the Easement Area for the construction and operation of the Transmission Facilities, (B) construct the Transmission Facilities, (C) operate and maintain the Transmission Facilities, and (D) use the Easement Area for the purposes set forth in the Deed of Easement, all as more particularly described in the Deed of Easement. If the Company (a) commences ~~vertical~~ underground construction in the Easement Area or (b) provides written notice to Owner of the Construction Commencement Date, such date shall be deemed the “**Construction Commencement Date**”. The date ~~vertical~~ underground construction in the Easement Area is substantially completed, as determined by Company by the Company in its sole discretion, shall be deemed the “**Construction Completion Date**”. If the Construction Commencement Date has not occurred within seven (7) years of the Effective Date, this Agreement and the Deed of Easement shall terminate and be of no further force or effect. In the event of such termination, Company shall execute and record a notice of termination evidencing such termination in the official land title records office of the township or county in which the Premises is located (the “**Records Office**”).

(b) Company Termination. Notwithstanding anything to the contrary set forth in this Agreement, Company shall have the right at any time to terminate this Agreement (and the Deed of Easement) and all of the rights, duties and obligations of the Parties under this Agreement (and the Deed of Easement), effective upon thirty (30) days’ prior written notice given by Company to Owner. In the event of such termination in accordance with this paragraph, ~~Owner-Company~~ shall execute and record a notice of termination evidencing such termination in the Records Office.

Commented [BM1]: Consistent with page C4 (b)

(c) Removal Upon Termination. Upon termination of this Agreement for any reason, Company shall remove all of Company’s Transmission Facilities from the Easement Area, and where removed from the ground to a depth of no less than the greater of (i) twenty-four (24) inches below the surface of the land, or (ii) the depth required by applicable law. Company shall have the continuing right to enter and access the Easement Area following termination of this Agreement and the Deed of Easement for purposes described in this paragraph; provided, however, that Company shall complete such removal within twelve (12) months of the date of termination of this Agreement. Company shall obtain a performance bond within (30) days after the Construction Commencement Date in the amount of Ten Thousand dollars (\$10,000) naming Owner as Oblige to ensure that Company’s equipment will be removed, and the Easement Area restored to its original condition upon termination or expiration of this Agreement.

3. Payments.

(a) Payments. In consideration of the rights granted in this Agreement, Company shall pay to Owner those amounts set forth in the Payment Addendum attached hereto as **Exhibit D** and incorporated herein. The Parties agree that **Exhibit D** shall not be recorded. Company shall have no obligation to make any payment to Owner otherwise required under this Agreement until Company has received from Owner a completed Internal Revenue Service Form W-9. If Company (A) damages or destroys any of Owner’s crops or timber on cultivated land on the Premises outside of the Easement Area, then Company shall reimburse Owner the fair market value for the year in which the crop damage occurred, as established by Multi-Peril Insurance historic yields for the ten (10) previous years; or (B) damages or destroys any of Owner’s pasture land outside of the Easement Area, then Company will reseed the affected areas with grasses and/or natural vegetation in accordance with the reasonable and customary standards in the area for restoring and reseeding pasture land.

(b) Payment Allocations

Company shall make all payments due under this Agreement to Owner as provided below:

City of Whitewater, a municipal corporation,
312 W Whitewater St.
Whitewater, WI 53190
% of each payment: 100%

For the avoidance of doubt, Company's failure to make payments pursuant to this subsection shall not constitute an Event of Default, so long as payment is made to Owner at the address provided in subsection 11(c). Owner acknowledges and agrees that payment of all sums due under this Agreement pursuant to this subsection 3(b) shall satisfy all requirements for the payment of those amounts set forth in **Exhibit D** and other sums required to be made by Company under this Agreement.]

4. Owner's Representations, Warranties and Covenants. Owner hereby represents, warrants and covenants as follows:

(a) Owner's Authority. Owner is the sole owner of the Premises, has good and indefeasible title to the Premises, and has the unrestricted right and authority to execute this Agreement and to grant Company the rights granted in this Agreement. Company shall have the right to quietly and peaceably hold, possess and enjoy the Easements for the Term of this Agreement, without hindrance, and Owner shall defend Company's right of use and occupancy to the same against the claims of all persons. When executed by Owner, this Agreement constitutes a valid and binding agreement enforceable against Owner in accordance with its terms.

(b) No Interference. Owner shall not, and shall not allow its invitees, licensees, agents, representatives, members, contractors, family members, partners, or officers ("**Owner Related Parties**") to: (i) interfere with, Company's use of the Easement Area for the purposes described in this Agreement, or Company's rights under this Agreement, (ii) affect the lateral support or structural soundness of the Transmission Facilities; (iii) create an unsafe condition; (iv) disrupt in any manner the use of the Transmission Facilities by Company for the transmission of electric power; (v) otherwise interfere with Company's intended use of the Easements. Without limiting the foregoing, Owner shall not, ~~within the Easement Area: erect or install any buildings, structures, paved roadways, tanks, antennas or other improvements; place or store flammable materials; plant trees; place water, sewer or drainage facilities; or~~ alter the elevation of the existing ground surface by more than one (1) foot. Company acknowledges the existence of other utilities already in place within the Easement Area.

(c) Cooperation. Owner shall assist and fully cooperate with Company (including signing in Owner's name, if necessary) in applying for, complying with or obtaining any land use permits and approvals, building permits, environmental reviews, or any other permits, licenses, approvals or consents required for the financing, construction, installation, replacement, relocation, maintenance, repair, operation or removal of the Transmission Facilities and any other improvements made by Company and permitted in this Agreement, all at no out of pocket expense to Owner. Owner shall take no actions (i) that would cause the Transmission Facilities to fail to comply with any applicable laws, rules, regulations, permits, approvals or consents of any governmental authority having jurisdiction over the Premises, or (ii) in opposition to any of the foregoing, directly or indirectly. Further, in the event of legal proceedings related to Company's use of the Premises after the Effective Date, except those arising out of the interpretation and/or enforcement of the Agreement, Owner shall, in all respects, fully cooperate with Company in any such proceeding. Owner agrees that Company may provide the Deed of Easement in lieu of any affidavit of Owner or other

form of Owner's consent (whether oral or written) that may be requested or required in connection with Company's efforts to obtain any environmental impact review, permit, entitlement, approval, authorization, agreement or other rights necessary or convenient in Company's discretion for the Transmission Facilities.

(d) Liens. Except as disclosed in the Records Office, or as disclosed in writing by Owner to Company prior to the Effective Date, Owner's fee simple title to the Premises is free and clear of all liens, encumbrances, easements, leases, mortgages, deeds of trust, security interests, mineral, oil or gas rights, rights of first refusal, options to purchase, contracts, solar development rights, claims and disputes (collectively, "**Liens**"). Company shall be entitled to obtain, and Owner shall fully cooperate with and assist Company in obtaining, a subordination agreement, non-disturbance agreement or other appropriate agreement from each party holding a Lien that might interfere with Company's rights under this Agreement, at no out of pocket expense to Owner.

Commented [BM2]: WE Energies and Johns Disposal have sewer and or water running across property without easments

(e) Taxes and Assessments. Owner shall pay all taxes, assessments, and other governmental charges that during the Term of this Agreement shall be levied, assessed or imposed upon, or arise in connection with, the Premises; provided, however, any taxes that are assessed against the Transmission Facilities or Easements shall be paid by Company to the appropriate taxing authority prior to delinquency, or Company shall promptly reimburse Owner if such portion is paid by Owner.

(f) Hazardous Materials. To the best of Owner's knowledge, there are no hazardous or toxic materials (as defined in any applicable federal, state, or local laws or regulations) located on the Easement Area in any amount which would require reporting under applicable environmental laws, and the Easement Area has not been used for the generation, treatment, storage, or disposal of hazardous materials and there are no underground storage tanks located on the Easement Area.

5. Company's Representations, Warranties and Covenants. Company hereby represents, warrants and covenants as follows:

(a) Company's Authority. Company has the unrestricted right and authority to execute this Agreement. Each person signing this Agreement on behalf of Company is authorized to do so. When executed by Company, this Agreement constitutes a valid and binding agreement enforceable against Company in accordance with its terms.

(b) Post-Construction Restoration. Upon completion of construction of the Transmission Facilities, Company shall employ commercially reasonable efforts and methods to restore the portion(s) of the Premises disturbed by Company and not required for continuing operation of the Transmission Facilities to a condition reasonably similar to its condition as of the Effective Date, subject to Company's rights under this Agreement. Restoration shall include, as reasonably required, de-compacting, leveling, terracing, mulching, removing rocks that surface as a result of construction and other commercially reasonable steps to prevent soil erosion.

(c) Company shall make commercially reasonable efforts comply with the following terms and conditions:

(i) Trash. Trash shall never be buried on the Premises but shall be removed from the Premises. Old fence posts and wire removed or replaced by Company shall be disposed of off the Premises.

(ii) Erosion Control. Company shall make efforts to avoid creating conditions causing or contributing to material erosion on the Premises and shall take prudent measures in the design, construction, maintenance and use of the Transmission Facilities so as to avoid

material erosion. If Company's erosion control methods prove unsuccessful, Company shall institute further and additional actions.

(iii) Weeds. Company shall avoid killing any vegetation not necessary to control for electrical transmission safety. ~~Company may use chemicals to control weeds.~~

(iv) Use of Water. ~~If water is needed, Company shall have the right to use water from the Premises in connection with the Project. contact the Whitewater Water Utility to obtain a hydrant meter and pay for water used in connection with the Project.~~

(v) No Pollution. Company shall, at all times, use its reasonable efforts to perform its work in such a manner as to (i) not pollute the underground water located on the Premises and (ii) substantially minimize the possibility of polluting the air, land, or bodies of water with any materials harmful to the environment.

(vi) Employee Conduct. Company shall impose upon its agents, servants, invitees, and employees and on the agents, servants, invitees, and employees of its contractors, (a) safe speed limits on the Premises, never to exceed 30 mph on county maintained roads or 20 mph on ranch roads, (b) prohibitions against hunting, (c) prohibitions against the possession or discharge of firearms of any kind, (d) prohibitions against any other use of the Premises for recreational purposes, and (e) prohibitions against the consumption of alcohol or drugs on the Premises.

(vii) Soil Disturbance. Prior to construction of the Transmission Facilities or disturbance of soil on the Easement Area, Company shall separate the topsoil for reclamation of disturbed areas after construction is concluded. After the conclusion of construction, Company shall re-spread the reclaimed topsoil and reseed and replant the Easement Area with ~~native prairie~~ grasses using a seed mixture approved by Owner.

6. Default; Remedies.

(a) Default. If a Party (the "**Defaulting Party**") fails to perform an obligation under this Agreement (an "**Event of Default**") such Defaulting Party shall not be in default of the terms of this Agreement if, (a) in the case of the failure to pay when due any amounts payable under this Agreement (a "**Monetary Default**") the Defaulting Party pays the past due amount within forty-five (45) days after receiving written notice of the Event of Default (a "**Notice of Default**") from the other Party (the "**Non-Defaulting Party**"), and (b) in the case of an Event of Default other than a Monetary Default (a "**Non-Monetary Default**"), the Event of Default is cured within ninety (90) days after receiving the Notice of Default; provided, that if the nature of the Non-Monetary Default requires, in the exercise of commercially reasonable diligence, more than ninety (90) days to cure then the Defaulting Party shall not be in default as long as it commences performance of the cure within ninety (90) days and thereafter pursues such cure with commercially reasonable diligence. Should an Event of Default remain uncured by the Defaulting Party, the Non-Defaulting Party shall have and shall be entitled to at its option and without further notice, but subject to the limitations set forth in the last sentence of this paragraph, to exercise any remedy available at law or equity, including, without limitation, a suit for specific performance of any obligations set forth in this Agreement or any appropriate injunctive or other equitable relief, or for damages resulting from such default (including, without limitation, the cost of obtaining alternative easements and removing and reinstalling the Transmission Facilities). Both Parties agree that remedies at law may be inadequate to protect against any actual or threatened breach of this Agreement. In the event of any breach or threatened breach, either Party shall have the right to apply for the entry of an immediate order to restrain or enjoin the breach and otherwise specifically to enforce the provisions of this Agreement. Notwithstanding the

foregoing, anything to the contrary contained in this Agreement, or any rights at law or in equity, in no event shall any default or breach of this Agreement, or any failure to perform any obligations under this Agreement, terminate, or entitle any Party to terminate, this Agreement or any Easements or right granted hereunder. Without limiting the foregoing, no Party may terminate this Agreement, except as expressly described in Section 2(b) of this Agreement.

(b) Owner's Loss During Construction and Maintenance. Notwithstanding the foregoing, to the extent that Owner is temporarily prevented from using any portion of the Premises (not including the Easement Area) during the initial construction of the Transmission Facilities and/or subsequent maintenance of the Transmission Facilities, the same shall not be deemed an Event of Default hereunder, and Owner's sole recourse shall be to pursue reimbursement from Company to Owner for (i) actual loss of income from farming and livestock grazing activities on such impacted portion of the Premises (not including the Easement Area) ("**Loss of Income**"); and/or (ii) the actual loss incurred by Owner as a result of damage caused by Company to any crops located on such impacted portion of the Premises (not including the Easement Area) (the "**Crop Damages**"). In order to receive Loss of Income or Crop Damages, Owner must give written notice to Company within thirty (30) days of suffering such loss (the "**Notice of Loss**"). The Notice of Loss shall include an accounting and explanation of the actual, verifiable loss suffered by Owner. If Company has no reasonable objection to the loss claimed by Owner in the Notice of Loss, then Company shall pay Owner within sixty (60) days after receipt of the Notice of Loss. Owner's Notice of Loss shall include any Loss of Income or Crop Damages that any tenant or lessee of Owner may have incurred as a result of Company's initial construction of the Transmission Facilities and/or subsequent maintenance of such facilities on any portion of the Premises (not including the Easement Area) ("**Tenant Claims**"). Owner shall be solely responsible for payment of such Tenant Claims from the amount received from Company pursuant to the Notice of Loss, and Owner agrees to indemnify and hold Company harmless from such Tenant Claims.

7. Assignment; Lender Protections. Company shall have the right, on an exclusive or non-exclusive basis, without obtaining the consent of Owner, to do any of the following with respect to all or any portion of this Agreement, the Deed of Easement and/or any of the Transmission Facilities: encumber, hypothecate, pledge, or otherwise finance this Agreement, the Deed of Easement and/or any of the Transmission Facilities in favor of the holder of any security interest in this Agreement, the Deed of Easement and/or any of the Transmission Facilities (each a "**Lender**"); grant co-easements (including, without limitation, cotenancy interests), separate easements, sub-easements, licenses, leases, or similar rights (however denominated) to one or more persons or entities (each an "**Assignee**"); permit one or more Assignee(s) to attach wires, cables or conduits to the Transmission Facilities and hang or lay wire, cables and conduits within the Easement Area; or sell, convey, lease, assign, mortgage, encumber, hypothecate or transfer to one or more Assignees or Secured Parties any or all right or interest of Company in all or any portion of this Agreement, the Easement, the Easement Area, and the Transmission Facilities. Upon Company's assignment of its entire interest under this Agreement as to all or any portion of the Easements, or as may otherwise be provided in the applicable grant, sale, lease, conveyance or assignment document, Owner shall recognize the Assignee as Company's proper successor, the Assignee shall have all of the assigned rights, benefits and obligations of Company under and pursuant to this Agreement and the Deed of Easement, and Company shall be relieved of all of its obligations relating to the assigned interests under this Agreement and the Deed of Easement that relate to acts or omissions which occur or accrue following the effective date of such grant, sale, lease, conveyance or assignment. Owner shall notify Company in writing of any sale, assignment or transfer of any of Owner's interest in the Premises, or any part thereof. Until Company receives such notice, Company shall have no duty to any successor Owner. No Owner consent shall be required for any change in ownership of either Company and any such change in ownership shall not constitute an assignment for purposes of this Agreement.

If Company has provided notice to Owner of a Lender, then:

- (a) Owner and Company will not modify, cancel, or terminate this Agreement without the prior written consent of the Lender;
- (b) upon any default by Company under this Agreement, Owner shall concurrently deliver a copy of the applicable notice of default to Company and the Lender;
- (c) the Lender shall have the right, but not the obligation:
 - (i) to do any act or thing required to be performed by Company under this Agreement, and any such act or thing performed by a Lender shall be as effective to prevent a default under this Agreement as if done by Company, and
 - (ii) to cure any default under this Agreement; and
- (d) prior to exercising any right under this Agreement resulting from a default by Company, Owner shall give any Lender the same time period as Company after receipt of notice of default to remedy the default, or cause the same to be remedied, plus, in each instance, the Lender shall have an additional time period of forty-five (45) days to complete such cure.

A Lender shall have the right to exercise power of sale or other remedy afforded in law or equity or by the security documents as to Company's interest in this Agreement, the Deed of Easement and the Transmission Facilities, and Company's interest in this Agreement, the Deed of Easement and the Transmission Facilities may be transferred, conveyed, or assigned to any purchaser, including a Lender, at any such sale. Lender will not be or become liable to Owner as an assignee of Company's interest in this Agreement or otherwise unless it assumes such liability in writing. At the request of Company or the Lender, Owner shall execute and deliver an acknowledgement, in a form agreeable to Lender and Company, that Company has encumbered, hypothecated, pledged, or otherwise financed this all or any portion of Company's right, title, or interest in this Agreement, the Deed of Easement, or the Transmission Facilities to the Lender and that Lender is entitled to all of the rights, benefits, and protections as a Lender under this Agreement.

8. Insurance. Company shall, at its expense, obtain and maintain throughout the duration of the Term, (i) a broad form comprehensive coverage policy of commercial liability insurance insuring Company and Owner against loss or liability caused by Company's activities on the Easement Area under this Agreement, in an amount not less than Two Million Dollars (\$2,000,000) prior to the Construction Commencement Date, and Five Million Dollars (\$5,000,000) after the Construction Commencement Date, of combined single limit liability coverage per occurrence, accident or incident, which has a commercially reasonable deductible; and (ii) commercial auto liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000).

9. Indemnity. Owner and Company, on behalf of itself and its principals, members, officers, employees, agents, representatives, contractors, successors and assigns (the "**Indemnifying Party**"), shall indemnify, defend and hold harmless the other party and its principals, members, officers, employees, agents, representatives, contractors, successors and assigns (collectively, the "**Indemnified Party**") from and against any and all claims, litigation, actions, proceedings, losses, damages, liabilities, obligations, costs and expenses, including attorneys', investigators' and consulting fees, court costs and litigation expenses (collectively, "**Claims**"), including arising from (i) physical damage to property (including the personal property of the Indemnified Party) or physical injury to or death of any person, in each case to the extent caused by the negligence or misconduct of the Indemnifying Party, (ii) any violation by the Indemnifying Party of any law, or (iii) any material default by the Indemnifying Party, or any failure to be true of any representation or warranty made by the Indemnifying Party, under this Agreement. An Indemnifying Party shall have no obligation to indemnify or defend any Indemnified Party with respect to

any Claims that result or arise from an Indemnified Party's acts or omissions, negligence or willful misconduct. The reference to property damage in this Paragraph 9 above does not include the following loss of: (a) timber and/or crops; (b) rent; (c) business opportunities; (d) profits and the like that may result from Company's exercising its rights granted pursuant to this Agreement, and any such losses will be compensated solely through the provisions of Paragraph 3 and Paragraph 6. The foregoing indemnity shall not extend to (i) property damage or personal injuries attributable to risks of known and unknown dangers associated with electrical generating facilities, such as electromagnetic fields or (ii) Company's lawful enforcement of its rights under this Agreement.

10. Recognition of Dangers. **OWNER RECOGNIZES THE NEED TO EXERCISE EXTREME CAUTION WHEN IN CLOSE PROXIMITY TO ANY OF THE TRANSMISSION FACILITIES. OWNER AGREES TO EXERCISE CAUTION AT ALL TIMES AND TO ADVISE ALL OWNER RELATED PARTIES TO DO THE SAME. OWNER SHALL TAKE REASONABLE MEASURES TO AVOID BEING IN CLOSE PROXIMITY TO THE TRANSMISSION FACILITIES, AND OWNER IS AWARE THERE MAY BE RISKS ASSOCIATED WITH ELECTROMAGNETIC FIELDS RESULTING FROM THE PRODUCTION AND TRANSMISSION OF ELECTRICITY AND OWNER WAIVES ANY AND ALL PERSONAL INJURY CLAIMS AND CAUSES OF ACTION WHATSOEVER (WHETHER CURRENTLY EXISTING OR THAT MAY OTHERWISE ARISE OR ACCRUE AT ANY TIME IN THE FUTURE) THAT OWNER POSSESSES OR OTHERWISE MAY POSSESS AGAINST COMPANY ARISING FROM OR RELATING TO SUCH RISKS; PROVIDED, HOWEVER, SUCH WAIVER SHALL NOT BE EFFECTIVE TO THE EXTENT COMPANY ENGAGES IN RECKLESSNESS OR WILLFUL MISCONDUCT ON THE EASEMENT AREA.**

11. Miscellaneous.

(a) Confidentiality. To the fullest extent allowed by law, Owner shall maintain in the strictest confidence, for the sole benefit of Company, all information pertaining to the financial terms of or payments under this Agreement. Company is aware this Agreement, including the financial terms or payments, will be acted upon in open session at an Owner's Common Council meeting. To the fullest extent permitted by law, Owner shall not use such information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Company. Notwithstanding the foregoing, Owner may provide information as required or appropriate to attorneys, accountants, lenders, or third parties who may be assisting Owner or with whom Owner may be negotiating in connection with the Premises, Owner's financial or other planning, or as may be necessary to enforce this Agreement.

(b) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon Owner and Company and, to the extent provided in any assignment or other transfer under Paragraph 7 hereof, any Assignee, and their respective heirs, transferees, successors and assigns, and all persons claiming under them, and shall be deemed covenants running with the land and be binding upon the Premises. References to Company in this Agreement shall be deemed to include Assignees that hold a direct ownership interest in the Easements or this Agreement and actually are exercising rights under the Easements or this Agreement to the extent consistent with such interest.

(c) Notices. Any notices, statements, requests, demands, consents, correspondence or other communications required or permitted to be given hereunder shall be in writing and shall be given personally, by certified or registered mail, postage prepaid, with delivery confirmation, return receipt requested, or by overnight or other courier or delivery service, freight prepaid, to the address of the party to be notified indicated below (and if to a Lender, the address indicated in any notice to Owner provided under Section 7). If to Company, a copy shall also be sent (which shall not constitute notice) to any and all

Lenders, to Company's counsel at the address below, and any other party designated by Company in writing.

If to Owner:

City of Whitewater, a municipal corporation,
312 W Whitewater St.
Whitewater, WI 53190

If to Company:

Whitewater Solar, LLC
320 N Sangamon St #1025
Chicago, IL 60607

With a copy to:

Carl H Bivens, Esq.
Troutman Pepper
1001 Haxall Point
Richmond, Virginia 23219

Notices delivered by hand shall be deemed delivered when actually received, and notices sent by certified or registered mail with delivery confirmation or by overnight or other courier or delivery service shall be deemed delivered upon actual receipt, and shall be deemed to have been given on the day of actual delivery to the intended recipient (as evidence by written acceptance of delivery by the recipient) or on the day delivery is refused. Owner and Company and any Lender may change its address for receipt of notices by sending notice hereunder of such change to the other party (in the case of a Lender, both parties) in the manner specified in this Section. Notwithstanding the foregoing, any amounts payable to Owner under this Agreement shall be deemed tendered three (3) days after a check for the same, addressed to Owner's address above, is deposited in the United States mail, first-class postage prepaid.

(d) Entire Agreement; Amendments. This Agreement and the Deed of Easement, together, constitute the entire agreement between Owner and Company respecting the Premises and the Easements. Any agreement, understanding or representation respecting the Premises, the Easements, or any other matter referenced in this Agreement not expressly set forth in this Agreement, the Deed of Easement or a subsequent writing signed by both Parties is null and void. This Agreement shall not be modified or amended except in a writing signed by both Parties. No purported modifications or amendments, including, without limitation, any oral agreement (even if supported by new consideration), course of conduct or absence of a response to a unilateral communication, shall be binding on either Party. Owner shall cooperate with Company in amending this Agreement from time to time to include any provision that may be reasonably requested by Company for the purpose of implementing the provisions contained in this Agreement or for the purpose of preserving the security interest of, or satisfying the request of, any Assignee or a Lender.

(e) Legal Matters. This Agreement shall be governed by and interpreted in accordance with the laws of the state in which the Premises is located. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, they agree that such dispute shall be resolved in the state courts located in any county in which any portion of the Premises is located. The Parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either Party shall not be employed in the interpretation of this Agreement and is hereby waived. The prevailing party in any action or proceeding for the enforcement, protection or establishment of any right or remedy under this Agreement shall be entitled to recover its reasonable attorneys' fees and costs in connection with such action or proceeding from the non-prevailing party.

(f) Partial Invalidity. Should any provision of this Agreement be held, in a final and unappealable decision by a court of competent jurisdiction, to be either invalid, void or unenforceable, the remaining provisions hereof shall remain in full force and effect, unimpaired by the holding.

(g) Estoppel Certificates. Within ten (10) days after written request by Company or its Lender, Owner shall execute and deliver to Company and/or its Lender an “Estoppel Certificate” (a) certifying that this Agreement is in full force and effect and has not been modified (or if modified stating with particularity the nature thereof), (b) certifying that there are no uncured events of default hereunder (or, if any uncured events of default exist, stating with particularity the nature thereof); and (c) containing any other certifications that may be reasonably requested by Company or its Lender. Any such certificates may be conclusively relied upon by Company, its Lender and any prospective Assignee or investor in Company. If Owner fails to deliver any such certificate within such time, then Company may conclusively conclude and rely on the following: (i) this Agreement is in full force and effect and has not been modified, (ii) there are no uncured events of default by the Company hereunder, and (iii) the other certifications so requested are in fact true and correct.

(h) No Merger. There shall be no merger of the Easements, or of the easement estate created by this Agreement, with the fee estate in the Premises by reason of the fact that the Easements or the easement estate or any interest therein may be held, directly or indirectly, by or for the account of any person or persons who shall own the fee estate or any interest therein, and no such merger shall occur unless and until all persons at the time having an interest in the fee estate in the Premises and all persons (including, without limitation, Lender) having an interest in the Easements or in the estate of Owner and Company shall join in a written instrument effecting such merger and shall duly record the same.

(i) Joint Owners. If one or more persons, partnerships, corporations, trusts or other entities execute this Agreement as Owner or have an ownership interest in the Premises from time to time, the obligations of Owner under this Agreement shall be the joint and several obligations of each such person, partnership, corporation, trust or other entity. Except as stated to the contrary herein, all such persons, partnerships, corporations, trusts or other entities agree that they shall be solely responsible for allocating any payments made under this Agreement between themselves and that Company shall have no obligation to make any allocation.

(j) Headings. The headings of the paragraphs of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part thereof.

(k) Counterparts. This Agreement, and any amendment hereto, may be executed in any number of counterparts and by each Party on separate counterparts with the same effect as if all signatory parties had signed the same document, each of which when so executed and delivered shall be deemed an original and all of which taken together shall constitute one and the same instrument.

(l) Easement Rights. The Easements and other rights granted by Owner in this Agreement are an EASEMENT IN GROSS for the benefit of Company, its successors and assigns, there being no real property benefiting from the Easements and other rights granted in this Agreement, such Easements and other rights being independent of any other lands or estates or interests in lands. Notwithstanding anything else herein to the contrary, Owner and Company acknowledge and agree that this Agreement is not for agricultural purposes, and Company shall not use the Easement Area for any agricultural purposes. Both Owner and Company mutually waive any right to declare this Agreement void under Section I, Article 14 of the Wisconsin Constitution.

(m) Further Assurances. The Parties hereto shall at all times hereafter execute any documents and do any further acts which may be necessary or desirable to carry out the purposes of this Agreement and to

give full force and effect to each and all of the provisions thereof. The Parties shall hereafter execute any amendment or new agreement as may be necessary for this Agreement to comply with Wis. Stat. § 893.33(6), Article I, Section 14 of the Wisconsin Constitution, or any successor or replacement laws.

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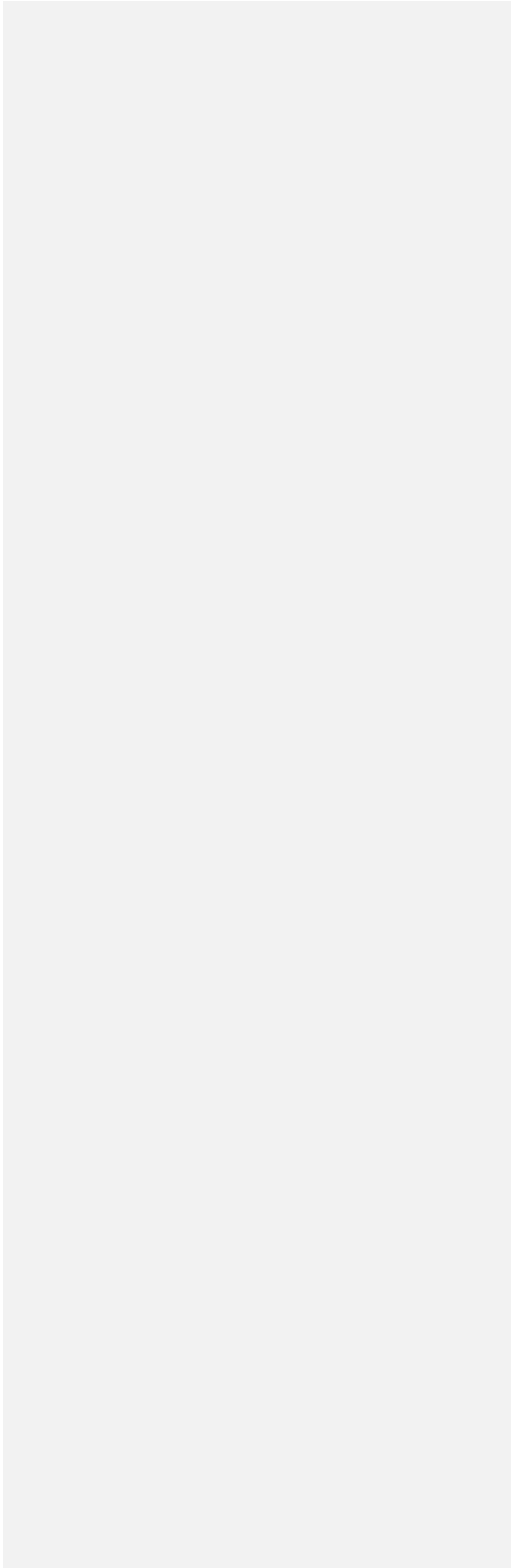
IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date first set forth above.

OWNER:

CITY OF WHITEWATER,
a municipal corporation

Printed Name: _____

Title: _____



IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement as of the date first set forth above.

COMPANY:

WHITEWATER SOLAR, LLC
a Delaware limited liability company

By: _____

Name: _____

Title: _____

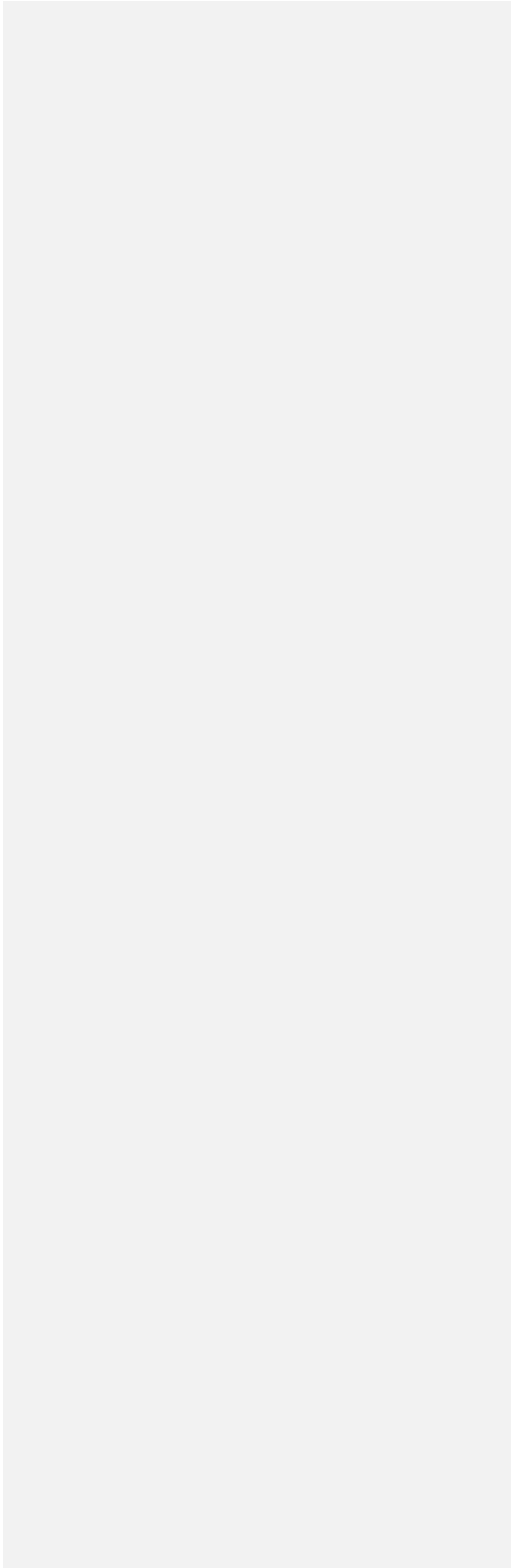


EXHIBIT A

LEGAL DESCRIPTION OF THE PREMISES

44.06 acres of land, more or less, in Jefferson County, identified as follows:

Parcel Number: 292-0515-3313-000

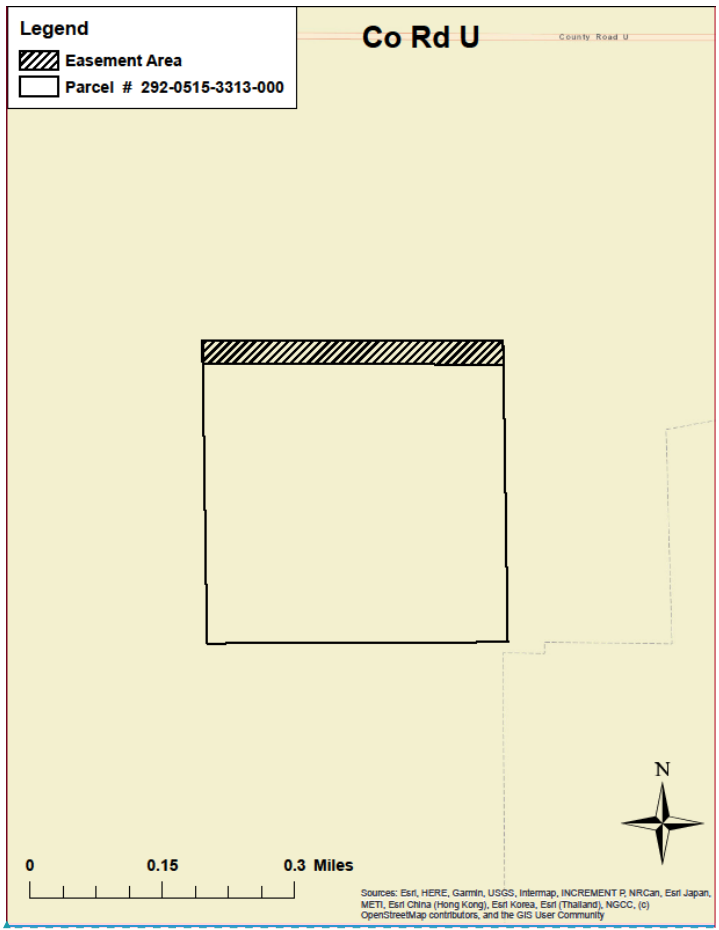
Acreage: 44.06

**Legal Description: SW1/4 NE1/4. ALSO W120FT OF NW1/4 NE1/4, ALSO 100FT DRAINAGE
ESMT OVER S100FT NW1/4. SUBJ TO ESMTS IN 911-964**

A-1

EXHIBIT B
DESCRIPTION AND/OR DEPICTION OF THE EASEMENT AREA

BEING THE 100 FEET OF THE FOLLOWING DEPICTED TRACT OF LAND, SITUATED IN
JEFFERSON COUNTY, WISCONSIN



Commented [BM3]: Missing the W120 FT of NW ¼ NE ¼.
Update with correct depiction

Field Code Changed

B-1

EXHIBIT C

DEED OF EASEMENT

(Separately Attached)

C-1

Document Number	DEED OF EASEMENT Document Title
-----------------	---

Recording Area

Drafted by, and after recording return to:

Attn: Lease & Title Department
 Whitewater Solar, LLC
 320 N Sangamon St #1025
 Chicago, Illinois 60607
 Phone: (517)-819-4059

Parcel Identification Number (PIN):. See Exhibit A.

THIS PAGE IS PART OF THIS LEGAL DOCUMENT – DO NOT REMOVE.

C-2

DEED OF EASEMENT

STATE OF WISCONSIN §
 § KNOW ALL PERSONS BY THESE PRESENTS:
COUNTY OF JEFFERSON §

THIS DEED OF EASEMENT (this “**Deed of Easement**”) is made, dated and effective as of _____, 20__ (the “**Effective Date**”), between **City of Whitewater, a municipal corporation**, of 312 W Whitewater St. Whitewater, WI 53190 (together with its successors, assigns and heirs, “**Grantor**” and/or “**Owner**”), and **Whitewater Solar, LLC**, a Delaware limited liability company whose principal business address is 320 N Sangamon St #1025 Chicago, Illinois 60607 (together with its transferees, successors and assigns, “**Grantee**” and/or “**Company**”), and in connection herewith, Grantor and Grantee agree, covenant and contract as set forth in this Deed of Easement. Grantor and Grantee are sometimes referred to in this Deed of Easement as a “**Party**” or collectively as the “**Parties**”.

RECITALS

- A. Grantor owns certain real property located in Jefferson County, State of Wisconsin, described on Exhibit A, attached hereto and by this reference made a part hereof (the “**Premises**”).
- B. Grantor and Grantee are parties to that certain Transmission Facilities Agreement dated of even date herewith (the “**Transmission Facilities Agreement**”).
- C. Pursuant to and in accordance with the Transmission Facilities Agreement, Grantee desires to obtain certain easements and rights over the Premises, and Grantor desires to grant such easement and rights, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual obligations and covenants of the Parties herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Parties hereto agree as follows:

- 1. Grant of Easements.
 - (a) Grant.
 - (i) Transmission Easement. Grantor hereby grants, conveys, transfers and warrants to Grantee, and its respective successors and assigns, ~~an exclusive~~ non-exclusive easement (the “**Transmission Easement**”) on, over, under and across the Premises for constructing, erecting, installing, using, replacing, relocating, reconstructing and removing from time to time, and monitoring, improving, maintaining, storing, repairing and operating the transmission facilities described on Exhibit B attached hereto (the “**Transmission Facilities**”), together with the right to perform all other ancillary activities as may be necessary or appropriate to operate and service the

Transmission Facilities. The location of the Transmission Easement shall be on, above, along, under, and in the portion of the Premises described in Exhibit C (the “**Easement Area**”).

(ii) Access Easement. Grantor hereby grants, conveys, transfers and warrants to Grantee, and its respective employees, contractors, subcontractors, agents, successors and assigns, a non-exclusive easement (“**Access Easement**”) on, over, under and across the Premises, and on, over, under and across any and all vehicular and pedestrian access routes to and from the Premises, in order to: conduct any studies, tests or inspections that Grantee deems necessary, including, without limitation, surveys, soil sampling, environmental tests, archeological assessments, and transmission and interconnection studies; access the Easement Area; ~~construct and maintain roadways to provide access to the Easement Area for the purposes stated in this Deed of Easement;~~ exercise the rights granted in this Deed of Easement; and install, construct, operate, maintain, repair, replace, relocate, remove or inspect the Transmission Facilities. If access to, from or across the Easement Area is obstructed by fences, ~~Grantee shall have the right to cut and install gates in such fences, which shall remain closed and locked when not being used. Before Grantee cuts any fence, the fence so cut must be braced adequately and reasonably on both sides of the cut to prevent slackening of the fence. With respect to any such gates installed by Grantee, or any other gates installed by Grantor through which Grantee is required to pass for access to and from the Easement Area, Grantee or Grantor, as applicable, shall provide the other party Grantee with keys or combinations for the locks to such gates. For the avoidance of doubt, wherever reasonably practical, Grantee shall utilize existing roadways on the Premises.~~

(iii) Clearance Easement. Grantor hereby grants, conveys, transfers and warrants to Grantee, a non-exclusive easement and right (the “**Clearance Easement**”, and together with the Transmission Easement and the Access Easement, the “**Easements**”) to trim, cut down and remove ~~all only necessary~~ trees (whether natural or cultivated), brush, vegetation, and fire and electrical hazards now or hereafter existing in the Easement Area, ~~or any roadway area now or hereafter providing access thereto, and trim, cut down and remove any trees, brush, vegetation or fire or electrical hazards located outside of the Easement Area now or hereafter on the Premises which might interfere with or endanger the Transmission Facilities, or the construction or maintenance thereof, as determined by Grantee.~~

(b) Term. This Deed of Easement shall terminate and be of no further force or effect upon the earlier to occur of (i) 47 years from the Effective Date or (ii) termination of the Transmission Facilities Agreement. In the event the Transmission Facilities Agreement is terminated, Grantee shall record a notice of termination in the official land title records office of the township or county in which the Premises is located (the “**Records Office**”).

(c) Use. Company and its agents shall have full and free use of the Easements for the purposes named, and shall have all rights and privileges reasonably necessary to the exercise of the Easements, including the right of access to and from the Easement Area, ~~and the right to use adjoining land when necessary; provided, however, that this right to use adjoining land shall be exercised only during periods of actual construction or maintenance, and then only to the minimum extent necessary for such construction and maintenance; and further, this right shall not be construed to allow the Company to erect any building or structure of a permanent nature on such adjoining land.~~

(d) Title to Transmission Facilities. Grantee shall at all times retain title to the Transmission Facilities and shall have the right to remove them (or to allow them to be removed by an authorized third party) from

the Easement Area at any time. Nothing in this Deed of Easement, however, shall be construed as requiring Company to (i) construct, install or operate any Transmission Facilities, or (ii) exercise any rights granted under this Deed of Easement.

(e) Transmission Facilities Agreement. Grantor and Grantee acknowledge and agree that this Deed of Easement and the Parties' respective rights and obligations hereunder, are and shall remain subject to terms and conditions of the Transmission Facilities Agreement. All terms and conditions of the Transmission Facilities Agreement are fully incorporated herein by reference. In the event of any conflict between this Deed of Easement and the Transmission Facilities Agreement, the conflict shall be resolved to ensure the most grant of Easement rights.

2. Cooperation.

Grantor shall assist and fully cooperate with Grantee (including signing in Grantor's name, if necessary) in applying for, complying with or obtaining any land use permits and approvals, building permits, environmental reviews, or any other permits, licenses, approvals or consents required for the financing, construction, installation, replacement, relocation, maintenance, repair, operation or removal of the Transmission Facilities and any other improvements made by Grantee and permitted in this Deed of Easement, all at no out of pocket expense to Grantor. Grantor shall take no actions (i) that would cause the Transmission Facilities to fail to comply with any applicable laws, rules, regulations, permits, approvals or consents of any governmental authority having jurisdiction over the Premises, or (ii) in opposition to any of the foregoing, directly or indirectly. Further, in the event of legal proceedings related to Grantee's use of the Premises after the Effective Date, except those arising out of the interpretation and/or enforcement of the Transmission Facilities Agreement, Grantor shall, in all respects, fully cooperate with Grantee in any such proceeding. Grantor agrees that Grantee may provide the Deed of Easement in lieu of any affidavit of Grantor or other form of Grantor's consent (whether oral or written) that may be requested or required in connection with Grantee's efforts to obtain any environmental impact review, permit, entitlement, approval, authorization, agreement or other rights necessary or convenient in Grantee's discretion for the Transmission Facilities.

3. Miscellaneous.

(a) Grantor's Authority. Grantor is the sole owner of the Premises, has good and indefeasible title to the Premises, and has the unrestricted right and authority to execute this Deed of Easement and to grant Grantee the rights granted in this Deed of Easement. Grantee shall have the right to quietly and peaceably hold, possess and enjoy the Easement for the Term of this Deed of Easement, without hindrance, and Grantor shall defend Grantee's right of use and occupancy to the same against the claims of all persons. When executed by Grantor, this Deed of Easement constitutes a valid and binding agreement enforceable against Grantor in accordance with its terms.

(b) No Interference. Grantor shall not, and shall not allow its invitees, licensees, agents, representatives, members, contractors, family members, partners, or officers ("**Grantor Related Parties**") to, (i) interfere with, Grantee's use of the Premises for the purposes described in this Deed of Easement, or Grantee's rights under the Transmission Facilities Agreement, (ii) affect the lateral support or structural soundness of the Transmission Facilities; (iii) create an unsafe condition; (iv) disrupt in any manner the use of the Transmission Facilities by Grantee for the transmission of electric power; (v) otherwise interfere with Grantee's intended use of the Easements. Without limiting the foregoing, Grantor shall not, ~~within the Easement Area: erect or install any buildings, structures, paved roadways, tanks, antennas or other~~

~~improvements; place or store flammable materials; plant trees; place water, sewer or drainage facilities; or alter the elevation of the existing ground surface by more than one (1) foot. Grantee acknowledges the existence of other utilities already in place within the Easement Area.~~

(c) Notices. Any notices, statements, requests, demands, consents, correspondence or other communications required or permitted to be given hereunder shall be in writing and shall be given personally, by certified or registered mail, postage prepaid, with delivery confirmation, return receipt requested, or by overnight or other courier or delivery service, freight prepaid, to the address of the party to be notified indicated below (and if to a Lender, the address indicated in any notice to Grantor provided under Section 7 of the Transmission Facilities Agreement). If to Grantee, a copy shall also be sent (which shall not constitute notice) to any and all Lenders, to Grantee's counsel at the address below, and any other party designated by Grantee in writing.

If to Grantor:

City of Whitewater, a municipal corporation
312 W Whitewater St.
Whitewater, WI 53190

If to Grantee:

Whitewater Solar, LLC
320 N Sangamon St #1025
Chicago, IL 60607

With a copy to:

Carl H Bivens, Esq.
Troutman Pepper
1001 Haxall Point
Richmond, Virginia 23219

Notices delivered by hand shall be deemed delivered when actually received, and notices sent by certified or registered mail with delivery confirmation or by overnight or other courier or delivery service shall be deemed delivered upon actual receipt, and shall be deemed to have been given on the day of actual delivery to the intended recipient (as evidence by written acceptance of delivery by the recipient) or on the day delivery is refused. Grantor and Grantee and any Lender may change its address for receipt of notices by sending notice hereunder of such change to the other party (in the case of a Lender, both parties) in the manner specified in this Section. Notwithstanding the foregoing, any amounts payable to Grantor under this Deed of Easement shall be deemed tendered three (3) days after a check for the same, addressed to Grantor's address above, is deposited in the United States mail, first-class postage prepaid.

(d) Successors and Assigns. This Deed of Easement shall inure to the benefit of and be binding upon Grantor and Grantee and their respective heirs, transferees, successors and assigns, and all persons claiming under them, and shall be deemed covenants running with the land and be binding upon the Premises.

(e) Assignment. Company may assign or apportion or grant co-easements (including, without limitation, co-tenancy interests), separate easements, sub-easements, licenses or similar rights in or to all or any of Company's right, title and interest under the Transmission Facilities Agreement and/or the Transmission Facilities to one or more persons or entities (each an "**Assignee**") without Grantor's prior written consent so long as written notice of such assignment is provided to Grantor after such assignment or grant of rights is effective. Upon any assignment of all of Company's right, title and interest under this Deed of Easement, the assigning Company shall automatically (without the need for any writing) be

released from all of its obligations and liability under this Deed of Easement, except for liabilities that accrued prior to the date of such assignment.

(f) Use of Water. If water is needed, Grantee shall have the right to use water from the Premises in connection with the Project, contact the Whitewater Water Utility to obtain a hydrant meter and pay for water used in connection with the Project.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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IN WITNESS WHEREOF, the Parties have executed and delivered this Deed of Easement as of the date first set forth above.

GRANTOR:

CITY OF WHITEWATER,
a municipal corporation

Printed Name: _____

Title: _____

STATE OF WI §
 §
COUNTY OF JEFFERSON §

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this __ day of _____, 20 ____.

NOTARY PUBLIC IN AND FOR THE STATE OF _____
Notary's Name (Printed): _____
My commission expires: _____

GRANTEE:

WHITEWATER SOLAR, LLC
a Delaware limited liability company

By: _____

Name: _____

Title: _____

STATE OF ILLINOIS §

 §

COUNTY OF COOK §

Before me, the undersigned authority, on this day personally appeared _____,
_____ of Whitewater Solar, LLC, a Delaware limited liability company, known
to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that
he executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this __ day of _____, 20__.

NOTARY PUBLIC IN AND FOR THE STATE OF ILLINOIS

Notary's Name (Printed): _____

My commission expires: _____

EXHIBIT A TO EASEMENT

LEGAL DESCRIPTION OF THE PREMISES

44.06 acres of land, more or less, in Jefferson County, identified as follows:

Parcel Number: 292-0515-3313-000

Acreage: 44.06

Legal Description: SW1/4 NE1/4. ALSO W120FT OF NW1/4 NE1/4, ALSO 100FT DRAINAGE
ESMT OVER S100FT NW1/4. SUBJ TO ESMTS IN 911-964

Exhibit A-1 to Deed of Easement

EXHIBIT B TO EASEMENT

DESCRIPTION OF THE TRANSMISSION FACILITIES

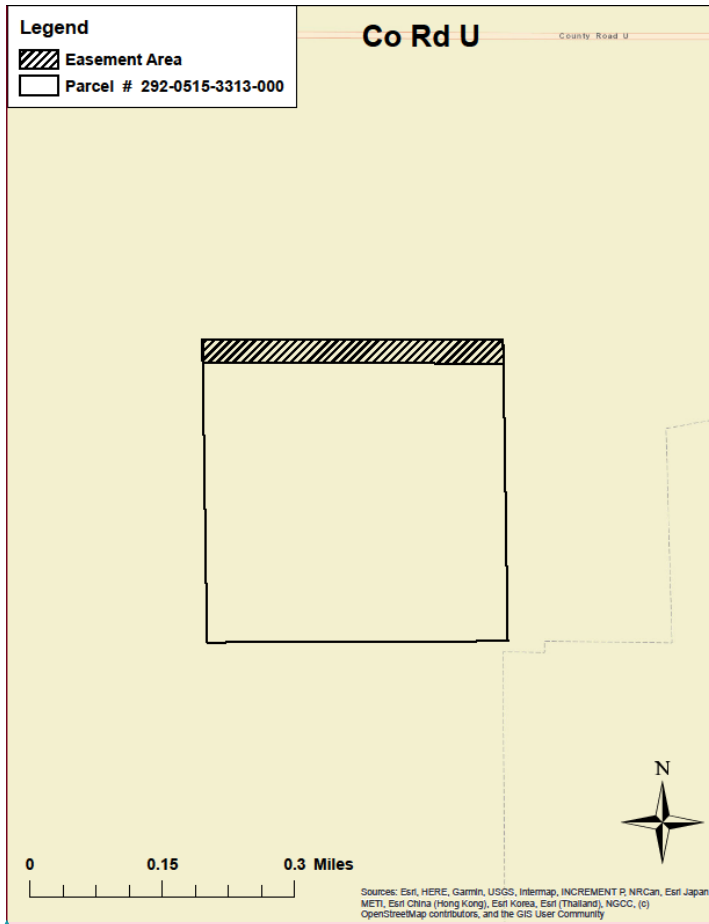
Without limitation, the Transmission Facilities shall include underground ~~and/or overhead~~ electrical distribution, transmission and communications facilities, including without limitation ~~overhead or~~ underground transmission, lines, wires, and cables, ~~support towers or poles,~~ together with related conduit, ~~footings, foundations, cross-arms, guy wires, anchors,~~ circuit breakers, electric transformers, and (b) ~~overhead and~~ underground control, communications, and radio relay systems and telecommunications equipment, including without limitation fiber, wires, cables, ~~and conduit and poles,~~ all for the transmission of electrical energy and/or for communication purposes, and all necessary and proper appliances and fixtures for use in connection with said lines.

Exhibit B-1 to Deed of Easement

EXHIBIT C TO EASEMENT

DESCRIPTION AND/OR DEPICTION OF THE EASEMENT AREA

BEING THE 100 FEET OF THE FOLLOWING DEPICTED TRACT OF LAND, SITUATED IN
JEFFERSON COUNTY, WISCONSIN



Commented [BM4]: Update depiction with correct parcel shape

Field Code Changed

Exhibit C-1 to Deed of Easement

EXHIBIT D

Payment Addendum

As consideration for Owner's execution of the Agreement, Company shall pay Owner the sum of One Thousand and 00/100 Dollars (\$1,000.00) within forty-five (45) days after full execution of the Agreement (the "**Signing Bonus**").

As consideration for the grant of the Easements, within forty-five (45) days after the Construction Commencement Date, Company shall pay Owner the sum of One Thousand Five Hundred and 00/100 Dollars (\$1,500.00) (the "**Construction Start Bonus**").

As consideration for the grant of the Easement, within forty-five (45) days after the Construction Completion Date, Company shall pay to Owner the sum of One Dollar (\$1.00) per linear foot of the transmission line constructed in the Easement Area (the "Annual Easement Payment", and together with the Signing Bonus and the Construction Start Bonus, the "**Easement Payments**"). Within forty-five (45) days after each anniversary of the Construction Completion Date during the Term, Company shall pay the Annual Easement Payment to Owner. The Annual Easement Payment shall be calculated based on the linear feet of transmission line actually existing in the Easement Area on the Construction Completion Date or the respective anniversary of the same.

No Easement Payments shall be due until Company has received from Owner both 1) a fully executed original of this Agreement and 2) a completed Internal Revenue Service Form W-9.

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EXHIBIT E

OWNER'S RIGHTS AND WAIVER OF RIGHTS

Under Wis. Stat. § 182.017, excerpted below, landowners who sign an easement agreement have specific rights which apply to high voltage power lines that are 100 kV or larger, longer than one mile, and built after 1976.

Wis. Stat. § 182.017(7)(c)-(i):

(c) In constructing and maintaining high-voltage transmission lines on the property covered by the easement the utility shall:

1. If excavation is necessary, ensure that the top soil is stripped, piled and replaced upon completion of the operation.
2. Restore to its original condition any slope, terrace, or waterway which is disturbed by the construction or maintenance.
3. Insofar as is practicable and when the landowner requests, schedule any construction work in an area used for agricultural production at times when the ground is frozen in order to prevent or reduce soil compaction.
4. Clear all debris and remove all stones and rocks resulting from construction activity upon completion of construction.
5. Satisfactorily repair to its original condition any fence damaged as a result of construction or maintenance operations. If cutting a fence is necessary, a temporary gate shall be installed. Any such gate shall be left in place at the landowner's request.
6. Repair any drainage tile line within the easement damaged by such construction or maintenance.
7. Pay for any crop damage caused by such construction or maintenance.
8. Supply and install any necessary grounding of a landowner's fences, machinery or buildings.

(d) The utility shall control weeds and brush around the transmission line facilities. No herbicidal chemicals may be used for weed and brush control without the express written consent of the landowner. If weed and brush control is undertaken by the landowner under an agreement with the utility, the landowner shall receive from the utility a reasonable amount for such services.

(e) The landowner shall be afforded a reasonable time prior to commencement of construction to harvest any trees located within the easement boundaries, and if the landowner fails to do so, the landowner shall nevertheless retain title to all trees cut by the utility.

E-1

(f) The landowner shall not be responsible for any injury to persons or property caused by the design, construction or upkeep of the high-voltage transmission lines or towers.

(g) The utility shall employ all reasonable measures to ensure that the landowner's television and radio reception is not adversely affected by the high-voltage transmission lines.

(h) The utility may not use any lands beyond the boundaries of the easement for any purpose, including ingress to and egress from the right-of-way, without the written consent of the landowner.

(i) The rights conferred under pars. (c) to (h) may be specifically waived by the landowner in an easement conveyance which contains such paragraphs verbatim.

BY EXECUTING THIS AGREEMENT, OWNER ACKNOWLEDGES AND AGREES THAT OWNER VOLUNTARILY WAIVES THE RIGHTS PROVIDED IN THIS EXHIBIT E.

Wis. Admin. Code PSC 113.0509 (1) provides as follows:

When approaching a landowner in the course of negotiating new easements or renegotiating existing easements, the utility shall provide the landowner with materials approved or prepared by the Public Service Commission of Wisconsin ("PSC") describing the landowner's rights and options in the easement negotiation process. The landowner shall have, unless voluntarily waived by the landowner, a minimum five days to examine these materials before signing any new or revised easement agreement.

OWNER ACKNOWLEDGES THAT COMPANY HAS PROVIDED OWNER WITH A COPY OF PSC'S "RIGHT-OF-WAYS AND EASEMENTS FOR ELECTRICAL FACILITY CONSTRUCTION IN WISCONSIN" WHICH DESCRIBES THE LANDOWNER'S RIGHTS AND OPTIONS IN THE EASEMENT NEGOTIATION PROCESS. OWNER VOLUNTARILY WAIVES THE FIVE-DAY REVIEW PERIOD, OR ACKNOWLEDGES THAT IT HAS HAD AT LEAST FIVE DAYS TO REVIEW SUCH MATERIALS.



Public Works Committee Meeting

Cravath Lakefront Room, 2nd floor
312 West Whitewater St.
Whitewater, WI, 53190 *In Person

Tuesday, December 12, 2023 - 6:00 PM

MINUTES

1. CALL TO ORDER

The meeting was called to order by Stone at 6:00 p.m.

2. ROLL CALL

Present: Allen, Gerber, Stone

Others: Marquardt

3. APPROVAL OF AGENDA

A motion was made by Allen to approve the agenda, with the addition of moving up Item 6A., and seconded by Stone.

AYES: All by via voice vote (3). NOES: None. ABSENT: None.

6. NEW BUSINESS

A. Discussion and Possible Action regarding granting an easement to Whitewater Solar, LLC across property owned by the Wastewater Utility.

Marquardt introduced Drew Vielbig from Ranger Power, LLC. Ranger Power, on behalf of Whitewater Solar, LLC, requested a 100-foot easement across the northern portion of the property owned by the Wastewater Utility to locate transmission facilities. The easement is being requested to provide connectivity from proposed solar arrays east of Whitewater to the WE Energies Whitewater Generating Station. The proposed agreement includes language written to allow the flexibility of either buried transmission lines or above ground structures housing the transmission lines.

Stone asked if the width of the project was 100-feet and the length a lot longer, Vielbig agreed. Stone had a concern on page 19 of the packet, under Recitals, (c) Use. Is the adjoining land private property? Stone stated they do not have the ability to give away private property. Marquardt stated he still needs to go through the document with the City attorney. Marquardt stated he is looking for the committee's input to see if they were open to the possibility of providing an easement and if so, he would move forward with the attorney to work on updating the agreement. It would then be brought back to Council with an updated version of the agreement. Stone stated he would be in favor of under ground structures and not above ground structures housing the transmission lines. Vielbig stated this agreement is a form agreement that they use for all types of different electrical cables that are needed for these types of projects. In this particular instance, these would be low voltage cables installed and they would be more than willing to accommodate, if that was the preference.

Allen suggested using a redline mark on the document with future drafts. Marquardt was going to ask for a Word document as well to start tracking the City's changes and their changes.

Marquardt stated one question from our attorney was where the solar arrays would be located since they can be a contentious project. Vielbig said, at this time, pretty much all of the land leased with farmers is in the area that they think they need to accommodate the target size of project. The rough northern boundary is Highway 59, the rough southern boundary of the project will extend a little bit south of Highway 12. It's about 4 ½ miles top to bottom. In that 4 ½ mile area will be small fields of solar arrays throughout those agricultural properties. It won't

be a full block of solar panels. At this point, they do not have site plans available to share because it's at a very early stage. You can see there are very clear areas where there is more interest in participating, and then other areas where there are no solar panels for close to a mile, in any direction. Marquardt asked about easements with other property owners where they are not putting solar panels. Are they getting those in place or are they starting with the City? Vielbig stated they have most of the easements in place. There are a couple of outstanding, and in the process of finalizing, with the City being one of them. At this point, they feel very comfortable with the area they have identified.

Marquardt asked about the timeline of the project; when would construction begin? Vielbig stated before construction begins they will be seeking permits. He stated sometime in 2024 is when they intend to file, the latter half of next year. Construction likely wouldn't start until sometime in 2026.

Stone asked about maintaining the prairie grass on site. Marquardt indicated that will be addressed when reviewed with the attorney.

Gerber said there was a project at the old landfill that another company was interested in purchasing. She wondered how that compared to this project? What happens if we have solar panels at the old landfill and then more just outside of town? Can you have competing solar panels so close to each other? Vielbig stated there are a few indicators that they look for in a project. The first is available flat, dry, open land, and interested farmers. In this case, they have been working for years in finding interested farmers. Step two is finding a place to connect into the electrical grid. This substation off Highway 59 has available capacity for this type of project.

Stone asked if this project wasn't economically feasible for the company in 2024-2025, would that mean the easement could be sold to some other company and we wouldn't have any say. Vielbig stated this could be addressed in the agreement. Right now, the way it would be structured, they would basically have the rights for a few decades. They could structure it in a way where if nothing happens for five years, if no construction occurs, the easement would terminate.

Stone asked the Public Works Committee if they were okay with the consideration of the easement? Gerber stated she was and Allen stated yes, with the stipulations that were just made.

Vielbig did have one question regarding the mechanics of the phosphorus credits regarding the prairie grass. He stated that aside from installing their cables, if they damage any prairie grasses and repair those, would they be good to go? Marquardt stated the City gets credit based on the number of acres, the slope of the land, etc. It's a calculation from the DNR as to the number of credits received. As long as the grass restored to as is, it would be okay.

Stone made a motion to continue with negotiations to look at underground conduit for the electric wires, with a termination clause, and seconded by Gerber.

AYES: All by via voice vote (3). NOES: None. ABSENT: None.

It should be noted that Whitewater Solar will pay the City \$1,000 in consideration of the City executing the agreement, \$1,500 as consideration for the grant of the easements and a yearly sum of \$1.00/linear foot of the transmission line constructed in the easement area (approximately \$1,325) for 47 years.



Council Agenda Item

Meeting Date:	January 16, 2024
Agenda Item:	Water Tower Lease
Staff Contact (name, email, phone):	Brad Marquardt, bmarguardt@whitewater-wi.gov , 262-473-0139

BACKGROUND

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

In May 2023, Council approved the City's version of a Tower and Ground Space Lease document with Cellco Partnership (Verizon) for allowing an antenna on the new water tower located adjacent to Indian Mound Parkway. Staff recently heard back from Cellco Partnership and they are requesting two revisions to the Council approved document. The first one is under item 3-Rent, paragraph (f). This section refers to costs the Tenant will pay the Landlord for review costs the Landlord incurs. The cost started at \$5,000, Staff counter with \$10,000. Cellco is suggesting \$7,500. The second revision is under item 4-Use of Premises, paragraph (e). This section pertains to the Tenant obtaining a performance bond ensuring removal of the equipment upon termination or lease expiration. City ordinance states a \$20,000 bond is required. Cellco is asking for this to be revised to \$10,000.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

Council approved the City's version of the Tower and Ground Space Lease at the May 2, 2023 Common Council meeting.

FINANCIAL IMPACT

(If none, state N/A)

There is no immediate financial impact to the City with the revisions.

STAFF RECOMMENDATION

Staff has no concerns with the two revisions being asked for. Staff would recommend approval of the changes and to move forward with obtaining signatures.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Tower and Ground Space Lease

TOWER AND GROUND SPACE LEASE

LEASE AGREEMENT

This Tower and Ground Space Lease Agreement (“Lease”) is entered into as of this _____ day of _____, 20____, by and between the City of Whitewater, a Wisconsin municipal corporation (“**Landlord**”), and Cellco Partnership, a Delaware general partnership d/b/a Verizon Wireless, company, with its principal offices at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920 (Telephone Number 866-862-4404) (“**Tenant**”).

BACKGROUND

Landlord is the owner of a parcel of land in the City of Whitewater, Walworth County, Wisconsin located at Indian Mound Parkway with Tax WUP 00324A, legally described and shown on the attached **Exhibit A-1** (the “**Property Property**”). A municipal water tower (the “**Tower**”) is located on the Property. Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, a portion of the Property to enable Tenant to erect, operate and maintain certain communications facilities of Tenant, on the terms and conditions set forth below.

AGREEMENT

1. Leased Property.

a. Landlord leases to Tenant, and Tenant leases from Landlord, a portion of the Property, including space on the Tower and space on the ground for a shelter building and equipment, as described and shown on the attached **Exhibit A-2** (the “Leased Premises”). The Property are subject to all existing easements, covenants, conditions, and restriction of record, if any. Tenant intends to locate directional antennas, connecting cable, coaxial cable, and appurtenances (“**Antenna Facilities**”) on the Tower at the locations shown on the attached **Exhibit C** consisting of detailed construction drawings for the Antenna Facilities.

b. Landlord reserves the right to require Tenant to permanently relocate its facilities once during any ten (10) year period at Tenant’s expense to another location on the Tower provided such relocation is a result of a governmental requirement, for the purpose of accommodating a governmental party or require to perform maintenance or improvements of the Tower. Tenant shall complete the relocation of its facilities within three hundred, sixty-five (365) days after written notice from Landlord. If Landlord requires Tenant to permanently relocate more than one (1) time during any ten (10) year

period, such relocation shall be at Landlord's expense. Landlord shall not cause Tenant to relocate its facilities to accommodate any non-governmental third party.

c. Landlord reserves the right at any time upon ninety (90) days advanced written notice to Tenant to take any action it deems necessary, in its sole discretion, to repair, maintain, alter or improve the Property or Tower and to temporarily interfere with Tenant's leasehold improvements as may be necessary in order to carry out any such activities. During the period of such temporary interference, Tenant shall have the option to place a temporary antenna array on the Property and Tower. Such temporary antenna array shall be at least twenty (20) feet outside of the drip line of the Tower. This notice requirement shall not affect any situation where Landlord must request Tenant's relocation in the event of an emergency as necessary to protect the health, safety, and welfare of visitors or Landlord's other tenants. In the event of a relocation request under this Section, Tenant agrees to cover the costs of relocating its equipment. If relocating equipment requires compliance with any permitting process of Landlord, Landlord shall waive any permit fees for Tenant for its reinstallation. Landlord shall provide to Tenant temporary space within the Property in order for Tenant to operate temporary cellular facilities during the course of any maintenance that cannot be completed without Tenant's temporary relocation.

d. This Lease is not a franchise nor is it a permit to use any areas beyond the Premises. Any such franchise or permit must be obtained separately from Landlord.

2. Term.

a. The initial term of this Lease shall be five (5) years, terminating at midnight on the fifth (5th) anniversary of the Commencement Date as hereinafter defined (the "**Initial Term**").

b. This Lease will automatically renew for four (4) additional and successive five (5) year terms unless Tenant gives Landlord written notice of non-renewal at least six (6) months before the end of each existing term (each a "**Renewal Term**").

c. The Lease commencement date shall be based upon the earliest of:

i. the date of the Lease first written above, if Tenant's Antenna Facilities are already on the Property, or

ii. the date that the Tenant commences its installation work on its Antenna Facilities on the Property, or

iii. the date that is eighteen (18) months from the date of the Lease first written above.

In the event the earliest date above falls between the 1st and 15th of the month, the Lease shall commence on the 1st of that month and if such date falls between the 16th and 31st of the month, the Lease shall commence on the 1st day of the following month (either the **“Commencement Date”**).

d. If Tenant fails to commence its installation work on its Antenna Facilities on the Property within eighteen (18) months of the execution of this Lease, Landlord may terminate this Lease.

3. Rent.

a. During the Initial Term, Tenant shall pay Landlord as rent for use of the lease spaces on the Property the sum of Thirty-Five Thousand dollars (\$35,000) per year (the **“Rent”**). The Rent amount shall be increased, effective at the start of each Renewal Term, by an amount equal to twelve and a half percent (12.5%) of the Rent in effect immediately prior to the adjustment date.

b. The first payment of the Rent shall be due within sixty (60) days of the Commencement Date. Thereafter, Rent shall be paid annually on the anniversary of the Commencement Date.

c. Rent shall be paid to Landlord’s contact person at the address written in the Notice provision in Section 26. Landlord will provide to Tenant a completed IRS form W9 prior to Tenant’s first payment of Rent. Landlord will specify the name, address, and taxpayer identification number of a sole payee (or maximum of two payees) who will receive Rent on behalf of the Landlord. Any change to the payee must be requested in accordance with the Notice provision herein, and a new IRS form W9 must be supplied prior to payment by Tenant to the new payee.

d. Tenant shall pay Landlord a late payment charge of two percent (2%) per month payable beginning the thirty-first (31st) day after the due date for any amount not paid within thirty (30) days of being due.

e. reserved.

f. Tenant shall pay Landlord for all reasonable costs and fees not to exceed ~~\$5,000~~ \$10,000 ~~7,500~~ incurred by the Landlord for attorneys, engineers, and consultants to review this Lease and any plan drawings, structural analysis reports, mount analysis

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reports, or other documents associated with Tenant's proposed use of the Premises, and for consultant observation of Tenant's installation, upgrade, repair or maintenance work.

4. Use of Premises.

a. Tenant may use the Premises for the installation, operation, and maintenance of its Antenna Facilities for the transmission, reception and operation of a cellular communications system, and for the storage of related equipment in accordance with the terms of this Lease. This use shall be non-exclusive.

b. Tenant may erect and operate antennas and associated communications equipment and cables as shown on **Exhibit B**. Tenant may not install additional equipment, antennas or cables beyond that shown on **Exhibit B** without approval of Landlord.

c. Tenant may affect equipment changes as detailed in Section 7 of Lease.

d. Tenant shall, at its expense, comply with all present and future federal, state, and local laws, ordinances, rules and regulations (including laws and ordinances relating to health, radio frequency emissions, other radiation, and general safety) in connection with their use, operation, and maintenance of the Property, including, but not limited to, the construction, installation, use, operation and maintenance of the Antenna Facilities. Landlord agrees to reasonably cooperate with Tenant in obtaining, at Tenant's expense, any federal licenses and permits required for, or substantially required by, Tenant's use of the Property.

e. Tenant shall remove the Antenna Facilities and ground equipment (including all improvements, concrete poles, foundations, and below-grade improvements) from the Property within sixty (60) days after termination or expiration of the Lease. Such removal shall be done in a workmanlike and careful manner and without interference or damage to any other equipment, structures or operations on the Property, including use of the Property by Landlord or any of Landlord's assignees or lessees. [Note: See Whitewater Ordinance 19.55 which requires \$20,000 bond.] Tenant shall obtain a performance bond within thirty (30) days after the Commencement Date in the amount of Ten Thousand dollars (\$10,000.00) naming Landlord as Obligee to ensure that Tenants equipment will be removed, and the Property restored to its original condition (normal wear and tear excepted) upon termination or expiration of this Lease. All costs and expenses for the removal and restoration to be performed by Tenant shall be borne by Tenant, and Tenant shall hold Landlord harmless from any portion thereof.

f. Upon termination of this Lease, Tenant agrees, at its sole cost and expense to prepare and record a document releasing the easement rights granted herein.

g. If Tenant requests permission not to remove all or a portion of the Antenna Facilities or other equipment, and Landlord consents to such non-removal, Landlord shall assume ownership of the affected equipment, and Tenant shall be relieved of its duty to remove same.

5. Painting. Tenant's Antenna Facilities shall, at all times, be painted, at Tenant's expense, the same color and with the same coating materials and process as the Tower's most recent coating work.

6. Installation of Equipment and Leasehold Improvements.

a. Tenant shall have the right, at its sole cost and expense, to install, operate and maintain on the Premises, in accordance with good engineering practices and with all applicable rules and regulations of the Federal Communications Commission ("FCC"), its Antenna Facilities as described on **Exhibit C**.

b. Tenant's installation of all such Antenna Facilities shall be done according to plans approved by Landlord. The cost of Landlord's review and approval shall be at Tenant's expense, pursuant to Section 3.f. Any damage done to the Property or the Tower during installation, use, operation, or maintenance shall be repaired or replaced within ten (10) days at Tenant's expense and to Landlord's satisfaction. Notwithstanding the foregoing, Tenant's initial installation as documented in **Exhibit C** has been approved by Landlord **[Note: Landlord has not been provided with Exhibit C, which needs to be provided].**

c. Installation and maintenance of equipment and cables will be neat, orderly and consistent with generally accepted engineering and maintenance practices. Tenant shall be solely responsible for securing and maintaining the Antenna Facilities and cables in a safe and secure manner.

7. Equipment Upgrade.

a. Tenant may update or replace the Antenna Facilities from time to time with no rent increase, provided that the replacement facilities are not greater in number, size or weight than the existing facilities being replaced, and that any change in their location on the Tower is satisfactory to Landlord and approved as an amendment to the Premises defined in this Lease. Tenant shall submit to Landlord a detailed proposal for any such replacement facilities and any supplemental materials as may be requested, for

Landlord's evaluation and approval. Landlord will respond to Tenant's proposal within sixty (60) business days after submission. In the event Tenant's proposed updates or replacements require an engineering review from an outside consultant, the cost of such review shall be at Tenant's expense per Section 3.f. Tenant shall be permitted to install, modify, add, maintain and repair ground "base station" equipment without Landlord consent.

b. Tenant may install additional antennas and associated equipment only with Landlord's consent, after Landlord has obtained, at Tenant's expense, a certified evaluation from a qualified engineer indicating that the proposed expansion of Antenna Facilities will not interfere with other existing communications equipment on the Tower, and that the Tower can structurally support the Antenna Facilities.

8. Maintenance.

a. Tenant shall, at its own expense, maintain the Antenna Facilities and ground equipment on or attached to the Premises in a safe condition and in good repair so as not to conflict with the use of, or other leasing of, the Tower by Landlord. Tenant shall not interfere with the use of the Tower, the Property, related facilities or equipment of other tenants.

b. Tenant shall have sole responsibility for the maintenance, repair, and security of its equipment, personal property, Antenna Facilities, and leasehold improvements, and shall keep the same in good repair and condition during the Lease term.

c. Tenant shall keep the Property free of debris and anything of a dangerous, noxious or offensive nature or which would create a hazard or undue vibration, heat, noise or interference with quiet enjoyment of nearby properties.

d. In the event the Landlord undertakes painting, construction or other alteration on the Tower that does not require the Tenant to relocate its Antenna Facilities, Tenant shall take reasonable measures at Tenant's cost to cover Tenant's equipment, personal property, Antenna Facilities, and protect them from paint and debris fallout which may occur during the Landlord's painting, construction or alteration process. If necessary, Landlord shall permit Tenant to install a temporary facility in order to maintain operation of Tenant Antenna Facility.

e. The parties agree that the Landlord has the right and responsibility to repair and maintain the Property and Tower, including but not limited to snow removal, subject to the provisions of Section 18.

9. Premises Access.

a. Tenant shall have 24 hour, 7 day a week access to the Premises in order to install, operate, and maintain its Antenna Facilities and ground equipment. Tenant shall have access to the Tower only with the prior approval of Landlord. Tenant may have access to its base station equipment upon prior notice to Landlord. Tenant shall request access to the Tower at least twenty-four (24) hours in advance, except in an emergency, when the Landlord shall use reasonable efforts to accommodate Tenant's request for access to the Premises.

b. In the event Tenant must access the Tower outside normal business hours which per Landlord business hours are 6:00 am – 3:30 pm Monday – Thursday and 6:00 am – 10:00 am Friday, Tenant shall contact Landlord at the after-hours phone numbers in the Notices provision in Section 26 to notify Landlord of such request.

c. Landlord shall be allowed and granted access to the Premises (including the Tower) at all times, to examine and inspect the Premises (including the Tower) for safety reasons or to ensure that the Tenant's covenants are being met. Landlord will only be allowed access to Tenant's equipment shelter if accompanied by a representative of Tenant. Landlord will provide at least forty-eight (48) hour prior telephone notice prior to seeking access to Tenant's equipment shelter.

d. reserved.

10. Utilities. Tenant shall, at its expense, separately meter charges for the consumption of electricity and other utilities associates with its use of the Property and shall timely pay all costs associates therewith. All utilities shall be installed underground to the extent practicable.

11. License Fees. Tenant shall timely pay all fees, charges, taxes and other expenses required for licenses or permits required for Tenant's use of the Premises.

12. Compliance with Statutes, Regulations, and Approvals. Tenant's use of the Premises is contingent upon its obtaining all certificates, permits, zoning, and other approval that may be required by any federal, state or local authority. Tenant shall erect, maintain and operate its Antenna Facilities in accordance with site standards, Wisconsin statutes, ordinances, rules and regulations now in effect or that thereafter may be issued by the FCC or any other governing bodies.

13. Interference.

a. Tenant's installation, operation and maintenance of its Antenna Facilities shall not damage or cause any objectionable electrical or physical interference in any way with Landlord's Tower operations or related repair and maintenance activities or with such activities of a Co-Tenant. For purposes of this Section 13, a "Co-Tenant" is a tenant that executes a lease agreement with Landlord to operate communication facilities upon the Property and the Tower.

b. In the event that it is determined in accordance with generally accepted engineering principles that Tenant is causing material electrical or physical interference to the operations of Landlord or a Co-Tenant, then, immediately upon written notification from Landlord or the Co-Tenant of the interference, Tenant shall, at its sole expense, take whatever steps are necessary to correct the interference, including, but not limited to, changing frequency, ceasing transmission, reducing power or installing filters or other equipment. If the interference cannot be eliminated within forty-eight (48) hours of notification to Tenant's Network Operations Center (800) 264-6620, Tenant shall power down its equipment until the interference has been eliminated. If the interference cannot be eliminated within thirty (30) days, Tenant may remove the offending equipment or terminate the Lease.

c. The party experiencing the interference shall be responsible for determining its source. If it is determined that Tenant is causing the interference, Tenant shall reimburse the affected party for the costs of such determination within thirty (30) days of receipt of an invoice. Failure by Tenant to comply with these requirements shall be the basis for termination of the Lease by Landlord.

d. In the event Landlord or a Co-Tenant interferes with the operations of Tenant and such interference is not eliminated within thirty (30) days of notice, Tenant may terminate this Lease.

e. Landlord does not guarantee to Tenant noninterference with Tenant's communications operations, provided, however, that in the event any other party, except a governmental unit, requests a lease or permission to place any type of antenna or transmission facility on the Property subsequent to the execution of this Lease, the procedures of this Section 13, or a procedure in substantially the same form, shall govern to determine whether such antenna or transmission facility will interfere with the Tenant's transmission operations. Notwithstanding the foregoing, any governmental unit installing communications equipment after the Commencement Date of this Lease shall use reasonable efforts to ensure that it does not interfere with Tenant's communications operations as permitted by this Lease.

f. If Landlord receives a proposal by a party, except a governmental unit, to lease or place any type of antenna or transmission facility on the Property, Landlord shall submit the proposal complete with all technical specifications reasonably requested by Tenant to Tenant for review for noninterference; however, Landlord shall not be required to provide Tenant with any specifications or information claimed to be of a proprietary nature by the third party. The third party shall be responsible for the reasonable cost of preparing the technical specifications for its proposed transmission facility. Tenant shall have sixty (60) days following receipt of the proposal to make any objections thereto, and failure to make any objection within the sixty (60) day period shall be deemed consent by Tenant to the installation of antennas or transmission facilities pursuant to the proposal.

g. Landlord will include a provision in substantially the same form as this Section 13 in each subsequent lease or agreement with a subsequent tenant for attachment of equipment to the Tower.

14. Default and Remedies.

a. It shall be a default of this Lease if:

i. Tenant fails to make timely payment of Rent or any other sums due to Landlord, and does not cure such default within ten (10) days after receipt of written notice from Landlord; or

ii. Tenant defaults in the performance of any other covenant or condition of this Lease and does not pursue a cure with due diligence and cure such other default within ninety (90) days after written notice from Landlord specifying the default complained of; or

iii. Tenant abandons or vacates the Property; or

iv. Tenant is adjudicated as bankrupt or makes any assignment for the benefit of creditors; or

v. Tenant becomes insolvent, or Landlord reasonably believes Tenant to be insolvent.

b. In the event of default, Landlord shall have the right, in addition to and not exclusive of any other remedy Landlord may have by operation of law, without any further demand or notice, to enter the Property and eject all persons therefrom, and to declare this Lease at an end. If Landlord so terminates the Lease, Tenant shall

immediately remove the Antenna Facilities (and proceed as set forth in Section 4.e.) and pay Landlord as necessary to compensate Landlord for all detriment proximately caused by Tenant's failure to perform its obligations under the Lease. No entry and taking of possession of the Property by Landlord shall be construed as an election on Landlord's part to terminate this Lease regardless of the extent of renovations and alterations by Landlord unless a written notice of such intention is given to Tenant by Landlord. Notwithstanding any reletting without termination, Landlord may at any time thereafter elect to terminate this Lease for such previous breach.

c. If suit shall be brought by Landlord for recovery of possession of the Property, for the recovery of any Rent or any other amount due under the provisions of this Lease, or because of the breach of any other covenant, Tenant shall pay to the Landlord all expenses incurred therefor, including reasonable attorney fees as awarded by a court.

d. If Landlord fails to comply with any provision of this Lease, Tenant shall serve written notice of such failure upon Landlord, whereupon Landlord shall pursue a cure with due diligence and cure such failure at its sole cost and expense within ninety (90) days after written notice. If Landlord is not able to cure any default within the timeframe listed above, Tenant may terminate this Lease in addition to any other right or remedy at law or in equity.

15. Cure by Landlord. In the event of any default of this Lease by Tenant, Landlord may at any time, after notice is provided and opportunity for Tenant to remedy, cure the default for the account of and at the expense of Tenant.

16. Optional Termination.

a. This Lease may be terminated:

i. by Landlord, at anytime after the expiration of the first Renewal Term with eighteen (18) months prior written notice to Tenant, if the Landlord decides, in its sole discretion, to redevelop the Property or discontinue use of the Tower;

ii. by Landlord, immediately, if it determines, in accordance with structural engineer report, that the Tower is structurally unsound or otherwise not suitable for Tenant's use, including, but not limited to, consideration of age of the structure, damage or destruction of all or part of the Tower from any source, or factors relating to condition of the Tower;

iii. by Landlord, immediately, if continued use of the Tower by Tenant is a threat to health, safety or welfare, or violates applicable laws or ordinances;

iv. by Landlord, immediately, at its sole discretion, if Tenant loses its license to provide cellular service for any reason, including, but not limited to, nonrenewal, expiration, or cancellation of its license;

v. by Landlord, immediately, if Tenant's use of the Premises becomes illegal under any federal, state or local law or regulation; or

vi. by Tenant, immediately, if it is unable to obtain or maintain any license, permit, or other governmental approval necessary for the construction or operation of the Antenna Facilities or Tenant's business (except that the Tenant shall still be obligated to pay to Landlord all expenses incurred by Landlord in the preparation and review of this Lease and of all engineering and project plans);

vii. by Tenant, on six (6) months written notice to Landlord, if Tenant determines that the Premises, the Tower or the Antenna Facilities are inappropriate or unnecessary for Tenant's operations for economic or technological reasons.

b. Upon termination of this Lease for any reason, Tenant shall remove its equipment, personal property, Antenna Facilities, and leasehold improvements from the Property as specified in Section 4.e. of this Lease.

17. Liquidated Damages: Termination. Notice of termination under Section 16.a. shall be given pursuant to Section 26 and shall be effective upon receipt of such notice by the non-terminating party. All Rent paid for the Lease of the Premises prior to the termination date shall be retained by Landlord. Upon such termination, this Lease shall become null and void and the parties shall have no further obligations to each other.

18. Alteration, Damage or Destruction. If the Tower or any portion thereof is altered, destroyed or damaged so as to materially hinder effective use of the Antenna Facilities through no fault or negligence of Tenant, Tenant may elect to terminate this Lease upon thirty (30) days' written notice to Landlord. In the event Tenant terminates the Lease pursuant to this Section, Tenant shall promptly remove the Antenna Facilities from the Premises and shall restore the Premises to the reasonable satisfaction of Landlord. This Lease (and Tenant's obligation to pay Rent) shall terminate upon Tenant's fulfillment of the obligations set forth in the preceding sentence, at which termination Tenant shall be entitled to the reimbursement from Landlord of any prorated portion of Rent prepaid by Tenant. Landlord shall have no obligation to repair any damage to any portion of the Property or the Tower.

19. Condemnation.

- a. If the Property or the Tower are taken by eminent domain, this Lease shall terminate as of the date title to the Property vests in the condemning authority.
- b. If a portion of the Property is taken by eminent domain, either party shall have the right to terminate this Lease as of the date of title transfer, by giving thirty (30) days' written notice to the other party.
- c. In the event of any taking under the power of eminent domain, Tenant shall not be entitled to any portion of the award paid for the taking and the Landlord shall receive the full amount of such award. Tenant waives any right or claim to any portion thereof.
- d. Tenant shall have the right to claim and recover from the condemning authority, such compensation as may be separately awarded or recoverable by Tenant on account of any and all damage to Tenant's business and any costs or expenses incurred by Tenant in moving or removing its equipment, personal property, Antenna Facilities, and leasehold improvements.

20. Indemnification and Insurance.

- a. Indemnification. Landlord shall indemnify Tenant and hold Tenant and all associated, affiliated, allied and subsidiary entities of Tenant, now existing or hereafter created, and their respective officers, boards, employees, agents, and attorneys, ("Tenant Indemnitees") harmless from any and all costs (including reasonable attorney fees) and claims of liability or loss which arise out of the use, maintenance, or occupancy of the Premises by Landlord, except to the extent caused by the negligence or intentional misconduct of Tenant or any Tenant Indemnitees or a third party. Tenant shall, at its sole cost and expense, indemnify and hold harmless Landlord and all associated, affiliated, allied and subsidiary entities of Landlord, now existing or hereafter created, and their respective officers, boards, commissions, employees, agents, and attorneys (collectively referred to as "Landlord Indemnitees"), except to the extent caused by the negligence or intentional misconduct of Landlord or any Landlord Indemnitees or a third party from and against:
 - i. Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Landlord Indemnitees by reason of any act or

omission of Tenant (or its personnel, employees, agents, contractors or subcontractors), except to the extent caused by the negligence or intentional misconduct of the Landlord Indemnitees, resulting or allegedly resulting in personal injury, bodily injury, or death to any person or damage to, loss of, or destruction of tangible or intangible property, which may arise out of the occupancy, construction, installation, operation, maintenance, use or condition of the Property or the Antenna Facilities, or Tenant's failure to comply with this Lease or any federal, state or local statute, ordinance or regulation.

ii. Any and all liability, obligations, damages, penalties, claims, liens, costs, charges, loses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and other consultants), which are imposed upon, incurred by or asserted against the Landlord Indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to Tenant, its contractors or subcontractors, for the installation, construction, operation, maintenance or use of the Property or the Antenna Facilities.

iii. Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against the Landlord Indemnitees by reason of any financing or securities offering by Tenant or its affiliates for violations of the common law or any laws, statutes, or regulations of the State of Wisconsin or the United States, including those of the FCC, whether by Tenant or otherwise.
Upon the written notice and request from Landlord, Tenant shall cause such claim or lien covering Landlord's property to be discharged or bonded **within** thirty (30) days following such request.

b. Defense of Landlord or Tenant Indemnitees ("Indemnitees"). In the event any action or proceeding shall be brought against either the Landlord or Tenant Indemnitees by reason of any matter for which the Indemnitees are indemnified, the indemnifying party shall, upon notice from any of the Indemnitees, at the indemnifying party's sole cost and expense, resist and defend the action or proceeding with legal counsel selected by the indemnifying party; provided however, that the indemnifying party shall not admit liability in any such matter on behalf of the Indemnitees without the written consent of the Indemnitees and provided further that Indemnitees shall not admit liability for, nor enter into any compromise or settlement of, any claim for which they are indemnified, without the prior written consent of the indemnifying party.

c. Insurance. During the term of the Lease, Tenant shall maintain, in full force and effect and at its sole costs and expense, the following types and limits of insurance:

- i. Worker's compensation insurance meeting applicable statutory requirements and employer's liability insurance. ~~with limits of \$100,000 each accident/disease/policy limit.~~
 - ii. Commercial general liability insurance with limits of \$2,000,000 per occurrence of bodily injury and property damage and \$2,000,000 general aggregate including blanket contractual liability insurance for all written contracts, products and completed operations liability, independent contractor's liability; personal and advertising injury; coverage for property damage from perils of explosion, collapse, or damage to underground utilities.
 - iii. Commercial automobile liability insurance covering all owned, hired, and non-owned vehicles in an amount of \$500,000 combined single limit each accident for bodily injury and property damage.
 - iv. At the start of, and during the period of any construction, builder's all-risk or equivalent property insurance, together with an installation floater or equivalent property coverage covering cables, materials, machinery and supplies of any nature whatsoever which are to be used in or incidental to the installation of the Antenna Facilities. Upon completion of the installation of the Antenna Facilities, Tenant shall substitute for the foregoing insurance policies of fire, extended coverage, and vandalism and malicious mischief insurance on the Antenna Facilities. The amount of insurance at all times shall be representative of the insurable values installed or constructed.
 - v. Business interruption insurance coverage in an amount sufficient to cover such loss of revenues, for a period of twelve (12) months to repair or replace the part of the Antenna Facilities which is damaged and caused the loss of revenue.
 - vi. All policies other than those for Worker's Compensation shall be written on an occurrence and not on a claims-made basis.
- d. Additional Insureds. All policies, except for business interruption and worker's compensation policies, shall include Landlord and all associated, affiliated, allied and subsidiary entities of Landlord and their respective officers, boards, commissions and employees as additional insureds as their respective interests may appear under this Lease (herein referred to as the "Additional Insureds").
- e. Evidence of Insurance. Certificates of insurance for each insurance policy required to be obtained by Tenant in compliance with this section shall be filed and maintained with Landlord annually along with a copy of the blanket additional insured endorsement and, if an insurance carrier changes, during the term of the Lease. Tenant

shall, as soon as practicable, advise Landlord of any claim, action or proceeding that may result in liability to Landlord.

f. Insurance Companies. All insurance shall be affected under valid and enforceable policies, issued by insurers licensed, authorized or permitted to do business by the State of Wisconsin or surplus line carriers on the State of Wisconsin Insurance Commissioner's approved list of companies qualified to do business in the State of Wisconsin. All insurance carriers and surplus line carriers shall be rated A- or better by A.M. Best Company.

g. Contractors. Tenant shall require that each of its contractors and their subcontractors who perform work on the Property carry, in full force and effect, substantially the same coverage as required of Tenant with limits commensurate with the work or service to be provided.

21. Hazardous Materials Indemnification.

a. "Hazardous Materials" shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time; and it shall be interpreted to include, but not be limited to, any substance which after release into the environment will or may reasonably be anticipated to cause sickness, death or disease.

b. If Tenant breaches any of its obligations contained herein, or if Tenant causes the presence of any Hazardous Materials on the Property first occurring after the date of this Lease, which results in contamination of any portion of the Property, then Tenant shall indemnify, defend and hold Landlord harmless from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, any sums paid in settlement of claims, attorneys' fees, consultants' fees and experts' fees) which arise during or after the term hereof as a result of such contamination.

c. Notwithstanding the foregoing, in no event shall Tenant have any obligation to indemnify Landlord hereunder for any claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, any sums paid in settlement of claims, attorneys' fees, consultants' fees and experts' fees) for any contamination by Hazardous Materials caused by or resulting from Landlord, its agents, employees,

contractors or invitees or for Hazardous Materials present or located at or on or upon the Property (or any part thereof) as of the date of this Lease.

22. Holding Over. Any holding over after the expiration of the term of this Lease, with the consent of the Landlord, shall be construed to be a tenancy from month to month, with monthly rental payments in an amount of one hundred and fifty percent (150%) of the Rent in effect immediately prior to the expiration of the term of this Lease (prorated on a monthly basis), and shall otherwise be on the conditions herein specified, so far as applicable.

23. Subordination to Mortgage. Any mortgage now or subsequently placed upon the Property of which the Premises are a part shall be deemed to be prior in time and senior to the rights of the Tenant under this Lease. Tenant subordinates all of its interest in the leasehold estate created by this Lease to the lien of any such mortgage so long as mortgagee agrees to recognize all of the rights of Tenant hereunder and not to disturb or interfere with Tenant's possession, use or enjoyment of the Premises provided that Tenant is not in default hereunder beyond any applicable cure period. Tenant shall, at Landlord's request, execute any additional documents necessary to indicate this subordination.

24. Acceptance of Premises. By taking possession of the Premises, Tenant accepts the Premises in the condition existing as of the Commencement Date. Landlord makes no representation or warranty with respect to the condition of the Premises and Landlord shall not be liable for any latent or patent defect in the Premises.

25. Estoppel Certificate. Tenant shall, at any time and from time to time upon not less than thirty (30) days prior request by Landlord, deliver to Landlord a statement in writing certifying that (a) the Lease is unmodified and in full force (or if there have been modifications, that the Lease is in full force as modified and identifying the modifications); (b) the dates on which Rent and other charges have been paid; (c) so far as the person making the certificate knows, Landlord is not in default under any provisions of the Lease; and (d) such other matters as Landlord may reasonably request provided such items do not alter the rights and obligations of Tenant under this Lease.

26. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, to the following addresses:

If to Landlord, to: City Manager
City of Whitewater
PO Box 178

Whitewater, WI 53190

If to Tenant to: Cellco Partnership
d/b/a Verizon Wireless
180 Washington Valley Road
Bedminster, NJ 07921
Attn: Network Real Estate

Landlord's After-hours Phone: Police Dispatch
(262) 473-0555, option 4

Landlord's Contacts – Business Hours: Director of Public Works
(262) 473-0139

27. Assignment.

a. Tenant may freely assign this Lease in connection with the transfer of Tenant's FCC authorization to operate a commercial mobile radio base station on the Premises or to any subsidiary, parent, or affiliate or an entity resulting from the merger, consolidation, or sale of all or substantially all of Tenant's stock or assets. For any other assignment, Tenant shall obtain Landlord's prior written consent, which consent shall not be unreasonably delayed, conditioned, or withheld. Upon assignment by Tenant and assumption of such assignment by assignee, Tenant shall be fully relieved of its obligations hereunder.

b. Nothing in this Lease shall preclude Landlord from leasing other space for communications equipment to any person or entity which may be in competition with Tenant, or any other party provided that the Landlord satisfies the provisions in Section 13.f. of this Lease.

28. Successors and Assigns. This Lease shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

29. Non-Waiver. Failure of Landlord or Tenant to insist on strict performance of any of the conditions, covenants, terms or provisions of this Lease or to exercise any of their rights hereunder shall not waive such rights, but either party shall have the right to enforce such rights at any time and take such action as might be lawful or authorized hereunder, either in law or equity. The receipt of any sum paid by Tenant to Landlord after a breach of this Lease shall not be deemed a waiver of such breach unless expressly set forth in writing.

30. Taxes.

a. Tenant shall pay all real and personal property taxes (or payments in lieu of taxes) and assessments for the Property required by law that are directly attributable to Tenant's equipment or improvements, if any, which become due and payable during the term of this Lease. All such payments shall be made, and evidence of all such payments shall be provided to Landlord, at least sixty (60) days after receipt of notice from Landlord or applicable taxing authority of Tenant's obligation. Tenant shall pay all taxes on its personal property on the Premises.

b. Tenant shall indemnify Landlord from any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or be asserted against Tenant in relation to the taxes owed or assessed on the Premises.

c. If the methods of taxation in effect at the Commencement Date of the Lease are altered so that in lieu of or as a substitute for any portion of the property taxes and special assessments now imposed on property there is imposed a tax upon or against the rentals payable by Tenant to Landlord, Tenant shall pay those amounts in the same manner as provided for the payment of real and personal property taxes.

31. Miscellaneous.

a. Landlord and Tenant represent that each, respectively, has full right, power, and authority to execute this Lease.

b. This Lease constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations, and other agreements of any kind. There are no representations or understandings of any kind not set forth herein. Any modification of or amendment to this Lease must be in writing and executed by both parties.

c. This Lease shall be construed in accordance with the laws of the United States and the State of Wisconsin.

d. If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect.

e. Tenant shall not be permitted to advertise on the Property or the Tower.

4/24/23 @ 11:00 am Draft

f. Any heating, ventilation, air conditioning, or power generating equipment belonging to or operated on the Premises by Tenant shall comply with the City of Whitewater Noise Ordinance (Whitewater Municipal Ordinance 19.58). Diesel powered generators may not be used.

g. Landlord may record this Lease or a memorandum describing this Lease with the Walworth County Register of Deeds Office.

This Lease was executed as of the date first set forth above.

WITNESS:

LANDLORD:

CITY OF WHITEWATER
A municipal corporation

By: _____
John Weidl, City Manager

By: _____
City Clerk

WITNESS:

TENANT:

CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS
A Delaware general partnership

By: _____
Name: _____

Title: _____

By: _____
Name, Title

Date: _____

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Attachments

Exhibit A-1: The “Property”. Legal description and drawing of Landlord’s property. Include PIN.

Exhibit A-2: The “Premises”. Legal description and drawing of Tenant’s ingress/egress easement area, ground equipment lease area, and Tower lease area.

Exhibit B: Site Plan showing Tenant’s equipment within the ground equipment lease area, Tower lease area, and underground cable routing between the two areas.

Exhibit C: “Antenna Facilities” with description, **structural calculations**, and drawing of equipment on Tower.

Exhibit A-1
Legal Description

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.



Council Agenda Item

Meeting Date: January 16, 2024

Agenda Item: Council Action Plan Items C & D

Staff Contact (name, email, phone): Sara Marquardt, smarquardt@whitewater-wi.gov, 262-473-1387

BACKGROUND

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

1. At the December 5, 2023 meeting, Council approved the Self-Governance Action Plan Timeline which stipulated for the review of two action plan items per meeting. Items C and D are brought forth today for review, suggestions and approval.

PREVIOUS ACTIONS – COMMITTEE RECOMMENDATIONS

(Dates, committees, action taken)

October 5, 2010 – Whitewater Common Council passed the Transparency Ordinance.

April 17, 2018 – Whitewater Common Council passed the Good Governance Manual. Minor updates passed on June 8, 2020.

November 7, 2023 – Whitewater Common Council provided a statement on a self-governance plan.

December 5, 2023 – Whitewater Common Council approved the Action Plan Timeline.

December 19, 2023 – Whitewater Common Council approved Action Plan Items A & B.

FINANCIAL IMPACT

(If none, state N/A)

Unknown

Depends upon Council plan

STAFF RECOMMENDATION

Staff recommends that Common Council reviews, revises as necessary and approves the items for steps C & D of the Council Action Plan.

ATTACHMENT(S) INCLUDED

(If none, state N/A)

1. Self-Governance Outline of Action Plan Items C and D
2. City of Green Bay Code of Conduct
3. City of Franklin Code of Conduct
4. 01/16/2024 Draft Progressive Discipline Policy



Self-Governance Action Plan Items C and D Outline

January 16, 2024

City of Whitewater Common Council

Action Plan

C. Code of Conduct:

Objective: Foster a respectful and professional environment during meetings.

Action Steps:

- 1) Develop a clear and concise code of conduct outlining expectations for decorum and civility.
 - a) Special Meeting regarding Good Governance Manual – Revise current Code of Conduct in the Good Governance Manual to include elements of the City of Green Bay example or other examples previously distributed (River Falls, Neenah, Lafayette County)
- 2) Distribute the code of conduct to all council members and make it publicly available.
 - a) Website
 - b) Facebook
 - c) Media

D. Enforcement Mechanisms:

Objective: Establish consequences for violations of decorum standards.

Action Steps:

- 1) Implement a progressive disciplinary system for members who fail to adhere to the code of conduct.
 - a) City of Green Bay example
 - b) City of Franklin example
 - c) 1/10/2024 Draft Progressive Discipline
- 2) Clearly communicate the consequences of violating decorum standards.
 - a) Acknowledgement Statement/Signature Required
 - b) Incorporate as part of Council training



CITY OF GREEN BAY, WISCONSIN
CODE OF CONDUCT FOR
ELECTED OFFICIALS

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CODE OF CONDUCT FOR ELECTED OFFICIALS

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SECTION 1: The City of Green Bay Code of Conduct

It is the policy of the City of Green Bay to uphold, promote, and demand the highest standards of ethics from its elected officials. Accordingly, members of the Common Council and Mayor shall maintain the utmost standards of personal integrity, trustfulness, honesty, and fairness in carrying out their public duties, avoid any improprieties in their roles as public servants, comply with all applicable laws, and never use their City position or authority improperly or for personal gain.

The City of Green Bay and its elected officials share a commitment to ethical conduct and service to the City of Green Bay. This Code has been created to ensure that all officials have clear guidelines for carrying out their responsibilities in their relationships with each other, with the City staff, with the citizens of Green Bay, and with all other private and governmental entities.

SECTION 2: Elected Official Conduct with One Another

The Common Council and Mayor (hereinafter the “Council”) have a responsibility to set the policies for the City. In doing so, certain types of conduct are beneficial while others are destructive. The Council has the responsibility to take the high road on Intra-Council conduct and to treat other Council members as they would like to be treated.

The Council is composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all choose to serve in public office and, therefore, have the obligation to preserve and protect the well-being of the community and its citizens. In all cases, this common goal should be acknowledged, and the Council must recognize that certain behavior is counterproductive, while other behavior will lead to success.

A. Use Formal Titles

The Council shall try to refer to one another formally during public meetings as Mayor, Council President, or Alderperson followed by the individual’s last name.

B. Use Civility and Decorum in Discussions and Debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. Every Council member has the right to an individual opinion, which should be respected by the other Council members. Council members shall not be hostile, degrading, or defamatory when debating a contentious issue. Council members should assume the other members of the Council have the appropriate motives and interest of the public in mind and should not criticize differing opinions because they believe them to be lacking in judgment or improperly motivated.

However, this does not allow Council members to make belligerent, impertinent, slanderous, threatening, abusive, or personally disparaging comments in public meetings or during individual

encounters. Shouting or physical actions that could be construed as threatening or demeaning will not be accepted. If a Council member is personally offended by the remarks of another Council member, the offended member should make a note of the actual words used and call for a “point of personal privilege” that challenges the other Council member to justify or apologize for the language used.

C. Honor the Role of the Chair in Maintaining Order

It is the responsibility of the Mayor, as Chair of the Council, to keep the comments of Council members on track during Council meetings. Council members should honor efforts by the Mayor to focus discussion on current agenda items. If there is disagreement about the agenda or the Mayor’s actions, those objections should be voiced politely and with reason, following commonly recognized parliamentary procedure. Likewise, the same responsibilities vested in the Mayor for Council meetings, are vested in the Committee Chair for Committee meetings.

SECTION 3: Elected Official Conduct with City Staff

Governance of the City relies on the cooperative efforts of elected officials who set policy and the City staff who implement and administer the Council’s policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each other for the good of the community.

A. Treat all Staff as Professionals

Council members should treat all staff as professionals. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior toward staff is not acceptable. Council members should refer to staff by their title followed by the individual’s last name in public meetings when first introduced.

B. Never Publicly Demean or Personally Attack an Individual Employee

Council members shall never demean or personally attack an employee regarding the employee’s job performance in public. All employee performance issues shall be forwarded to the employee’s supervisor or the City Attorney through private correspondence or conversation.

C. Do not Supersede Administrative Authority

Unless otherwise provided in this Code, neither the Council, nor any of its members, shall attempt to supersede the administration’s powers and duties. Neither the Council nor any member thereof shall give orders to any subordinate of the Department Heads, either publicly or privately. Council members shall not attempt to unethically influence or coerce City staff concerning either their actions or recommendations to Council about personnel, purchasing, awarding contracts, selection of consultants, processing of development applications, or the granting of City licenses and permits.

Nothing in this section shall be construed, however, as prohibiting the Council while in open session from fully and freely discussing with or suggesting to the Department Heads anything pertaining to City affairs or the interests of the City.

D. Do not Solicit Political Support from Staff

Council members should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, collection of petition signatures, etc.) from City staff. City staff may, as private citizens within their constitutional rights, support political candidates, but all such activities must be done away from the workplace. Photographs of uniformed City employees shall not be used in political ads.

SECTION 4: Elected Official Conduct Towards the Public

In Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice, or disrespect should be evident on the part of individual Council members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony. The Council members are expected to demonstrate, both publicly and privately, their honesty and integrity, and to be an example of appropriate and ethical conduct. All Council members should convey to the public their respect and appreciation for the public's participation, input, and opinions.

A. Be welcoming to Speakers and Treat them with Care and Respect

For many citizens, speaking in front of Council is a new and difficult experience. Under such circumstances, many are nervous. Council members are expected to treat citizens with care and respect during public hearings. Council members should commit full attention to the speakers or any materials relevant to the topic at hand. Comments and non-verbal expressions should be appropriate, respectful, and professional.

B. Be Fair and Equitable in Allocating Public Hearing Time to Individual Speakers

The Mayor will determine and announce time limits on speakers at the start of the public hearing process. Generally, each speaker will be allocated five minutes, with applicants and appellants or their designated representative allowed more time. If many speakers are anticipated, the Mayor may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

Each speaker may only speak once during the public hearing unless the Council requests additional clarification later in the process. After the close of the public hearing, no additional public testimony will be accepted unless the Council reopens the public hearing for a limited and specific purpose.

C. Ask for Clarification, but Avoid Debate and Argument with the Public

Only the Mayor, not other Council members, should interrupt a speaker during a presentation. However, other Council members may ask the Mayor for a point of order if the speaker is off the

topic or exhibiting behavior or language the Council member finds disturbing. Questions directed by Council members to members of the public testifying should seek to clarify or expand information, not to criticize or debate.

D. Follow Parliamentary Procedure in Conducting Public Meetings

The City Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Mayor or Committee Chair, subject to the appeal of the full Council or Committee per Roberts Rules of Order. [GBMC 2.06(1)]

Outside Public Meetings

E. Make no Promise on Behalf of the City or Council in Unofficial Settings.

Council members will frequently be asked to explain a Council action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of City policy and to refer to City staff for further information. Overt or implicit promises of specific Council action or promises that City staff will take some specific actions shall be avoided.

Council members must ensure that in expressing their own opinions they do not mislead any listener into believing that their individual opinion is that of the entire Council, unless the Council has taken a vote on that issue and the Council member's opinion is the same as the decision made by the Council. Likewise, no Council member should state in writing that Council member's position in a way that implies it is the position of the entire City Council. A Council member has the right to state a personal opinion, and has the right to indicate that he/she is stating such as a member of the Council, but must always clarify that he/she is not speaking on behalf of the City or the Council unless authorized by the Council to do so.

SECTION 5: Elected Official Conduct with Public Agencies

A. Be Clear about Representing the City or Personal Interests

If a Council member appears before another governmental agency or organization to give a statement on an issue, the Council member must clearly state whether his or her statement reflects personal opinion or is the official stance of the City.

Council members must inform the Council of their involvement in an outside organization if that organization is or may become involved in any issue within the City's jurisdiction. If an individual Council member publicly represents or speaks on behalf of another organization whose position differs from the City's official position on any issue, the Council member must clearly communicate the organization upon whose behalf they are speaking and must withdraw from voting as a Council member upon any action that has bearing upon the conflicting issue.

B. Representation of the City on Intergovernmental Commissions and Other Outside Entities

Council members serving on committees or boards as a City representative for outside entities or agencies shall properly communicate with other Council members on issues pertinent to the City.

SECTION 6: Elected Official Conduct with Boards and Commissions

A. Limit Contact with Board and Commission Members to Questions of Clarification

Council members shall not contact a Board or Commission member to lobby on behalf of an individual, business, or developer for personal gain. Council members may contact Board or Commission members in order to clarify a position taken by the Board or Commission or a member thereof. Council members may respond to inquiries from Board and Commission members. Communications should be for information only.

B. Attendance at Board or Commission Meetings

Council members may attend any Board or Commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation is viewed, especially if it is on behalf of an individual, business, or developer, which could be perceived as unfairly affecting the process.

C. Be respectful of Diverse Opinions

A primary role of Boards and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Council members must be fair and respectful to all citizens serving on Boards and Commissions.

SECTION 7: Elected Official Conduct with the Media

A. Expression of Positions on Issue

When communicating with the media, Council members should clearly differentiate between personal opinions and the official position of the City. Each Council member represents one vote of twelve and until a vote on any issue is taken, Council members' positions are merely their own.

B. Discussions Regarding City Staff

Council members should not discuss personnel issues or other matters regarding individual City staff in the media. Any issues pertaining to City staff should only be addressed directly to the Department Head or City Attorney.

SECTION 8: Enforcement of this Code of Conduct

A. Filing of Complaints

Any person who believes a Elected official, in his/her official capacity, has violated a requirement, prohibition, or guideline set out herein may file a sworn complaint with the City Clerk identifying (1) the complainant's name, address and contact information; (2) the name and position of the City official who is the subject of the complaint; (3) the nature of the alleged violation, including the specific provision of the Code allegedly violated, and (4) a statement of facts constituting the alleged violation and the dates on which, or period of time during which, the alleged violation occurred.

Attached to the complaint the person making the complaint shall provide all documents or other materials in the complainant's possession that are relevant to the allegation, a list of all documents or other materials relevant to the allegation that are available to the complainant but not in the complainant's possession, and a list of all other documents or other materials relevant to the allegation but unavailable to the complainant, including the location of the documents if known, and a list of witnesses, what they may know, and information to contact those witnesses.

The complaint shall include an affidavit at the end of the complaint stating that the "information contained in the complaint is true and correct, or that the complainant has good reason to believe and does believe that the facts alleged are true and correct and that they constitute a violation of the Code." If the complaint is based on information and belief, the complaint shall identify the basis of the information and belief, including all sources, contact information for those sources, and how and when the information and/or belief was conveyed to the complainant by those sources. The complainant shall swear to the facts by oath before a notary public, or before the City Clerk. The notary public or City Clerk shall verify the signature.

If a complaint filing is determined to be complete by the City Clerk, the City Clerk shall forward the matter to the Ethics Board. If the complaint filing is determined incomplete, the City Clerk shall notify the complainant of the deficiency.

B. Time for Filing

A complaint under the Code must be filed no later than one year from the date of discovery of the alleged violation. However, anyone having information on which a complaint is based is encouraged to file the complaint as soon as the information is obtained so that immediate action may be taken by the Council or the appropriate staff member or agency. The delay in filing a complaint may be considered in determining the sanction to be imposed.

C. False or Frivolous Complaints

A person who knowingly makes a false, misleading, or unsubstantiated statement in a complaint is subject to criminal prosecution for perjury and possible civil liability. If, after reviewing a complaint, it is determined that a sworn complaint is groundless and appears to have been filed in bad faith or for the purpose of harassment, or that intentionally false or malicious information has been provided under penalty of perjury. A City official who seeks to take civil action regarding any such complaint shall do so at his or her expense.

D. Complaint Procedure

- (1) Hearing on Complaint- If the City Clerk determines that the complaint is complete he/she shall forward it to the Ethics Board to set a hearing to investigate the allegations within 45 days after filing of the complaint. The Ethics Board shall issue a summons signed by the City Clerk, commanding the individual so complained of to appear before the Ethics Board on a day and at a place named in such summons and show cause as to why the individual should not be subject to penalties and sanctions. Such summons shall be served at least seven days before the time in

which such person is commanded to appear, and shall include the complaint and any supporting documentation.

- (2) Failure to Respond to Summons- If the individual charged does not appear as required by the summons, the Ethics Board may consider such failure to appear in its recommendation to Council. The Council may subsequently consider such failure to appear in its decision to issue penalties or sanctions.
- (3) Parties Counsel- If the person charged appears as required by the summons and denies the complaint; both the complainant and the person charged may produce witnesses, cross-examine witnesses, and be represented by counsel. The person charged shall be provided a written transcript of the hearing at his or her expense.
- (4) Recommendations- At the conclusion of the evidentiary hearing, the Ethics Board, following deliberation in open or executive session, shall submit a report to the Council, including findings of fact, conclusions of law, and a recommendation as to what action, if any, the Council should take into account with respect to the individual charged. The Ethics Board shall provide the complainant and the individual charged with a copy of the report. Either the complainant or the person charged may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the Council.
- (5) Council Action- The Council shall determine whether the arguments shall be presented orally, in writing, or both. The Council shall consider and take action on the recommendation of the Ethics Board within 60 days after the Ethics Board adjourns the hearing. Upon review of the report and following a discussion, if the Council, by motion, concludes that there is a violation of the Code, the Council may impose a sanction or penalty. The Council may adopt, reject, or modify the recommendation made by the Ethics Board. In resolving the complaint, the totality of the circumstances shall be taken into consideration, including the intent of the person accused of the wrongdoing.
- (6) Penalties and Sanctions Policy - It is the intent of the Council to educate and, when necessary, discipline Council members who violate this Code. Discipline shall be progressive, from the least punitive to the most punitive measures, unless the Council believes that the progressive discipline does not provide the appropriate sanction because of the gravity of the offense, or because the Council does not believe the sanction would deter future misconduct. In all instances, the totality of the circumstances shall be taken into consideration in resolving the matter, including the intent of the one accused of wrongdoing.
- (7) Possible Penalties and Sanctions- Possible sanctions may include:
 - a. An informal censure by the Council, which would only be made as part of a motion in a public meeting. [GBMC 2.06(1)]
 - b. A formal censure by the Council, which would be made by motion in a public meeting and then published in the City newspaper. [GBMC 2.06(1)]
 - c. Mandatory community service. [Wis. Stat. 62.11(3)(e)]
 - d. Attendance at counseling or mediation sessions. [Wis. Stat. 62.11(3)(e)]
 - e. Imposition of a dollar fine of up to \$500.00. [Wis. Stat. 62.11(3)(a) & (c)]

f. Any other sanction available by law.

The imposition of any of these penalties or sanctions will require an affirmative vote of 3/4 of the Council, other than an informal or formal censure which shall only require a majority vote of the Council. A violation of the penalties imposed by Council may constitute grounds for removal from office under Wisconsin Statute §17.12(1)(a).

(8) Notice- The municipal clerk shall give notice of the Council's decision to the person charged.

CITY OF FRANKLIN CODE OF CONDUCT AND ETHICS
ELECTED AND APPOINTED OFFICIALS
August 2, 2022

SECTION 1: PURPOSE

It is the policy of the City of Franklin to uphold, promote, and demand the highest standards of ethics from its elected and appointed officials. Accordingly, the Mayor; Common Council Members; Commission/Board/Committee Members; and Appointed Officials shall maintain the standards of personal integrity, trustworthiness, honesty, and fairness in carrying out their public duties, avoid improprieties in their roles as public servants, comply with all applicable laws, and shall not use their City position or authority improperly or for personal gain.

This Code of Conduct exists to ensure that all officials have clear guidelines for carrying out their responsibilities in their relationships with each other, with the City staff, with the citizens of Franklin, and with all other private and governmental entities. It is understood that all City Officials aspire to maintain these standards. In the event that these shared objectives are not met, self-correction is the goal, with enforcement occurring when necessary.

All officials recognize that an action may be legal but may also be unprofessional, inappropriate, or perceived as a form of harassment or abuse.

This Code of Conduct works in conjunction with the City of Franklin Municipal Code, State of Wisconsin Statutes, and Administrative Policies and Procedures as indexed and available on the City's website, and also available in the City Clerk's Office.

SECTION 2: ELECTED OFFICIALS AND COMMISSION/BOARD/COMMITTEE MEMBERS CONDUCT WITH ONE ANOTHER

The elected Alderpersons and the Mayor (hereinafter the "Common Council") have a responsibility to set policy and carry out policies for the City. Policy setting is a function of the legislative body (elected Alderpersons and Mayor) while the executive body (Mayor) assures policies, as set by the Council, are carried out with staff assistance. In doing so, certain types of conduct foster positive debate while other types do not. The Council is responsible for treating one another as they wish to be treated. The same expectation is in place for Commission/Board/Committee Members.

The Council, as well as Commissions/Boards/Committees, is composed of individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Understanding the diversity which exists, all who choose to serve in public office have the obligation to preserve and protect the well-being of the community and its citizens. In all cases, this common goal is to be acknowledged, and all officials must recognize that certain behavior will lead to success while other behavior is counterproductive.

A. Use of Formal Titles

All officials will make every effort to refer to one another and City staff formally during public meetings as Mayor, Council President, Alderperson, Board/Commission/Committee Member, followed by the individual's last name.

B. Use of Civility and Decorum in Discussions and Debate

Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of free democracy in action. Every official has the right to an

individual opinion, without interruption, which is to be respected by the other officials. Officials shall not be hostile, degrading, or defamatory when debating a contentious issue. Each official is to work under the premise that all other officials are acting with appropriate motives and keeping the interest of the public in mind, and are not to be criticized for differing opinions because they believe them to be lacking in judgment or are improperly motivated.

However, this does not allow any official to make belligerent, impertinent, slanderous, threatening, abusive, or personally disparaging comments in public meetings or during individual encounters. Shouting, attacking, or other actions that could be construed as threatening or demeaning will not be tolerated. If an official is personally offended by the remarks of another official, the offended official should voice the concern promptly and afford the other official the opportunity to either explain the comment or apologize. If that is not successful, the offended official should raise a question of privilege, with a request, and for information, which if ruled upon by the Chair, following advice from the parliamentarian, if present, as in order, the Member shall be granted the privilege and shall be allowed five (5) minutes to address the concern.

C. Honor the Role of the Chair in Maintaining Order

It is the responsibility of the Mayor, as Chair of the Council, as well as Commission/Board/Committee Chairs, to keep the discussion of all members on track during meetings. Council/Commission/Board/Committee Members are to respect the efforts by the Mayor/Chair to focus discussion on current agenda items. If there is disagreement about the agenda or the Mayor's/Chair's actions, those objections are to be voiced respectfully and with reason, following commonly recognized parliamentary procedure.

D. Dissemination of Information

Out of courtesy to all Council Members, important safety matters, as determined by the Mayor, will be communicated to the Council Members as soon as practicable once they become available/known. In addition, new information regarding appropriate City Business/Communications will be disseminated to the Body prior to disseminating on social media.

E. Use of Electronic Devices

Respect for one another, constituents, and those appearing before the Council and Commissions/Boards/Committees is paramount, and full attention to the matters before the Body is the purpose of meetings. The use of electronic devices to communicate regarding City business during meetings is prohibited since it presents an opportunity for violation of open meetings and open records laws. Personal use (i.e. use not related to City Business) of electronic devices is strongly discouraged and is to be reserved only for urgent situations. However, it is acknowledged that occasional use of electronic devices occurs for business purposes within the context of meetings and is acceptable.

F. Social Media

Social media presence by those officials covered under this code is to be informative in nature and positively reflect on the community and City staff, and promote local activities. All officials shall avoid expressing opinions or bias regarding City business or issues that may come before the Council/Commission/Board/Committee when it may be construed that they are acting on behalf of the City.

In the use of social media, all officials are to abide by the following:

- Refrain from making belligerent, impertinent, slanderous, threatening, abusive, or personally disparaging comments;
- Ensure that they do not participate in discrimination or harassment, even if the identified behavior is not targeting a protected class, consisting of unwelcome conduct, sexual or otherwise, whether verbal, physical, or visual. Harassing conduct includes, but is not limited to: slurs or negative stereotyping; bullying, threatening, intimidating or other hostile acts; degrading jokes and display or circulation of graphic material that degrades or shows hostility; and physical touching;
- Shall never demean or personally attack an employee regarding the employee's job performance in public; and
- Are to demonstrate their honesty and integrity, and to be an example of appropriate and ethical conduct.

G. Newsletters by Council Members

Council Members are allowed to create newsletters; however, all Council Members must ensure that in expressing their own opinion, they do not mislead any reader/listener into believing that their individual opinion is that of the entire Council/Commission/Board /Committee unless the Council/Commission/Board/Committee has taken a vote of the Body on that specific issue and the Member’s opinion is the same as the result of the vote of the Body on the matter.

H. Discrimination and Other Harassment

The Council is committed to providing an environment that is free from discrimination and harassment, even if the identified behavior is not targeting a protected class. Harassment consists of unwelcome conduct, sexual or otherwise, whether verbal, physical, or visual. Harassing conduct includes, but is not limited to: slurs or negative stereotyping; bullying, threatening, intimidating or other hostile acts; degrading jokes and display or circulation of graphic material that degrades or shows hostility; and physical touching.

SECTION 3: ELECTED OFFICIALS AND COMMISSION/BOARD/COMMITTEE MEMBERS CONDUCT WITH CITY STAFF

Governance of the City relies on cooperative efforts between elected officials and staff. The legislative body passes laws and sets policy, and the Mayor shall take care that the City ordinances and State laws are observed and enforced and that all City officers and employees discharge their duties. Therefore, every effort is to be made to be cooperative and show mutual respect for the contributions made by each other for the good of the community.

The Common Council, upon recommendation from individual Council Members, professional staff, and volunteer Boards/Commissions/Committees, authorizes various aspects of personnel management including policies, pay plans, benefit plans and other related items. On Council direction, the Mayor is charged with implementing these items while working with the executive team. This provides for a single manager to direct our staff.

Members of the Common Council must be diligent in maintaining this “chain of command”. Council Members shall not engage in directing employees in their tasks and/or injecting themselves into tasks and projects. Council Members are encouraged to get to know and support the City’s 240+ employees, and treat them with respect and professionalism.

Municipal-Code § 19-2 Order of business. Agenda.

The business of the Council shall be conducted according to the agenda prepared by the Clerk. All matters intended to be placed upon a regular meeting agenda shall be submitted to the Clerk no later than 9:00 a.m. on the Friday during the week preceding the regular Tuesday meeting, and the Clerk shall distribute the agenda to Common Council members no later than 5:00 p.m. on the Friday during the week preceding the regular Tuesday meeting.

Municipal-Code § 19-1 Meeting time and date. B. Special meetings.

Special meetings of the Council may be called by two Alderpersons by filing a written request with the Clerk at least 24 hours prior to the time specified for such meeting. The Clerk shall immediately notify each Alderperson of the time and purpose of such meeting. The notice shall be delivered to each Alderperson personally or left at his or her usual place of abode. The Clerk shall cause an affidavit of service of such notice to be filed in his or her office prior to the time fixed for such special meeting. Special Meetings may be held without notice when all members of the Council are present or consent in writing to the holding of such meeting. Unless all Alderpersons are in attendance, no business shall be transacted at a special meeting except for the purpose stated in the notice thereof.

All elected and appointed officials must constantly be aware of their impact on the morale and reputation of our employees in their statements and interactions.

A. Treat Staff as Professionals

Council/Commission/Board/Committee Members shall treat all staff as professionals. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior toward staff is not acceptable. Council/Commission /Board/Committee Members should refer to staff by their title followed by the individual's last name in public meetings when first introduced.

B. Never Publicly Demean or Personally Attack an Individual Employee

Council/Commission/Board/Committee Members shall never demean or personally attack an employee regarding the employee's job performance in public. All employee performance issues shall be directed to the Mayor or the Director of Administration through private correspondence or conversation.

C. Do not Supersede Administrative Authority

Unless otherwise provided in this Code, neither the Council, nor any of Commission/Board /Committee Members, shall attempt to supersede the administration's powers and duties. Neither the Council nor any Commission/Board/Committee Member thereof shall give orders to any of the Department Heads or their subordinates, either publicly or privately. Council/Commission/Board/Committee Members shall not attempt to unethically influence or coerce City staff concerning either their actions or recommendations to awarding contracts, selection of consultants, processing of development proposals, the granting of City licenses and permits, or any other similar City function.

Nothing in this section shall be construed, however, as prohibiting a Council Member individually, from discussing City affairs of interest or making suggestions with department heads in or outside of a public meeting as long as direction is not given and time considerations are respectful. It is also noted that there may be limited occasions when Council or Commission/Board/Committee Members need to communicate with staff outside of a public meeting, not related to questions on agenda matters.

D. Do Not Solicit Political or Business Support from Staff

Council/Commission/Board/Committee Members shall not solicit any type of political support, including: financial contributions, display of posters or lawn signs, name on support list, collection of petition signatures, etc., from City staff. City staff may, as private citizens within their constitutional rights, support political candidates, however all such activities must be done away from the workplace and be the will of the staff member. Photographs of uniformed City employees shall not be used in political ads.

Council/Commission/Board/Committee Members should refrain from soliciting personal business, i.e. services, patronage, etc. that are not offered to the general public, from staff.

SECTION 4: ELECTED OFFICIALS AND COMMISSION/BOARD/COMMITTEE MEMBERS CONDUCT TOWARDS THE PUBLIC

In Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice, or disrespect are to be evident on the part of individual Council/Commission/Board/Committee Members toward an individual participating in a public forum. Every effort is to be made to be fair and impartial in listening to public testimony or input. All Council/Commission/Board/Committee Members are to demonstrate, both publicly and privately, their honesty and integrity, and to be an example of appropriate and ethical conduct. And, all Council/Commission/Board/Committee Members are to respect and appreciate the public's participation, input, and opinions.

A. Be Welcoming to Speakers and Treat Them with Care and Respect

For many citizens, speaking in front of a governing body is a new and difficult experience; under such circumstances, many are nervous. Council/Commission/Board/Committee Members are expected to treat citizens with care and respect. (See section 2 D.) All Council/Board/Commission/Committee Members are to commit full attention to the speakers or any materials relevant to the topic at hand. Comments, when appropriate, and non-verbal expressions are to be respectful and professional.

B. Be Fair and Equitable in Allocating Public Hearing Time to Individual Speakers

The Mayor/Chair will determine and announce time limits on speakers at the start of the Public Hearing. Generally, each speaker will be allocated three minutes, with applicants, appellants, or their designated representatives allowed additional time. If a substantial number of speakers are anticipated, the Mayor/Chair may shorten the time limit and/or ask speakers to limit themselves to new information and points of view not already covered by previous speakers.

Each speaker may only speak once during a Public Hearing unless the Body requests additional clarification later in the process. After the close of the Public Hearing, no additional public testimony will be accepted unless the Body reopens the Public Hearing for a limited and specific purpose.

C. Ask for Clarification, but Avoid Debate and Argument with the Public

Only the Mayor/Chair (no other Council/Board/Commission/Committee Members), shall be allowed to interrupt a speaker during a presentation if needed to clarify, keep on topic, or similar. Council/Board/Commission/Committee Members may ask the Mayor/Chair to have the speaker repeat or clarify if there is an audio issue, hallway noise, or other similar matter. And, Council/Board/Commission/Committee Members may ask the Mayor/Chair for a point of order if

the speaker is off the topic, exhibiting behavior or language that the Member finds disturbing or out of line. If there are inaccurate statements made that the Member would like corrected, the Member shall be given consideration to state a correction to the Mayor/Chair but must not engage in any public debate. Member questions, regarding public input, to seek, clarify, or expand information are to be directed to the Mayor/Chair.

D. Follow Parliamentary Procedure in Conducting Public Meetings

The City Attorney serves as advisory parliamentarian for the City and is available to answer questions or interpret situations according to parliamentary procedures. Final rulings on parliamentary procedure are made by the Mayor, subject to the appeal of and to the Council, per Robert's Rules of Order.

Outside Public Meetings

A. Make No Promise or Statement on Behalf of the City or Common Council in an Unofficial Setting

Council/Commission/Board/Committee Members will frequently be asked to explain a Council/Commission/Board/Committee Action or to provide their opinion regarding an issue as they meet and talk with constituents in the community. It is appropriate to provide a brief overview of City Policy and to refer the constituents to City staff or the Mayor for further information. Overt or implicit promises of specific Council/Commission/Board/Committee Action or promises that City staff will take some specific action shall be refrained from.

All Council/Board/Commission/Committee Members must ensure that in expressing their own opinions, they do not mislead any listener into believing that their individual opinion is that of the entire Council/Commission/Board/Committee unless the Council/Commission/Board/Committee has taken a vote on that specific issue and the Member's opinion is the same as the result of the vote of the Body on the matter. Likewise, no Council/Commission/Board/Committee Member shall state in writing that Member's position in a way that implies it is the position of the entire Body. A member has the right to state a personal opinion and has the right to indicate that he/she is stating such as a member of the Body but must always clarify that he/she is not speaking on behalf of the City or the Common Council/Commission/Board/Committee unless specifically authorized by that Council/Commission/Board/Committee to do so.

SECTION 5: ELECTED OFFICIALS AND COMMISSION/BOARD/COMMITTEE MEMBERS CONDUCT WITH OTHER GOVERNMENTAL PUBLIC AGENCIES AND OFFICES

Since Council/Board/Commission/Committee Members act as a single Body during official City Meetings, such members should curb individual communications with other agencies. Such restraint is not meant to impede the ability of an elected official from access to information on matters of public concern, projects within their respective districts or to undermine the function of government officials to become informed on a subject matter to be voted upon. Members shall identify themselves when communicating with other agencies by using their official position or title but shall not express or give the impression that the Member is appearing or communicating with such agency with Council/Commission/Board/Committee direction unless the Council/Commission/Board/Committee has authorized and directed the Member to do so; Council/Commission/Board/Committee Member may then otherwise state the reason for appearing or communicating with the agency and/or office. Council Members are allowed to use their respective City email accounts to communicate in addition to other methods of communication, as long as records are retained by the respective authors.

All Council/Board/Commission/Committee Members must remember that, at most times, they are perceived in public as a representative of the City and should act and speak with that responsibility in mind.

A. Be Clear about Representing the City or Personal Interests

If a Council/Commission/Board/Committee Member appears before another governmental agency or organization to provide a statement on an issue, the Member must clearly state whether his or her statement reflects a personal opinion or is the official position of the City.

All Council/Board/Commission/Committee Members must inform the applicable Body of their involvement in an outside organization if that organization is or may become involved in any issue within the City's jurisdiction. If an individual Council/Commission/Board /Committee Member publicly represents or speaks on behalf of another organization whose position differs from the City's official position on any issue, the Member must clearly communicate the organization upon whose behalf he/she is speaking and must withdraw from voting as a Council/Commission/Board/Committee Member upon any action that has bearing upon the conflicting issue.

B. Representation of the City on Intergovernmental Commissions and Other Outside Entities

Council Members serving on Boards, Commissions, or Committees as a City Representative for outside entities or agencies shall properly communicate with all other Council Members on issues pertinent to the City.

C. Conflict of Interest

Council/Board/Commission/Committee Members are encouraged to request a Conflict of Interest Opinion from the City Attorney if unsure whether a personal conflict exists on specific matters.

D. Mayor's Role Representing the City

The Mayor is charged with representing the City, speaking on its behalf, and communicating with the Council regarding these matters when appropriate. When the Mayor is unavailable, authority is authorized to the Common Council President.

SECTION 6: ELECTED OFFICIALS CONDUCT WITH COMMISSIONS/BOARDS/COMMITTEES

A. Attendance at Commission/Board/Committee Meetings

Council Members may attend any City of Franklin Commission/Board/Committee Meeting which is open to the public, provided that all open meeting laws requirements are met, including but not limited to a Badke Notice which states, "Notice is hereby given that a majority of the Common Council may attend this meeting to gather information about an agenda item over which they have decision-making responsibility. This may constitute a meeting of the Common Council per *State ex rel. Badke v. Village Bd. of the Village of Greendale*, 173 Wis. 2d 553, 494 N.W.2d 408 (1993), even though the Common Council will not take formal action at this meeting."

B. Assigned Commission/Board/Committee Duties

Council Members are assigned to Boards/Commissions/Committees to provide a line of communication between the specific Commission/Board/Committee and the Common Council.

As such, Council Members are to fully participate in the activities and meetings of the Commission/Board/Committee.

Regular attendance at meetings and activities is expected.

Council Members, along with City staff, shall advise the Commissions/Boards/Committees that they serve on regarding policies and procedures of the City, and proper conduct of meetings.

C. Be Respectful of Diverse and Opposing Opinions

A primary role of Commissions/Boards/Committees is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns, experience, and perspectives. Council Members must be fair and respectful to all citizens serving on Commissions/Boards/Committees without regard to their backgrounds, residence, and political views.

D. Closed Session Participation

Out of courtesy for the Commission/Board/Committee, Council Members not on such Commission/Board/Committee shall inform the Commission/Board/Committee Chair of their attendance in closed session in advance of attending such closed session whenever possible.

SECTION 7: ELECTED OFFICIALS AND COMMISSION/BOARD/COMMITTEE MEMBERS CONDUCT WITH THE MEDIA

A. Expression of Positions on Issue

When communicating with the media, all Council/Board/Commission/Committee Members must be clear that their comments are the official position of themselves alone, and not from the Council/Commission/Board/Committee unless specifically authorized by that Council/Commission/Board/Committee. Each Council/Board/Commission/Committee Member represents one vote of the total and until a vote on any issue is taken, Council /Board/Commission/Committee Members' positions are merely their own. Council/Board /Commission/Committee Members recognize that the Mayor, or his/her designee, is the only authorized voice for the City.

B. Discussions Regarding City Staff

Council/Commission/Board/Committee Members shall not discuss personnel issues or other matters regarding individual City staff in public or with the media. Any issues pertaining to City staff shall only be addressed directly to the Mayor or the Director of Administration.

SECTION 8: ENFORCEMENT OF THIS CODE OF CONDUCT

A. Filing of Complaints (Excluding Ethics, which is addressed in **Section 9** and contains separate remedies)

Any person who believes a City Official has violated a requirement, prohibition or guideline set out herein may file a sworn complaint with the City Clerk identifying: (1) the complainant's name, address and contact information; (2) position of the City official who is the subject of the complaint; (3) the nature of the alleged violation, including the specific provision of Municipal Code, Policy, Rule allegedly violated, and (4) a statement of fact constituting the alleged violation and the dates on which, or period of time during which, the alleged violation occurred.

The person making the complaint shall provide the following with the complaint: (1) all documents or other materials in the complainant's possession that are relevant to the allegation, (2) a list of all documents or other materials relevant to the allegation that are available to the complainant but not in the complainant's possession, (3) a list of all other documents or other materials relevant to the allegation but unavailable to the complainant, including the location of the documents if known, and (4) a list of witnesses, what they may know, and information to contact those witnesses.

The complaint shall include an affidavit at the end of the complaint stating that the “information contained in the complaint is true and correct, or that the complainant has good reason to believe and does believe that the facts alleged are true and correct and that they constitute a violation of the Municipal Code, Policy, or Rule”. If the complaint is based on information and belief, the complaint shall identify the basis of the information and belief, including all sources, contact information for those sources, and how and when the information and/or belief was conveyed to the complainant by those sources. The complainant shall swear to the facts by oath before a notary public, or before the City Clerk. A notary public or City Clerk shall verify the signature.

If a complaint filing is determined to be complete by the City Clerk, the City Clerk shall forward the matter to the Mayor or the Mayor’s Designee. If the complaint filing is determined incomplete, the City Clerk shall notify the complainant of the deficiency.

If the complaint is filed against the Mayor, the City Clerk shall submit the complaint filing to the Council President to work with the appropriate parties to process the complaint appropriately on behalf of the City.

B. Confidential Nature of Complaint

While complete confidentiality cannot be maintained, each complaint will be considered judiciously and as discreetly as possible, respecting both the complainant and the accused, throughout the investigation.

C. Time for Filing

A complaint under this Code must be filed no later than sixty (60) days from the date of discovery of the alleged violation. However, anyone having information on which a complaint is based is encouraged to file the complaint as soon as the information is obtained so that immediate action may be taken by the Council, the appropriate staff member or agency. The delay in filing a complaint may be considered in determining the sanction to be imposed.

D. False or Frivolous Complaints

A person who knowingly makes a false, misleading, or unsubstantiated statement in a complaint is subject to criminal prosecution for perjury and possible civil liability. If, after reviewing a complaint, it is determined that a sworn complaint is groundless and appears to have been filed in bad faith or for the purpose of harassment, or that intentionally false or malicious information has been provided, the subject shall be referred to the Chief of Police for referral to the District Attorney’s Office for prosecution under penalty of perjury or as the District Attorney may determine. A City Official who seeks to take civil action regarding any such complaint shall do so at his or her expense.

E. Complaint Procedure

(1) Investigation

If the complaint is complete, it will be investigated by the City through its representative which may be the City's Risk Provider, Outside Counsel, or other appropriate party acting as the Investigative Officer, in a reasonable period of time.

(2) Failure to Comply

All City Officials, whether elected and appointed, are required to cooperate with any such investigations. Failure to cooperate in an investigation, or making false statements, could subject the Official to sanctions or removal from office/position.

(3) Recommendations

At the conclusion of the investigation, the Investigating Officer, following deliberation in open or closed session, shall submit a report to the Council, including findings of fact, conclusions of law, and a recommendation as to what action, if any, the Council should consider with respect to the individual charged. The Investigating Officer shall provide the complainant and the individual charged with a copy of the report. Either the complainant or the person charged may file an objection to the report and shall have the opportunity to present arguments supporting the objection to the Council.

(4) Council Action

The Council shall consider and take action on the recommendation of the Investigating Officer within sixty (60) days after the Investigating Officer provides its findings. Upon review of the report and following deliberation, if the Council, by motion, concludes that there is a violation of the Code, the Council may direct mediation or impose a sanction or penalty. The Council may adopt, reject, or modify the recommendation made by the Investigating Officer. In resolving the complaint, the totality of the circumstances shall be taken into consideration, including the intent of the person accused of the wrongdoing.

(5) Penalties and Sanctions Policy

It is the intent of the Council to educate and, when necessary, discipline City Officials who violate this Code. Discipline shall be progressive, from the least punitive to the most punitive measures, unless the Council believes that progressive discipline does not provide the appropriate sanction due to the gravity of the offense, or because the Council does not believe the sanction would deter future misconduct. In all instances, the totality of the circumstances shall be taken into consideration in resolving the matter, including the intent of the one accused of wrongdoing.

(6) Possible Penalties and Sanctions

- i. An informal censure by the Council, which would only be made as part of a motion in a public meeting.
- ii. A formal censure by the Council, which would be made by motion in a public meeting and then published in the City newspaper.
- iii. Mandatory community service. [Wis. Stat. § 62.11(3)(e)]
- iv. Attendance at counseling or mediation sessions. [Wis. Stat. §62.11(3)(e)]
- v. Imposition of a dollar fine of up to \$500.00. [Wis. Stat. §§ 62.11(3)(a) &(c)]
- vi. Removal from Office. [Wis. Stat. § 62.11]
- vii. Discipline, up to and including termination (for Appointed Officials).

viii. Any other sanction available by law.

The imposition of any of these penalties or sanctions will require an affirmative vote of $\frac{3}{4}$ of all Members of the Council (with six (6) voting Council Members, $\frac{3}{4}$ is calculated as $6 \times .75 = 4.5$, rounded up to 5 votes).

(7) Notice

The Mayor, or his/her designee, shall provide notice of the Council's decision to the person charged within ten (10) days of decision.

SECTION 9: ETHICS

The state ethics code applicable to local government officials is found in Wisconsin Statutes § 19.59. *(This is affirmed by the CHARTER ORDINANCE change that was passed on March 1, 2005. Ordinance 2005-1835 repealed the Code of Ethics of the Municipal Code and provided for the filing of financial disclosure statements by elected officials, candidates and other specified officials of the City.)* Many of the terms used therein are defined in Wisconsin Statutes § 19.42.

The state ethics code establishes minimum standards of ethical conduct that prohibit local public officials from using their public office to benefit or enrich themselves, their immediate families, or organizations with which they are associated. Local officials must understand these standards to avoid violations of the law. Specifically, this code prohibits local public officials from engaging in the following conduct:

- Using their office to obtain financial gain, any type of employment including consulting or similar roles, or anything of substantial value for the private benefit of themselves, their immediate families, or organizations with which they are associated.
- Receiving "anything of value" if it could be reasonably expected to influence the local public official's vote, official action or judgement, or could reasonably be considered as a reward for any official action or inaction.
- Taking official action substantially affecting a matter in which the official, an immediate family member, or an organization with which the official is associated has a substantial financial interest or using his or her office in a way that produces or assists in the production of a substantial benefit for the official, an immediate family member, or an organization with which the official is associated.
- Offering or providing influence in exchange for campaign contributions.

An official who is uncertain about a potential conflict with this section may want to seek advice from the City Attorney.

The state ethics code is enforced by the local district attorney (in Milwaukee County, this is Corporation Counsel) upon verified complaint of any person. If the district attorney fails to commence an action within twenty (20) days after receiving such complaint or refuses to commence an action, the person making the complaint may petition the attorney general to act on it.

The ethics code provides civil and criminal penalties for violations. A local official who intentionally violates any part of § 19.59, except § 19.59(1)(br), may be fined not less than \$100 nor more than \$5,000 or imprisoned not more than one year in the county jail or both. In the alternative, a civil forfeiture of up to \$1,000 may be imposed against a local official for violating any part of the state ethics code. Intentional violation of § 19.59(1)(br), offering or providing influence in exchange for campaign contributions, is a Class I felony.

Acknowledgement Statement / Signature Required

By signing below, the Elected Official/Commission, Board, Committee Member/Appointed Official agrees to the principles and rules set forth in this document and will abide by them to the best of his/her abilities throughout his/her term of office/employment:

Official Signature

Date

Official Printed Name

Office Held by Official

City of Whitewater Elected Official

Progressive Discipline Policy

Purpose: The purpose of this Progressive Discipline Policy is to address instances where an elected official fails to adhere to the Code of Conduct, providing a fair and consistent process for corrective action.

1. Informal Discussion: For minor infractions, the Council President or ethics committee shall engage in an informal discussion with the elected official to address concerns and provide guidance on corrective actions.

2. Written Notice: If the misconduct persists, a written notice outlining the specific violation and expected improvements shall be issued to the elected official.

3. Suspension: For more serious or repeated violations, a suspension may be imposed, with the duration commensurate with the severity of the offense. During suspension, the elected official shall not perform their duties.

4. Removal from Committee Assignments: Continued violations may result in the removal of the elected official from specific committee assignments, limiting their influence and responsibilities within the organization.

5. Censure: In extreme cases, where the misconduct significantly harms the public trust, a censure resolution may be initiated by the appropriate governing body. This formal condemnation serves as a public reprimand.

6. Recall Procedures: If the elected official's behavior continues to undermine public trust, constituents may initiate recall procedures in accordance with state laws.

Disclaimer: It will be critical to consult legal counsel and adhere to relevant state laws when developing and implementing such policies.



Office of the City Manager
312 W. Whitewater Street, P.O. Box 178
Whitewater, Wisconsin 53190

MEMORANDUM

www.whitewater-wi.gov
Telephone: (262) 473-0104
Fax: (262) 222-5901

To: Common Council
From: John Weidl, City Manager; Taylor Zeinert, Chief of Staff
Date: December 29, 2023
Re: Letter to Elected Officials

The December 19th Common Council meeting the Council discussed the production of a letter to elected officials regarding the needs of the community in response to the growing population in Whitewater. Staff would like to gather feedback from the Council Members on what they would like to include in this letter. By discussing this, the staff hopes to capture the general sentiments of the Council for the letter's content.

Following the Common Council meeting, staff will review the recorded discussions and draft a letter that reflects the sentiments expressed by the Council. The proposed letter will then be presented to the Common Council for their final approval.

At this time, Council Members are asked to share the recipients of the letter and the key points they would like to be addressed.

Warm regards,

A handwritten signature in cursive script that reads "John S. Weidl".

John S. Weidl, City Manager

JSW/TKZ