City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2914
Fax: 262-242-9655

www.ci.mequon.wi.us

Office of the City Clerk
Taped and Televised

COMMON COUNCIL
Regular Meeting
Tuesday, February 8, 2022 - 7:30 PM
or Immediately Following the
Committee of the Whole
Christine Nuernberg Hall
Agenda

1) **Call to Order**

2) **Pledge of Allegiance**

3) **Roll Call**

4) **Public Hearings:** None.

5) **Personal Appearances and Public Comment:**

   Citizens wishing to address the Council on any matter **not** on the agenda may do so at this time. If you desire to be heard on agenda items, you may be heard when that item is considered on the agenda. Please speak into the microphone at the podium. The time limitation is **FIVE** minutes. **To speak or to have your opinion recorded, please complete a registration slip found on the table in the lobby and return it to the bin in the Council Chambers.**

6) **Public Officials' Reports:**
   a) Mayor
   b) City Administrator

7) **Consent Agenda:**
   a) Common Council meeting minutes of January 11, 2022
   b) Architectural Review Board meeting minutes of December 13, 2021
   c) Economic Development Board meeting minutes of November 16, 2021
   d) Festivals Committee meeting minutes of December 8, 2021
   e) Finance-Personnel Committee meeting minutes of December 14, 2021
   f) Joint Mequon-Thiensville Bike and Pedestrian Way Commission meeting minutes of October 14, 2021
   g) Mequon Municipal Water Utility Commission meeting minutes of December 14, 2021
   h) Park and Open Space Board meeting minutes of November 17, 2021

i) Planning Commission meeting minutes of December 13, 2021

j) Public Welfare Committee meeting minutes of December 14, 2021

k) Sewer Utility District Commission meeting minutes of December 14, 2021

l) Ordinance First Readings

NOTE: First reading of Ordinances will not be acted upon unless a suspension of the rules is approved by a recorded vote of two-thirds majority of all aldermen.

1) **ORDINANCE 2022-1617** - An Ordinance Amending Chapter 2, Article IX, Division 2 of the Mequon Municipal Code Related to the Membership of the Architectural Board; **Recommended by Public Welfare Committee January 11, 2022; First Reading.**

2) **ORDINANCE 2022-1618** - An Ordinance Creating Section 10-26 of the Mequon Municipal Code, Related to Residential Swimming Pools; **Recommendation Forthcoming by Public Welfare Committee February 8, 2022; First Reading.**

3) **ORDINANCE 2022-1619** - An Ordinance Amending Chapter 30, Article V of the Mequon Municipal Code Related to Outdoor Burning; **Recommended by Public Welfare Committee January 11, 2022; First Reading.**

8) Ordinances:

a) **ORDINANCE 2021-1616** – An Ordinance Creating Section 62-21 of the Mequon Municipal Code Relating to Signs Along Streets and on Public Property; **Recommended by Planning Commission December 13, 2021; Tabled by Committee of the Whole December 14, 2021; Tabled by Committee of the Whole January 11, 2022; Tabled by Common Council January 11, 2022; Further Recommendation Forthcoming by Committee of the Whole February 8, 2022; First Reading at Common Council December 14, 2021.**

9) Resolutions:

a) **RESOLUTION 3913 -** A Resolution Authorizing the Borrowing of Not-to-Exceed $9,620,000; and Providing for the Issuance and Sale of General Obligation Promissory Notes Therefor; **Recommendation Forthcoming by Committee of the Whole February 8, 2022.**

b) **RESOLUTION 3914** - A Resolution Ratifying the City of Mequon's COVID-19 Emergency Medical Leave Policy Between January 1 - March 31, 2022; **Recommendation Forthcoming by Finance-Personnel Committee February 8, 2022.**

c) **RESOLUTION 3915** - A Resolution Authorizing Execution of a Contract for Network Upgrades with Office Technology Group, Milwaukee, Wisconsin for a Not-to-Exceed Cost of $43,866; **Recommendation Forthcoming by Finance-Personnel Committee February 8, 2022.**

d) **RESOLUTION 3916** - A Resolution Authorizing a Town Center TID No. 3 Incentive with P2 Development, in Connection with Construction of a Planned Unit Development Located at 11040 and 11110 North Buntrock Avenue; **Recommended by Economic Development Board January 18, 2022; Further Recommendation Forthcoming by Finance-Personnel Committee February 8, 2022.**

e) **RESOLUTION 3917** - A Resolution Approving a Third Amendment to the Development Agreement for the Town Center Master Planned Mixed-Use Development for Foxtown Center, LLC, Allowing for Infrastructure Improvements and a Town Center TIF Incentive of $4.95M for a $51M Development; **Recommendation Forthcoming by Finance-Personnel Committee February 8, 2022**

10) Specified Unfinished Business From Prior Meetings: None.

11) Specified New Business: None.

12) Potential Closed Sessions:

a) Personnel Evaluation of City Attorney: The Common Council may convene into closed session pursuant to Wis. Stat. § 19.85(1)(c), considering employment, promotion, compensation or performance evaluation date of any public employee over which the governmental body has jurisdiction or exercises responsibility and then may reconvene into open session to take such action as deemed appropriate.

b) Personnel Evaluation of City Administrator: The Common Council may convene into closed session pursuant to Wis. Stat. § 19.85(1)(c), considering employment, promotion, compensation or performance evaluation date of any public employee over which the governmental body has jurisdiction or exercises responsibility and then may reconvene into open session to take such action as deemed appropriate.

13) Adjourn

Dated: February 3, 2022 /s/ John Wirth, Mayor

Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting. Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting.

Any questions regarding this agenda may be directed to the City Clerk's Office at 262-236-2914, Monday through Friday, 8:00 AM – 4:30 PM

City of Mequon

draft

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COMMON COUNCIL
Regular Meeting
Tuesday, January 11, 2022 - 7:30 PM
or Immediately Following the
Sewer Utility District Commission Meeting
Christine Nuernberg Hall

Minutes

1) Call to Order

Mayor Wirth called the meeting to order at 7:55 PM.

2) Pledge of Allegiance

3) Roll Call

Present:

Mayor John Wirth
Alderman Robert Strzelczyk
Alderman Glenn Bushee
Alderman Dale Mayr
Alderman Jeffrey Hansher
Alderman Mark Gierl
Alderman Brian Parrish
Alderman Kathleen Schneider
Alderman Andrew Nerbun

Also present: City Administrator Jones, Assistant City Administrator Schoenemann, City Attorney Sajdak, City Clerk Fochs, Community Development Director Tollefson, Assistant Community Development Director Zader, Engineering and Public Works Director Lundeen, Finance Director Engroff, Fire Chief Bialk, Deputy Fire Chief Zellman, Police Chief Pryor, Mike Perlewitz, Jim Hensel of Northshore Engineering, press and interested public.

4) Public Hearing:

a) **ORDINANCE 2021-1614** - An Ordinance Amending Chapter 58 of the Mequon Municipal Code to Rezone the Property at the Southwest Corner of Freistadt and Villa Grove Roads from R-3 (Residential 1-Acre), C1 (Wetlands) and FW (Floodway), to R-3, C1 and FW with a PUD (Planned Unit Development) Overlay, in Connection with the Development of a Seven-Lot Residential Subdivision (The Green at Mequon).

1) Public hearing

Motion to open the public hearing for **ORDINANCE 2021-1614**.

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Alderman Strzelczyk
SECONDED BY:	Alderman Hansher
AYES:	Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

Mr. David Schlageter spoke about **ORDINANCE 2021-1614** citing the need to address Villa Grove Road which is a one lane, loosely paved road, the uneven topography which will require a large amount of fill and potential drainage/flooding issues due to the topography.

Motion to close the public hearing for **ORDINANCE 2021-1614**.

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Alderman Mayr
SECONDED BY:	Alderman Strzelczyk
AYES:	Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

2) Consideration of ordinance

Assistant Community Development Director Zader stated that **ORDINANCE 2021-1614** is a request for a 7-lot conservation subdivision on Villa Grove Road and Freistadt Road. The lots range from approximately .58 - 1.48 acres in size. Conservation subdivision allows the developer to keep the private lots out of the wetland area and shift the road to the north to keep out of the flood plain. Villa Grove Road is approximately six feet above the flood plain. Ordinance requires the access to be built on the less traveled road (Villa Grove Road) for a subdivision. Storm water issues will be addressed at Planning Commission when discussing the preliminary plat.

Mike Perlewitz, the landowner, explained why he would like to eliminate the requirement that the flood plain be contained in the outlot. Only 6.45 acres of the 14.88 acres property will be developed.

Mr. Zader stated that staff is agreeable to eliminating the condition that flood plains be contained in the outlot. He further stated that the width or functionality of Villa Grove Road will be addressed at the time the preliminary plat comes before the Planning Commission.

Jim Hensel of Northshore Engineering, confirmed that they do not want to bring in any more fill than necessary and they do not intend to increase so as to reach the height of Freistadt Road.

Motion to amend the ordinance by removing "and floodplain" in Section 1, Condition 2 and approve **ORDINANCE 2021-1614, as amended**.

RESULT:	**Approved by Roll Call Vote with Amendments [6 to 2]**
MOVED BY:	Alderman Parrish
SECONDED BY:	Alderman Gierl

AYES:	Bushee, Hansher, Gierl, Parrish, Schneider, Nerbun
NAYS:	Strzelczyk, Mayr

5) **Personal Appearances and Public Comment:** None.

6) **Public Officials' Reports:**

a) Mayor: None.

b) City Administrator: None.

7) **Consent Agenda:**

a) Common Council meeting minutes of December 14, 2021.
b) Architectural Board meeting minutes of November 8, 2021.
c) Festivals Committee meeting minutes of November 11, 2021.
d) Finance-Personnel Committee meeting minutes of November 9, 2021.
e) Mequon Municipal Water Utility Commission meeting minutes of October 28, 2021.
f) Planning Commission meeting minutes of November 11, 2021.
g) Public Works Committee meeting minutes of October 12, 2021.
h) Sewer Utility District Commission meeting minutes of November 9, 2021.

Motion to approve the monthly list of reports and minutes.

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Alderman Hansher
SECONDED BY:	Alderman Strzelczyk

AYES:	Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

8) **Ordinances:**

The Common Council took up **ORDINANCE 2021-1616** first.

b) **ORDINANCE 2021-1616** - An Ordinance Creating Section 62-21 of the Mequon Municipal Code Relating to Signs Along Streets and on Public Property.

Discussion ensued on the goal of tonight's discussion, possibility of referring the ordinance to a committee, business directional signs, allowing blue signs with restrictions on size, number, and color, Wisconsin case law on obscenities and hate-speech on signs, "prior restraint" case law, use blue signs vs. no blue signs, safety concerns of sign placement, the concept of having no discretion in signs postings, grand fathering clause, electronic message board rules, baseball field advertising, all-or-nothing approach,

RESULT:	**Tabled [Unanimous]**
MOVED BY:	Alderman Mayr
SECONDED BY:	Alderman Hansher
AYES:	Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

a) **ORDINANCE 2021-1615** - An Ordinance Amending Chapter 2 of the Mequon Municipal Code, Relating to Paid Time Off (PTO) Benefits for Fire Department Battalion Chiefs.

RESULT:	**Approved by Roll Call Vote [Unanimous]**
MOVED BY:	Alderman Mayr
SECONDED BY:	Alderman Strzelczyk
AYES:	Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

9) Resolutions:

a) **RESOLUTION 3909** - A Resolution Amending the 2021-2024 Collective Bargaining Agreement Between the City of Mequon and the Mequon Fire & EMS Association, in Connection with Establishment of a Full-Time Paramedic/Firefighter Position.

RESULT:	**Approved by Roll Call Vote [Unanimous]**
MOVED BY:	Alderman Schneider
SECONDED BY:	Alderman Nerbun
AYES:	Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

b) **RESOLUTION 3910** - A Resolution Approving Acceptance of a $20,000 Donation from the Thiensville-Mequon Rotary Foundation and Authorizing the Purchase and Installation of an ADA Accessible Fishing Pier at Rotary Park by Summerset Marine Construction, Eagle, Wisconsin, for a Total Cost of $70,000.

RESULT:	**Approved by Roll Call Vote [Unanimous]**
MOVED BY:	Alderman Strzelczyk
SECONDED BY:	Alderman Parrish
AYES:	Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

c) **RESOLUTION 3911** - A Resolution Approving Award of a Consulting Agreement for Revising the Sanitary Sewer Utility's Hydraulic Model and Preparing Cost Estimates for Improvements to the East Trunk System North of Mequon Road to Brown and Caldwell, Milwaukee, Wisconsin in the Amount of $213,063.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Mayr

AYES:	Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

10) Specified Unfinished Business From Prior Meetings: None.

11) Specified New Business: None.

12) Potential Closed Sessions:

Mayor Wirth asked the Council to not go into Closed Session this evening pending information from staff.

a) Personnel Evaluation of City Attorney: The Common Council may convene into closed session pursuant to Wis. Stat. § 19.85(1)(c), considering employment, promotion, compensation or performance evaluation date of any public employee over which the governmental body has jurisdiction or exercises responsibility and then may reconvene into open session to take such action as deemed appropriate.

RESULT: No Vote

b) Personnel Evaluation of City Administrator: The Common Council may convene into closed session pursuant to Wis. Stat. § 19.85(1)(c), considering employment, promotion, compensation or performance evaluation date of any public employee over which the governmental body has jurisdiction or exercises responsibility and then may reconvene into open session to take such action as deemed appropriate.

RESULT: No Vote

13) Adjourn

Motion to adjourn at 9:03 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Gierl
SECONDED BY: Alderman Hansher

AYES:	Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

Respectfully Submitted,
Kathy Andrykowski

City of Mequon

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INSPECTION DIVISION

ARCHITECTURAL BOARD MINUTES
Monday, December 13, 2021
6:00 PM
Lower-Level Conference Room

Minutes

1. **Call to Order, Roll Call**

Present:	John Mikkelson, Architect-At Large
Members at Large:	Jenna Daniele
Aldermanic District Members:	Curtis Helm, Dawn Sederholm, Janet Ehn, Jason Dozark, Jim Youngquist
Building Inspector:	Mike Hadley

2. **Meeting Minutes**

Minutes from the November 8, 2021, meeting were approved with the following correction:

Let the notes reflect that the meeting was adjourned at 6:45 pm.

A motion to approve was presented by Architect At-Large, John Mikkelson and seconded unanimously. Minutes were approved.

3. **Application Submittals:**

No.	Alder. District /Time	Type of App	Owner(s) / Project Address	Contractor
1)	Dist. 1 6:00 pm	**New Single-Family Residence**	Main & Asma Masri 12900 N. Highgate Court Subd: Highgate	Cont: Kings Way Homes, LLC Arch: Kings Way Homes, LLC

Moved to Approve: Youngquist
Seconded by: Daniele
Approved: Yes
Vote: Unanimously

Conditions: Plans approved as submitted with the condition that stone on left elevation (Office) dies on inside corner.

No.	Alder. District /Time	Type of App	Owner(s) / Project Address	Contractor
2)	Dist. 3 6:05 pm	**New Single-Family Residence**	Jeff & Sue Knudsen 12246 N. Farmdale Road Subd: N/A	Cont: Owner Arch: UBuildIt

Moved to Approve: Dozark
Seconded by: Sederholm
Approved: Yes
Vote: Unanimously

Conditions: Plans approved as submitted with the condition that grids are added to patio doors on rear elevation.

No.	Alder. District /Time	Type of App	Owner(s) / Project Address	Contractor
3)	Dist. 4 6:10 pm	**New Single-Family Residence**	Veridian Homes LLC 7851 W. Preserve Parkway Subd: The Enclave	Cont: Veridian Homes LLC Arch: Veridian Homes, LLC

Moved to Approve: Sederholm
Seconded by: Dozark
Approved: Yes
Vote: Unanimously

Conditions: Plans approved as submitted with the following conditions:
1. Add window to right elevation (Mudroom) to match existing window (Master Bathroom).
2. Add grids to patio door on rear elevation.

4)	Dist. 4 6:15 pm	**New Single-Family Residence**	Veridian Homes LLC 10525 N. Coneflower Drive Subd: The Enclave	Cont: Veridian Homes LLC Arch: Veridian Homes LLC

Moved to Approve: Sederholm
Seconded by: Dozark
Approved: Yes
Vote: Unanimously

Conditions: Plans approved as submitted with the following conditions:

1. Add board and batten siding along with returns on left elevation gable to match garage gable on front elevation.
2. Add grids to patio door on rear elevation.

5)	Dist. 4 6:20 pm	**New Single-Family Residence**	Scott & Andrea Nelson 8640 W. Highlander Drive Subd: Highlander Estates	Cont: Victory Homes of WI Arch: David Pluim

Moved to Approve: Sederholm
Seconded by: Daniele
Approved: Yes
Vote: Unanimously

Conditions: Plans approved as submitted.

6)	Dist. 5 6:25 pm	**New Single-Family Residence**	Charlie Streich 12535 N. Lake Shore Drive Subd: N/A	Cont: Mikkelson Builders Arch: John Mikkelson

Moved to Approve:
Recused: Mikkelson
Tabled: Yes
Vote: Unanimously

Conditions: Tabled – Since John Mikkelson recused himself, there were not enough At-Large Members to facilitate a vote; no quorum. This submittal will be added to the January 10, 2022, meeting.

7)	Dist. 6 6:30 pm	**New Single-Family Residence**	Patrick & Barbara Peterka 3900 W. Scenic Avenue Subd: Scenic Heights	Cont: Allan Builders Arch: David Pluim

Moved to Approve: Sederholm
Seconded by: Ehn
Approved: Yes
Vote: Unanimously

Conditions: Plans approved as submitted with the condition that a single-double hung window, with grids must be added to the garage on the left elevation to match the window (#2450) on front elevation.

4. **Action:**

District Four Representative, Dawn Sederholm made a motion to adjourn the meeting.
District Three Representative, Jason Dozark seconded the motion.
A vote was taken; vote passed unanimously.

Meeting adjourned at 6:47 p.m.

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ECONOMIC DEVELOPMENT BOARD
Tuesday, November 16, 2021
8:00 AM
Christine Nuerenberg Hall
Minutes

1) Call to Order, Roll Call

Present:
Chair Timothy Carr
Alderman Brian Parrish
Board Member Dennis Engel
Board Member Daniel Gannon
Board Member Tracy Johnson
Board Member Michael Kramer
Board Member Jeff McLean
Board Member Bruce Sipiora
Board Member James Baka -- **Absent**
Board Member Andrew Petzold -- **Absent**

Chairman Carr called the meeting to order at 8:00 a.m.

2) Approval of Meeting Minutes from October 26, 2021

Action
Board member Kramer made a motion to approve the October 26, 2021 meeting minutes.
Board member Engel seconded the motion.
A voice vote was taken; vote passed (7-0)

RESULT:	**Approved [Unanimous]**
MOVED BY:	Board Member Kramer
SECONDED BY:	Board Member Engel
AYES:	Carr, Parrish, Engel, Gannon, Kramer, McLean, Sipiora
ABSENT:	Baka, Petzold
NOT PRESENT:	Johnson

3) Staff Updates

a. Discussion of Port Washington Road Redevelopment

Asst. Dir. Zader reviewed the proposed criteria guidelines for four different type of incentives, which had minor modifications made to them from feedback from the Board from the previous meeting:

> **Tier 1 –** Current Pay-As-You-Go formula to continue to be used. Eligibility requires the removal of all buildings on the site. If a site has more than one building, as long as one building is demolished as part of the development project, it is eligible.
>
> **Tier 2** – Higher incentive given (15%) for combined parcels or high priority sites with high priority uses, as determined and approved by the EDB. The payback period is also extended from 15 years to the life of the TID; which is currently 18 years.
>
> Asst. Dir. Zader explained that this formula will be unique to Mequon and that land value is taken out of the equation and protection of a loss to the city is provided.

The Board discussed the proposed incentives including risks to the city, that zoning distinctions are also a variable in consideration of uses, the desire for revitalization for these two TIF districts and the possibility of the city buying available properties; especially the Port Zedler Motel parcel.

Action
Board member Engel made a motion to approve the proposed incentive guidelines.
Board member Kramer seconded the motion.

Board member Sipiroa made an amendment to amend the first part of the Guideline #6 (page 8 of the packet) to include language regarding if there is ownership change that the incentive shall be reviewed and a claw back provision shall be utilized if necessary.

The amendment was accepted by Board members Engel and Kramer.

A voice vote was taken; vote passed (8-0)

RESULT:	**Approved [Unanimous]**
MOVED BY:	Board Member Engel
SECONDED BY:	Board Member Kramer
AYES:	Carr, Parrish, Engel, Gannon, Kramer, McLean, Sipiora
ABSENT:	Baka, Petzold

There was action steps for staff for the next meeting:

- Provide additional information (cost, risk, control) regarding the Port Zedler Motel so that the Board can make a recommendation to the Common Council about considering that the city purchase that parcel.
- Obtain landscape proposals regarding streetscaping.

4) Announcements

Dir. Tollefson stated that there may be a Town Center incentive application coming forward for 46 townhome rental units on Buntrock Avenue.

2022 Meeting Calendar was included in the packet.

5) Adjourn

Action
Board member Kramer made a motion to adjourn the meeting.
Board member McLean seconded the motion.
A voice vote was taken; vote passed (8-0)

Respectfully Submitted,

Kim Tollefson
Director of Community Development

City of Mequon

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FESTIVALS COMMITTEE
Wednesday, December 8, 2021
6:30 PM
South Conference Room

Minutes

1) Call to Order, Roll Call

Present:
Chair Vanessa Nerbun
Committee Member Janet Fussell
Committee Member Lisa Liljegren
Committee Member Moshe Luchins
Committee Member Christine McLean
Committee Member Miranda White
Vice Chair Kirsten Hildebrand -- **Absent**
Committee Member Jenne Hohn -- **Absent**
Committee Member Tracy Johnson -- **Absent**

Also Present: Executive Assistant Enea

2) Approval of Meeting Minutes
a. November Meeting Minutes

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Committee Member Liljegren
SECONDED BY: Committee Member Luchins

AYES:	Nerbun, Fussell, Liljegren, Luchins, McLean, White
ABSENT:	Hildebrand, Hohn, Johnson

3) Tent Rental
a. Tent Quote

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Committee Member Liljegren
SECONDED BY: Committee Member Luchins

AYES:	Nerbun, Fussell, Liljegren, Luchins, McLean, White
ABSENT:	Hildebrand, Hohn, Johnson

4) Flyer

A few flyers have been hung around town. Committee opted not to distribute any more since there are only a few sign-up spots left.

5) Sign-up Update

All spots are filled except for 9.

6) Children's Area

1. Christmas Rocks

Committee opted to use the Mequon-Thiensville Rock Facebook page to direct people to post their rock pictures at #MTROCKS.

2. Reindeer Food Labels

Committee member White took the food labels to cut out.

7) Food/Beverage

Shully's will cater the hot chocolate and cider. Committee member Hildebrand's law firm is supplying the cookies and will send 2 people to hand out.

8) Day of Assignments

There will be 4 tables in the tent. Committee member Fussell will bring gloves, tongs, double-sided tape and 1-64 cards. Committee member McLean will bring Christmas music and Committee member Luchins will bring speakers. Executive Assistant will bring firewood and Bret Liljegren will tend the fire pits. Committee Chair Nerbun will bring paper roll to cover the tables. A rocking chair will be used for Santa. The Committee liked the idea of Santa arriving by fire truck and Executive Assistant will find out if that is possible. Committee member White will go to City Hall on Friday to see what Christmas decorations can be used. The Committee should arrive at City Hall at 2:45pm on 12/12 to set-up. Committee Chair Nerbun asked the committee to think about being the next Chair.

9) Next Meeting Date and Time

January 19, 2022 at 6:30 P.M.

10) Adjourn

Committee member Liljegren moved to adjourn at 7:12 P.M. Committee Chair Nerbun seconded.

Respectfully Submitted,

Carrie Enea
Executive Assistant

City of Mequon

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Office of the City Administrator

FINANCE-PERSONNEL COMMITTEE
Tuesday, December 14, 2021
7:00 PM
North Conference Room

Minutes

1) Call to Order, Roll Call

Present:
Alderman Jeffrey Hansher
Alderman Glenn Bushee
Alderman Robert Strzelczyk
Mayor John Wirth

Also present: William Jones, City Administrator, Justin Schoenemann, Assistant City Administrator, Jennifer Engroff, Finance Director, Marie Keyser, Assistant to the Finance Director, David Bialk, Fire Chief, Kurt Zellmann, Deputy Fire Chief, Kimberly Tollefson, Director of Community Development, Kevin Miller, M3 Insurance, and other interested persons.

2) Approve Meeting Minutes
   a. November 9, 2021 Finance-Personnel Meeting Minutes

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Strzelczyk
SECONDED BY: Alderman Hansher

AYES:	Hansher, Bushee, Strzelczyk

3) License applications
   a. December 2021 Licenses

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Strzelczyk
SECONDED BY: Alderman Hansher

AYES:	Hansher, Bushee, Strzelczyk

4) Vouchers for payment
   a. November 2021 Voucher Approval List

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Hansher

SECONDED BY: Alderman Bushee

AYES:	Hansher, Bushee, Strzelczyk

5) Discussion Items
   a. 2022 Business Insurance Presentation by M3 Insurance

Kevin Miller from M3 Insurance was in attendance and gave a brief overview of the insurance renewal for 2022. From a dollar perspective, the premium has increased about 5%. Some of the big drivers of the increase are due to property, auto and public officials insurance. The public officials insurance has increased significantly in the market as a whole due to the Covid-19 pandemic and violations of open meetings, etc. The property insurance has increased as the City increased the value of one of its buildings. The premium cost was somewhat offset by moving to a larger deductible. The workers compensation insurance is down due to the experience modification factor decreasing.

Mayor Wirth asked if the $5,000 property insurance deductible is too low and if the City can realize some savings by increasing that deductible. Kevin Miller discussed that the premium cost is going to continue to increase over the next several years, and the City should stagger raising the deductible to offset overall premium increases in the future. If the City moves to the $25,000 deductible right now, it is harder to find ways to save money next year.

A question was asked if the public officials insurance doubled in premium due to a 2021 claim. Kevin Miller explained that the insurance market as a whole for public officials has significantly increased and that is the main driver of the increase (not the one claim).

6) Resolutions
   a. **RESOLUTION 3901** A Resolution Approving the Following in Connection with the City of Mequon's Insurance Program for Fiscal Year 2022: A) A Contract with Chubb Insurance, Warren, New Jersey, for Property Casualty and Storage Tank Liability Insurance in the Amount of $54,695; B) A Contract with Employers Mutual Casualty Company, Des Moines, Iowa, for Auto, General, Law Enforcement, Workers' Compensation, Commercial Crime, Public Officials Legal and Umbrella Liability Coverage in the Amount of $409,001; and C) A Contract with The Hartford Insurance Company, Hartford, Connecticut, for Accident Insurance in the Amount of $1,299

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Hansher
SECONDED BY: Alderman Strzelczyk

AYES:	Hansher, Bushee, Strzelczyk

   b. **RESOLUTION 3902** A Resolution Authorizing a Second Amendment to the Development Agreement Between the City of Mequon and Foxtown Center, LLC, Related to the Timing and Completion of Project Phases

Community Development Director Kimberly Tollefson explained this clarifies one of the compliance deadlines. It is the distinction of the project being completed at the end of one year and the tax base being established the day after (January 1st). The other is to ensure that neither the development team nor the City are in default. Foxtown Center LLC is requesting some consideration for changes to the phasing of the master plan and the City needs some additional time to work through that and finalize the recommendation. The Development Agreement says the City will take some sort of action and finish the assessment by February 28, 2022.

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Alderman Strzelczyk
SECONDED BY:	Alderman Hansher

AYES:	Hansher, Bushee, Strzelczyk

7) Ordinances

a. **ORDINANCE 2021-1615** An Ordinance Amending Chapter 2 of the Mequon Municipal Code, Relating to Paid Time Off (PTO) Benefits for Fire Department Battalion Chiefs

Fire Chief Bialk explained that the change in Paid Time Off (PTO) benefits for Battalion Chiefs is comparable to other City employees. Battalion Chiefs work 112 hours per pay period whereas general City employees work 80 hours per pay period.

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Alderman Strzelczyk
SECONDED BY:	Alderman Hansher

AYES:	Hansher, Bushee, Strzelczyk

8) Information Items

a. Finance & Personnel Work Plan

9) Adjourn

A motion to adjourn was made at 7:16 PM by Alderman Bushee, seconded by Alderman Strzelczyk. All voted in favor "aye."

Respectfully Submitted,

Marie Keyser
Assistant to the Finance Director

City of Mequon

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Public Works Department

Joint Mequon-Thiensville Bike and Pedestrian Way Commission
Thursday, October 14, 2021
9:00 AM
North Conference Room

Minutes

1. Call to Order, Roll Call
   Chair Azinger called the meeting to order at 9:04AM.

   Present:
   Chair T. Azinger
   Commissioner Jim Doornek
   Commissioner Ron Heinritz
   Commissioner Rob Holyoke
   Commissioner John Liegeois

   Absent:
   Commissioner Kristin Wade

   Also present were Director of Public Works/City Engineer Lundeen, and Administrative Assistant Deuster.

2. Approval of Meeting Minutes
   a. September 9, 2021 Minutes

RESULT:	**Approved [Unanimous]**
MOVED BY:	Holyoke
SECONDED BY:	Commissioner Doornek
AYES:	Azinger, Doornek, Holyoke, Liegeois
NOT PRESENT:	Heinritz

3. Resident Communications

Chair Azinger noted no one present for this item.

4. Discussion/Action Items
   a. Annual Report

   Director of Public Works/City Engineer Lundeen stated per the City Ordinance the Joint M-T Bike and Pedestrian Way Commission must submit a 2021 Annual Report. There was a support submitted last year, the ordinance does not have a specific time frame one must be submitted but should be provided for 2021.

The Commission agreed to include the top 3 priorities, and the 2010-2030 Recommendation List.

b. FY2022 Budget Request

Director of Public Works/City Engineer Lundeen stated that for the budget request, the Common Council felt the commission should submit this letter also to the Village of Thiensville for a cost share funding. The City voted to not increase the levy to budget for funds.

c. Annual Road Program

Director of Public Works/City Engineer Lundeen stated the board should look ahead to recommend locations within the Road Program to include bikeway requests.

The board discussed locations where bike lanes should be included or expanding roads. The locations discussed were Lakeshore, Buntrock, and connectivity east to west for crossing over the Milwaukee River, and the Range Line Road current path by the school.

d. OIT Crossing/Mequon Road Corridor Pedestrian and Bicycle Enhancements

Director of Public Works/City Engineer Lundeen stated the City was finalizing the memo of appeal from the Common Council to WisDOT.

e. 2021 Approval of 2010-2030 Bike and Pedestrian Way Commission Recommendations Prioritization

RESULT:	**Approved [Unanimous]**
MOVED BY:	Commissioner Liegeois
SECONDED BY:	Commissioner Doornek
AYES:	Azinger, Doornek, Heinritz, Holyoke, Liegeois

f. Safety Signs on OIT

The board discussed possible signage to be placed along the OIT to inform users of safety while utilizing the path. Any additional signage would need to be approved by Ozaukee County before being placed along the trail.

RESULT:	**Approved [Unanimous]**
MOVED BY:	Holyoke
SECONDED BY:	Commissioner Heinritz
AYES:	Azinger, Doornek, Heinritz, Holyoke, Liegeois

g. 2010-2030 Bikeway Plan Update and Potential Budget Request

h. Mequon Road Bridge Over Milwaukee River

The board discussed the concern of westbound lane traffic turning right and enough room. Striping for turn lanes, a pylon, or a guardrail along Mequon Road. The board recommended inquiring on pylons along the roadway. Any changes or requests would require approval from WisDOT.

5. Other Business

6. Adjourn
   a. Motion to Adjourn at 10:06 AM.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Holyoke
SECONDED BY: Commissioner Doornek

AYES:	Azinger, Doornek, Heinritz, Holyoke, Liegeois

Respectfully Submitted,

Casey Deuster

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Water Utility
Taped and Televised

MEQUON MUNICIPAL WATER UTILITY COMMISSION
Tuesday, December 14, 2021
7:30 PM
Christine Nuernberg Hall

Minutes

1) Call to Order, Roll Call
Commissioner Wirth called the meeting to order at 7:30 PM.

Present:
Commissioner John Wirth
Commissioner Robert Strzelczyk
Commissioner Glenn Bushee
Commissioner Dale Mayr
Commissioner Jeffrey Hansher
Commissioner Mark Gierl
Commissioner Brian Parrish
Commissioner Kathleen Schneider
Commissioner Andrew Nerbun

Also present were City Administrator Jones, City Attorney Sajdak, Director of Public Works/City Engineer Lundeen, Deputy Director of Utilities Driscoll, Water Utility/City Water LLC Director of Operations Voigt, and Administrative Assistant Deuster.

2) Approval of Meeting Minutes

a. October 28, 2021 Minutes

RESULT:	**Approved [Unanimous]**
MOVED BY:	Commissioner Strzelczyk
SECONDED BY:	Commissioner Schneider
AYES:	Wirth, Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

3) Action Items

Discussion and Possible Action

a. Authorizing Public Water Service from the Brown Deer Water Utility for the Property at 5300 W County Line Rd

b. Motion to approve the exemption of 5300 W County Line Road from connecting to the Mequon Water Utility.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Commissioner Schneider
SECONDED BY: Commissioner Bushee

AYES:	Wirth, Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

c. Water Services Agreement with Two Hundred Green LLC at the Northeast Corner of Riverview Drive and Green Bay Road in the Village of Thiensville

d. Motion to approve the Water Services Agreement with Two Hundred Green LLC at the Northeast Corner of Riverview Drive and Green Bay Road in the Village of Thiensville.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Commissioner Bushee
SECONDED BY: Commissioner Nerbun

AYES:	Wirth, Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

4) Adjourn

a. Motion to Adjourn at 7:32 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Commissioner Parrish
SECONDED BY: Commissioner Gierl

AYES:	Wirth, Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

Respectfully Submitted,

Casey Deuster
Administrative Assistant

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Office of Parks and Operations

PARK AND OPEN SPACE BOARD
Wednesday, November 17, 2021
6:30 PM
South Conference Room

Minutes

1) Call to Order, Roll Call
Vice Chair Cain called the meeting to order at 6:30 PM.

Present:
Vice Chair Jason Cain
Board Member Joseph Branch
Board Member Peter Bratt
Board Member James Lysaught
Alderman Kathleen Schneider
Alternate Alderman Brian Parrish **-- Absent**
Board Member Breanne Plier **-- Absent**
Board Member Anton Usowski **-- Absent**
Board Member Gerald Vite **-- Absent**

Also present were Parks and Forestry Superintendent Gies, Director of Community Development Tolleffson, and Administrative Assistant Deuster.

2) Approval of Meeting Minutes

a. October 20, 2021 Minutes

RESULT:	**Approved [Unanimous]**
MOVED BY:	Board Member Lysaught
SECONDED BY:	Board Member Branch
AYES:	Cain, Branch, Bratt, Lysaught, Schneider

3) Discussion Item

Discussion and Possible Action

a. Kueny Architects Lemke Park Space Needs Assessment

Parks and Forestry Superintendent Gies stated this is a preliminary discussion for the needs assessment and included the design from Kueny Architects. Some changes mentioned were number of bathrooms, reduction in amount of picnic tables on the south side of the building where the overhang will be, an inquiry on rental of storage area or storage units in the park and the potential for bricks to be purchased in the space between the existing pavilion and the new bathroom/storage area.

In December there will be a public information meeting with Kueny Architects to discuss the design at Lemke Pavilion.

b. 6855 : Ulao Creek Neighborhood Linear Park - Does the board agree on the general conceptual design layout for the East Growth/Ulao Creek Trail System?

Director of Community Development Tollefson opened up the discussion looking for the board to vote on two items.

Does the board agree on the general conceptual design layout for the East Growth/Ulao Creek Trail System?

Should the proposed trail system be considered a City Park/Open Space (Linear Park)?

The board discussed maintenance, updating the 2024 Park and Open Space Plan to include more Linear Parks specifically the East Growth/Ulao Creek. They discussed having the development agreements be brought back to the board for review and add any comments.

Following discussion the board ruled in favor of both items.

RESULT:	**Approved [Unanimous]**
MOVED BY:	Alderman Schneider
SECONDED BY:	Board Member Lysaught
AYES:	Cain, Branch, Bratt, Lysaught, Schneider

c. Should the proposed trail system be considered a City Park/Open Space (Linear Park)?

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Board Member Lysaught
SECONDED BY:	Board Member Bratt
AYES:	Cain, Branch, Bratt, Lysaught, Schneider

d. Capital Improvement Project (CIP) List

Parks and Forestry Superintendent Gies provided the board with an updated Capital Improvement Project, stating the Rotary Fishing Pier would be a 2022 project with the Rotary Club. The board discussed adding fishing spots at Trinity Creek and approval of the list.

RESULT:	**Approved [Unanimous]**
MOVED BY:	Board Member Lysaught
SECONDED BY:	Alderman Schneider

AYES:	Cain, Branch, Bratt, Lysaught, Schneider

e. Rotary Park Fishing Pier

RESULT: **Approved [Unanimous]**
MOVED BY: Alderman Schneider
SECONDED BY: Board Member Lysaught

AYES:	Cain, Branch, Bratt, Lysaught, Schneider

f. Ozaukee County Natural Resources Grant for OIT

Parks and Forestry Superintendent Gies informed the board of a Grant Ozaukee County Parks/Planning was applying for that would fund the repairs and updates of the Ozaukee Interurban Trail.

RESULT: **Approved [Unanimous]**
MOVED BY: Board Member Lysaught
SECONDED BY: Board Member Cain

AYES:	Cain, Branch, Bratt, Lysaught, Schneider

4) Parks and Forestry Superintendent Report

a. 2021 Work Plan

Parks and Forestry Superintendent Gies provided the board with the 2021 Work Plan.

5) Adjourn

a. Motion to Adjourn at 8:03 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Board Member Lysaught
SECONDED BY: Board Member Branch

AYES:	Cain, Branch, Bratt, Lysaught, Schneider

Respectfully Submitted,

Casey Deuster
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Department of Community Development
Taped and Televised

PLANNING COMMISSION
Regular Meeting
Monday, December 13, 2021
6:00 PM
Christine Nuernberg Hall
Minutes

1) Call to Order, Roll Call

Present:
Chair John Wirth
Alderman Robert Strzelczyk
Commissioner Gregg Bach
Commissioner Martin Choren
Alternate Joe Goldberger
Alternate Stephanie Hawley
Commissioner Rick Lemke
Commissioner James Schaefer
Commissioner Rebecca Schaefer
Commissioner John Stoker
Commissioner Dan Gentges - **Absent**

Mayor Wirth called the meeting to order at 6:00 p.m.

a) Approval of Meeting Minutes from November 22, 2021.

Action
Ald. Strzelczyk made a motion to approve the meeting minutes from November 22, 2021. Commissioner Stoker seconded the motion.
A voice vote was taken; vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	John Stoker, Commissioner
AYES:	Wirth, Strzelczyk, Bach, Choren, Lemke, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Gentges

2) Consent

a) Chaput Land Surveys for Kellner Highland Property, LLC. The applicant is seeking certified survey map approval for a 4-lot land division for the property located at 4550 W. Highland Road.

b) Berengaria Development for BMSL Mequon Invest LLC. The applicant is seeking approval of a previously approved land division to create four lots south of 11104 N Oriole Lane since the deadline to record the certified survey map has passed. The land division was previously approved on March 22, 2021. No changes are proposed.

Action
Ald. Strzelczyk made a motion to approve the two consent agenda items.
Commissioner Stoker seconded the motion.
A voice vote was taken; vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Robert Strzelczyk, Alderman
SECONDER:	John Stoker, Commissioner
AYES:	Wirth, Strzelczyk, Bach, Choren, Lemke, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Gentges,

3) Regular Business

a) Patricia and George Kashou. The Planning Commission may review a request to amend its approval of the certified survey map from September 27, 2021, for the property located at 10425 N. Granville Road to remove the requirement for a share driveway.

Action
Ald. Strzelczyk made a motion to reconsider the item regarding the shared driveway at 10425 N. Granville Road.
Commissioner Stoker seconded the motion.
A roll call vote was taken; vote passed (8-0)

Asst. City Eng. Cole McCraw stated that the applicant was in front of the Commission on September 27, 2021 for a CSM approval. Staff had recommended that lots 2 & 3 share a driveway access with an ingress/egress easement. After the approval the applicant requested that the condition be reconsidered. The original recommendation from staff was based on traffic safety. He stated that if the Commission reconsiders the approval of this condition, the applicant will still be required to meet the driveway spacing requirements.

Mayor Wirth stated that a shared driveway is not typically required and he does not support this requirement as there is potential for disagreements amongst neighbors. He does not believe there is heavy traffic in that area and it is not an area where there will be new development. He supports this reconsideration.

The applicant, George Kashou, stated that the lots are 325 feet wide by 650 deep; 5-acre lots. He added that he does not believe this condition should be required and that it creates a hardship to selling the lots and creates potential conflict. He stated there is not a traffic safety issue.

Action
Commissioner Becky Schaefer made a motion to remove condition #6 from the original approval requiring a shared driveway and that the driveway spacing, per code is required.
Ald. Strzelczyk seconded the motion.
A roll call vote was taken; vote passed (8-0)

RESULT:	**APPROVED [8 TO 0]**
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	Robert Strzelczyk, John Stoker
AYES:	Wirth, Strzelczyk, Bach, Choren, Lemke, J. Schaefer, R. Schaefer, Stoker
ABSENT:	Gentges

4) Policy

1) An Ordinance Creating Section 62-21 of the Mequon Municipal Code Relating to Signs Along Streets and on Public Property

City Attorney Brian Sajdak showed a presentation which explained some of the background and the new proposed sign code:

- Previous 1st Amendment Law: Content-Neutral (not taking sides).
- Changed by Supreme Court in Town of Gilbert: can't read sign to determine what type of sign it is.
- Wisconsin Institute of Law & Liberty ("WILL"): last summer issued a letter to the Common Council that our sign code is unconstitutional and threaten litigation (regarding the recall petitions and signs associated). In response, the Council suspended enforcement of the non-commercial components of the sign code while staff and Attn. Sajdak reviewed the sign code to determine if parts were unconstitutional and if so, to correct them.

Attn. Sajdak explained that during the recall election there were many calls made to staff regarding signs being placed everywhere and that some regulation is needed. There is now a proposed code specially addressing political signs on private property including the right-of-way ("ROW"). He stated that the rest of the sign code is continuing to be worked through and will be presented to the Commission once it is ready.

Mayor Wirth explained that another complaint is the city's prohibition on signs in public spaces, except as approved by the city. According to the Supreme Court, this causes the city to not be content-neutral and therefore the ordinance is unconstitutional.

City Attn. Sajdak stated 3 types of locations are regulated:

1. **Street Reserved Area**: Physical street, path, sidewalk or if there is no sidewalk or path; 15 feet from the physical pavement. Signs are generally prohibited with the exceptions:
    - Traffic signs & street signs.
    - Warning signs and temporary emergency signs.
    - Entrance signs to the city.
    - Signs designating historical landmarks, naming neighborhoods and notifying the public of designations bestowed upon the city.
    - Adopt a street program signs.
    - Signs required by federal or state law.
    - Railroad & Utility signs for safety purposes.

2. **Other Public Property:** All city owned land, parks, ROW not part of Street Reserve Area. Also included:
    - American flags.
    - Names of buildings.
    - Park signs.
    - Voting signs.
    - City drop box.
    - Signs noting donors/contributors.
    - Signs required by other agencies.
    - Athletic field advertisers.
    - Tombstones.
    - Directional signs, maps or signs identifying features of interest on city property.

3. **Free Area:** 50-feet north of Gateway Monument and 25-feet East of the Street Reserved Area of Cedarburg Road. Free speech zone. Anyone can put a ground sign in this area, with the following exceptions:
    - No commercial messages/advertising.
    - Signs cannot be installed within 5-feet of the face of any other sign in the area.
    - Only one or any sign may be installed.
    - Cannot be greater than 63 square feet in size.
    - Cannot be a height greater than 7-feet.
    - All ground signs shall be removed during those hours that the electronic message board is turned off.

The Commission expressed some concerns regarding the free area; the amount of signs allowed, the allowable sign size, how the area will look and the enforcement of this area. There was discussion about the city message board and who should be allowed to post messages on it. Some Commissioners expressed their feelings of disapproval of the new sign code while understanding the necessity for it.

Mayor Wirth stated that the free area concept is being done around the country and is not an unique concept to Mequon. He stated that the proposed code is very clear and eliminates decisions to be made by governing bodies and staff.

City Attn. Sajdak stated he will continue to watch the courts and amendments will be made as needed.

Action
Commissioner Lemke made a motion recommend the proposed sign code to the Common Council.
Commissioner Hawley seconded the motion.
A roll call vote was taken; vote passed (6-2) (No: Becky Schaefer, Jim Schafer).

RESULT:	**APPROVED [6 TO 2]**
MOVER:	Rick Lemke, Commissioner
SECONDER:	Stephanie Hawley, Alternate
AYES:	Wirth, Strzelczyk, Choren, Hawley, Lemke, Stoker
NAYS:	R. Schaefer, J. Schaefer
ABSENT:	Gentges

5) Announcements

Mayor Wirth reminded the Commission that the 2022 meeting calendar was included in the packet.

6) Adjourn

Action
Commissioner Choren made a motion to adjourn the meeting.
Commissioner Becky Schaefer seconded the motion.
A voice vote was taken; vote passed (8-0)

Respectfully Submitted,

Jac Zader

City of Mequon

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Office of the City Administrator

PUBLIC WELFARE COMMITTEE
Tuesday, December 14, 2021
6:00 PM
Lower Conference Room

Minutes

1) Call to Order, Roll Call

Present:
Chair Mark Gierl
Alderman Glenn Bushee
Alderman Kathleen Schneider

Also Present: Mayor Wirth, City Attorney Sajdak, Building Inspections Supervisor Hadley, Assistant Director of Community Development Zader, Assistant City Administrator Schoenemann, City Clerk Fochs, Fire Chief Bialk, Deputy Fire Chief Zellmann, Executive Assistant Enea, Amber Schroeder, and other interested parties.

2) Approval of Meeting Minutes
   a. October Minutes

3) Ordinances

Action requested: review and recommend approval

a. **ORDINANCE 2021-1610** An Ordinance Amending Section 2-19 of the Mequon Municipal Code, Providing for Electronic Meeting Attendance by Members of the Common Council

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Bushee
SECONDED BY: Alderman Schneider

AYES:	Gierl, Bushee, Schneider

b. **ORDINANCE 2021-1611** A Charter Ordinance Amending Provisions of the Mequon Municipal Code that Establishes the Planning Commission, to Allow for Electronic Meeting Attendance

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Schneider
SECONDED BY: Alderman Bushee

AYES:	Gierl, Bushee, Schneider

4) Discussion Items

a. Pool Fence and Cover Requirements

Building Inspections Supervisor Hadley began the conversation by saying that it is has been brought to the City's attention that a homeowner wants to eliminate the fencing requirement around pools, deeming that pool covers are enough. City staff does not support eliminating the fencing requirement due to safety concerns. The homeowner, Amber Schroeder, was present and thinks the ordinance is archaic because pool covers are now more technologically advanced than they once were. She claims they are safer because they can only be opened with a code and are strong enough for an elephant to walk over. She looked up other municipalities and found that River Hills, Sturgeon Bay, Wales, Stevens Point, Howard, Grafton, Green Bay, Kohler, and the Town of Cedarburg do not require fencing. Wausau is reviewing their code and do allow variances. A lot of other municipalities said they hadn't reviewed their policy in a long time. A discussion then ensued regarding enforcement. City Attorney Sajdak stated that another one of his communities looked into changing their pool fencing ordinance in lieu of pool covers and will bring those specifics to its next meeting.

b. Fire Pits Discussion

Resident Schroeder began the discussion by explaining how she is the President of her neighborhood's HOA. Residents are required to submit patio plans to be approved by the HOA and many include built-in fire pits. The current ordinance requires fire pits to be 75 feet away from homes. Commercial devices, patio hearths, and barbeque grills are exempt. The Committee agreed that the current ordinance is vague and could be clarified. They will continue discussion at the January meeting.

RESULT: **Tabled [Unanimous]**
MOVED BY: Alderman Schneider
SECONDED BY: Alderman Bushee

AYES:	Gierl, Bushee, Schneider

c. Architectural Review Board Procedures

Building Inspections Supervisor Hadley shared a chart of neighboring municipalities and how many members are on their architectural board, if they have one. Mequon has 23 members and the City has to find 10-12 new members each year. The Committee discussed reducing the size to 5-7 and not needing district representation. Also, are there certain items that don't even need to go to the board? The Committee and staff will discuss again at January's meeting.

5) Resolutions

Action requested: review and recommend approval

a. **RESOLUTION 3898** A Resolution Designating Polling Sites in the City of Mequon Based on the Approved 2022 Aldermanic Districts

RESULT: **Approved by Voice Acclamation [Unanimous]**

MOVED BY: Alderman Schneider
SECONDED BY: Alderman Gierl

AYES: Gierl, Schneider
NOT PRESENT: Bushee

6) Information Items
   a. Work Calendar

   All discussion items from this meeting will be on January's agenda.

7) Next Meeting Date and Time
   a. January 11, 2022 at 6:30 P.M.

8) Adjourn

Alderwoman Schneider moved to adjourn at 7:10 P.M. Alderman Gierl seconded.

Respectfully Submitted,

Carrie Enea
Executive Assistant

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Public Works/Engineering
Taped and Televised

SEWER UTILITY DISTRICT COMMISSION
Tuesday, December 14, 2021
7:30 PM
Christine Nuernberg Hall

Minutes

1) Call to Order, Roll Call
Commissioner Wirth called the meeting to order at 7:32 PM.

Present:
Commissioner John Wirth
Commissioner Robert Strzelczyk
Commissioner Glenn Bushee
Commissioner Dale Mayr
Commissioner Jeffrey Hansher
Commissioner Mark Gierl
Commissioner Brian Parrish
Commissioner Kathleen Schneider
Commissioner Andrew Nerbun

Also present were City Administrator Jones, City Attorney Sajdak, Director of Public Works/City Engineer Lundeen, Deputy Director of Utilities Driscoll, and Administrative Assistant Deuster.

2) Approval of Meeting Minutes

a. November 9, 2021 Minutes

RESULT:	**Approved [Unanimous]**
MOVED BY:	Commissioner Strzelczyk
SECONDED BY:	Commissioner Schneider
AYES:	Wirth, Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

3) Resolutions
Action requested: review and recommend approval

a. **RESOLUTION 3907** A Resolution Awarding a Contract to Rehabilitate Sanitary Sewer Mains in the Riverdale Park and Riverland Drive Lift Station Areas to Visu-Sewer, Inc. of Pewaukee, Wisconsin in the Amount of $343,655

RESULT:	**Approved [Unanimous]**
MOVED BY:	Commissioner Strzelczyk
SECONDED BY:	Commissioner Bushee
AYES:	Wirth, Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

b. **RESOLUTION 3906** A Resolution Awarding a Contract for Inspection and Construction Management Services on the Rehabilitation of Sanitary Sewer Mains in the Riverdale Park and Riverland Drive Lift Station Areas to raSmith of Brookfield, Wisconsin in the Amount of $60,620

RESULT:	**Approved [Unanimous]**
MOVED BY:	Commissioner Nerbun
SECONDED BY:	Commissioner Schneider
AYES:	Wirth, Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

c. **RESOLUTION 3908** A Resolution Awarding a Contract for the Rehabilitation of Seventy-One (71) Sanitary Sewer Manholes to National Power Rodding of Chicago, Illinois in the Amount of $61,408

RESULT:	**Approved [Unanimous]**
MOVED BY:	Commissioner Hansher
SECONDED BY:	Commissioner Bushee
AYES:	Wirth, Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

d. **RESOLUTION 3905** A Resolution Awarding a Contract for the Preparation of Contract Documents Related to Sewer Lateral Work in the Riverland Drive and Riverdale Park Lift Station Areas to raSmith of Brookfield, Wisconsin in an Amount Not-to-Exceed $65,000

RESULT:	**Approved [Unanimous]**
MOVED BY:	Commissioner Mayr
SECONDED BY:	Commissioner Schneider
AYES:	Wirth, Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

4) Adjourn

a. Motion to Adjourn at 7:33 PM.

RESULT:	**Approved by Voice Acclamation [Unanimous]**
MOVED BY:	Commissioner Schneider
SECONDED BY:	Commissioner Mayr
AYES:	Wirth, Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun

Respectfully Submitted,

Casey Deuster
Administrative Assistant

City of Mequon

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www.ci.mequon.wi.us **Office of Community Development**

TO: **Common Council**
FROM: **Kim Tollefson, Director of Community Development**
DATE: **February 8, 2022**
SUBJECT: **ORDINANCE 2022-1617 An Ordinance Amending Chapter 2, Article IX, Division 2 of the Mequon Municipal Code Related to the Membership of the Architectural Board**

Background

At the request of Mayor Wirth, and in connection with an outside analysis of the Community Development Department completed last year, an assessment of the Architectural Board's membership structure was completed and presented at the Public Welfare Committee meeting in December. Changes were drafted and resubmitted to the Public Welfare Committee at its January meeting. Proposed changes were accepted, and a recommendation was made to approve the proposed ordinance amendments, which result in a change to Chapter 2, Article IX, Division 2 of the Mequon Municipal Code.

Analysis

The approved recommendations limit the board to seven regular members and two alternates. No more than two regular members shall be from one aldermanic district to ensure diversity of membership and varying character within the City. After reviewing other municipalities' membership provisions and other Mequon boards, it was determined that seven members constitutes an ideal number. The current ordinance only allows district representatives to vote on their respective district submittals, therefore, when representatives leave a meeting after their district's review is done, it can lead to the Board losing its quorum.

Fiscal Impact

This proposed change is fiscally neutral.

Recommendation

The Public Welfare Committee recommended approval at its meeting on January 11, 2022, by a vote of 3-0.

Attachments:
Exhibit A Arch Board Municipal Comparisons (DOCX)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2022-1617

An Ordinance Amending Chapter 2, Article IX, Division 2 of the Mequon Municipal Code Related to the Membership of the Architectural Board

RECITALS

A. The Common Council previously adopted Chapter 2, Article IX, Division 2 of the Municipal Code which establishes the Architectural Board.

B. Upon the recommendation of the Mayor, the Common Council desires to amend the provisions related to the Architectural Board so as to reduce the membership from a potential total of 15 members to a membership of 9.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Section 2-443 of the Municipal Code is amended to read as follows (NOTE: Added text is underlined; Deleted text is ~~struck through~~):

Sec. 2-443. - Membership.

(a) The board shall consist of seven ~~five voting~~ citizen members, at least one of whom shall be a registered architect or experienced home designer, and two alternate citizen members. No more than two citizen members shall be from one aldermanic district. ~~These five members shall be known as "at-large members."~~

(b) ~~There shall be a reserve panel consisting of two residents from each aldermanic district. A reserve panel member shall vote only on proposals which are located within his or her aldermanic district. The two reserve panel members from each district shall not be appointed in the same year.~~ The mayor shall nominate the seven citizen members and two alternate citizen members.

~~(c) The mayor shall nominate the five at-large members and the reserve panel.~~

SECTION II

Section 2-446 of the Municipal Code is amended to read as follows (NOTE: Added text is underlined; Deleted text is ~~struck-through~~):

Sec. 2-446. - Deviation from general provisions.

Section 2-425(a) shall not apply to the board. A quorum shall consist of four members~~, at least two of whom shall be at-large members~~.

Section 2-430 shall not apply. A quorum shall be required to be physically present to transact business or to take any action on any agenda item on the meeting's agenda.

SECTION III

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION IV

All ordinances and parts of ordinances in contravention to this ordinance are repealed.

SECTION V

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

____
Approved by: John Wirth, Mayor

Date Approved: February 8, 2022

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on February 8, 2022.

____
Caroline Fochs, City Clerk

Published: __________________________

Exhibit A

ARCHITECTURAL BOARD – MUNICIPALITY COMPARISONS

MUNIPALITY	FEE	BOARD – MEETING TIMES	GUIDELINES	NO. OF MEMBERS / APPOINTMENTS/ TERMS
BROOKFIELD	$ 0.00	No Review Board	None	No Architectural Board – Project plans, construction drawings, erosio control plans, and surveys need to be submitted with a Building Permit Application for staff review by our Engineering, Zoning Department, and lead Building Inspector.
BROWN DEER	$ 70.00	Building Board – X2/Month; 1st & 3rd Mondays	Yes	5-Members; three of whom shall be architects or building designers. At least two members of the building board shall be village residents. Appointments are made by the village president annually in April, subject to approval by the trustees. The terms shall be for two years.
CEDARBURG	$ 110.00	Planning Commission – X1/Month; 1st Monday	Yes	7-Members; Mayor, one Council Member and five citizens. The Common Council elect one of its members as a member of the City Plan Commission for a period of one year and five citizen members shall be appointed by the Mayor and confirmed by the Common Council to hold office for a period ending respectively one, two and three years thereafter from the succeeding first of May.
FRANKLIN	$ 50.00	Architectural Board – X2/Month; 2nd & 4th Thursdays	Yes	8-Members; six regular and two alternate members. The Building Inspector is an Ex-Officio member. Members are residents of the City of Franklin appointed by the Mayor and approved by the Council. The terms are staggered for 3-year periods.

Exhibit A

GERMANTOWN	$ 0.00	Building Construction Oversight Committee - Dates & Times Vary	Yes	4-Members; two village trustees, whose committee terms shall be coterminous with their terms as Trustees. A member of the public residing in the Village, who shall possess recognized or demonstratec architectural, or construction management skills and whose term sha expire 2 years from the first day of May. The agency chief or department director for the affected Village agency or department and the chairperson of the committee shall be designated from amor the confirmed committee members by the Village President. Then Committee may call upon the services of the Village Building Inspector or the Village Engineer in a consulting capacity.
GRAFTON	$ 50.00	Architectural Board – X1/Month; 2nd Wednesday	Yes	5-Members; members are residents of the Village appointed by the Village President and the Board elects the Chairman. Terms are for three-year periods.
MENOMONEE FALLS	$ 150.00	No Review Board	Yes	Menomonee Falls doesn't require an Architectural Control Board appearance for new single-family homes in Menomonee Falls. Project plans, construction drawings, erosion control plans, and surveys need to be submitted with a Building Permit Application for staff review by our Engineering, Zoning Department, and lead Buildin Inspector.
MEQUON	$ 116.00 $ 104.00	Architectural Board – X1/Month; 2nd Monday	Yes	23 Members; Term renews every 3 years. See attached list.
OAK CREEK	$ 0.00	No Review Board	Yes	No Architectural Board – Project plans, construction drawings, erosio control plans, and surveys need to be submitted with a Building

Exhibit A

				Permit Application for staff review by our Engineering, Zoning Department, and lead Building Inspector.
RIVER HILLS (Fees Vary)	$ 450.00	Building Board – X1/Month; 3rd Monday	Yes	9-Members, residents of the Village , who shall be appointed by the Village President. Terms shall be staggered for 3-year periods, the Board shall elect its Chair and the Village Manager, or his designee shall act as secretary.
SHOREWOOD	$ 60.00	Design Review Board – X2/Month; 2nd & 4th Thursday	Yes	9-Members; consisting of two architects, two additional architects or other design professionals, one real estate broker, and four additiona members, all Shorewood residents. In addition, three former members of the Design Review Board serve as alternate members. Four members are required for a quorum. All appointments are 3 years and must be staggered.
WHITEFISH BAY	$ 100.00	Architectural Review Commission - X2/Month; 1st & 3rd Thursday	Yes	11-Members; consisting of seven citizens residing in the Village along with four alternate members all who are appointed annually by the Village President and confirmed by the Village Board. The designatio of the Chair shall be made by the Village President and confirmed by the Village Board and the Village Manager or Assistant Engineer shall serve as a nonvoting Executive Secretary of the Board. All appointments are 3-year terms.

City of Mequon

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www.ci.mequon.wi.us **Office of Community Development**

TO: **Common Council**
FROM: **Kim Tollefson, Director of Community Development**
DATE: **February 8, 2022**
SUBJECT: **ORDINANCE 2022-1618 An Ordinance Creating Section 10-26 of the Mequon Municipal Code, Related to Residential Swimming Pools**

Background

The City presently adopts the Uniform Building Code with respect to the installation of swimming pools. The State Code presently requires fences for all non-temporary pool installations. Recently, a resident approached the Public Welfare Committee to request that the City consider amending the Municipal Code to allow for automatic pool covers in lieu of fences for residential pools. Following discussion at its December meeting, the Committee requested the preparation of proposed ordinance amendments to allow for these covers to be used as an alternative to a fence.

Discussion

According to the Centers for Disease Control and Prevention (CDC), drowning is the leading cause of unintentional death for 1- to 4-year-old children. Each year, nearly 300 children under age 5 drown in swimming pools. Many of these young victims could be saved if homeowners fenced in their pools completely and installed gates with self-closing and self-latching devices. For childproofing pools, the CDC follows the guidelines of the U.S. Consumer and Product Safety Commission (CPSC).[1]

The CPSC published Safety Barrier Guidelines for Residential Pools, a set of guidelines written to prevent injuries and deaths around pools.[2] These guidelines center on keeping children from entering the pool area when unaccompanied by a supervising adult. The CPSC concludes that fences provide the best level of protection. When it considered pool covers, the CPSC notes that they would be beneficial for adding an additional layer of protection.

Notwithstanding the CSPC's recommendation, the International Code Council (ICC) and the Association of Pool & Spa Professionals (APSP) developed a set of swimming pool-related building codes called the International Swimming Pool and Spa Code (ISPSC). The 2015 version of the ISPSC allows for an automatic pool cover in lieu of a fence for all inground pools and spas.[3] As of 2019, 10 states have adopted the ISPSC for use state-wide and 10 states have adopted the ISPSC for use as determined by local authorities.[4] Wisconsin has not adopted the

[1] https://www.cdc.gov/nceh/publications/books/housing/cha14.htm
[2] https://www.poolsafely.gov/wp-content/uploads/2017/08/Safety-Barrier-Guidelines-Pub-2017.pdf
[3] https://codes.iccsafe.org/content/ISPSC2015/chapter-3-general-compliance
[4] https://www.iccsafe.org/wp-content/uploads/April-2019-APSP-ISPSC-Adoption-Sheet-Map-002.pdf

ISPSC in any capacity for state-wide use. With that said, there are a handful of municipalities across the state of Wisconsin that have allowed for automatic pool covers.

To be clear, staff's recommendation is that pool covers alone should not be allowed. The available data shows that fences provide the best level of safety in all circumstances. Further, enforcement becomes a challenge. With a fence, it is easy to determine whether the fence is solid and without gaps, whether the gate has closed and/or whether the latch is working. With pool covers, there is significant grey area. Certainly, it can be determined whether the cover is operation or not, just as you can determine whether the latch works. However, the latch is required to be self-locking – it works automatically. A pool cover does not close automatically. It needs to be operated by the physical controls. Accordingly, staff cannot ensure that the cover is actually used. An owner could install the cover and then proceed to leave it open 24-7, which provides zero protection from drownings. The proposed ordinance includes the requirement of additional safety measures when using a cover, but these safety measures are designed to be secondary to physical access restrictions like a fence.

Attempts to include operational requirements are also difficult to enforce. For example, the City could require the cover to be closed when there is no adult present to supervise the pool. Or establish a time threshold — it needs to be closed when there is no use of the pool for more than 15 minutes. But each of these restrictions is impossible to enforce. If a neighbor calls and says there is no adult present, staff would need to physically observe the lack of an adult before a citation could be issued. Between the time of the call and the time staff could arrive, the presence of an adult would likely change. Or what if the owner of the pool says they are supervising by watching from inside the house through a window.

One part of the discussion from December's meeting addressed situations where a pool has a fence on three sides but uses the wall of the residence for the fourth enclosing side. One of the purposes of regulating pool safety is to prevent neighboring children from drowning by being drawn to an unattended pool (the so-called attractive nuisance). However, recognize that one CSPC study found that some 75% of incidents involve pools owned by the victim's family. Accordingly, the proposed ordinance also includes language addressing this circumstance and requires additional safety features to address the risk posed in these circumstances.

The CPSC acknowledges that "[b]arriers are not childproof, but barriers do provide layers of protection for a child when there is a lapse in adult supervision." Therefore, the City's Code should ensure that there are appropriate levels of protection surrounding a pool for children. Because fences appear to provide the best protection, the proposed ordinance defaults to requiring a fence. However, it also provides the opportunity to utilize a powered pool cover provided that the pool is also equipped with an alarm and one additional safety measure. Lastly, irrespective of any local codes, remember that subdivision covenants and homeowner's/liability insurance requirements may dictate more stringent protection than Mequon's Municipal Code requirements.

<u>Update - February</u>

Following the Public Welfare Committee meeting in January, the proposed ordinance reflects the two changes that were highlighted during the meeting. First, the proposed ordinance now has the standard form of an ordinance instead of having just specific code language for review.

Second, with respect to pool covers (Section (d)(3) of the proposed ordinance), a change was made to require the cover to be closed when the pool is not actively in use by swimmers or, if not actively in use, where there is a responsible individual within 15 feet of the pool. This would address situations raised by the Committee where either (a) there are teenage children using the pool without adult supervision and (b) where the pool is being “used” for aesthetic or other purposes (e.g., where a party is being held on the property, but nobody is actively swimming because they are eating, sunbathing, relaxing, etc.) but is still supervised. As discussed before the Committee, this langue creates difficulty when it comes to enforcement. Identifying whether a “responsible individual” is present at any specific point in time is virtually impossible, which makes the requirement effectively aspirational as opposed to something that can be enforced. Staff continues to believe that fencing is the best alternative.

Recommendation

A recommendation is forthcoming from the Public Welfare Committee on February 8, 2022.

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2022-1618

An Ordinance Creating Section 10-26 of the Mequon Municipal Code, Related to Residential Swimming Pools

RECITALS

A. The Common Council previously adopted the Wisconsin Uniform Building Code which, among other things, regulates the installation of swimming pools.

B. According to the Centers for Disease Control and Prevention (CDC), drowning is the leading cause of unintentional death for 1- to 4-year-old children - each year, nearly 300 children under age 5 drown in swimming pools.

C. The Common Council, having reviewed the regulations related to such installations, has determined that the City should adopt specific standards related to the installation of residential swimming pools to allow for the use of automatic safety covers in lieu of fences.

D. The regulation of the installation of residential swimming pools furthers the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Section 10-26 of the Mequon Municipal Code is created to read as follows:

10-26 - Residential Swimming Pools.

No person shall construct, install or enlarge a residential swimming pool not enclosed in a permanent building within the city except in accordance with the following regulations.

(a) Definitions.

(1) "Swimming pool" means any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent and either above or below the ground, in which water more than 18 inches deep is contained and which is used primarily for the purpose of bathing or swimming. "Swimming pool" includes a spa, hot tub, and

temporary pool unless otherwise specifically excluded within this section.

(2) "Temporary pool" means any swimming pool that has a surface area of less than 314.159 square feet (20-foot diameter) which is installed for any length of time less than four (4) months, and which is installed after May 1 and removed by September 30 in the same year.

(3) “Power safety cover” means a barrier which can be placed over the water area of a pool and removed with a motorized mechanism actuated by a suitable control mechanism that provides a high level of safety for children under the age of five by inhibiting their access to the water and is certified to meet the standards of American Society for Testing and Materials (ASTM) specification 1346-91.

(4) “Decorative” as applied to fences means that a fence is made of PVC, wrought iron, or aluminum pickets, or is a painted or stained shadow-box or board-on-board type fence, or similar design as approved by the Department of Community Development. Decorative shall not include chain link, snow or other temporary fencing.

(5) “Responsible individual” means a person that is at least 15 years of age.

(b) Permit.

(1) Required. No person shall construct, install, enlarge or alter any private swimming pool unless a permit therefore has first been obtained from the Building Inspector. A temporary pool shall be exempt from this permit requirement.

(2) Application. The following information shall be required:

a. Survey or accurate drawing of the property, in duplicate, showing all existing structures, proposed swimming pool or spa location, fencing if required, and overhead or underground electrical wiring.

b. Type of pool installation, above ground or in-ground.

c. Pool height above highest point of grade if above ground installations.

d. Type and height of fence, if proposed.

e. Type and support of decking, if proposed.

f. Type and location of safety features to be installed, if proposed.

g. Overall size and locations of the above in regard to existing buildings and lot lines for property survey reference.

h. Any change in finished grade near pool.

i. County Health Department approval for properties using a private septic system, where applicable.

j. Site inspection letter from a local wiring utility.

k. Two (2) copies of brochure which shows the type, style, etc. of the swimming pool and safety features to be installed.

(c) Construction Requirements.

(1) No swimming pool shall be located, erected, constructed or maintained within any front yard or closer to any side or rear lot line than allowed by Chapter 58 for permitted accessory structures, and the waterline of any swimming pool shall not be less than 4 feet from any lot line, wall, fence, structure or building.

(2) No connection shall be made to the sanitary sewer or septic system.

(3) Gaseous chlorination systems shall not be used for disinfecting swimming pool waters.

(4) Swimming pools shall be located from well and septic systems in accordance with the Wisconsin State Plumbing Code, Wis. Admin. Code § SPS 383.

(d) Fences or Other Safety Measures.

(1) All non-temporary swimming pools not enclosed within a permanent building shall be completely enclosed by a decorative fence of sufficient strength to prevent access to the swimming pool, not less than four (4) feet in height and so constructed as not to have voids, holes or openings larger than four (4) inches in one dimension. No fence shall be located, erected, constructed or maintained closer than four (4) feet to a swimming pool. Gates or doors shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use. Latches shall be located at least three (3) feet above the ground, accessible deck or stairs. Temporary non-decorative fencing may be approved by the Department of Community Development for a period not to exceed 30 days where necessitated by construction and or

safety concerns.

(2) The wall of the house or building facing a swimming pool may be incorporated as a portion of the fence required under paragraph (1) above provided that the swimming pool is equipped with at least one of the following:

a. Removable mesh fencing that meets the standards of ASTM Specification F2286 in conjunction with a gate that is self-closing and self-latching and can accommodate a key lockable device.

b. Exit alarms on all doors within a residence that provide direct access to the swimming pool or spa. The exit alarm may cause either an alarm noise or a verbal warning, such as a repeating notification that “the door to the pool is open.”

c. A self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor on all doors of a residence providing direct access to the swimming pool or spa.

(3) In lieu of a fence under paragraph (1) above, a swimming pool may utilize a power safety cover provided that such cover is in working order, is closed at all times where the pool is not in use by swimmers or not under the supervision of a responsible individual that is outside and within fifteen (15) feet of the pool, and that the pool is also equipped with:

a. An alarm that, when placed in a swimming pool or spa, will sound upon detection of accidental or unauthorized entrance into the water. The alarm shall meet and be independently certified to the ASTM Standard F2208 “Standard Safety Specification for Residential Pool Alarms,” which includes surface motion, pressure, sonar, laser, and infrared type alarms. A swimming protection alarm feature designed for individual use, including an alarm attached to a child that sounds when the child exceeds a certain distance or becomes submerged in water, is not a qualifying drowning prevention safety feature.

b. And at least one of the following:

i. Removable mesh fencing that meets the standards of ASTM Specification F2286 in conjunction with a gate that is self-closing and self-latching and can accommodate a key lockable device.

ii. Exit alarms on all doors within a residence that provide direct access to the swimming pool or spa. The exit alarm may cause either an alarm noise or a verbal warning, such as a repeating notification that "the door to the pool is open."

iii. A self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor on all doors of a residence providing direct access to the swimming pool or spa.

(4) Above ground swimming pools with platforms and railings that are four (4) feet or more in height above ground and temporary pools are not required to be enclosed as provided in paragraph (1) above; however, all ladders and stairways providing access to such swimming pools shall be removed from the swimming pool or shall be adequately fenced and fitted with gates or folded up and locked to prevent entry when the swimming pool is not in use.

(5) Spas and hot tubs are exempt from the fence requirement under paragraph (a) above provided that such spa or hot tub has a locking safety cover which is certified to meet ASTM specification 1346-91 and which shall be in place and locked when the hot tub or spa is not in use.

(e) Electrical Requirements. All electrical installations shall require separate permits and shall be governed by the City or State Electrical Code.

(f) Pool Lights. If overhead flood or other artificial lights are used to illuminate the swimming pool at night, such lights shall be shielded to direct light only on the swimming pool.

(g) Swimming Pool Decks. All decks shall be constructed in accordance with the Uniform Building Code. Decking shall be considered an integral part of the swimming pool and shall comply with the applicable setback dimensions per the local zoning code.

(h) Drainage. In no case shall any swimming pool be drained onto lands of property owners other than the owner of the swimming pool. Drainage from said lot shall be in accordance with city code.

(i) Use of Swimming Pool. No swimming pool shall be so operated as to create a nuisance, a hazard or an eyesore or otherwise to result in a substantial adverse effect on neighboring properties.

SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This Ordinance shall become effective the day after its publication as provided by law.

____
Approved by: John Wirth, Mayor

Date Approved: February 8, 2022

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on February 8, 2022.

____
Caroline Fochs, City Clerk

Published: ____________________________

City of Mequon

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www.ci.mequon.wi.us **Office of Fire/Ambulance**

TO:	**Common Council**
FROM:	**Brian Sajdak, City Attorney**
DATE:	**February 2, 2022**
SUBJECT:	**ORDINANCE 2022-1619 An Ordinance Amending Chapter 30, Article V of the Mequon Municipal Code Related to Outdoor Burning**

Background

At the December 2021 Public Welfare Committee meeting, the Committee had questions regarding Mequon's current burning ordinance. The current ordinance was drafted when Mequon was much less densely populated, and lot sizes were much larger. The current ordinance was also drafted at a time when Mequon was experiencing a lot of wildland/grassland fires due to the vast amount of open land at the time. Consequently, the Public Welfare Committee asked that the current ordinance be brought back for review and amended in January. At the January meeting, a draft ordinance was reviewed and proposed amendments, a copy of which are attached, were approved.

Analysis

Many homes in the City are adding a variety of fire features to their properties which have gained popularity recently. Many are not following the City's current ordinance requirements because they are unrealistic with current lot sizes and the newer forms of open burning. There are also a number of residents who complain about any type of open burning in their neighborhood and the nuisance it causes.

Fiscal Impact

The financial impact is minimal as many people are likely conducting recreational burns without a permit as is. Nevertheless, there is the possibility of a decrease in the number of burn permits currently being purchased annually. Most of the approximately 500 annual issued burn permits are for open burning.

Recommendation

On January 11, 2022, the Public Welfare Committee approved a recommendation in favor of adopting the proposed ordinance amendments by a vote of 3-0.

Attachments:
Exhibit A - Burn Ordinance (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2022-1619

An Ordinance Amending Chapter 30, Article V of the Mequon Municipal Code Related to Outdoor Burning

RECITALS

A. The Common Council previously adopted Chapter 30, Article V of the Mequon Municipal Code which establishes certain regulations related to open burning within the City.

B. The Common Council desires to amend those regulations to clarify and better reflect current practices and products.

C. The regulation of burning within the City furthers the health, safety and welfare of the community.

BASED UPON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Chapter 30, Article V of the Mequon Municipal Code is amended as shown in the attached Exhibit A (NOTE: Added text is double underlined, deleted text is ~~struck-through~~).

SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This Ordinance shall become effective the day after its publication as provided by law.

Approved by: John Wirth, Mayor

Date Approved: February 8, 2022

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on February 8, 2022.

____
Caroline Fochs, City Clerk

Published: ____________________________

ARTICLE V. OPEN AND RECREATIONAL BURNING

DIVISION 1. GENERALLY

Sec. 30-111. Procedures for conducting open burning; penalties.

(a) ~~Burning in an approved container.~~ Burning in an approved ~~container~~ location shall be allowed after the issuance of an annual permit by the fire chief or ~~his~~ their duly appointed agent(s). ~~Such burning may be conducted without obtaining daily permission from the fire chief or his duly appointed agent(s), but shall be subject to all other provisions set forth in sections 30-126 through 30-130 of this chapter.~~

(1) The ~~container~~ burn location shall be ~~placed at~~ a minimum distance of at least 75 feet from any structure, wooded area, ~~or~~ public roadway, or combustible materials.

~~(2) The area around the container shall be of such a nature as to prevent the fire from spreading from the container.~~

(3) A responsible person of at least sixteen (16) years of age shall be in attendance at all times when ~~the container is used for~~ burning.

(4) Only those materials identified in section 30-130 shall be burned ~~in the container~~.

(5) The by-products of combustion resulting from burning ~~in a container~~ shall not form a fire hazard or nuisance to neighboring citizens.

(b) The open burning of materials in a pile not to exceed four feet in height and six feet in diameter shall be permitted provided that:

(1) Daily permission, set forth in section 30-129, is obtained.

~~(2) The pile is located a distance of 75 feet from any structure, wooded area or public roadway.~~

(3) The area surrounding the pile shall be of such a nature as to prevent the fire from spreading from the pile.

~~(4) A responsible person shall be in attendance at all times when material is being burned.~~

(5) The responsible party shall ensure that the fire has been completely extinguished at the conclusion of any burning activity or dusk, whichever occurs first.

~~(6) Only materials identified in section 30-130 shall be burned.~~

(7) A source of water or other fire extinguishing equipment shall be readily available to the responsible person attending the fire.

(8) The by-products of combustion resulting from burning ~~in a pile~~ shall not form a fire hazard or nuisance to neighboring citizens.

(9) The fire chief, or ~~his~~ their designee, may allow piles of approved material larger than described in subsection (b) of this section to be burned.

(c) The burning of standing grass for the purpose of establishing and/or maintaining a prairie landscape at a designated and approved site shall be permitted provided that:

(1) The designated and approved prairie site shall be bordered on all sides by a closely mowed area, the width of which shall be determined by the fire department.

(2) The mowed border area shall be a minimum of 75 feet from any structure, fence line, wooded area or public roadway.

(3) In the event that the fire department must be called to extinguish a fire set to establish or maintain a prairie landscape, the property owner shall be charged the reasonable costs of suppression as a special charge or assessment pursuant to Wis. Stats. §§ 66.0627 or 66.0703.

(d) Any person responsible for attending to a fire which escapes confinement or control of the person, such that the ~~city~~ fire department responds to suppress the fire, shall be liable for the actual costs of responding to and suppressing the fire. The liability provided for herein shall be in addition to and independent of any liability for a forfeiture for violation of this section.

DIVISION 2. PERMIT

Sec. 30-126. Required.

Before issuing a permit for open burning or burning in an approved container, the fire chief, or ~~his~~ their designee, shall consider the time, place and manner in which the fire is to be set, the type of material proposed to be burned and such other factors he may deem relevant or necessary for the safe control of such a fire. The fire chief, or ~~his~~ their designee, is authorized to revoke or refuse to issue a permit for the setting or any fire when, in his judgment, the starting of such would endanger the health and safety of persons or property, including crops and structures, within the city. A copy of the general regulations of the fire department for the control and management of such fires may be attached to such permit, or printed thereon, as may be determined to be most feasible.

Sec. 30-127. Annual permit fee.

An annual permit fee to conduct open burning or burning in an approved container shall be established.

Sec. 30-128. Activities exempt.

The following activities shall be exempt from the permit and fee provisions of this chapter:

(1) Fires set by the Mequon fire department for practice and instruction of firefighters, and/or testing of firefighting equipment.

(2) Small open flames for welding, acetylene torching or similar flame devices for commercial or industrial purposes.

(3) ~~Fires set in devices commonly referred to as barbecue grills for the purpose of cooking.~~Cooking fires in grills where the grill is:

a. Fueled by charcoal, wood, or propane;

b. Located a minimum of ten (10) feet of a multi-family structure (three or more units);

c. Not located on a balcony or under any overhanging portion of a structure.

(4) ~~Fires set in manufactured devices commonly referred to as a "patio hearth" constructed of ceramic materials or those of metal construction having an attached cover when burning wood for a recreational fire.~~Fires in a patio hearth, outdoor fireplace, or other similar fire feature subject to the following:

a. The fire shall be placed on and surrounded by non-combustible material

b. Wood burning features shall be at least twenty (20) feet from any structure except that features which are solely fueled by propane or natural gas shall be placed at least ten (10) feet from any structure.

c. Wood burning features shall have all screens and covers in place. The fire shall not be ignited with a flammable or combustible liquid.

d. The fire shall be attended by a responsible person of at least sixteen (16) years of age with a water source or other fire extinguishing equipment readily available.

~~(5) Campfires for cooking, ceremonies or recreation, not contained in devices commonly described as barbeque grills or patio hearths, and being described as a pile of wood not exceeding two feet in diameter shall be permitted provided that:~~

~~a. Daily permission, as set forth in section 30-127 is obtained.~~

~~b. The fire site is located a distance of at least 75 feet from any structure or public roadway.~~

~~c. The area surrounding the fire shall be of such a nature as to prevent the fire from spreading.~~

~~d. A responsible person shall be in attendance at all times when material is being burned.~~

~~e. The responsible party shall ensure that the fire has been completely extinguished at the conclusion of any burning activity.~~

~~f. The by-products of combustion resulting from burning shall not form a fire hazard or nuisance to neighboring citizens.~~

(5) Campfires located on the ground subject to the following:

a. The fire shall be at least twenty-five (25) feet from any structure, wooded area, public roadway or combustible materials.

b. The fire shall not exceed four (4) feet in diameter.

c. The fire shall not be ignited with a flammable or combustible liquid.

d. The flames shall not exceed two (2) feet in height above the ground.

e. The fire shall be attended by a responsible person of at least sixteen (16) years of age with a water source or other fire extinguishing equipment readily available.

Sec. 30-129. Restrictions on permits.

Issuance of permits for the starting, burning, or setting of any fire under this chapter shall be subject to the following:

(1) No permit shall be issued for the starting, burning or setting of any fire at any location within the city that may be within 75 feet of any building or structure, or that shall cause smoke to obscure visibility on a public roadway, or in any location, or at any time where it is reasonable to anticipate that there is a danger of fire spreading in such a manner as to endanger land, crops or structures within the city, whether such land, crops or structures are owned by the person starting the fire or otherwise.

(2) Permitted fires shall not be ignited before dawn and shall be completely extinguished by dusk; with the exception as such activity is permitted pursuant to section 30-128. For purposes of this section, the Dawn/Dusk Table of the Wisconsin Department of Natural Resources shall utilized to determine the times of dawn and dusk.

(3) No permit shall be issued at a site having retail, commercial or industrial zoning or use, except as such activity is permitted pursuant to section 30-128. The fire chief, or ~~his~~ their designee, may grant an exemption for burning at sites zoned for retail, commercial or industrial use if the purpose of the fire is to dispose of small amounts of refuse plant material where burning is the recommended alternative to the application of agricultural chemicals. No material shall be burned which was generated from an off-site location.

(4) After a proper permit for open burning has been obtained, it shall be necessary for the property owner, or his agent, to obtain daily permission from the fire chief or ~~his~~ their duly appointed agent(s) to conduct any open burning, however, this provision does not apply to burning in an approved container, which may be conducted without obtaining daily permission from the fire department.

(5) No permit for burning in an approved container shall be issued unless the container is constructed of a noncombustible material, not to exceed 55 gallons or eight cubic feet in size, closed at all sides and at the bottom. One-inch holes or smaller may be in the bottom and sides to allow air intake for the combustion

process. Over the top shall be a cover or screen with one-half-inch holes or smaller. The container and/or screen shall be discarded and replaced when it deteriorates from use or climatic conditions.

(6) The fire chief shall have the authority to grant a variance to these restrictions on an individual basis after he reviews each request and determines it presents no fire hazard or other problem.

Sec. 30-130. Appropriate materials; prohibited materials.

(a) The following materials may be burned after a proper permit has been obtained:

(1) Dry leaves, dry grass, dry garden residue, small branches or tree limbs.

(2) Standing grass for the purpose of establishing or maintaining a prairie landscape at a designated site.

(b) Materials which shall not be burned include, but are not limited to: wet combustibles, any material containing rubber, garbage, plastic, recyclable materials, wood products containing glues or resins, any material capable of generating black or noxious smoke or any building materials associated with construction, remodeling or demolition.

Sec. 30-131. – Restrictions and Limitations on All Burning

(a) Notwithstanding anything in this article V to the contrary, no burning shall be allowed when either of the following applies:

(1) When the wind velocity exceeds twelve (12) miles per hour as indicated by the National Weather Service.

(2) During periods when the Fire Chief or their Designee, or the Department of Natural Resources has issued a burning ban.

(b) All distances under this article V shall be measured from the edge of the flame to the nearest part of the structure, wooded area, public road or combustible material.

City of Mequon

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www.ci.mequon.wi.us **Office of City Attorney**

TO: **Common Council**
FROM: **Brian Sajdak, City Attorney**
DATE: **January 6, 2022**
SUBJECT: **ORDINANCE 2021-1616 An Ordinance Creating Section 62-21 of the Mequon Municipal Code Relating to Signs Along Streets and on Public Property**

February 2022 Update

Following last month's discussion, the proposed ordinance has been revised. For your consideration is a single version that does not include the "free area" that had been previously discussed as there appears to be little to no support for that concept. The current version as attached makes one significant change, which is that it leans heavily on the government speech doctrine. In short, this doctrine affords governments the right to promote a program, espouse a policy, or take a position. Using this doctrine, the current version authorizes the City to places its own signs on its own property - including on the Gateway's electronic message board. As presented, the City may not promote and specific candidate, referendum position or political party on its signs. Signs that contain, in the words of Sgt. Joe Friday, "just the facts" (date, time and location) of events/programs organized or funded by the City would be allowed with City Administrator approval. Any additional messages would require common council approval. The same would be true of the public library's sign with the exception that the Library cannot use its sign to advocate any political or public policy position. In addition, the proposed ordinance also includes language to address the subdivision signs that were discussed as a missing item last month.

The packet also includes proposed language to address the blue signs that were the topic of considerable discussion last month. This language is a separate document primarily because staff continues to believe these signs should not be allowed. As an introductory note, a preliminary survey of the blue signs within the City conducted by staff reveals that there are in the neighborhood ow two dozen of these signs at various locations. The bulk of these signs are for churches/religious institutions, schools (MATC and Concordia), and parks/trails. Mequon Pizza Company, Liebau Wells, Ozaukee Day Care Center, the River Club and Bear Arms were identified as the only businesses with signs. Certainly the Council could consider a refund to any entitiy that has paid for these signs if they were to be prohibited. Recall also that we discussed that future changes to the remaining pieces of the sign code may help address some of the concerns that cause these entities to obtain these blue signs.

With respect to the proposed language, it establishes regulations related to the location (only on certain roads, only one within a certain distance of another, etc.) and dimensions (size of the sign and font size). This program would require an annual fee. However, it is important to note that the language does not place any limits on the types of messages that are allowed - meaning that any message that someone was willing to pay for would be allowed.

One question that arose last month related to the Specific Information Signs (the large blue signs you see as you approach freeway ramps) and the Tourist Oriented Directional Signs (smaller blue signs typically with arrows and mileage information seen on other highways) which I believe may be unconstitutional. Remember that under the Reed case, a municipality may not allow certain signs to the detriment of other signs based solely on the content of the sign. In the case of these highway signs, the program only allows signs for food, gas, lodging, camping and attractions subject to some specific standards. Leaving aside the issue of the arbitrary nature of the specific standards (e.g., why can a gas station that is open 12 hours a day able to get a sign, but not one that is open 10 hours), this restriction is precisely the issue addressed in Reed - in order to regulate the sign, you must make a determination as to what type of sign it is. Justice Alito's concurring opinion in Reed would seem to grant some support for this notion when he discussed the ability to place "directional signs" as part of governmental speech. If sued, I suspect that the State's argument will be that the traveling public's benefit to identifying these services is a sufficient justification to favor these signs over other signs. However, it is unclear whether this would be a winning argument, especially since the program is effectively more of a paid advertising program than true government speech since the government is not picking which locations receive signs (and certainly the government itself picking one business over another would be even more problematic).

January 2022 Update

After discussion at the Committee of the Whole last month, comments were incorporated into two potential ordinance versions for your consideration. Additionally, Attorney Cole also reviewed the proposed ordinance and provided his feedback, which has also been incorporated. Both versions incorporate the same general changes. For example, there are additional uses added to the street reserved area to address the City's zoning notification signs and to cover other signs that are legally within the street reserved area such as a vehicle driving down the street. Both versions also address the library sign. After conferring with Director Muchin-Young, it was determined that the library's use of the sign is already largely limited to information relating to its own operations so this restriction will not have a significant impact on that sign.

The first version of the ordinance retains the "free area." It has been updated to address the locational and sizing issues that were discussed at the meeting. Specifically, the Free Area was moved back from the Gateway Monument (from 2 feet to 8 feet) and the maximum size for a sign within the Free Area was reduced from 63 square feet to 27 square feet. This continues to be the safest path forward as it comes about as close to a level playing field as a government could get, taking into account the legitimate governmental interests involved (traffic safety, etc.). However, as noted previously, it does open up some city property to all potential messages, good or bad.

The second version of the ordinance eliminates the "free area." In this case, the city's electronic message sign would be limited to messages related to its own operations such as hours of operation of facilities, notification of city events and meetings, reminders about city services (holiday tree pick up, dog licenses, etc), and basic information like the time, date and weather.

This version does create more risk in litigation. Certainly, the governmental interest in communicating information about its own activities and operations is a legitimate interest. The question is, however, whether the courts will view that interest as compelling enough that it justifies differential treatment of messages. Unfortunately, there is no caselaw on this point to provide judicial guidance, which is where the risk come into play. Aside from the risk issue, the other aspect of this approach is that it eliminates some current use of the sign - advertising community events sponsored by the schools and other non-profit entities.

One final note, given the complexity of the issues involved, and the inability to predict the Council's position, neither of these versions should be considered final. While the ordinance is on the Council's agenda for final action, depending on where the discussion leads it might be that further revisions will be necessary such that tabling the item may end up being the recommended action.

Background and Discussion

Following the U.S. Supreme Court's decision in Reed v. Town of Gilbert, 135 S. Ct. 2218 (2015), and subsequent cases interpreting that decision, it became clear that the City's sign regulations may have some constitutional infirmities that caused the Common Council to suspend enforcement of the non-commercial provisions of the City's Sign Code pending further review and analysis. At the Common Council's October meeting, the Council authorized the engagement of Attorney William Cole to review the City's current Code to identify areas where it conflicts with constitutional requirements as established by the applicable court decisions.

Attorney Cole has completed his initial review and provided it to staff. As staff works through the various issues identified by Attorney Cole and following the City's recent experience during the school board recall election, it became clear that an area of immediate concern was to ensure that the City had enforceable regulations related to signs on public property. Accordingly, I have worked with the Mayor and staff to create the attached proposed ordinance. This ordinance addresses only signs on public property, including along streets. This proposal has been brought forward to address the issues involved upon public property while staff and I continue to work through the broader issues identified by Attorney Cole, which will likely require further policy-setting discussions moving forward.

As it relates to the specific issues presented in the proposed ordinance, there are a few points that I want to highlight. First, the ordinance generally creates three specific regulations:

1. The ordinance generally prohibits all signs on public property and within the public right-of-way, with certain limited exceptions.

2. The ordinance further creates a "street reserved area" which is designed to provide a level of consistency as it relates to signs along streets. As the City has developed, certain streets have dedicated right-of-way lines which are consistent with the established ultimate right-of-way which was set by the City in Resolution 441 in 1976. However, there are many properties within the City (typically those with metes and bounds descriptions where the property line goes to the centerline of a road) where the actual right-of-way is set by statutory presumption and actual use which is

different than the ultimate desired right-of-way. The "street reserved area" prohibits signs within 15 feet of the edge of a roadway (with certain exceptions), which will generally make the setback for signs more consistent for both types of properties (those with dedicated rights-of-way and those with metes and bounds descriptions).

3. The ordinance creates a "free area" where signs will be allowed on public property with certain restrictions. The free area is defined by the ordinance and contains an area generally located just north of the Town Center Gateway Monument on the east side of Cedarburg Road.

The second point to highlight is that while the regulations will ultimately be more uniform for all parties, the result of this uniformity will be that some existing signs will be removed. For example, there are signs that might generally be described as way-finding signs that direct a driver to a particular location. In Mequon they are generally blue in color. For example, on southbound Port Washington Road as you approach Highland Road, there is one of these signs indicating that the River Club is to the right on Highland. In most of these cases, with the advent of cellular phones and GPS directions, these signs provide less value than they once did.

Fiscal Impact

There is no fiscal impact to the City as a result of this action.

Recommendation

Recommendation to approve from the Planning Committee on December 13, 2021, and a Recommendation forthcoming by the Committee of the Whole on January 11, 2022.

Attachments:

Ordinance w/ Free Area

Ordinance w/out Free Area

Attachments:

Public Property Sign Ordinance February (PDF)

Sign code -Blue Signs(PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2021-1616

An Ordinance Creating Section 62-21 of the Mequon Municipal Code Relating to Signs Along Streets and on Public Property

RECITALS

A. The Common Council previously adopted various regulations related to signage within the City, the bulk of which are contained within Chapter 62.

B. Following the U.S. Supreme Court's decision in Reed v. Town of Gilbert, 135 S. Ct. 2218 (2015), and subsequent cases interpreting that decision, it became clear that the City's sign regulations may have some constitutional infirmities that caused the Common Council to suspend enforcement of the non-commercial provisions of the City's Sign Code pending further review and analysis.

C. During this review, one area of immediate concern was to ensure that the City had enforceable regulations related to signs on public property based upon significant governmental interests, which are identified in the text of the provisions adopted by this ordinance.

D. Based upon these significant governmental interests, the Common Council finds that the regulation of signage along streets and on public property is in the best interests of the health, safety and welfare of the community.

BASED ON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Sections 54-26(3) and 62-7(22) of the Mequon Municipal Code are repealed.

SECTION II

Section 62-21 of the Mequon Municipal Code is created to read as follows:

Sec. 62-21 Signs along streets and on public property

(a) Findings. The city encourages the exercise of free speech, and recognizes the right of all people to speak, petition, picket and otherwise express speech on public property. Signage on public property, however, poses additional concerns, among them being:

(1) Signs installed on public property give the appearance of government endorsement of the messages on the signs.

(2) Signs installed in certain locations can obstruct visibility and conflict with necessary safety signs and, therefore, create safety hazards.

(3) Signs that are installed too close to roads can create distractions for drivers and, in certain locations, obstruct visibility.

(4) Signs installed on public property can obstruct vehicles, bicycles and pedestrians; moreover, excessive signage has in the past made parks and public buildings uninviting to regular users.

(5) The common council knows of no way to ensure that an installed sign on public property is removed when the person posting the sign has no further use for it, and the city has no way to know who installed a sign so that the city can inquire whether the sign can be removed; therefore, signs could be installed permanently.

(6) The proliferation of installed signs on public property unnecessarily changes the character and aesthetics of the city. Nevertheless, the public has the ability to post non-commercial signs on private property and in the free area (defined below), thereby ensuring that the public may express itself on signs.

Accordingly, the common council has determined that this section is required for the safe and orderly administration of public property. With certain limited exceptions, this section restricts all people and entities, including the city, from installing signs. However, the city has reserved the right to install specific signs that are fundamental and necessary for the purposes for which the city owns its properties. The city allows others to hold signs on public property while petitioning, picketing and at all other times. The city also allows all people and entities to install signs in the free area (defined below) on conditions substantially the same as the conditions under which the city can install and display signs in the free area and allows any person or entity to purchase advertising signs, without content restriction, at athletic fields. The common council further finds that numerous and significant alternatives exist to placing signs along streets and on public property that allow the exercise of free speech.

(b) Interpretation. The provisions of this section supersede all contrary provisions of this chapter 62, this code and city policies. Except for sections 62-18(b)-(d) and 62-19 which are specifically incorporated in this section by reference, any provision of this chapter 62, this code or any city policy that conflicts with or could be read to supplement this section or that grants discretion in the city or any of its committees shall have no force or effect with respect to the subject matter of this section or the properties described in this section. Without limiting the foregoing, sections 62-4, 62-17 and 62-18(a) shall specifically not apply to this section.

(c) Definitions. The definitions of the following terms and phrases set forth above are specifically incorporated in this section: area, electronic message sign, ground sign, height, sign and street. Additionally, the following terms and phrases shall have the following meanings as used in this section:

Edge of the street means the back side of any curb, if installed along a street, or if not, the edge of the pavement of a street.

Hold means to grasp or carry or to display on clothing being worn by a person.

Install means to cause to be or stay in a particular place and includes to erect, embed, attach, fasten, place, display, paint, draw, or otherwise illustrate, but does not include to hold.

Roadside ditch means a long, narrow open channel that is dug into the ground along the side of a street used for the collection of storm water.

Street reserved area means the physical surface of any public street to the edge of the street plus any medians and/or islands within lanes of traffic, together with the following:

(1) If there is a sidewalk or multi-use path located in whole or in part within 15 feet from the edge of the street, the area from the edge of the street up to, and including, the sidewalk or multi-use path; or

(2) In an area along a street where (1) does not apply, 15 feet from the edge of the street.

(d) General exceptions. Nothing in this section shall prohibit any person from holding a sign in a street reserved area or on public property provided that no such sign being held shall (1) block the view of traffic in a manner that could cause safety concerns; (2) block the driveway except while being carried from one side to another; (3) be held within 25 feet of the entrance of any public building; (4) obstruct pedestrian ingress or egress from any public building; or (5) be held in any street reserved area that is titled to a private property owner without the property owner's permission.

(e) Street reserved areas.

(1) Except for the following, no signs shall be installed in any street reserved area:

a. The following signs erected by the city or any other governmental entity with authority:

i. Traffic signs and street signs.

ii. Warning signs and temporary emergency signs installed for the public safety.

iii. Entrance signs to the city stating the name, population and official slogan, if any, for the city and containing the logo for the city (or any combination of the foregoing).

iv. Signs designating historical landmarks, signs naming neighborhoods and signs notifying the public of designations bestowed upon the city or a place by an entity other than the city (e.g., Bird City USA, Rustic Road).

v. Adopt a street program signs.

vi. Signs required by federal or state law to be placed in such locations.

b. Railroad signs installed by or on behalf of a railroad, or a governmental entity with authority, for safety purposes.

c. Utility signs installed by or on behalf of a public utility, or governmental entity with authority, for safety purposes.

(2) No sign in a roadside ditch may be installed in a manner that would restrict the free flow of water.

(f) Other public property.

(1) This subsection (f) shall not apply to the following:

a. That portion of any right-of-way that is regulated under subsection (e) as part of a street reserved area.

b. The free area regulated under subsection (g).

c. Signs on properties owned or controlled by the State of

Wisconsin or its subdivisions (other than the city), Ozaukee County, Mequon Area Technical College or the Mequon-Thiensville School District except for street reserved areas owned by such entities. Monument, wall and directional signage on such properties shall be regulated to the extent allowed by law by provisions of this chapter 62 other than this section. Those entities shall regulate signs, including signs installed by third-parties, under their own authority.

d. Signs on properties leased from the city under a long term written lease of more than one year (e.g., the lease with Mequon Nature Preserve), but not including special event leases or licenses. Monument, wall and directional signage on such properties shall be regulated to the extent allowed by law by provisions of this chapter 62 other than this section. Subject to restrictions in their leases, tenants under such leases shall regulate signs, including signs installed by third-parties, under their own authority.

(2) Subject to paragraph (1), no signs shall be installed on any public property, including without limitation in any park, all publicly owned areas around any city building or in any right-of-way except for the following:

a. Any sign described in subsection (e)(1) of this section, including any such described sign located on public property outside of a street reserved area.

b. The American flag, the flag of the State of Wisconsin and the flag, if any, of the city.

c. Outside of a public building or park, one or more signs specifying the name or address, or both, of the building or park. Such a sign may contain the city logo or the logo for the city's park system.

d. Signs installed by the city on the day of or evening before an election day stating nothing more than "vote here" and giving the hours of voting. Such signs shall be removed at the conclusion of voting or on the following day.

e. A sign on the outside of city hall designating the city's drop box.

f. Signs approved by the common council or a committee designated by the common council recognizing donors and contributors toward an improvement to which the sign is attached or adjacent.

g. Signs required by government or quasi-government authorities other than the city as a condition of funding of improvements.

h. Signs specifying the rules and regulations for the property or facility.

i. Advertising signs at athletic fields provided that the advertiser has paid an annual fee for the sign.

j. Words, logos and depictions on tombstones in any cemetery.

k. Directional signs, maps and signs identifying features of interest on city property.

l. The following signs that have been installed prior to the date of the enactment of this ordinance, each of which shall be grandfathered: [1] The Mequon-Thiensville sign on the Gateway Monument at the corner of Mequon and Cedarburg Roads; and [2] the four historic signs around such monument.

(g) Free area.

(1) The following area shall be designated the “free area”: the area along Cedarburg Road having a southern edge two feet north of the Gateway Monument, bordered on the west by (but not including) the street reserved area of Cedarburg Road, extending north 50 feet, and extending east 25 feet.

(2) The city’s electronic message sign is in the free area. The electronic message sign shall be subject to the following regulations:

a. The electronic message sign shall be turned off from 11:00 p.m. until 5:30 a.m.

b. No commercial messages or commercial advertising may be displayed on the electronic message sign.

c. The display screen shall only contain text and remain static. Pictographic or video images are prohibited. Messages which move by scrolling, blinking, flashing, turning or other similar movements are prohibited. A message shall not change more than one time per 30 seconds.

d. The electronic display screen background shall be black. The display screen shall not be illuminated. The message on the display screen is not limited by color. There shall be no variation of color or intensity per message.

e. The maximum illumination shall not exceed 15 foot-candles when measured with a light meter held perpendicular to the sign at a distance of 12 inches.

(3) Any person may install a ground sign in the free area subject to the following regulations:

a. All ground signs shall be removed during those hours that the electronic message board is turned off pursuant to the requirement set forth above.

b. No commercial messages or commercial advertising may be displayed on any sign in the free area.

c. No sign may be installed within the area that is five feet immediately in front of the face of any other sign in the free area, including the electronic message sign.

d. Only one of any sign may be installed in the free area.

e. No sign in the free area may have an area greater than 63 square feet (the area of the electronic message sign).

f. No sign in the free area may have a height greater than seven feet (the height of the electronic message sign).

(h) Enforcement. The city may enforce the provisions of this section as described in section 62-18(b)-(d). Additionally, the city may remove any sign that violates this section.

SECTION III

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION IV

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION V

All city policies and parts of city policies that contravene or that are more permissive than this ordinance or that allow the city or any of its committees more discretion than that provided by this ordinance are hereby repealed.

SECTION VI

This Ordinance shall become effective the day after its publication as provided by law.

____
Approved by: John Wirth, Mayor

Date Approved: February 8, 2022

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on February 8, 2022.

____
Caroline Fochs, City Clerk

Published: ______________________________

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RECITALS

A. The Common Council previously adopted various regulations related to signage within the City, the bulk of which are contained within Chapter 62.

B. Following the U.S. Supreme Court's decision in *Reed v. Town of Gilbert*, 135 S. Ct. 2218 (2015), and subsequent cases interpreting that decision, it became clear that the City's sign regulations may have some constitutional infirmities that caused the Common Council to suspend enforcement of the non-commercial provisions of the City's Sign Code pending further review and analysis.

C. During this review, one area of immediate concern was to ensure that the City had enforceable regulations related to signs on public property based upon significant governmental interests, which are identified in the text of the provisions adopted by this ordinance.

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D. Based upon these significant governmental interests, the Common Council finds that the regulation of signage along streets and on public property is in the best interests of the health, safety and welfare of the community.

E. At the same time, with few limitations, "government is generally entitled to promote a program, espouse a policy, or take a position." *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 200 (2015), citing *Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 467-468 (2009).

F. The Common Council adopts this ordinance intending to balance the public's right to express opinions in public space, the communities desire to have safe public spaces and the rights of the city to engage in government speech.

BASED ON THE FOREGOING RECITALS, the Common Council of the City of Mequon, Wisconsin, do ordain as follows:

SECTION I

Sections 54-26(3) and 62-7(22) of the Mequon Municipal Code are repealed.

SECTION II

Section 62-21 of the Mequon Municipal Code is created to read as follows:

Sec. 62-21 Signs along streets and on public property

(a) Findings. The city encourages the exercise of free speech, and recognizes the right of all people to speak, petition, picket and otherwise express speech on public property. Signage on public property, however, poses additional concerns, among them being:

(1) Signs installed on public property give the appearance of government endorsement of the messages on the signs.

(2) Signs installed in certain locations can obstruct visibility and conflict with necessary safety signs and, therefore, create safety hazards.

(3) Signs that are installed too close to roads can create distractions for drivers and, in certain locations, obstruct visibility.

(4) Signs installed on public property can obstruct vehicles, bicycles and pedestrians; moreover, excessive signage has in the past made parks and public buildings uninviting to regular users.

(5) The common council knows of no way to ensure that an installed sign on public property is removed when the person posting the sign has no further use for it, and the city has no way to know who installed a sign so that the city can inquire whether the sign can be removed; therefore, signs could be installed permanently.

(6) The proliferation of installed signs on public property unnecessarily changes the character and aesthetics of the city. Nevertheless, the public has the ability to post non-commercial signs on private property and in the free area (defined below), thereby ensuring that the public may express itself on signs.

Accordingly, the common council has determined that this section is required for the safe and orderly administration of public property. With certain limited exceptions, this section restricts all people and entities from installing signs. However, the city has reserved the right to install specific signs that are fundamental and necessary for the purposes for which the city owns its properties. The city allows others to hold signs on public property while petitioning, picketing and at all other times. The common council further finds that numerous and significant alternatives exist to placing signs close to streets (such as back from the street) and on public property that allow the exercise of free speech.

(b) Interpretation. The provisions of this section supersede all contrary provisions of this chapter 62, this code and city policies. Except for sections 62-18(b)-(d) and 62-19 which are specifically incorporated in this section by reference, any provision of this chapter 62, this code or any city policy that conflicts with or could be read to modify or supplement this section or that grants discretion in the city or any of its committees shall have no force or effect with respect to the subject matter of this section or the properties described in this section. Without limiting the foregoing, sections 62-4, 62-17 and 62-18(a) shall specifically not apply to this section.

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Deleted: The city also allows all people and entities to install signs in the free area (defined below) on conditions substantially the same as the conditions under which the city can install and display signs in the free area and allows any person or entity to purchase advertising signs, without content restriction, at athletic fields.

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(c) Definitions. The definitions of the following terms and phrases set forth above are specifically incorporated in this section: area, electronic message sign, ground sign, height, sign and street. Additionally, the following terms and phrases shall have the following meanings as used in this section:

Edge of the street means the back side of any curb, if installed along a street, or if not, the edge of the pavement of a street.

Hold means to grasp or carry by a person, or to display on clothing being worn by a person.

Install means to cause to be or stay in a particular place, either temporarily or permanently, and includes to erect, embed, attach, fasten, place, display, paint, draw, or otherwise illustrate, but does not include to hold.

Roadside ditch means a long, narrow open channel that is dug into the ground along the side of a street used for the collection of storm water.

Street reserved area means the entire width of the physical surface intended for vehicular traffic of any public street plus any medians and/or islands within lanes of traffic, together with the following:

(1) If there is a sidewalk or multi-use path located in whole or in part within 15 feet from the edge of the street, the area from the edge of the street up to, and including, the full width of the sidewalk or multi-use path; or

(2) In an area along a street where (1) does not apply, 15 feet from the edge of the street.

(d) General exceptions. Nothing in this section shall prohibit any person from holding a sign in a street reserved area or on public property provided that no such sign being held shall (1) block the view of traffic in a manner that could cause safety concerns; (2) block a driveway except while being carried from one side to another; (3) be held within 25 feet of the entrance of any public building; (4) obstruct pedestrian or vehicular travel; (5) obstruct pedestrian or vehicular ingress or egress from any public or private building; or (6) be held in any street reserved area that is titled to a private property owner without the property owner's permission.

(e) Street reserved areas.

(1) Except for the following, no signs shall be installed in any street reserved area:

a. The following signs, all of which are necessary for government to exercise its responsibilities, erected by the city or any other governmental entity with authority:

i. Traffic signs and street signs.

ii. Warning signs and temporary emergency signs installed for the public safety.

iii. Entrance signs to the city stating the name, population and official slogan, if any, for the city and containing the logo for the city (or any combination of the foregoing).

iv. Signs designating historical landmarks, signs naming neighborhoods, and signs notifying the public of designations bestowed upon the city or a place by an entity other than the city (e.g., Bird City USA, Rustic Road).

v. Adopt a street program signs.

vi. Signs required by federal or state law to be placed in such locations.

vii. Signs to notify the public of potential zoning or land use actions on a property pursuant to chap. 58 of this code.

b. Signs on any vehicle, trailer or towed equipment and lawfully parked or traveling upon any public street.

c. Signs on any vehicle, trailer, equipment or shelter during any city-organized or funded parade or festival, or a parade or festival in which the city substantially participates, that occurs in whole or in part in the street reserved area.

d. Railroad signs installed by or on behalf of a railroad, or a governmental entity with authority, for safety purposes.

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ix. Signs on the equipment or vehicles of individuals or entities occupying the street reserved area by virtue of a privilege, permit or license granted by the city (e.g., parade permits, food cart vendors, etc.). ¶

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e. Utility signs installed by or on behalf of a public utility, or governmental entity with authority, for safety purposes.

f. Single-family residential subdivision entrance signs if approved by the planning commission. Such signs shall only be approved in the street reserved area if (a) placed in a entrance island on the entrance road to the subdivision and platted as an outlot or (b) the Planning Commission determines that there is no place outside of the street reserved area on the subdivision's property that is reasonably visible from adjacent streets, provided that no such sign shall violate the required intersection sight distance, vision triangle and vision corners requirements of the Standard Specifications for Land Development in the City of Mequon. A single-family residential subdivision sign in the street reserved area that exists of date of the enactment of this section that is made non-conforming by such adoption may not be replaced or restored unless the owner shows that the sign or its structure has been damaged and the damage did not exceed 50 percent of the appraised value of the sign and sign structure. If such sign or sign structure is destroyed or damaged to an extent exceeding 50 percent of the appraised sign value, it shall be removed and shall not be reconstructed or replaced unless such action makes the sign and sign structure conforming to the location requirements of this section and all other applicable ordinance requirements. If restoration of a damaged sign is not completed within six months of the date damage occurred, such sign shall be removed or replaced in a manner as will conform with all applicable specifications. Replacement signs require planning commission approval.

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(2) No sign in a roadside ditch may be installed in a manner that would restrict the free flow of water.

(f) Other public property.

(1) This subsection (f) shall not apply to the following:

a. That portion of any right-of-way that is regulated under subsection (e) as part of a street reserved area.

b. Signs on properties owned or controlled by any governmental entity other than the city. Monument, wall and directional signage on such properties shall be regulated to the extent allowed by law by provisions of this chapter 62 other than this section. Those entities shall regulate signs, including signs installed by third-parties, under their own authority.

c. Signs on properties leased from the city under a long term written lease of more than one year (e.g., the lease with Mequon Nature Preserve), but not including special event leases or licenses. Monument, wall and directional signage on such properties shall be regulated to the extent allowed by law by provisions of this chapter 62 other than this section. Subject to restrictions in their leases, tenants under such leases shall regulate signs, including signs installed by third-parties, under their own authority.

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¶
d. The Frank L. Weyenberg Library electronic message sign and the city's electronic message sign located adjacent to the Mequon-Thiensville Gateway Monument shall be allowed provided that content displayed on the signs is consistent with common council policy.

(2) The city has the right to engage in government speech and to promote on public property the events and programs the city organizes or funds, other activities of the city government and positions taken by the city. Accordingly, the city may promote such events, programs, activities and positions on the electronic message board adjacent to the Mequon-Thiensville Gateway Monument and by installing signs elsewhere on public property subject to the following conditions:

a. No such sign may promote any candidate for public office, referendum on any ballot or political party.

b. The city administrator or his or her designee may authorize messages on the electronic message board adjacent to the Mequon-Thiensville Gateway Monument provided that the messages are limited to (i) the current date and time; and (ii) the name, date, time and/or place of events and programs organized or funded by the city.

c. The common council may specifically authorize messages on the electronic message board adjacent to the Mequon-Thiensville Gateway Monument or signs installed elsewhere on public property provided that they relate to (a) the events and programs the city organizes or funds; (b) other activities of the city government; and (c) positions taken by the city as approved by the common council.

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(3) The Frank L. Weyenberg Library may display messages on the electronic message board outside of the library subject to the following conditions:

a. No such sign may promote any candidate for public office, referendum on any ballot or political party or advocate any political or public policy position.

b. Messages on the electronic message board shall be limited to (i) the operating policies of the library approved by the Frank L. Weyenberg Library Board of Trustees; (ii) the name, date, time and/or place of library-related events and programs organized or funded by the library or the library foundation; (iii) the books, materials and electronic offerings of the library; and (iv) books and materials sold by the library.

(4) Subject to the preceding paragraphs, no signs shall be installed on any public property, including without limitation in any park, all publicly owned areas around any city building or in any right-of-way except for the following, each of which the city expressly permits as an expression of government speech:

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a. Any sign described in subsection (e)(1) of this section, other than the signs in part f. of such section, including any such described sign located on public property outside of a street reserved area.

b. The American flag, the flag of the State of Wisconsin and the flag, if any, of the city.

c. Outside of a public building or park, one or more signs specifying the name or address, or both, of the building or park. Such a sign may contain the city logo or the logo for the city's park system.

d. Signs installed by the city on the day of or evening before an election day stating nothing more than "vote here" and giving the hours of voting. Such signs shall be removed at the conclusion of voting or on the following day.

e. A sign on the outside of city hall designating the city's drop box.

f. Signs approved by the common council or a committee designated by the common council recognizing donors and contributors toward an improvement to which the sign is attached or adjacent.

g. Signs required by government or quasi-governmental authorities other than the city as a condition of funding of improvements.

h. Signs specifying the rules and regulations for the property or facility.

i. Advertising signs at athletic fields provided that the advertiser has paid an annual fee for the sign.

j. Words, logos and depictions on tombstones in any cemetery.

k. Directional signs, maps and signs identifying features of interest on city property.

l. The following signs that have been installed prior to the date of the enactment of this ordinance: [1] The Mequon-Thiensville sign on the Gateway Monument at the corner of Mequon and Cedarburg Roads; and [2] the four historic signs around such monument.

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m. Monuments, memorials and artwork that is either commissioned by the common council or accepted by the common council pursuant to its inherent right to government speech prior to installation.

n. Signs promoting events, programs and initiatives organized or funded by the city, provided that such promotion is approved by the common council prior to such signs being installed.

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(g) Enforcement. The city may enforce the provisions of this section as described in section 62-18(b)-(d). Additionally, the city may remove any sign that violates this section.

SECTION III

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION IV

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION V

All city policies and parts of city policies that contravene or that are more permissive than this ordinance or that allow the city or any of its committees more discretion than that provided by this ordinance are hereby repealed.

SECTION VI

This Ordinance shall become effective the day after its publication as provided by law.

g. The city will install a sign in the street reserved area for any person or entity, for any purpose and with any message, subject to the following conditions:

i. The sign may only be installed on one of the following streets and, to the extent required, subject to state or county approval:

County Line Road (north side)
Donges Bay Road
Mequon Road (west of Buntrock Avenue; between the Milwaukee River and Oriole Lane; east of I-43)
Freistadt Road
Highland Road
Bonniwell Road
Pioneer Road
Wasaukee Road
Granville Road
Swan Road
Wauwatosa Road
Cedarburg Road (south of Lucerne Court; north of Thiensville)
Green Bay Road
Port Washington Road (north of Glen Oaks Lane)
Lake Shore Drive

ii. No person or entity may have more than one such sign.

iii. Each of such signs facing the same street shall be at least 0.5 miles apart.

iv. The city will locate such signs to avoid conflicts with other signage, blocking the view of traffic in a manner that could cause safety concerns or obstructing pedestrian or vehicular travel. No such sign shall be located in front of any commercial property.

v. Each such sign shall be 36 inches wide and 24 inches tall with a blue background and white lettering. Lettering on the sign shall be at least four inches tall. Such signs shall be installed on free standing posts designated and provided by the city.

vi. Such signs will be procured through and installed by the city at the expense of the person or entity requesting the sign in accordance with the city's established fee schedule.

vii. Such signs shall be subject to an annual administrative fee in accordance with the city's established fee schedule. The city shall remove any such sign if the annual fee is not paid within 30 days of the date of the city's notice to the person or entity requesting such sign. Such notice shall be sent to the address on file with the city.

viii. Any sign installed by the city that exists as of the date of the enactment of this ordinance that would otherwise qualify under this part g., but that does not conform to any requirement of iii. or v., may remain in place through 2026 provided the person or entity for which the sign was installed pays the annual administrative fee described below as and when required. Such non-conforming signs will be removed on or after January 1, 2027. The city will replace any such sign with a sign that meets the requirements of this paragraph (other than the requirements of iii if two or more such signs exist as of that date), subject to payment of the procurement and installation costs described below, at the request of the person or entity for which the sign was installed.

City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092
Phone:
Fax: 262-242-9655

www.ci.mequon.wi.us
Office of Committee of the Whole

TO: **Common Council**
FROM: **Jennifer Engroff, Finance Director**
DATE: **January 31, 2022**
SUBJECT: **RESOLUTION 3913 A Resolution Authorizing the Borrowing of Not-to-Exceed $9,620,000; and Providing for the Issuance and Sale of General Obligation Promissory Notes Therefor**

Background

The City last issued General Obligation (GO) debt for local and arterial road improvements in 2019. The proceeds were spent down over the 2019-2021 construction seasons. Given the ongoing goal of having well-maintained infrastructure, the City is preparing to resume a level of effort in line with historical patterns. In order to finance this effort, staff proposes the City issue general obligation debt of approximately $5,000,000 to cover three years of road and City-owned parking lot reconstruction for the 2022-2024 construction seasons. An additional $1,750,000 of debt is proposed to satisfy the City's obligation for construction of the Highland Road Interchange. For additional background, please see the attachments titled "2022 Road Program Memo", "2022 Five Year Plan", and "Paser_Rtg2021".

With the upcoming closure and expenditure deadline of Tax Increment District No 3, $2,700,000 of the Bonds are dedicated to funding Town Center TID No. 3 public projects that were discussed during a project plan workshop held in 2021. An additional $700,000 of public projects will be undertaken with excess cash flow from TID No 3 for a total of $3,400,000, leaving the TID in a positive cash position at the time of closure in 2028 (See Exhibit titled "2022 Town Center Public Projects").

The Net Bond includes approximately $170,000 of debt issuance costs arriving at a grand total of $9,620,000.

Analysis

Staff proposes issuing up to $9,620,000 of General Obligation Promissory Notes. Some of the highlights of the debt financing include:

- $6,750,000 of the proposed Bonds are transportation-related of which $5,000,000 is for the Road Program and $1,750,000 is for the Highland Road Interchange project.
- $2.7M of the Bonds are general obligations of the City but are payable from increment generated by TID No 3.
- The estimated interest rates on the new debt obligations range from .75% to 2.15%.
- The Notes are being issued for a term of 10 years. Principal on the Notes will be due on March 1 in the years 2023 through 2032. Interest is payable every six months beginning March 1, 2023.

- Since the City is expecting to issue no more than $10,000,000 in tax exempt debt during 2022, the City will be able to designate the bonds as "Bank Qualified" obligations. Bank qualified status broadens the market for the bonds, which can result in lower interest rates.

Please see the attached pre-sale report from Ehlers as well as worksheets showing a breakdown of the proposed financing and a pro forma debt schedule. Presently, the actual sale and award of the bonds is scheduled to occur on March 8, 2022, with an estimated closing date of March 24, 2022. This resolution signals the Common Council's intent on moving forward with the sale. Accordingly, bond counsel drafted the attached resolution for consideration and approval.

Fiscal Impact

Payable from 2023 through 2032, this debt issuance will obligate the City to incur $9,620,000 of principal payments and $912,352 of interest payments for a total financial impact of $10,532,352. However, $2,750,000 of principal and $134,250 of interest is payable from increment generated by TID No 3.

Recommendation

A recommendation is forthcoming from the Committee of the Whole on February 8, 2022.

Attachments:
PreSale.Report.Mequon 2022A (PDF)
2002 Road Program (DOC)
Road Rating Map (PDF)
2022 Five Year Plan (PDF)
Highland Road Interchange IA (PDF)
2022-2023 Town Center Public Projects (XLSX)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3913

A Resolution Authorizing the Borrowing of Not-to-Exceed $9,620,000; and Providing for the Issuance and Sale of General Obligation Promissory Notes Therefor

A. It is necessary that funds be raised by the City of Mequon, Ozaukee County, Wisconsin (the "City") for the purpose of paying the costs of street and interchange improvements and Tax Incremental District No. 3 project costs (the "Project"), and there are insufficient funds on hand to pay said costs.

B. The City hereby finds and determines that the Project is within the City's power to undertake and serves a "public purpose" as that term is defined in Section 67.04(1)(b) of the Wisconsin Statutes.

C. Cities are authorized by the provisions of Section 67.12(12) of the Wisconsin Statutes to borrow money and to issue general obligation promissory notes for such public purposes.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin, that:

1. Authorization of the Notes. For the purpose of paying the cost of the Project, there shall be borrowed pursuant to Section 67.12(12) of the Wisconsin Statutes, the principal sum of not to exceed NINE MILLION SIX HUNDRED TWENTY THOUSAND DOLLARS ($9,620,000) from a purchaser to be determined by subsequent resolution of this Common Council (the "Purchaser").

2. Sale of the Notes. To evidence such indebtedness, the Mayor and City Clerk are hereby authorized, empowered and directed to make, execute, issue and sell to the Purchaser for, on behalf of and in the name of the City, general obligation promissory notes aggregating the principal amount of not to exceed NINE MILLION SIX HUNDRED TWENTY THOUSAND DOLLARS ($9,620,000) (the "Notes").

3. Award of the Notes. The City Administrator (in consultation with the City's financial advisor, Ehlers & Associates, Inc.) shall prepare or cause to be prepared an Official Notice of Sale and an Official Statement and take other actions necessary for the sale and award of the Notes on March 8, 2022.

4. Prior Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the City or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect

immediately upon adoption and approval in the manner provided by law.

Approved by: John Wirth, Mayor

Date Approved: February 8, 2022

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on February 8, 2022.

Caroline Fochs, City Clerk

February 8, 2022

Pre-Sale Report for

City of Mequon, Wisconsin

$9,620,000 General Obligation Promissory Notes, Series 2022A

EHLERS
PUBLIC FINANCE ADVISORS

Prepared by:

Ehlers
N21W23350 Ridgeview Parkway West,
Suite 100
Waukesha, WI 53188

Advisors:

Philip Cosson, Senior Municipal Advisor
Brian Roemer, Municipal Advisor
Lisa Trebatoski, Financial Specialist

BUILDING COMMUNITIES. IT'S WHAT WE DO.

EXECUTIVE SUMMARY OF PROPOSED DEBT

Proposed Issue:

$9,620,000 General Obligation Promissory Notes, Series 2022A

Purposes:

The proposed issue includes financing for the following purposes:

2022 Capital Projects

- Levy (various street projects). Debt service will be paid from ad valorem property taxes.
- Tax Increment District (TID) No. 3 projects. Debt service will be paid from ad valorem property taxes and abated by revenues of TID 3.

Authority:

The Notes are being issued pursuant to Wisconsin Statute(s):

- 67.12(12)

The Notes will be general obligations of the City for which its full faith, credit and taxing powers are pledged.

The Notes count against the City's General Obligation Debt Capacity Limit of 5% of total City Equalized Valuation. Following issuance of the Notes, the City's total General Obligation debt principal outstanding will be $43.2 million, which is 16% of its limit. Remaining General Obligation Borrowing Capacity will be approximately $226.9 million.

Term/Call Feature:

The Notes are being issued for a term of 10 years. Principal on the Notes will be due on March 1 in the years 2023 through 2032. Interest is payable every six months beginning March 1, 2023.

The Notes will be subject to prepayment at the discretion of the City on March 1, 2029 or any date thereafter.

Bank Qualification:

Because the City is expecting to issue, no more than $10,000,000 in tax-exempt obligations during the calendar year, the City will be able to designate the Notes as "bank qualified" obligations. Bank qualified status broadens the market for the Notes, which can result in lower interest rates.

Rating:

The City's most recent bond issues were rated by S&P Global Ratings. The current ratings on those bonds are "AA". The City will request a new rating for the Notes.

If the winning bidder on the Notes elects to purchase bond insurance, the rating for the issue may be higher than the City's bond rating if the bond rating of the insurer is higher than that of the City.

Basis for Recommendation:

Based on our knowledge of your situation, your objectives communicated to us, our advisory relationship as well as characteristics of various municipal financing options, we are recommending the issuance of Notes as a suitable option based on: The expectation this form of financing will provide the overall lowest cost of funds while also meeting the City's objectives for term, structure, and optional redemption.

- The City having adequate General Obligation debt capacity to undertake this financing.

Method of Sale/Placement:

We will solicit competitive bids for the purchase of the Notes from underwriters and banks.

We will include an allowance for discount bidding in the terms of the issue. The discount is treated as an interest item and provides the underwriter with all or a portion of their compensation in the transaction.

If the Notes are purchased at a price greater than the minimum bid amount (maximum discount), the unused allowance may be used to reduce your borrowing amount.

Premium Pricing:

In some cases, investors in municipal bonds prefer "premium" pricing structures. A premium is achieved when the coupon for any maturity (the interest rate paid by the issuer) exceeds the yield to the investor, resulting in a price paid that is greater than the face value of the bonds. The sum of the amounts paid more than face value is considered "reoffering premium." The underwriter of the bonds will retain a portion of this reoffering premium as their compensation (or "discount") but will pay the remainder of the premium to the City. For this issue of Notes, any premium amount received that is more than the underwriting discount and any capitalized interest amounts must be placed in the debt service fund and used to pay a portion of the interest payments due on the Notes. We anticipate using any premium amounts received to reduce the issue size.

The amount of premium allowed can be restricted in the bid specifications. Restrictions on premium may result in fewer bids but may also eliminate large adjustments on the day of sale and unintended results with respect to debt service payment impacts. Ehlers will identify appropriate premium restrictions for the Notes intended to achieve the City's objectives for this financing.

Other Considerations:

The Notes will be offered with the option of the successful bidder utilizing a term bond structure. By offering underwriters the option to "term up" some of the maturities at the time of the sale, it gives them more flexibility in finding a market for your Notes. This makes your issue more marketable, which can result in lower borrowing costs. If the successful bidder utilizes a term bond structure, we recommend the City retain a paying agent to handle responsibility for processing mandatory redemption/call notices associated with term bonds.

Review of Existing Debt:

We have reviewed all outstanding indebtedness for the City and find that there are no refunding opportunities at this time.

We will continue to monitor the market and the call dates for the City's outstanding debt and will alert you to any future refunding opportunities.

Continuing Disclosure:

Because the City has more than $10,000,000 in outstanding debt (including this issue) and this issue is over $1,000,000, the City will be agreeing to provide certain updated Annual Financial Information and its Audited Financial Statement annually, as well as providing notices of the occurrence of certain reportable events to the Municipal Securities Rulemaking Board (the "MSRB"), as required by rules of the Securities and Exchange Commission (SEC). The City is already obligated to provide such reports for its existing bonds and has contracted with Ehlers to prepare and file the reports.

Arbitrage Monitoring:

The City must ensure compliance with certain sections of the Internal Revenue Code and Treasury Regulations ("Arbitrage Rules") throughout the life of the issue to maintain the tax-exempt status of the Notes. These Arbitrage Rules apply to amounts held in construction, escrow, reserve, debt service account(s), etc., along with related investment income on each fund/account.

IRS audits will verify compliance with rebate, yield restriction and records retention requirements within the Arbitrage Rules. The City's specific arbitrage responsibilities will be detailed in the Certificate with Respect to Arbitrage and Other Tax Matters (the "Tax Compliance Document") prepared by your Bond Attorney and provided at closing.

The Notes may qualify for one or more exception(s) to the Arbitrage Rules by meeting 1) small issuer exception, 2) spend down requirements, 3) bona fide debt service fund limits, 4) reasonable reserve requirements, 5) expenditure within an available period limitation, 6) investments yield restrictions, 7) de minimis rules, or 8) borrower limited requirements.

We recommend that the City review its specific responsibilities related to the Notes with an arbitrage expert to utilize one or more of the exceptions listed above.

Investment of Note Proceeds:

Ehlers can assist the City in developing a strategy to invest your Note proceeds until the funds are needed to pay project costs.

Risk Factors:

GO with Planned Abatement: The City expects to abate a portion of the City debt service with tax incremental revenues. In the event these revenues are not available, the City is obligated to levy property taxes in an amount sufficient to make all debt payments.

Other Service Providers:

This debt issuance will require the engagement of other public finance service providers. This section identifies those other service providers, so Ehlers can coordinate their engagement on your behalf. Where you have previously used a particular firm to provide a service, we have assumed that you will continue that relationship. For services you have not previously required, we have identified a service provider. Fees charged by these service providers will be paid from proceeds of the obligation, unless you notify us that you wish to pay them from other sources. Our pre-sale bond sizing includes a good faith estimate of these fees, but the final fees may vary. If you have any questions pertaining to the identified service providers or their role, or if you would like to use a different service provider for any of the listed services please contact us.

Bond Counsel: Griggs Law Office LLC

Paying Agent: Bond Trust Services Corporation

Rating Agency: Standard & Poor's Global Ratings (S&P)

PROPOSED DEBT ISSUANCE SCHEDULE

Pre-Sale Review by City Council:	February 8, 2022
Due Diligence Call to review Official Statement:	Week of February 21, 2022
Conference with Rating Agency:	Week of February 21, 2022
Distribute Official Statement:	March 1, 2022
City Council Meeting to Award Sale of the Notes:	March 8, 2022
Estimated Closing Date:	March 24, 2022

Attachments

Estimated Sources and Uses of Funds

Estimated Proposed Debt Service Schedule

Estimated Tax Impact Analysis

Bond Buyer Index

EHLERS' CONTACTS

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Brian Roemer, Municipal Advisor	(262) 796-6178
Lisa Trebatoski, Financial Specialist	(262) 796-6171
Na Lee Lee, Public Finance Analyst	(262) 796-6170
Kathy Myers, Senior Financial Analyst	(262) 796-6177

Table 1
Equalized Value Projection Model
City of Mequon, WI

I. Five-Year Historical TID IN Growth by Category (Data Per Wis. Dept. of Revenue)

Vaulation Year	Budget Year	Historical TID IN Equalized Value		Economic Change		New Construction		Other & Personal Property	
2017	2018	4,610,493,300							
2018	2019	4,797,857,000	4.06%	157,743,300	3.42%	56,864,700	1.23%	-27,244,300	-0.59%
2019	2020	5,048,795,100	5.23%	77,011,200	1.61%	57,146,800	1.19%	116,780,100	2.43%
2020	2021	5,232,431,000	3.64%	165,417,400	3.28%	72,799,700	1.44%	-54,581,200	-1.08%
2021	2022	5,403,150,300	3.26%	75,553,000	1.44%	72,744,100	1.39%	22,422,200	0.43%
AVERAGE CHANGE				118,931,225	2.44%	64,888,825	1.31%	14,344,200	0.30%

II. Five-Year Historical TID OUT Growth by Category (Data Per Wis. Dept. of Revenue - Breakdown Assumes Same Ratios as TID IN)

Vaulation Year	Budget Year	Historical TID OUT Equalized Value		Economic Change		New Construction		Other & Personal Property	
2017	2018	4,542,637,000							
2018	2019	4,716,942,800	3.84%	146,749,728	3.23%	52,901,640	1.16%	-25,345,569	-0.56%
2019	2020	4,914,654,800	4.19%	60,676,471	1.29%	45,025,479	0.95%	92,010,050	1.95%
2020	2021	5,049,980,900	2.75%	121,900,411	2.48%	53,648,004	1.09%	-40,222,315	-0.82%
2021	2022	5,234,737,900	3.66%	81,765,481	1.62%	78,725,614	1.56%	24,265,906	0.48%
AVERAGE CHANGE				102,773,023	2.15%	57,575,184	1.19%	12,677,018	0.26%

III. Projection of TID OUT Equalized Value - Selection of Method & Discount

	Economic Change	New Construction	Other & Personal Property
PROJECTION METHOD	Percent	Percent	Manual Adjustments
DISCOUNT FACTOR	33.33%	33.33%	

IV. Projection of TID OUT Equalized Value

Vaulation Year	Budget Year	Projected TID OUT Equalized Value		Economic Change		New Construction		TID Closure or Other Adjustment	
2022	2023	5,351,525,009	2.23%	75,173,987	1.44%	41,613,123	0.79%		0.00%
2023	2024	5,470,917,642	2.23%	76,851,120	1.44%	42,541,512	0.79%		0.00%
2024	2025	5,613,890,426	2.61%	78,565,670	1.44%	43,490,614	0.79%	20,916,500	0.38%
2025	2026	5,739,136,436	2.23%	80,618,845	1.44%	44,627,165	0.79%		0.00%
2026	2027	5,867,176,687	2.23%	82,417,453	1.44%	45,622,798	0.79%		0.00%
2027	2028	5,998,073,518	2.23%	84,256,188	1.44%	46,640,643	0.79%		0.00%
2028	2029	6,254,744,061	4.28%	86,135,945	1.44%	47,681,197	0.79%	122,853,400	2.05%
2029	2030	6,394,287,528	2.23%	89,821,889	1.44%	49,721,579	0.79%		0.00%
2030	2031	6,536,944,214	2.23%	91,825,817	1.44%	50,830,868	0.79%		0.00%
2031	2032	6,682,783,572	2.23%	93,874,453	1.44%	51,964,906	0.79%		0.00%
2032	2033	6,831,876,610	2.23%	95,968,794	1.44%	53,124,244	0.79%		0.00%
2033	2034	6,984,295,917	2.23%	98,109,860	1.44%	54,309,447	0.79%		0.00%
2034	2035	7,140,115,701	2.23%	100,298,693	1.44%	55,521,092	0.79%		0.00%
2035	2036	7,299,411,828	2.23%	102,536,358	1.44%	56,759,769	0.79%		0.00%
2036	2037	7,462,261,855	2.23%	104,823,947	1.44%	58,026,080	0.79%		0.00%
2037	2038	7,628,745,069	2.23%	107,162,571	1.44%	59,320,643	0.79%		0.00%
2038	2039	7,798,942,527	2.23%	109,553,370	1.44%	60,644,088	0.79%		0.00%
2039	2040	7,972,937,094	2.23%	111,997,508	1.44%	61,997,059	0.79%		0.00%
2040	2041	8,150,813,484	2.23%	114,496,175	1.44%	63,380,214	0.79%		0.00%
2041	2042	8,332,658,299	2.23%	117,050,587	1.44%	64,794,228	0.79%		0.00%
2042	2043	8,518,560,075	2.23%	119,661,988	1.44%	66,239,789	0.79%		0.00%
2043	2044	8,708,609,325	2.23%	122,331,649	1.44%	67,717,600	0.79%		0.00%
2044	2045	8,902,898,576	2.23%	125,060,871	1.44%	69,228,381	0.79%		0.00%
2045	2046	9,101,522,425	2.23%	127,850,981	1.44%	70,772,868	0.79%		0.00%
2046	2047	9,304,577,576	2.23%	130,703,339	1.44%	72,351,812	0.79%		0.00%
2047	2048	9,512,162,892	2.23%	133,619,334	1.44%	73,965,982	0.79%		0.00%
2048	2049	9,724,379,440	2.23%	136,600,384	1.44%	75,616,165	0.79%		0.00%
2049	2050	9,941,330,544	2.23%	139,647,941	1.44%	77,303,163	0.79%		0.00%
2050	2051	10,163,121,831	2.23%	142,763,489	1.44%	79,027,798	0.79%		0.00%
2051	2052	10,389,861,286	2.23%	145,948,546	1.44%	80,790,910	0.79%		0.00%

Table 2
Existing G.O. Debt Base Case

City of Mequon, WI

Year Ending	Existing Debt									Year Ending
	Total G.O. Debt Payments	Less: TID #2	Less: TID #3	Less: Sewer	Less: Sewer SA	Net Tax Levy	Equalized Value (TID OUT)	Tax Rate Per $1,000	Annual Taxes $375,000 Home	
2022	5,655,290	(316,100)	(647,150)	(1,696,650)	(179,438)	2,820,253	5,234,737,900	$0.54	$202.03	2022
2023	5,124,240	(307,400)	(675,950)	(1,697,050)	(174,488)	2,269,353	5,351,525,009	$0.42	$159.02	2023
2024	4,845,065	(298,700)	(413,400)	(1,698,350)	(170,363)	2,264,253	5,470,917,642	$0.41	$155.20	2024
2025	4,882,171	0	(713,200)	(1,695,150)	(166,856)	2,306,965	5,613,890,426	$0.41	$154.10	2025
2026	4,107,540	0	(738,700)	(1,698,750)	0	1,670,090	5,739,136,436	$0.29	$109.13	2026
2027	4,009,578	0	(759,800)	(1,696,750)	0	1,553,028	5,867,176,687	$0.26	$99.26	2027
2028	3,811,953	0	(775,200)	(1,697,350)	0	1,339,403	5,998,073,518	$0.22	$83.74	2028
2029	2,920,590	0	0	(1,696,600)	0	1,223,990	6,254,744,061	$0.20	$73.38	2029
2030	2,376,783	0	0	(1,694,500)	0	682,283	6,394,287,528	$0.11	$40.01	2030
2031	1,748,644	0	0	(1,066,050)	0	682,594	6,536,944,214	$0.10	$39.16	2031
2032	0	0	0	0	0	0	6,682,783,572	$0.00	$0.00	2032
Total	39,481,853	(922,200)	(4,723,400)	(16,337,200)	(691,144)	16,812,209				Total

Notes:

Legend:

Represents +/- 25% Change over previous year

2022 Preliminary Financing Plan 1.31.22 F
Prepared 1/31/2022

Table 3
Capital Improvement Plan & Funding Uses
City of Mequon, WI

Projects	Purpose/Dept.	Plan Issue	Funding	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Totals
Roads Program	Roads	2022 G.O. Notes	G.O. Debt	5,000,000										*5,000,000*
Roads Program	Roads	2025 G.O. Notes	G.O. Debt				5,000,000							*5,000,000*
Roads Program	Roads	2028 G.O. Notes	G.O. Debt							5,000,000				*5,000,000*
Roads Program	Roads	2031 G.O. Notes	G.O. Debt										5,000,000	*5,000,000*
Highland Road Interchange	Roads	2022 G.O. Notes	G.O. Debt	1,750,000										*1,750,000*
TID #3 Projects (see Exhibit A)	TID #3	2022 G.O. Notes	G.O. Debt	2,700,000										*2,700,000*
TID #3 Projects (see Exhibit A)	TID #3	None	Cash	700,000										*700,000*
														0
														0
Actual CIP Costs				**10,150,000**	**0**	**0**	**5,000,000**	**0**	**0**	**5,000,000**	**0**	**0**	**5,000,000**	**25,150,000**

Debt Obligations	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	Totals
2022 G.O. Notes	9,450,000	0	0	0	0	0	0	0	0	0	*9,450,000*
2024 G.O. Bonds	0	0	0	0	0	0	0	0	0	0	*0*
2025 G.O. Notes	0	0	0	5,000,000	0	0	0	0	0	0	*5,000,000*
2028 G.O. Notes	0	0	0	0	0	0	5,000,000	0	0	0	*5,000,000*
2031 G.O. Notes	0	0	0	0	0	0	0	0	0	5,000,000	*5,000,000*
Total	**9,450,000**	**0**	**0**	**5,000,000**	**0**	**0**	**5,000,000**	**0**	**0**	**5,000,000**	**24,450,000**

Notes:

Table 4
Capital Improvements Financing Plan

City of Mequon, WI

		2022				2025			2028			2031	
					FOR FUTURE PLANNING PURPOSES ONLY								
		G.O. Notes	Levy Portion	TID #3 Portion		**G.O. Notes**	Levy Portion		**G.O. Notes**	Levy Portion		**G.O. Notes**	Levy Portion
CIP Projects[1]													
Roads Program		5,000,000	5,000,000	0		5,000,000	5,000,000		5,000,000	5,000,000		5,000,000	5,000,000
Highland Road Interchange		1,750,000	1,750,000	0		-	0		-	0		-	0
City Facility Project(s)		-	0	0		-	0		-	0		-	0
TID #3 Projects (see Exhibit A)		2,700,000	0	2,700,000		-	0		-	0		-	0
Subtotal Project Costs		**9,450,000**	**6,750,000**	**2,700,000**		**5,000,000**	**5,000,000**		**5,000,000**	**5,000,000**		**5,000,000**	**5,000,000**
CIP Projects[1]		**9,450,000**	**6,750,000**	**2,700,000**		**5,000,000**	**5,000,000**		**5,000,000**	**5,000,000**		**5,000,000**	**5,000,000**
Estimated Issuance Expenses		**179,950**	**128,509**	**51,441**		**116,400**	**116,400**		**117,500**	**117,500**		**118,500**	**118,500**
Municipal Advisor (Ehlers)		43,500	31,065	12,435		31,400	31,400		32,000	32,000		32,500	32,500
Bond Counsel		23,000	16,425	6,575		20,000	20,000		20,000	20,000		20,000	20,000
Rating Fee		17,250	12,319	4,931		14,000	14,000		14,500	14,500		15,000	15,000
Maximum Underwriter's Discount	10.00	96,200	68,700	27,500	10.00	51,000	51,000	10.00	51,000	51,000	10.00	51,000	51,000
Paying Agent			0	0			0			0			0
Subtotal Issuance Expenses		179,950	128,509	51,441		116,400	116,400		117,500	117,500		118,500	118,500
TOTAL TO BE FINANCED		**9,629,950**	**6,878,509**	**2,751,441**		**5,116,400**	**5,116,400**		**5,117,500**	**5,117,500**		**5,118,500**	**5,118,500**
Estimated Interest Earnings	0.15%	(14,175)	(10,125)	(4,050)	0.50%	(18,750)	(18,750)	0.75%	(18,750)	(18,750)	0.75%	(18,750)	(18,750)
Assumed spend down (months)	12				9			6			6		
Rounding		4,225	1,616	2,609		2,350	2,350		1,250	1,250		250	250
NET BOND SIZE		**9,620,000**	**6,870,000**	**2,750,000**		**5,100,000**	**5,100,000**		**5,100,000**	**5,100,000**		**5,100,000**	**5,100,000**

Notes:
1) Project Total Estimates

Table 5
Allocation of Debt Service - 2022 G.O. Notes

City of Mequon, WI

Year	Levy Portion				TID #3 Portion			
Ending	Principal	Est. Rate[1]	Interest	Total	Principal	Est. Rate	Interest	Total
2022	0			0	0	0.00%	0	0
2023	375,000	0.75%	157,858	532,858	300,000	0.75%	46,087	346,087
2024	375,000	0.90%	106,400	481,400	400,000	0.90%	28,825	428,825
2025	350,000	1.05%	102,875	452,875	500,000	1.05%	24,400	524,400
2026	595,000	1.25%	97,319	692,319	500,000	1.25%	18,650	518,650
2027	675,000	1.40%	88,875	763,875	500,000	1.40%	12,025	512,025
2028	900,000	1.55%	77,175	977,175	550,000	1.55%	4,263	554,263
2029	900,000	1.65%	62,775	962,775	0	1.65%	0	0
2030	900,000	1.95%	46,575	946,575	0	1.95%	0	0
2031	900,000	2.05%	28,575	928,575	0	2.05%	0	0
2032	900,000	2.15%	9,675	909,675		2.15%		0
Total	6,870,000		778,102	7,648,102	2,750,000		134,250	2,884,250

Year	Totals		
Ending	Principal (3/1)	Interest	Total
2022	0	0	0
2023	675,000	203,946	878,946
2024	775,000	135,225	910,225
2025	850,000	127,275	977,275
2026	1,095,000	115,969	1,210,969
2027	1,175,000	100,900	1,275,900
2028	1,450,000	81,438	1,531,438
2029	900,000	62,775	962,775
2030	900,000	46,575	946,575
2031	900,000	28,575	928,575
2032	900,000	9,675	909,675
Total	9,620,000	912,352	10,532,352

Notes:

1) Estimated Rate assumes Aa2 sale of 1/18/22 + .30

Table 6
Allocation of Debt Service - 2025 G.O. Notes

City of Mequon, WI

Year Ending	Levy Portion Principal	Est. Rate	Interest	Total
2022				0
2023				0
2024				0
2025				0
2026	150,000	4.00%	286,000	436,000
2027	350,000	4.00%	191,000	541,000
2028	400,000	4.00%	176,000	576,000
2029	400,000	4.00%	160,000	560,000
2030	400,000	4.00%	144,000	544,000
2031	500,000	4.00%	126,000	626,000
2032	500,000	4.00%	106,000	606,000
2033	750,000	4.00%	81,000	831,000
2034	800,000	4.00%	50,000	850,000
2035	850,000	4.00%	17,000	867,000
Total	5,100,000		1,337,000	6,437,000

Year Ending	Totals Principal (3/1)	Interest	Total
2022	0	0	0
2023	0	0	0
2024	0	0	0
2025	0	0	0
2026	150,000	286,000	436,000
2027	350,000	191,000	541,000
2028	400,000	176,000	576,000
2029	400,000	160,000	560,000
2030	400,000	144,000	544,000
2031	500,000	126,000	626,000
2032	500,000	106,000	606,000
2033	750,000	81,000	831,000
2034	800,000	50,000	850,000
2035	850,000	17,000	867,000
Total	5,100,000	1,337,000	6,437,000

Notes:

1) Estimated Rate assumes

Table 7
Allocation of Debt Service - 2028 G.O. Notes

City of Mequon, WI

Year Ending	Levy Portion Principal	Est. Rate	Interest	Total
2022				0
2023				0
2024				0
2025				0
2026				0
2027				0
2028				0
2029	0	4.00%	289,000	289,000
2030	280,000	4.00%	198,400	478,400
2031	285,000	4.00%	187,100	472,100
2032	350,000	4.00%	174,400	524,400
2033	570,000	4.00%	156,000	726,000
2034	680,000	4.00%	131,000	811,000
2035	680,000	4.00%	103,800	783,800
2036	750,000	4.00%	75,200	825,200
2037	750,000	4.00%	45,200	795,200
2038	755,000	4.00%	15,100	770,100
Total	5,100,000		1,375,200	6,475,200

Year Ending	Totals Principal (3/1)	Interest	Total
2022	0	0	0
2023	0	0	0
2024	0	0	0
2025	0	0	0
2026	0	0	0
2027	0	0	0
2028	0	0	0
2029	0	289,000	289,000
2030	280,000	198,400	478,400
2031	285,000	187,100	472,100
2032	350,000	174,400	524,400
2033	570,000	156,000	726,000
2034	680,000	131,000	811,000
2035	680,000	103,800	783,800
2036	750,000	75,200	825,200
2037	750,000	45,200	795,200
2038	755,000	15,100	770,100
Total	5,100,000	1,375,200	6,475,200

Notes:

1) Estimated Rate assumes

Table 8
Allocation of Debt Service - 2031 G.O. Notes

City of Mequon, WI

Year Ending	Levy Portion			
	Principal	Est. Rate	Interest	Total
2022				0
2023				0
2024				0
2025				0
2026				0
2027				0
2028				0
2029				0
2030				0
2031				0
2032	300,000	4.25%	300,688	600,688
2033	420,000	4.25%	195,075	615,075
2034	450,000	4.25%	176,588	626,588
2035	450,000	4.25%	157,463	607,463
2036	550,000	4.25%	136,213	686,213
2037	550,000	4.25%	112,838	662,838
2038	550,000	4.25%	89,463	639,463
2039	575,000	4.25%	65,556	640,556
2040	600,000	4.25%	40,588	640,588
2041	655,000	4.25%	13,919	668,919
Total	5,100,000		1,288,388	6,388,388

Year Ending	Totals		
	Principal (3/1)	Interest	Total
2022	0	0	0
2023	0	0	0
2024	0	0	0
2025	0	0	0
2026	0	0	0
2027	0	0	0
2028	0	0	0
2029	0	0	0
2030	0	0	0
2031	0	0	0
2032	300,000	300,688	600,688
2033	420,000	195,075	615,075
2034	450,000	176,588	626,588
2035	450,000	157,463	607,463
2036	550,000	136,213	686,213
2037	550,000	112,838	662,838
2038	550,000	89,463	639,463
2039	575,000	65,556	640,556
2040	600,000	40,588	640,588
2041	655,000	13,919	668,919
Total	5,100,000	1,288,388	6,388,388

Notes:

1) Estimated Rate assumes

Table 9
Financing Plan Tax Impact

City of Mequon, WI

Existing Debt

Year Ending	Total Debt Payments	Less: TID #2	Less: TID #3	Less: Sewer	Less: Sewer SA	Net Debt Service Levy	Change From Prior Year Levy	Equalized Value (TID OUT)	Tax Rate Per $1,000	Annual Taxes $375,000 Home
2022	5,655,290	(316,100)	(647,150)	(1,696,650)	(179,438)	2,820,253		5,234,737,900	$0.54	$202.03
2023	5,124,240	(307,400)	(675,950)	(1,697,050)	(174,488)	2,269,353	(550,901)	5,351,525,009	$0.42	$159.02
2024	4,845,065	(298,700)	(413,400)	(1,698,350)	(170,363)	2,264,253	(5,100)	5,470,917,642	$0.41	$155.20
2025	4,882,171	0	(713,200)	(1,695,150)	(166,856)	2,306,965	42,713	5,613,890,426	$0.41	$154.10
2026	4,107,540	0	(738,700)	(1,698,750)	0	1,670,090	(636,875)	5,739,136,436	$0.29	$109.13
2027	4,009,578	0	(759,800)	(1,696,750)	0	1,553,028	(117,063)	5,867,176,687	$0.26	$99.26
2028	3,811,953	0	(775,200)	(1,697,350)	0	1,339,403	(213,625)	5,998,073,518	$0.22	$83.74
2029	2,920,590	0	0	(1,696,600)	0	1,223,990	(115,413)	6,254,744,061	$0.20	$73.38
2030	2,376,783	0	0	(1,694,500)	0	682,283	(541,708)	6,394,287,528	$0.11	$40.01
2031	1,748,644	0	0	(1,066,050)	0	682,594	311	6,536,944,214	$0.10	$39.16
2032	0	0	0	0	0	0	(682,594)	6,682,783,572	$0.00	$0.00
2033	0	0	0	0	0	0	0	6,831,876,610	$0.00	$0.00
2034	0	0	0	0	0	0	0	6,984,295,917	$0.00	$0.00
2035	0	0	0	0	0	0	0	7,140,115,701	$0.00	$0.00
2036	0	0	0	0	0	0	0	7,299,411,828	$0.00	$0.00
2037	0	0	0	0	0	0	0	7,462,261,855	$0.00	$0.00
2038	0	0	0	0	0	0	0	7,628,745,069	$0.00	$0.00
2039	0	0	0	0	0	0	0	7,798,942,527	$0.00	$0.00
2040	0	0	0	0	0	0	0	7,972,937,094	$0.00	$0.00
2041	0	0	0	0	0	0	0	8,150,813,484	$0.00	$0.00
2042	0	0	0	0	0	0	0	8,332,658,299	$0.00	$0.00
2043	0	0	0	0	0	0	0	8,518,560,075	$0.00	$0.00
Total	39,481,853	(922,200)	(4,723,400)	(16,337,200)	(691,144)	16,812,209				

Proposed Debt

	2022 G.O. Notes	2025 G.O. Notes	2028 G.O. Notes	2031 G.O. Notes	Abatements	Debt Service Levy		Taxes			
	9,620,000 Dated: 3/24/2022 Total Principal and Interest	5,100,000 Dated: 4/1/2025 Total Principal and Interest	5,100,000 Dated: 4/1/2028 Total Principal and Interest	5,100,000 Dated: 4/1/2031 Total Principal and Interest	Less: TID #3	Total Net Debt Service Levy	Levy Change from Prior Year	Total Tax Rate for Debt Service	Annual Taxes $375,000 Home	Annual Taxes Difference From Existing	Year Ending
	0	0	0	0	0	2,820,253		$0.54	$202	$0	2022
	878,946	0	0	0	(346,087)	2,802,211	(18,042)	$0.52	$196	$37	2023
	910,225	0	0	0	(428,825)	2,745,653	(56,558)	$0.50	$188	$33	2024
	977,275	0	0	0	(524,400)	2,759,840	14,188	$0.49	$184	$30	2025
	1,210,969	436,000	0	0	(518,650)	2,798,409	38,569	$0.49	$183	$74	2026
	1,275,900	541,000	0	0	(512,025)	2,857,903	59,494	$0.49	$183	$83	2027
	1,531,438	576,000	0	0	(554,263)	2,892,578	34,675	$0.48	$181	$97	2028
	962,775	560,000	289,000	0		3,035,765	143,188	$0.49	$182	$109	2029
	946,575	544,000	478,400	0		2,651,258	(384,508)	$0.41	$155	$115	2030
	928,575	626,000	472,100	0		2,709,269	58,011	$0.41	$155	$116	2031
	909,675	606,000	524,400	600,688		2,640,763	(68,506)	$0.40	$148	$148	2032
	0	831,000	726,000	615,075		2,172,075	(468,688)	$0.32	$119	$119	2033
	0	850,000	811,000	626,588		2,287,588	115,513	$0.33	$123	$123	2034
	0	867,000	783,800	607,463		2,258,263	(29,325)	$0.32	$119	$119	2035
	0	0	825,200	686,213		1,511,413	(746,850)	$0.21	$78	$78	2036
	0	0	795,200	662,838		1,458,038	(53,375)	$0.20	$73	$73	2037
	0	0	770,100	639,463		1,409,563	(48,475)	$0.18	$69	$69	2038
	0	0	0	640,556		640,556	(769,006)	$0.08	$31	$31	2039
	0	0	0	640,588		640,588	31	$0.08	$30	$30	2040
	0	0	0	668,919		668,919	28,331	$0.08	$31	$31	2041
	0	0	0	0		0	(668,919)	$0.00	$0	$0	2042
	0	0	0	0		0	0	$0.00	$0	$0	2043
	10,532,352	6,437,000	6,475,200	6,388,388	(2,884,250)					1,516	Total

Notes:

Table 10
General Obligation Debt Capacity Analysis - Impact of Financing Plan

City of Mequon, WI

	Existing Debt				Proposed Debt									
Year Ending	Projected Equalized Value (TID IN)	Debt Limit	Existing Principal Outstanding	**% of Limit**	2022 G.O. Notes	2024 G.O. Bonds	2025 G.O. Notes	2028 G.O. Notes	2031 G.O. Notes	Combined Principal Existing & Proposed	**% of Limit**	Residual Capacity	Residual Capacity to Policy[1]	Year Ending
2021	5,403,150,300	270,157,515	35,045,000	**13%**						$35,045,000	**13%**	$235,112,515	$100,033,758	2021
2022	5,538,260,955	276,913,048	30,345,000	**11%**	9,620,000					$39,965,000	**14%**	$236,948,048	$98,491,524	2022
2023	5,676,750,174	283,837,509	26,040,000	**9%**	8,945,000	0				$34,985,000	**12%**	$248,852,509	$106,933,754	2023
2024	5,797,785,940	289,889,297	21,895,000	**8%**	8,170,000	0				$30,065,000	**10%**	$259,824,297	$114,879,649	2024
2025	5,942,764,816	297,138,241	17,585,000	**6%**	7,320,000	0	5,100,000			$30,005,000	**10%**	$267,133,241	$118,564,120	2025
2026	6,091,369,019	304,568,451	13,940,000	**5%**	6,225,000	0	4,950,000			$25,115,000	**8%**	$279,453,451	$127,169,225	2026
2027	6,243,689,205	312,184,460	10,285,000	**3%**	5,050,000	0	4,600,000			$19,935,000	**6%**	$292,249,460	$136,157,230	2027
2028	6,319,818,294	315,990,915	6,735,000	**2%**	3,600,000	0	4,200,000	5,100,000		$19,635,000	**6%**	$296,355,915	$138,360,457	2028
2029	6,477,851,060	323,892,553	3,985,000	**1%**	2,700,000	0	3,800,000	5,100,000		$15,585,000	**5%**	$308,307,553	$146,361,277	2029
2030	6,639,835,578	331,991,779	1,710,000	**1%**	1,800,000	0	3,400,000	4,820,000		$11,730,000	**4%**	$320,261,779	$154,265,889	2030
2031	6,805,870,666	340,293,533	0	**0%**	900,000	0	2,900,000	4,535,000	5,100,000	$13,435,000	**4%**	$326,858,533	$156,711,767	2031
2032	6,976,057,611	348,802,881		**0%**		0	2,400,000	4,185,000	4,800,000	$11,385,000	**3%**	$337,417,881	$163,016,440	2032
2033	7,150,500,234	357,525,012		**0%**		0	1,650,000	3,615,000	4,380,000	$9,645,000	**3%**	$347,880,012	$169,117,506	2033
2034	7,329,304,952	366,465,248		**0%**		0	850,000	2,935,000	3,930,000	$7,715,000	**2%**	$358,750,248	$175,517,624	2034
2035	7,512,580,844	375,629,042		**0%**		0		2,255,000	3,480,000	$5,735,000	**2%**	$369,894,042	$182,079,521	2035
2036	7,700,439,716	385,021,986		**0%**		0		1,505,000	2,930,000	$4,435,000	**1%**	$380,586,986	$188,075,993	2036
2037	7,892,996,168	394,649,808		**0%**		0		755,000	2,380,000	$3,135,000	**1%**	$391,514,808	$194,189,904	2037
2038	8,090,367,668	404,518,383		**0%**		0			1,830,000	$1,830,000	**0%**	$402,688,383	$200,429,192	2038
2039	8,292,674,621	414,633,731		**0%**		0			1,255,000	$1,255,000	**0%**	$413,378,731	$206,061,866	2039
2040	8,500,040,442	425,002,022		**0%**		0			655,000	$655,000	**0%**	$424,347,022	$211,846,011	2040
2041	8,712,591,632	435,629,582		**0%**		0				$0	**0%**	$435,629,582	$217,814,791	2041
2042	8,930,457,858	446,522,893		**0%**		0				$0	**0%**	$446,522,893	$223,261,446	2042
2043	9,153,772,025	457,688,601		**0%**		0				$0	**0%**	$457,688,601	$228,844,301	2043

Notes:
1) City's financial policies to limit debt to 50% of GO borrowing limit.

City of Mequon, Wisconsin

Tax Increment District #3

Development Assumptions

Construction Year		Actual	Foxtwon Brewery Bldg D	Foxtown Mixed Use Bldg E3	Foxtown Single Family	P2 Townhome Project[1]	Annual Total	Construction Year	
12	2019	40,598,900					40,598,900	2019	12
13	2020	(17,269,000)					(17,269,000)	2020	13
14	2021		1,600,000		3,441,500		5,041,500	2021	14
15	2022		100,000	1,700,000	5,500,000		7,300,000	2022	15
16	2023				5,000,000	6,775,000	11,775,000	2023	16
17	2024						0	2024	17
18	2025						0	2025	18
19	2026						0	2026	19
	Totals	122,853,400	1,700,000	1,700,000	13,941,500	6,775,000	146,969,900		

Notes:

[1] **Developer estimated value to be completed by the end of 2023.**

REVISED Version 6

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City of Mequon, Wisconsin

Tax Increment District #3

Tax Increment Projection Worksheet

Type of District	Mixed Use	Base Value	41,330,300
District Creation Date	April 15, 2008	Appreciation Factor	0.00%
Valuation Date	Jan 1, 2008	Base Tax Rate	$15.22
Max Life (Years)	20	Rate Adjustment Factor	
Expenditure Period/Termination	15 / 4/15/2023		
Revenue Periods/Final Year	19 / 2028		
Extension Eligibility/Years	Yes / 6	Tax Exempt Discount Rate	
Eligible Recipient District	No	Taxable Discount Rate	1.50%

	Construction Year	Value Added	Valuation Year	Inflation Increment	Total Increment	Revenue Year	Tax Rate	Tax Increment
6	2013	1,404,600	2014	0	1,404,600	2015	$15.58	**21,890**
7	2014	7,479,600	2015	0	8,884,200	2016	$16.38	**145,512**
8	2015	25,849,000	2016	0	34,733,200	2017	$14.38	**499,425**
9	2016	6,916,600	2017	0	41,649,800	2018	$15.87	**660,971**
10	2017	9,792,700	2018	0	51,442,500	2019	$15.44	**794,030**
11	2018	48,081,000	2019	0	99,523,500	2020	$15.05	**1,497,776**
12	2019	40,598,900	2020	0	140,122,400	2021	$15.22	**2,133,037**
13	2020	-17,269,000	2021	0	122,853,400	2022	$15.22	**1,870,156**
14	2021	5,041,500	2022	0	127,894,900	2023	$15.22	**1,946,901**
15	2022	7,300,000	2023	0	135,194,900	2024	$15.22	**2,058,027**
16	2023	11,775,000	2024	0	146,969,900	2025	$15.22	**2,237,274**
17	2024	0	2025	0	146,969,900	2026	$15.22	**2,237,274**
18	2025	0	2026	0	146,969,900	2027	$15.22	**2,237,274**
19	2026	0	2027	0	146,969,900	2028	$15.22	**2,237,274**
	Totals	**146,969,900**		**0**			**Future Value of Increment**	**20,576,821**

Notes:

Actual results will vary depending on development, inflation of overall tax rates.

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City of Mequon, Wisconsin

Tax Increment District #3

Cash Flow Projection

Year	Projected Revenues: Tax Increments	Interest Earnings/ (Cost)	Computer Aid	Rotary Repayment	Total Revenues	Expenditures: GO Refunding Bonds 5,030,000 Dated Date: Principal	Interest	Outpost Development Incentive	Dermond Development Incentive	Reserve Development Incentive	Foxtown Develoment Incentive	P2 TownHome Project	2022 Capital Borrowing - TID 3 Portion			2022/23 Capital Projects	Admin./ Prof Services	Total Expenditures	Balances: Annual	Cumulative
		0.20%																		(2,650,233)
2021	2,133,037	(5,300)	6,818		2,134,554	440,000	129,050	25,270	49,802	20,391	494,463						10,000	1,168,976	965,578	(1,684,655)
2022	1,870,156	(3,369)	6,477	205,000	2,078,264	540,000	115,850	25,270	49,802		560,928					700,000	10,000	2,001,850	76,414	(1,608,241)
2023	1,946,901	(3,216)	6,153		1,949,838	585,000	99,650	25,270	49,802		521,102		300,000	0.75%	46,087		10,000	1,636,911	312,927	(1,295,314)
2024	2,058,027	(2,591)	5,846		2,061,282	630,000	82,100	25,270	49,802		521,102		400,000	0.90%	28,825		10,000	1,747,099	314,183	(981,132)
2025	2,237,274	(1,962)	5,553		2,240,865	650,000	63,200	25,270	49,802		521,102	61,880	500,000	1.05%	24,400		10,000	1,905,655	335,210	(645,921)
2026	2,237,274	(1,292)	5,276		2,241,258	695,000	43,700	25,270	49,802		521,102	61,880	500,000	1.25%	18,650		10,000	1,925,405	315,853	(330,068)
2027	2,237,274	(660)	5,012		2,241,626	730,000	29,800	25,270	49,802		521,102	61,880	500,000	1.40%	12,025		10,000	1,939,880	301,746	(28,322)
2028	2,237,274	(57)	4,761		2,241,978	760,000	15,200	25,270	249,011		521,102	61,880	550,000	1.55%	4,263		15,000	2,201,727	40,252	11,930
Total	16,957,217	(18,448)	22,360	205,000	17,189,665	5,030,000	578,550	202,163	597,625	20,391	4,182,003	247,521	2,750,000		134,250	700,000	85,000	14,527,502		

Notes:

Projected TID Closure

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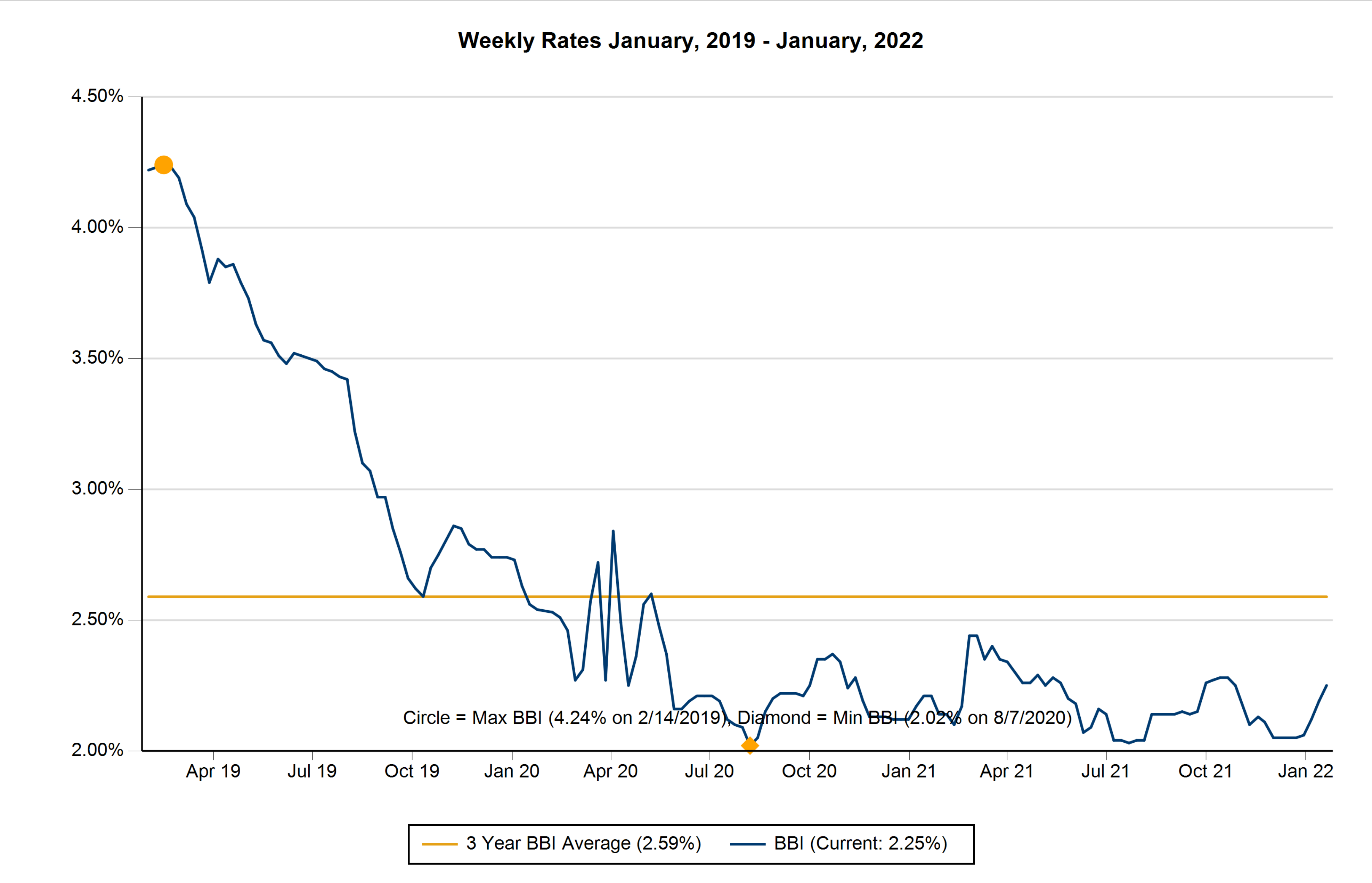
3 YEAR TREND IN MUNICIPAL BOND INDICES



The Bond Buyer "20 Bond Index" (BBI) shows average yields on a group of municipal bonds that mature in 20 years and have an average rating equivalent to Moody's Aa2 and S&P's AA.

Source: The Bond Buyer

EHLERS PUBLIC FINANCE ADVISORS

City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092-1930
Phone: 262-236-2913
Fax: 262-242-9655

www.ci.mequon.wi.us **Office of Committee of the Whole**

TO: **Public Works Committee**
FROM: **Jeremy Dandy, Engineering Technician**
DATE: **February 8, 2022**
SUBJECT: **2022-2024 Road Program**

Background
The Annual Road Program addresses both road reconstruction/rehabilitation and road maintenance. This memo provides an overview of the proposed 2022 program and the current estimates.

Analysis
The City's annual road program is supported by the issuance of multiple contracts.

Reconstruction/Rehabilitation - Reconstruction/Rehabilitation projects are included in the Road Improvements contract and typically include treatments such as widening, pulverize & pave, mill & pave, and asphalt overlays. These projects address roads with surface condition ratings (SCR) of 2-5.

City staff is considering the following roads for rehabilitation in 2022:

- Granville Road (Pioneer Rd to Bonniwell Road)
- Bonniwell Road (Granville Road to Wasaukee Road)
- Mequon Business Park Phase 1 (Enterprise Drive, Executive Drive, Baehr Road, Industrial Drive, and Eastwood Court)
- Cheverny Drive
- Highland Ridge (Overlook Court and Highland Ridge Drive)
- Birch Creek Road
- Legacy Hills Drive
- Miller Court
- Park Place Addition No. 2 (Trillium Road and Trillium Court)
- Vintage Estates (Otto Road, Vintage Drive, Miller Drive, Anne Court, and Vintage Court)
- Ravine Farm (Woodlyn Drive, Dalewood Lane, Post Court, Ash Court, and White Oak Way)
- Hickory Hollow (White Oak Way, Boundary Road, Boundary Square, Old Barn Road, Chowning Cross, and Chowning Square).

This list will comprise the base and additive bid items to utilize available funding which includes remaining funds from the 2019-2021 borrowing. See attached area map for roads being considered in 2022.

The Ravine Farm, Hickory Hollow, and Park Place Subdivisions also includes a private water trust that manages the water services to the residents. The water lines are within the road reconstruction area and a memorandum of understanding will need to be executed prior to the reconstruction of the roadway to protect the City and residents during the reconstruction. The template memorandum of understanding was previously approved by the Common Council for this scenario. Ravine Farm, Hickory Hollow, and Vintage Estates Subdivisions will be included as additive bid items so that it can be added should the agreement be executed prior to the contract award.

In addition, staff is recommending work to be completed to repair large areas of road with patch work. Large patch repairs on Bonniwell Road near Riverland Road, Ashbury Woods, Highland Road and West Shoreland Drive, Fluer de Lis Drive and Yvonne Drive, and Country Club Drive at Range Line Road will be considered.

As well as the roads listed above, reconstruction of City owned parking lots will be part of the reconstruction program utilizing a portion of the approved $650,000 for parking lot rehabilitation which has remaining funds from the 2019-2021 borrowing. City Staff is anticipating that the parking lot near the Library, City Pool, and Rennicke Field will be rehabilitated in 2022.

Maintenance - Maintenance contracts include crack sealing and GSB-88 bituminous seal. These projects generally address roads with SCR ratings of 6-8. Crack sealing, however, is performed on a variety of roads with SCR ratings ranging from 6-10. Maintenance projects are meant to prolong the pavement's useful service life. Proper balance of reconstruction/rehabilitation and maintenance is required to maintain the entire system in the most cost-effective manner. Please see the attached Crack Sealing Location Map and GSB-88 Bituminous Seal Location Map. Staff intends to release the maintenance contracts for bidding in February, with award in March.

Crack sealing should be complete prior to GSB-88 bituminous seal because in some cases, both treatments are on the same road, and it is better to have the GSB-88 bituminous seal cover the entire pavement including the sealed cracks. Staff intends to release the maintenance documents for bidding the projects in February, with award in March.

Fiscal Impact

The City of Mequon has applied for and been approved for Local Roads Improvement Program Entitlement Project (LRIP) funding for the reconstruction of the roads within the Mequon Business Park. The total construction costs are estimated at $505,036 which includes milling of the existing surface and re-paving. The LRIP reimbursement amount is approximated to be $85,746 which equates to 16.9% of the total estimated cost.

Concurrent to this road program discussion, the Common Council will also be considering a borrowing which includes transportation funding. This three-year borrowing will provide the funds for the road program projects, in addition to the road maintenance capital funding provided from the tax levy.

The net total expenditures for 2019-2021 were under the overall budget for the road program resulting in a $1,286,824 balance for 2022 ($1,053,626 for roads and $233,198 for parking lots). The balance includes the $469,965 reimbursement for the LRIP-D project on Cedarburg Road, an approximate savings of $125,000 in 2019 from material savings, $200,000 from 2021 was saved from no undercutting required throughout the project, and the $350,000 of funding from the general levy.

The intent is to utilize the remaining funding from 2019-2021 through the next three years. Additive bidding will be utilized, when possible, to maximize yearly expenditures. Staff is preparing additive bids which can be used in any combination to maximize the funds available. Staff anticipates the target amount for 2022 road projects to be $2,100,000, which will be utilized based on received bid amounts.

The program shown on the chart below is the considered costs for 2022:

	Miles	Cost Estimate
Rehabilitation – Granville Rd (Pioneer to Bonniwell)	0.99	$ 357,183
Rehabilitation – Bonniwell Rd (Granville to Wasaukee)	1.00	$ 134,398
Rehabilitation – Mequon Business Park (MBP)	1.17	$ 505,036
Rehabilitation – MBP Irrigation Abandonment		$ 65,000
Rehabilitation – Cheverny Drive	0.36	$ 158,604
Rehabilitation - Highland Ridge	0.50	$ 155,827
Rehabilitation – Birch Creek Rd	0.41	$ 114,382
Rehabilitation – Legacy Hills	0.46	$ 158,860
Rehabilitation – Miller Court	0.19	$ 64,382
Rehabilitation – Park Place – Add No. 2	0.45	$ 148,631
Rehabilitation – Vintage Estates	1.01	$ 390,281
Rehabilitation – Ravine Farm	0.58	$ 268,601
Rehabilitation – Hickory Hollow	0.60	$ 364,506
Road Patch / Repairs		$ 62,486
Rehabilitation – (Parking Lots) Library		$ 104,166
Maintenance (Crack Seal)	17.60	$ 64,268
Maintenance (GSB-88)	14.04	$ 251,586
City Totals	**39.36**	
Anticipated LRIP Reimbursement		$ 85,746
Net Total (Considered)		**$3,082,451**

Recommendation

Staff is providing the road program descriptions for information and discussion. Award of each of the contracts will come back before the Common Council following each bidding cycle. Additive bids will be included with the Road Improvements contract, the GSB-88 contract and Crack Seal contract that can be added at the time of award if funding allows.

Attachments:
2022 Five Year Plan (PDF)
Road Rating Map (PDF)

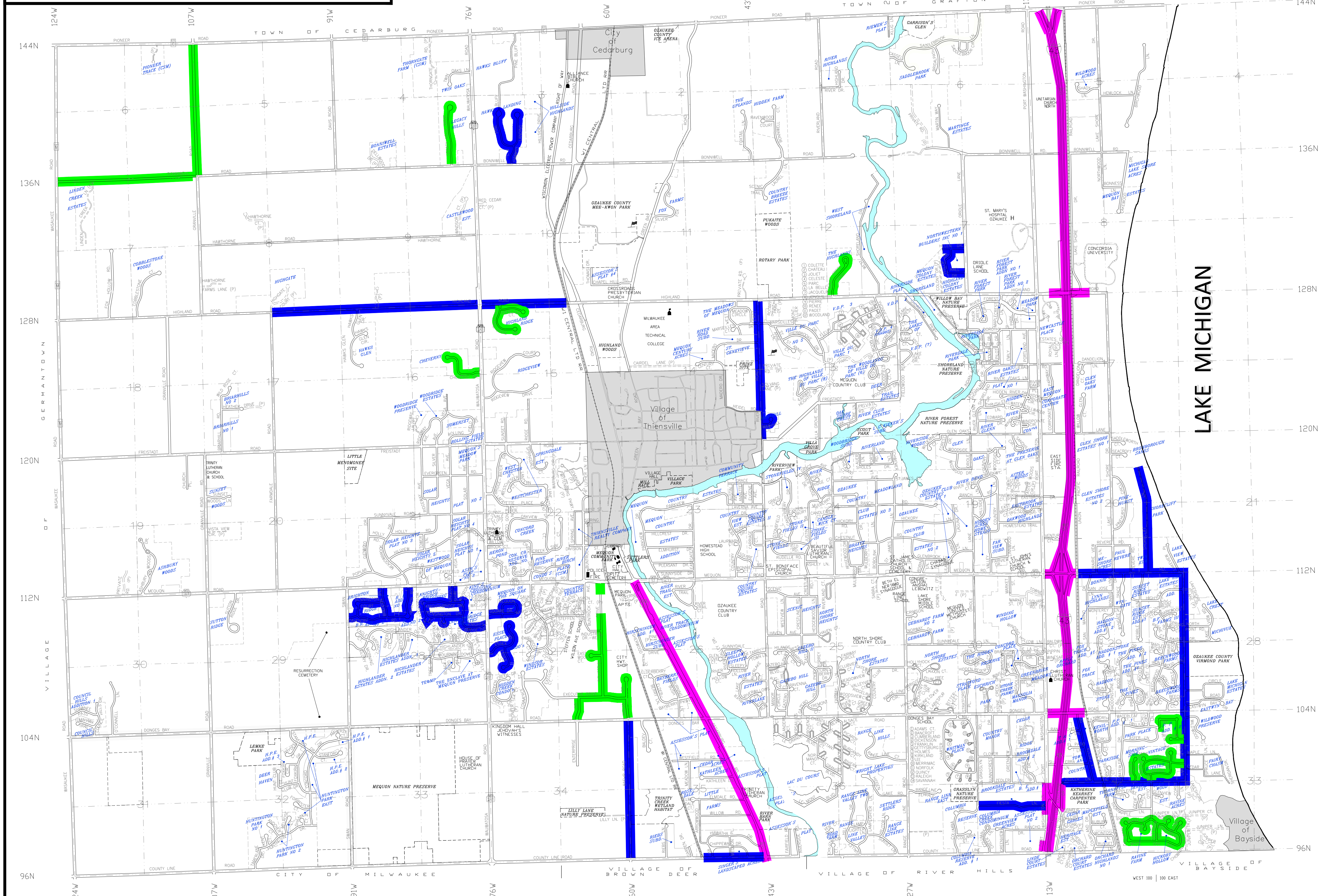
PASER RATING 2021

Path: C:\Users\ppvang\Documents\ArcGIS\Projects\PaserRating2021\PaserRating2021.aprx

5 Year Plan	(blue)		
2022 Base & Additive Items	(green)	WisDOT 2022-23	(magenta)

CITY OF MEQUON

5 YEAR PLAN



Attachment: 2022 Five Year Plan (RESOLUTION 3913 : 2022 General Obligation Refunding Bond Issue)

Resolution 3226

Approving an Intergovernmental Agreement between the City of Mequon and the County of Ozaukee as it concerns the Highland Road Interchange

WHEREAS, Section §66.0301 of the Wisconsin State Statutes authorizes municipalities, including cities and counties, to contract for the joint exercise of any power or duty required or authorized by statute; and

WHEREAS, the City of Mequon and Ozaukee County desire, for the mutual benefit of their citizens, to enter into an agreement concerning issues related to the design, construction and payment of an interchange at Interstate 43 (I-43) and Highland Road, located in Mequon; and

WHEREAS, part of the State of Wisconsin Department of Transportation's ("WisDOT") overall plan to reconstruct and expand I-43 from Silver Spring Drive in Milwaukee County through Highway 60 in Ozaukee County, includes adding extra lanes, reconstructing existing interchanges, bridges and pavement, and constructing a completely new interchange at Highland Road ("the project"); and

WHEREAS, the Highland Road interchange, as recommended in the Southeastern Wisconsin Regional Planning Commission's 2035 Regional Transportation Plan, is estimated to cost approximately $18 million with no more than $3.45 million covered by local contribution; and

WHEREAS, the City and the County together recognize the local and regional benefits of the project as well as the unique value of the Highland Interchange by reducing traffic congestion on Mequon and Port Washington Roads; eliminating the need for a WisDOT alternative at Mequon and Port Washington Roads that seeks to reconfigure the intersection with two or three turning lanes in all directions and necessitates the acquisition of valuable and scarce real estate in that area; reducing wear and tear on existing roads and reducing the need for additional traffic lanes on Port Washington Road; and addressing the "Transportation Element" in the City's and County's 2035 Comprehensive Plans wherein a new interchange at Highland Road is a recommended improvement; and

WHEREAS, upon careful consideration of past cost sharing and collaborative projects between the City of Mequon and Ozaukee County, both parties agree to an intergovernmental agreement which outlines each parties considerations and responsibilities, including an agreement to equally split a WisDOT-required local share of $3,450,000, which each party to the intergovernmental agreement contributing an equal amount of no more than $1,725,000 payable by 2021-22.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL of the City of Mequon, that it hereby approves the attached INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF MEQUON AND THE COUNTY OF OZAUKEE as it concerns the Highland Road Interchange.

Approved: ______________________
Dan Abendroth, Mayor

Date Approved: 5-28-14

This is to certify that the foregoing resolution as adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on the 13th day of May 2014.

____
Lee Szymborski, City Clerk

INTERGOVERNMENTAL AGREEMENT
BETWEEN THE CITY OF MEQUON AND THE COUNTY OF OZAUKEE

THIS AGREEMENT, entered into this 28th day of May, 2014, by and between the City of Mequon, a municipal corporation located in Ozaukee County, Wisconsin ("the City", or alternatively, "Mequon") and Ozaukee County, a municipal corporation ("the County").

WITNESSETH:

I. <u>This Agreement is being entered into based on the following facts:</u>

A. Section §66.0301, Wis. Stats., authorizes municipalities, including cities and counties, to contract for the joint exercise of any power or duty required or authorized by statute.

B. Mequon and the County are governmental units and are parties to this agreement.

C. Mequon and the County desire, for the mutual benefit of their citizens, to enter into an agreement concerning issues related to the design and construction of an interchange at Interstate 43 (I-43) and Highland Road, located in Mequon, of which is detailed as follows:

   a. Part of the State of Wisconsin Department of Transportation's ("WisDOT") overall plan to reconstruct and expand I-43 from Silver Spring Drive in Milwaukee County through Highway 60 in Ozaukee County, includes adding extra lanes, reconstructing existing interchanges, bridges and pavement, and constructing a completely new interchange at Highland Road ("the project");

   b. The Highland Road interchange, as recommended in the Southeastern Wisconsin Regional Planning Commission's 2035 Regional Transportation Plan, is tentatively designed as a tight-diamond interchange and estimated to cost approximately $18 million with no more than $3.45 million covered by local contribution;

D. The City and the County together recognize the local and regional benefits of the project as well as the unique value of the Highland Interchange by:

   a. Reducing traffic congestion on Mequon and Port Washington Roads;
   b. Eliminating the need for a WisDOT alternative at Mequon and Port Washington Roads that seeks to reconfigure the intersection with two or three turning lanes in all directions and necessitates the acquisition of valuable and scarce real estate in that area;
   c. Reducing wear and tear on existing roads and reducing the need for additional traffic lanes on Port Washington Road;
   d. Addressing the "Transportation Element" in the City's and County's 2035 Comprehensive Plans wherein a new interchange at Highland Road is a

recommended improvement.

II. Considerations and Responsibilities

A. Considerations. Upon careful consideration of past cost sharing and collaborative projects between City of Mequon and Ozaukee County, and individual actions taken to-date to advance the idea of a Highland Road interchange, both parties to this agreement have done the following:

1. The City approved design costs and an interim State/Municipal Agreement with WisDOT by Resolution 3205 on February 11, 2014; and

2. The County approved Resolution #13-83 on April 2, 2014 expressing support for a partnership with the City for the interchange and agreeing to a monetary contribution equal to or less than the City of Mequon's contribution, and not exceeding $2 million payable by 2021-22.

B. City Responsibilities:

1. The City agrees to be the signatory agent to the project's State/Municipal Agreement ("SMA") for a State-let Highway Project, I.D. number: 1229-04-02/2x/7x. By doing so, the city agrees to the terms and conditions of the SMA, herein attached as Exhibit A. As such, the City also agrees to serve as the lead agency, coordinating all matters throughout all phases of the project, with the Wisconsin Department of Transportation including design, engineering and construction.

2. The City agrees to serve as the lead agency in working with the project's area stakeholders, namely Concordia University Wisconsin, Columbia St. Mary's Hospital, Milwaukee Area Technical College, and other stakeholders as may be periodically identified as affected parties to the project, in seeking financial or in-kind contributions, or special assessments, in support of the project.

3. The City agrees that it shall not petition Ozaukee County for a period of no less than 10 years from the construction-completion date of the Highland Road interchange, for the expansion of driving lanes on Port Washington Road, north of Glen Oaks Lane.

4. The City agrees to include the construction of a suitably sized park and ride lot as part of the Highland Road Interchange construction project located in proximity to either the Highland Road or Mequon Road Interchange with I-43, as recommended in the 2035 SEWRPC Transportation Plan.

5. The City agrees to fund the project at no less than $1,725,000, unless

offsetting contributions are secured from stakeholders other than the County.

6. The City agrees to be responsible for the full municipal cost of any non-participatory items, per the SMA, that the City requests.

7. The City acknowledges that the majority of payments for the project are expected near the end of the project's construction, tentatively scheduled for 2020. Periodic payments for the project to WisDOT, as outlined in the SMA, may also be required.

C. County Responsibilities:

1. The County agrees to fund the project in an amount equal to the contribution made by the City but not greater than $1,725,000. The County contribution shall not exceed the City financial contribution. City and County contribution amounts shall be reduced by any offsetting financial contributions secured from other stakeholders, which shall be applied equally to the City's and County's overall costs as stated in the SMA.

2. The County agrees to be responsible for the full municipal cost of any non-participatory items, per the SMA, that the County requests. The park and ride lot will be considered a project participatory item and will be part of the overall project cost and not subject to this provision.

3. The County agrees to work cooperatively and assist the City in securing the project area's stakeholders' cooperation, as outlined above in Section II.B.2.

4. The County acknowledges that the majority of payments for the project are expected near the end of the project, tentatively scheduled for 2020. Periodic payments for the project, as outlined in the SMA, may also be required from the County to the City.

III. Integrated Agreement. This document, together with any and all instruments or exhibits, attached or referenced (collectively the "Agreement") sets forth the complete understandings of the parties relating to these matters and supersede any and all prior or contemporaneous agreements, understandings and representations relating to the subject matter of this Agreement.

IV. Modifications. This Agreement shall only be modified in writing signed by the party or an officer of such party against whom enforcement of the modification is ought; and no oral statements, representations or course of conduct inconsistent with the provisions of this Agreement shall be effective or binding on any party, regardless of any reliance thereon by the other.

V. Applicable Law: Construction.

A. This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin, except that (notwithstanding any rules of construction to the contrary) no provision or ambiguity shall be strictly construed against any party by virtue of its having drafted or prepared the same.

B. Captions of any section or paragraph of this Agreement are for convenience or reference only and shall not define or limit the scope of any provisions contained herein.

C. Whenever possible, each provision of this Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law. However, if any provision is prohibited by or found to be invalid or unenforceable under applicable law or for any other reason or under any particular circumstances: (1) the same shall not affect the validity or enforceability of such provision under any other circumstances or of the remaining provisions of this Agreement; and (2) such provision shall be deemed automatically amended with the least changes necessary so as to be valid and enforceable consistent with the intent of such provision as originally stated.

D. No provisions or implications of this Agreement or course of conduct pursuant to this Agreement shall give rise to any actual or implied relationship between the parties (such as an agency, joint venture or partnership), except as otherwise expressly stated in this Agreement.

VI. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, personal representatives, successors and assigns (to the extent assignment is specifically permitted).

VII. Warranty of Authority. Each party warrants and represents to the other that they have the requisite power and authority to enter this Agreement and that this Agreement is effective and legally binding on such party in accordance with its terms and the execution and performance of the same does and will not constitute a breach, default or violation of any other agreement, restriction or undertaking or of any law, rule, regulation or order as to which such party or its property or other assets are subject. Each person executing this Agreement on behalf of any party (as an officer, agent or otherwise) personally warrants and represents that (s)he is duly authorized and empowered to do so and that all signatures and approvals of persons which authority for such Party have been obtained as necessary to make this Agreement legally enforceable and effective against such property.

VIII. Further Documents. Each party shall promptly execute and deliver such further documents and instruments as may be reasonably requested by the other to establish, confirm or clarify any rights, obligations, options or privileges of the parties under this Agreement or to effectuate the transaction contemplated by this Agreement.

IX. Assignment. This Agreement and the interest created here under shall not be assigned by either party.

X. Dispute Clause. In the event that a dispute between the parties hereto shall arise as to the interpretation or implementation of this Agreement, the parties shall meet in good faith and attempt to resolve said dispute within the cooperative spirit of this Agreement. In the event that the parties shall be unable to resolve any dispute by their own action, the parties shall arbitrate the matter in accordance with procedures established by and in accordance with Chapter 788 of the Wisconsin Statutes as it exists now and as it may be hereinafter amended. No party may refuse the request of another party to settle disputes under the above procedures.

XI. Each party indemnifies and holds harmless the others against any and all liabilities (including but not limited to any taxes, levies or assessments of any nature) and damages related to the provisions in this Agreement and against all claims, suits and actions arising therefrom and against all costs of defending the same, including actual attorney's fees, which liabilities shall arise from the acts or omissions of its officers, employees, servants and agents.

XII. Term of Agreement. Cancellation of this Agreement can only be done in accordance with the terms set forth in the SMA between the City and WisDOT.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

NOTARY PUBLIC
LINA A. PROSSER
STATE OF WISCONSIN

CITY OF MEQUON

Mayor

City Clerk

STATE OF WISCONSIN)
) ss.
OZAUKEE COUNTY)

Personally came before me this 28th day of May, 2014, the above-named Dan Abendroth, Mayor and Lee Szymborski, City Clerk of the City of Mequon, to me known to be the persons who executed the foregoing document, and acknowledged the same.

Lina A. Prosser
Notary Public, State of Wisconsin
My Commission: 12-20-2015

Approved as to Form:

John L. DeStefanis
Mequon City Attorney

COUNTY OF OZAUKEE

County Board Chairman

County Clerk

STATE OF WISCONSIN)
) ss.
OZAUKEE COUNTY)

Personally came before me this 4 day of June, 2014, the above-named Lee Schlenvogt, County Board Chairman and Julianne B. Winkelhorst, Ozaukee County Clerk, to me known to be the persons who executed the foregoing document, and acknowledged the same.

Notary Public, State of Wisconsin
My Commission: 4-9-201[illegible]

LISA M. HENNING
NOTARY
PUBLIC
STATE OF WISCONSIN

Approved as to Form:

Rhonda Gorden
Ozaukee County Corporation Counsel

2022-2023 TOWN CENTER PUBLIC PROJECTS

	Mequon Road Improvements / OIT Crossing		Park & Open Space Planning / Land Acquisition		
Project Breakdown:	Consultants for OIT Crossing and Mequon Road	$176K	Buntrock Avenue Sidewalk to Schools	$30K	
	OIT Crossing + Road Features	$1.095M	OTHER: Connectivity to Adjacent Neighborhoods Alternative Transportation Options Civic Campus Master Plan Land Acquisition / Sale	$300K	
	Weston Drive Infrastructure Reimbursment	$160K			
	Overhead Utility Burial	$1.3M			
			Developer Incentives	FLEXIBLE	
	SUBTOTAL:	$2.73M	SUBTOTAL:	$330K	
	Mequon Road North ROW Streetscape	$67K	TOTAL	$3.388M	Total: $3.4M*
	Mequon Road South ROW Streetscape	$72K	Additional Public Investments (not included):		
	Opitz Cemetery Fencing	$70K	Cedarburg Rd Acquistion (2)	$500K	
	Buntrock Avenue Intersection Entryway	$29K			
	Milwaukee River Entryway	$19K			
	Mequon & Cedarburg Rd Intersection Features	$40K			
	Sign Package: Entryways, Corridors and Streets	$30K			
	Safety Measures for all Users	Included Above			
	Subtotal:	$3.058M			
TID Results**					
Year of Cash Flow Positive			2028		
TID Closure Date			2028		
Cash Balance at Closure			$12K		

*Time Present Value, does not include contingency, consultant or administrative costs
** Assumes no further new development and no new increment, borrowing occuring in 2022
TID Closure Date is the year that all debt, bonds, development incentives, City advances and project expenditures are paid off and the district has a positive cash balance
2021 Actual tax increment is $135.2M equating to annual City tax revenue of $465K at a rate of 3.44%

City of Mequon

11333 N. Cedarburg Road
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www.ci.mequon.wi.us
Office of Administration

TO:	**Common Council**
FROM:	**Justin Schoenemann, Assistant City Administrator**
DATE:	**January 26, 2022**
SUBJECT:	**RESOLUTION 3914 A Resolution Ratifying the City of Mequon's COVID-19 Emergency Medical Leave Policy Between January 1 - March 31, 2022**

Background

In the wake of updated guidance issued by the Centers for Disease Control (CDC) on December 27, the City Administrator's Office developed temporary leave protocols to address rising COVID-19 infections among City staff and immediate family members. The guidelines, which build off the City's Emergency Medical Leave Policy (EML) previously put into place in 2020, provide affected employees with up to 5 days of emergency leave, in order to isolate or quarantine per current CDC guidance. Thereafter, if additional time off away from work is required, employees may utilize other available time (e.g., vacation leave, sick leave, etc.) to account for any further absence. The guidelines, which were jointly reviewed by the City's Senior Executive Staff prior to distribution in early January, also allow employees to work remotely during this time, as job classifications and/or circumstances permit. As further noted in the document, the temporary five-day leave period is retroactive to January 1, available for use on a per occurrence basis, and sunsets on March 31 of this year. As of this memo, 19 City employees have been impacted by COVID-19 since January 1, 2022.

In accordance with past practice, staff is bringing the City's current EML guidelines before the Common Council for ratification. A copy of the EML policy is attached.

Fiscal Impact

The cost of providing emergency medical leave benefits to staff can be absorbed within the existing salary and benefit allocations included within the 2022 budget.

Recommendation

A recommendation from the Finance-Personnel Committee is forthcoming on February 8, 2022.

Attachments:
City of Mequon January - March 2022 EML Policy (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3914

A Resolution Ratifying the City of Mequon's COVID-19 Emergency Medical Leave Policy Between January 1 - March 31, 2022

RECITALS

A. In response to an increase in the number of City employees impacted by the COVID-19 emergency, the Common Council has determined there is a need for additional support to employees to ensure the continuation of operations on behalf of the community, and that it is necessary to reinstate a modified version of the City's *Emergency Medical Leave Policy* for affected City staff.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin, that the proposed amendments to the *Emergency Medical Leave Policy* outlined in the attached policy are adopted and made available to all City employees between January 1 - March 31, 2022.

____
Approved by: John Wirth, Mayor

Date Approved: February 8, 2022

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on February 8, 2022.

____
Caroline Fochs, City Clerk

City of Mequon
Emergency Medical Leave

In response to the ongoing effects associated with Coronavirus (COVID-19), the City is reinstituting a modified emergency medical leave (EML) provision for all regular full-time and part-time employees. EML benefits are available to these employees who are impacted by COVID-19 and these benefits are separate from other time-off benefits. The benefits provided under this policy are retroactive to January 1, 2022 and will sunset on March 31, 2022. EML is not an accrued benefit.

All full-time employees shall be awarded up to 5 paid days (based on standard schedule) per occurrence, and part-time employees shall receive a proration based on their full-time-equivalency ratio as determined in the sole discretion of the City per occurrence. All EML hours can only be exercised by an employee in the event the employee is required to quarantine/isolate per CDC direction listed above due to:

1. The employee contracting COVID-19 or is required to quarantine due to exposure.
2. An immediate family member within the employee's household contracts COVID-19 or is required to quarantine and the employee needs to provide care.

Employees who wish to use EML time must submit documentation of a positive case or exposure to their supervisor who will then forward such to the Human Resources Coordinator with the dates of leave for filing purposes.

Once EML hours have been exhausted and if the employee is still unable to return to work, the employee may use other available paid time off benefits, such as PTO, comp-time, sick leave, vacation leave, or medical leave bank hours before unpaid leave for the remainder of the absence.

Please note, the City reserves the right to deny authorization to use such EML in the event the City determines that an employee must report for duty. The benefits identified in this Policy are only available to employees represented by a collective bargaining agreement if agreed to by the collective bargaining representative.

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Office of Administration

TO:	**Common Council**
FROM:	**Justin Schoenemann, Assistant City Administrator**
DATE:	**January 26, 2022**
SUBJECT:	**RESOLUTION 3915 A Resolution Authorizing Execution of a Contract for Network Upgrades with Office Technology Group, Milwaukee, Wisconsin for a Not-to-Exceed Cost of $43,866**

Background

As part of the 2021 information technology assessment process with Avero Advisors, the City's network was identified as having key components in need of replacement due to being past their useful life and reconfiguring of the network for security purposes. The 2022 budget includes $50,000 designated for the network upgrade project.

Analysis

To complete the network project, the City will be utilizing IT staff and technicians from the Office Technology Group (OTG). OTG is a contract service provider for the City's IT Division and has been a partner for the past 5 years. OTG's team supports the City's servers, assists with annual licensing renewals, provides 24/7 support for key City systems, and project support. Through OTG's work with the City, their team is knowledgeable of the City's current infrastructure, which other vendors can't ascertain, and is also aware of the direction the organization needs to go to reach its future state.

In general, the scope of the project includes replacing aged Cisco brand switches with Juniper brand components, programming of new equipment, reconfiguring the City's network for better security compliance and operations, eliminating unneeded equipment in the City's network, conducting a wireless assessment, reconfiguring virtual local area networks, and developing proper documentation of the City's network. The completion of this project will directly impact the reliability of daily City-wide operations, improve security, and solidify the City's information technology foundation.

Fiscal Impact

OTG went to market on behalf of the City and solicited quotes for equipment from a number of vendors, including vendors that offer government-specific discounts. OTG found the best price for the needed equipment by going direct to Juniper, which has resulted in a 10% reduction in equipment acquisition costs when compared to other vendors. Furthermore, the City's new IT Manager identified tasks that can be completed in-house to help reduce the cost of this project. The total cost of the network project is $43,860, which is fully funded as part of the 2022 budget. A copy of the equipment acquisition and statement of work from OTG is available in the City Administrator's Office, and is available upon request.

Recommendation

Staff recommends that the Finance Personnel Committee and Common Council approve the resolution awarding a contract to The Office Technology Group at a cost not-to-exceed $43,860.

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3915

A Resolution Authorizing Execution of a Contract for Network Upgrades with Office Technology Group, Milwaukee, Wisconsin for a Not-to-Exceed Cost of $43,866

RECITALS

A. The City of Mequon's Information Technology Strategic Plan established in 2021 identifies the need for modernizing the City's underlying network for both reliability and security purposes.

B. The replacement of network equipment is recommended because the current hardware is past its useful life and cannot provide the efficiencies and dependability of a modern system.

C. The City's contracted service provider, The Office Technology Group, has solicited quotations for equipment that meets the required specifications from multiple providers and recommends the proposed acquisition, which has been reviewed and confirmed by City staff.

D. The Finance-Personnel Committee has reviewed the above recommendations and recommends the approval of the acquisition of new hardware and services necessary to deploy the equipment.

E. Sufficient funds are included within the 2022 budget to finance the total cost associated with the proposed network project at $43,860.29.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin, that the proposal from The Office Technology Group for the acquisition of new equipment and software, including installation, is approved at a cost not to exceed $43,860.29.

____
Approved by: John Wirth, Mayor

Date Approved: February 8, 2022

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on February 8, 2022.

Caroline Fochs, City Clerk

City of Mequon

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www.ci.mequon.wi.us
Office of Community Development

TO: Common Council
FROM: Kim Tollefson, Director of Community Development
DATE: February 8, 2022
SUBJECT: RESOLUTION 3916 A Resolution Authorizing a Town Center TID No. 3 Incentive with P2 Development, in Connection with Construction of a Planned Unit Development Located at 11040 and 11110 North Buntrock Avenue

Background

P2 Development has applied for an authorized incentive through the Town Center (TC) TID Fast Track Formula for the reimbursement of demolition and clean-up costs on the properties located at 11040 and 11110 North Buntrock Avenue. Under the TC TID project plan, qualifying development projects are eligible for a financial incentive for redevelopment efforts. The following outlines the criteria:

- New construction value of $3M beyond the site's current improvement value.
- A payback period of 15 years or less.
- The maximum incentive allowed is the "gap", which is defined as a site's base improvement value, plus the cost of demolition/repair and a 5% incentive.

P2 Development's application shows the following:

- A total net new construction value of $6.1M
- A total estimated cost for the eligible expenditures, including the value of the existing improvement on site(s) of $710,687
- A total eligible incentive under the Fast Track Formula of $1.03M inclusive of the 5% incentive and $710,687 exclusive of the 5%
- Total, annually equalized tax revenue for the TID of $103,113

FAST TRACK FORMULA: P2 Buntrock TownHomes	
Base Improvement Value	$353,700
Site Demolition & Repair	$356,987
Total Cost of Gap	$710,687
New Development Value	$6,775,000
5% Incentive	$321,065
Total City Incentive	**$1,031,752**

Analysis

The City has historically negotiated a sharing of the net, annual increment. The ratio has generally been between 60/40% and 70/30%. Given the timing of this project and the 5-6 remaining years within the TID, the developer cannot achieve the full, eligible incentive, even if the City authorized an annual return of the increment at 100%. Further, it is the City's intent to complete public improvement projects throughout the remaining life of the TID. The public projects desired by the Common Council were agreed upon in 2021 and are mostly projects that cannot be achieved through private development contributions, but rather projects involving the road right-of-way, City-owned land and a burial of utilities. Therefore, it remains in the public interest to capture a share of the annual increment early in the implementation of this project.

A 60/40% share of the net annual increment is recommended, along with an incentive exclusive of the 5% premium. An incentive without the 5% bonus is recommended because the Common Council has expressed hesitancy in providing incentives for projects that are not truly mixed-use. Per this recommendation the Developer is only receiving reimbursement for costs that are necessary to return the site to a greenfield state, with no additional bonus.

Fiscal Impact

The net results of this structure are as follows:

- An increase in available capital project funding of nearly $165,000
- Removal of two non-conforming uses and five non-conforming structures
- Consolidation of two underutilized, underperforming lots
- Increase of sites' tax revenue by 167%
- Developer receives 35%, or $247,521, of the eligible 100% PAYGO for reimbursement of site demolition and base improvement value (defined as the gap under the formula)
- Developer receives 35% of gap over the course of 4 years, an approximate total incentive of $247,500
- Developer forgoes 5% bonus incentive

The application complies with the conditions to receive an incentive and meets the policy goals and objectives of the Town Center Zoning and Town Center TID project plan. The project provides financial and redevelopment benefits to the City and fosters increased vitality within the Town Center neighborhood.

Recommendation

On January 18, 2022, the Economic Development Board recommended approval of the proposed incentive by a vote of 7-1.

A recommendation from the Finance-Personnel Committee is forthcoming on February 8, 2022.

Attachments:
Assessor Data Value (PDF)
Estimated Site Demo Repair Costs (PDF)
TID #3 Cash Funded Capital (PDF)
Project Narrative (PDF)

Updated Elevations (PDF)
Development Agreement (DOCX)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3916

A Resolution Authorizing a Town Center TID No. 3 Incentive with P2 Development, in Connection with Construction of a Planned Unit Development Located at 11040 and 11110 North Buntrock Avenue

RECITALS

A. The Economic Development Board approved an incentive the P2 Development Town Center residential development located at 11040 and 11110-11112 North Buntrock Avenue on January 18, 2022.

B. The Developer has sought Development Agreement approval to address certain financial and timing aspects of the development.

C. The Finance-Personnel Committee recommended approval of the Development Agreement and corresponding incentive to P2 Development for the property on February 8, 2022.

D. The Development Agreement provides for the timing of construction, completion, costs and values and is consistent with the approved Planned Unit Development.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin, that:

1. The City agrees to the terms of the Development Agreement, in substantial conformity with the form appended to this Resolution.

2. The Mayor and City Clerk are authorized and directed to execute the Development Agreement in substantial conformity with the form appended to this Resolution, subject to any clerical or technical changes identified by the City Attorney.

____
Approved by: John Wirth, Mayor

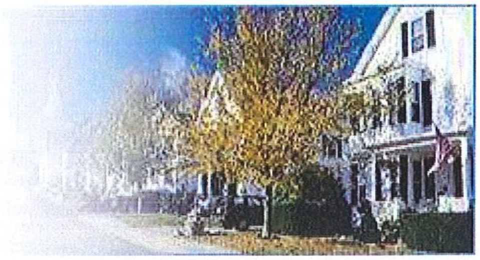
Date Approved: February 8, 2022

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on February 8, 2022.

____

Caroline Fochs, City Clerk

AssessorData



Tax Key Number: 140270100300

Property address:
11110 N Buntrock Ave
City of Mequon, WI

Abbreviated legal description:

Acres (county records): 0

Building 1 description: 1.5 story wood old style	**Size:** 1,055 sq feet	**Year built:** 1900
Building 2 description: Storage Garage	**Size:** 3,500 sq feet	**Year built:** 1950

Additional structures: 1

Date of last building permit: 3/20/2008

Last sale date: 11/30/2006

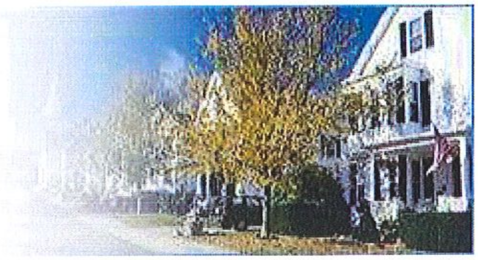
Total assessed value of land: $167,200

Total assessed value of buildings: $202,100

Assessment year: 2021

Click here to view the website for this municipality

AssessorData



Tax Key Number: 140270100400

Property address:
11040 N Buntrock Ave
City of Mequon, WI

Abbreviated legal description:

Acres (county records): 0

Building 1 description:
Multi Section Industrial Bldg

Size: 12,388 sq feet

Year built: 1920

Additional structures: 2

Date of last building permit: 1/25/2005

Last sale date: not available

Total assessed value of land: $145,900

Total assessed value of buildings: $151,600

Assessment year: 2021

Click here to view the website for this municipality

TIF Costs

11110-11112, 11040 N Buntrock Ave					
	Contractor	Bid/Estimate	Actual	Invoice	Check #
Environmental Analysis	Kapur & Associates, Inc.	$10,970.00	$10,970.00		
	Affordable Environmental Tech	$990.00			
Wells Abandonment	Dickenschrauf Plumbing	$5,960.00			
A/C Refrigerant Removal/Disposal	Dickenschrauf HVAC	$822.00			
Sanitary Laterals Abandonment	BMCI	$5,600.00			
Asbestos Removal	Affordable Environmental Tech				
Contaminated Soil Remediation	BMCI				
Utility Abandonment	WE-Energies	$17,200.00			
	AT&T	$3,500.00			
Clearing & Grubbing & Erosion Control	Blaze Landscape	$21,350.00			
Building Demolition	BMCI	$216,000.00			
	City of Mequon				
Storm Water Pipe Relocation	BMCI	$72,300.00			
Fence Removal	Blaze Landscape	$1,820.00			
Permits	City of Mequon	$475.00			
Total		$356,987.00	$10,970.00		

City of Mequon, Wisconsin

Tax Increment District #3

Development Assumptions

Construction Year		Actual	Foxtown Comm/Bldgs E1-E2	Foxtown Apartments	Foxtown Restaurant Bldg B	Foxtwon Brewery Bldg D	Foxtown Mixed Use Bldg E3	Foxtown Single Family	P2 Townhome Project	Annual Total	Construction Year	
1	2008									0	2008	1
2	2009									0	2009	2
3	2010									0	2010	3
4	2011									0	2011	4
5	2012									0	2012	5
6	2013	1,404,600								1,404,600	2013	6
7	2014	7,479,600								7,479,600	2014	7
8	2015	25,849,000								25,849,000	2015	8
9	2016	6,916,600								6,916,600	2016	9
10	2017	9,792,700								9,792,700	2017	10
11	2018	48,081,000								48,081,000	2018	11
12	2019	40,598,900								40,598,900	2019	12
13	2020	(17,269,000)								(17,269,000)	2020	13
14	2021					1,600,000		3,441,500		5,041,500	2021	14
15	2022					100,000	1,700,000	5,500,000		7,300,000	2022	15
16	2023							5,000,000	6,775,000	11,775,000	2023	16
17	2024									0	2024	17
18	2025									0	2025	18
19	2026									0	2026	19
	Totals	122,853,400	0	0	0	1,700,000	1,700,000	13,941,500	6,775,000	146,969,900		

Notes:

[1]**Developer estimate of between $8M and $10M in value completed by the end of 2022.**

REVISED Version 6

Attachment: TID #3 Cash Funded Capital (RESOLUTION 3916 : P2 Development Town Center Incentive)

EHLERS PUBLIC FINANCE ADVISORS

City of Mequon, Wisconsin

Tax Increment District #3

Tax Increment Projection Worksheet

Type of District	Mixed Use		Base Value	41,330,300
District Creation Date	April 15, 2008		Appreciation Factor	0.00%
Valuation Date	Jan 1,	2008	Base Tax Rate	$20.00
Max Life (Years)	20		Rate Adjustment Factor	
Expenditure Period/Termination	15	4/15/2023		
Revenue Periods/Final Year	19	2028		
Extension Eligibility/Years	Yes	6	Tax Exempt Discount Rate	
Eligible Recipient District	No		Taxable Discount Rate	1.50%

	Construction Year	Value Added	Valuation Year	Inflation Increment	Total Increment	Revenue Year	Tax Rate	Tax Increment
6	2013	1,404,600	2014	0	1,404,600	2015	$15.58	**21,890**
7	2014	7,479,600	2015	0	8,884,200	2016	$16.38	**145,512**
8	2015	25,849,000	2016	0	34,733,200	2017	$14.38	**499,425**
9	2016	6,916,600	2017	0	41,649,800	2018	$15.87	**660,971**
10	2017	9,792,700	2018	0	51,442,500	2019	$15.44	**794,030**
11	2018	48,081,000	2019	0	99,523,500	2020	$15.05	**1,497,776**
12	2019	40,598,900	2020	0	140,122,400	2021	$15.22	**2,133,037**
13	2020	-17,269,000	2021	0	122,853,400	2022	$15.22	**1,870,156**
14	2021	5,041,500	2022	0	127,894,900	2023	$15.22	**1,946,901**
15	2022	7,300,000	2023	0	135,194,900	2024	$15.22	**2,058,027**
16	2023	11,775,000	2024	0	146,969,900	2025	$15.22	**2,237,274**
17	2024	0	2025	0	146,969,900	2026	$15.22	**2,237,274**
18	2025	0	2026	0	146,969,900	2027	$15.22	**2,237,274**
19	2026	0	2027	0	146,969,900	2028	$15.22	**2,237,274**
	Totals	**146,969,900**		**0**			**Future Value of Increment**	**20,576,821**

Notes:

Actual results will vary depending on development, inflation of overall tax rates.

City of Mequon, Wisconsin

Tax Increment District #3

Cash Flow Projection

Year	Projected Revenues: Tax Increments	Interest Earnings/ (Cost)	Computer Aid	Other Revenue	Other Taxes	Rotary Repayment	BAB Reveue	Total Revenues	Expenditures: Taxable W/BAB Designation 6,950,000 Dated Date: 08/05/09 Principal	Interest	GO Refunding Bonds 5,030,000 Dated Date: Principal	Interest
		0.50%							8/1			
2015	21,890							21,890				
2016	145,512	546	4,305	2,000			120,979	273,342	250,000	370,875		
2017	499,425	1,915	6,906	7,506			117,184	632,936	250,000	359,625		
2018	660,969	1,541	7,008	221,136			113,679	1,004,333	300,000	347,750		
2019	794,030	5,117	7,177	400,747			109,242	1,316,313	350,000	332,750		
2020	1,497,776	13,959	7,177	174,278	21,312		57,394	1,771,896	400,000	174,263		62,733
2021	2,133,037		6,818					2,139,855			440,000	129,050
2022	1,870,156		6,477			205,000		2,081,634			540,000	115,850
2023	1,946,901		6,153					1,953,055			585,000	99,650
2024	2,058,027		5,846					2,063,873			630,000	82,100
2025	2,237,274	(5,202)	5,553					2,237,625			650,000	63,200
2026	2,237,274	(3,501)	5,276					2,239,048			695,000	43,700
2027	2,237,274	(1,921)	5,012					2,240,365			730,000	29,800
2028	2,237,274	(464)	4,761					2,241,571			760,000	15,200
Total	16,957,217	(11,089)	45,897	0	0	205,000	0	17,197,025			5,030,000	578,550

Year	Paying Agent & BAB fee	Outpost Development Incentive	Dermond Development Incentive	Spur 16 Shaffer	Reserve Development Incentive	Artesa	Foxtown Develoment Incentive	Loan to Rotary Foundation	P2 TownHome Project	Capital Expenditures	Adjustment to Fund Balance	Admin./ Prof Services	Total Expenditures	Balances: Annual	Cumulative	Principal Outstanding & Developer Incentive	Year
2015													0	21,890	(1,195,901)		2015
2016		25,270								2,225		37,150	685,520	(412,178)	(1,608,079)		2016
2017	500	25,270										90,058	725,453	(92,517)	(1,700,596)		2017
2018	500	25,270		150,000						40,926		147,842	1,012,287	(7,954)	(1,708,550)		2018
2019		25,270		89,455	114,024	41,119				992,846		80,266	2,025,732	(709,419)	(2,417,969)		2019
2020		25,270	49,802	5,000	115,585	41,682	112,491	205,000		879,004	(66,820)	150	2,004,160	(232,264)	(2,650,233)		2020
2021		25,270	49,802		20,391		494,463					10,000	1,168,976	970,879	(1,679,354)	9,670,242	2021
2022		25,270	49,802				560,928			516,220		10,000	1,818,070	263,563	(1,415,791)	8,484,242	2022
2023		25,270	49,802				521,102			516,220		10,000	1,807,044	146,010	(1,269,781)	7,293,067	2023
2024		25,270	49,802				521,102			516,220		10,000	1,834,494	229,378	(1,040,402)	6,056,893	2024
2025		25,270	49,802				521,102		61,880	516,220		10,000	1,897,475	340,151	(700,252)	4,738,838	2025
2026		25,270	49,802				521,102		61,880	516,220		10,000	1,922,975	316,074	(384,178)	3,375,784	2026
2027		25,270	49,802				521,102		61,880	516,220		15,000	1,949,075	291,290	(92,887)	1,972,729	2027
2028		25,270	249,011				521,102		61,880	516,220			2,148,684	92,887	(0)	355,466	2028
Total	0	202,163	597,625	0	20,391	0	4,182,003	0	247,521	5,528,541	0	430,466	14,546,792				Total

Notes: 2019 other revenues Include $355,763 Green Grant from MMSD for parking lot improvements
2019 other revenues include $43,302 from Secure Funds
2020 other revenues includes $216,539.82 from Secure Funds
[1]Estimated incentive based upon an $6,775,000 Development with incrment being paid up to $335K.

3,613,540 Total Capital Budget W/P2 Dev.
3,449,390 Total Capital Budget WO/P2
164,150 Additonal Funds for Captital

Projected TID Closure

REVISED Version 6

Attachment: TID #3 Cash Funded Capital (RESOLUTION 3916 : P2 Development Town Center Incentive)

EHLERS PUBLIC FINANCE ADVISORS

Town Homes at Foxtown

Looking to create 4 buildings (Two 10 unit buildings and two 11 unit buildings) including a total of 42 units, plus a club house on 11040 N Buntrock Ave and 11110 N Buntrock Ave.

We'd be combining the two parcels (11040 N Buntrock Ave and 11110 N Buntrock Ave) totaling 4.2 acres. We'd also be creating parallel parking, curb, gutter and sidewalks along the east side of Buntrock Avenue, which will be an extension of the property directly north (Artesa Apartments). The central median between the buildings will include a gazebo, community grills and dog walking area.

Each unit will have 2 stories and include either 2 or 3 bedrooms on the second floor. Each unit will have a living area, kitchen, and ½ bath first floor and bedrooms and bathrooms on the second floor. Two bedroom units will have an open loft overlooking the living room. Three bedroom units will not include a loft.

Each unit will have 10ft ceilings on the first floor with transom windows. Interior doors will be 8 feet tall. The units will have European style cabinetry, granite countertops, stainless steel appliances with gas range, and wine refrigerator.

Each unit will have a private entrance/front door with an attached garage, as well as a private rear patio. Two bedroom units will have a one car garage and three bedroom units will have a two car garage.

A walkway will connect the two parcels with the West House Apartments property at 11127 Weston Ave to join in on community activities.

The club house will be a two story facility. The first floor will include a large community room with fireplace entering off the street for social gatherings. The first floor will also include a billiards/shuffle board room and a secondary community room for smaller gatherings. The second floor will have a fully outfitted fitness room with a porch overlooking Buntrock Avenue. There will also be a yoga/spin room on the second floor and a community gathering area. A steam room, sauna and dressing rooms will also be provided. A rear outside patio deck on the east side of the building will overlook the West House at Foxtown Apartment complex. The outside patio will include a firepit, gazebo, built-in cooking grills and patio seating.

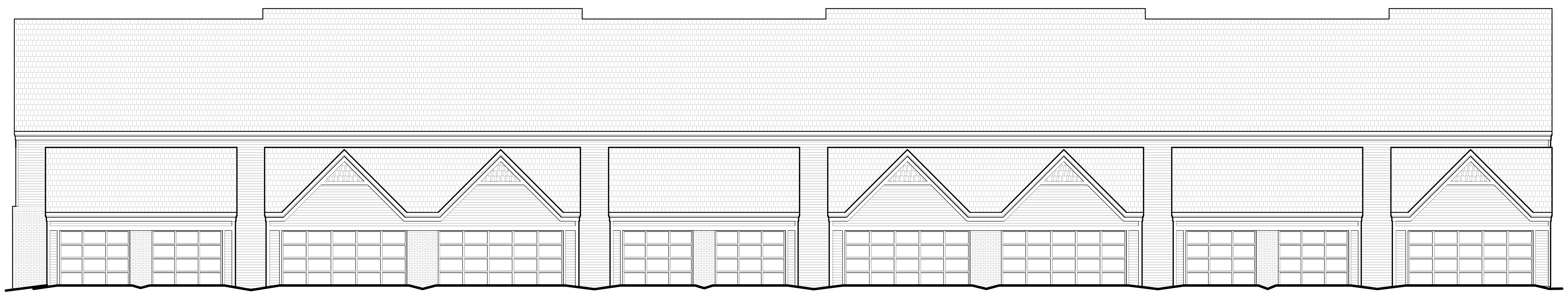
We will be looking to the city, through a TIF incentive, to assist in the cost of demolition, any remediation and utility relocation.

We estimate the value of the entire project to be in excess of $8,000,000 upon completion. We plan to start the project in early spring of 2022 and have completed by spring of 2023. Upon completion, we'll employ one fulltime manager and one fulltime maintenance person.

The attached exhibit shows the demolition costs. Most of the costs have been bid and there are a few estimates we are waiting for, specifically WE-Energies & AT&T for utility abandonment. Based on our experience on other projects with them in Mequon, we feel these numbers are fairly accurate. We are also awaiting the environmental analysis test results, which may increase the budget. The largest cost in the budget is the building demolition. The majority of this is attributed to 11040 N Buntrock Avenue, which is the old A1 Fence facility and was originally constructed as a slaughtering house. This building is all masonry and has all concrete floors, so the cost of demolition is high.

WEST ELEVATION

1/8" = 1'-0"

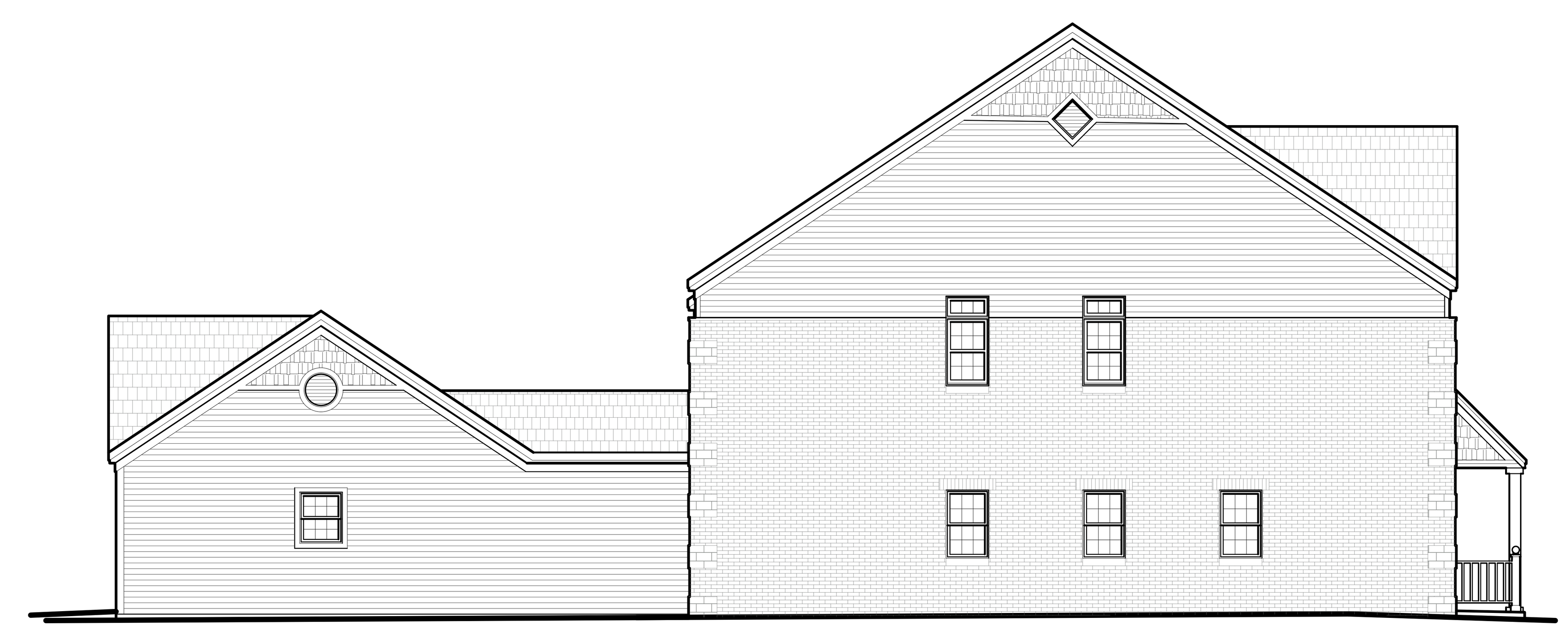


EAST ELEVATION

1/8" = 1'-0"

SOUTH ELEVATION

1/8" = 1'-0"



NORTH ELEVATION

1/8" = 1'-0"

P2 DEVELOPMENT &
PROPERTY MANAGEMENT
524 Technology Way
Saukville, WI 53080-1677
www.p2development.com
(262) 377-7259

PROPOSED RESIDENTIAL DEVELOPMENT

FOXTOWN TOWNHOMES

11040-11112 BUNTROCK AVENUE
CITY of MEQUON, OZAUKEE COUNTY

Issue:

Document Date:
27 OCTOBER 2021

Project Number:
21P205

Sheet Title:
CONCEPT ELEVATIONS

Sheet Number:
A-202

DEVELOPMENT AGREEMENT

This Development Agreement is made as of the _______ day of February 2022, by and among the City of Mequon, a Wisconsin municipal corporation ("City") and P2 Development Company LLC, a Wisconsin limited liability company ("Developer").

RECITALS

(i) Developer has acquired the land described on Exhibit A attached hereto ("Property") for redevelopment/development of the Project (defined below), in strict accordance with this Agreement, the Mequon Town Center design guidelines and principles, the development plans approved by the City and all other plans as approved and on file with the Department of Community Development, which are listed in Exhibit B (the "Approved Plans").

(ii) Developer will own the Project and will be responsible for management and operation of the Project.

(iii) It is the desire of the City to foster and promote economic development in the City, including in the Town Center area of the City so as to encourage vibrant mixed-use development, expand the tax base, and create new jobs, all in furtherance and compliance with the Project Plan for Tax Increment District No. 3. The proposed development of the Project in accordance with the terms and conditions of this Development Agreement will be in the public interest and will serve a public purpose.

(iv) The Project will increase the taxable value of the Town Center of the City of Mequon, as well as its commercial and residential vitality, providing a substantial benefit to the Town Center itself, the City and the public, and the Project is and will be consistent with the TID No. 3 Project Plan.

(v) Certain financial incentives including, but not limited to, the TID No. 3 Fast Track Incentive are herein provided, and the Project will not occur in their absence.

(vi) The parties to this Agreement have caused to be created this Development Agreement for the purpose of setting forth certain rights, duties and obligations of the parties with respect to the development of the Project and have approved its terms, and authorized their respective officers, directors and managers to execute it on their behalf.

NOW, THEREFORE, in consideration of the recitals and mutual agreements herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions. As used in this Agreement, the following terms shall have the following meanings:

(a) "Approved Plans" means: the matter under review and scrutiny by the City and Ehlers and Associates, its financial consultant, complies with this Agreement in all respects, and/or adheres to applicable laws, ordinances, building codes, TID No. 3 Design Guidelines, rules, and regulations, and/or generally practiced and prudent underwriting and financial evaluation principles, standards and practices as relates to pro forma projections for the Project, cost estimates, bids and prices, terms of construction contracts and permanent Project financing, and the financial statements of Developer as well as amounts and terms for the investment of equity capital in the Project, as will reasonably lead to the good faith conclusion that the risks to the public herein contracted are reasonable and manageable under the circumstances, and in relation to the public benefit of this Development Agreement. Materials submitted to the City for such review shall be objected to within ten (10) business days, or shall be deemed acceptable to the City, except wherein review by the Planning Commission shall be required, in which case the review period shall be twenty (20) days, or by the Common Council, in which case the review period shall be thirty (30) days. The foregoing is not intended to impose additional requirement for review by the Planning Commission or the Common Council except in such circumstance in which such review shall be otherwise required by law. Any item included within Exhibit B as part of the definition of "Approved Plans" shall be deemed to be Acceptable to the City.

(b) "Affiliate" means: (i) a person or an entity that directly or indirectly controls, or is controlled by, or is under common control with, Developer, or (ii) a person or entity that directly or indirectly beneficially owns or holds any ownership interest in Developer unless that person or entity has no authority or right of management or control of Developer; or (iii) any person or entity in which Developer has an ownership interest unless that person or entity has no authority or right of management or control of Developer; or (iv) any person or entity that is an officer or director, general partner or managing member of Developer. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person or entity, whether through the ownership of voting securities, by contract, by operation of law, or otherwise.

(c) "Available Tax Increment" means: Tax Increment actually collected by the City with respect to the Property (including Tax Increment on Personal Property). More specifically, the Available Tax Increment for purposes of this Agreement will reflect the difference between the Tax Increment Base (as hereafter defined), and the tax on the equalized value of the Property with the Building and Site Improvements contemplated in this Agreement, and taxable Personal Property installation on that Property, and which tax is actually collected by the City for the Special TID No. 3 Fund.

(d) "Building and Site Improvements" means: the construction and installation of building and site improvements on the Property, in accordance with the Approved Plans, and also in compliance with all applicable requirements of federal, state and local construction, erosion control, fire, building, electrical, plumbing, HVAC, storm water, grading, and landscaping ordinances, laws, regulations, and codes, and all additions and/or alterations to these initially constructed building and site improvements on the Property.

(e) "Fast Track Improvements" means: the improvements defined in Section 4(c) below.

(f) "Fast Track Improvements Cost Breakdown" means: a current complete cost breakdown of construction and non-construction cost items (i.e., a line-item budget), clearly identifying the Fast Track Improvements Costs shown on Exhibit D.

(g) "Fast Track Incentive" means: the money to be paid by the City, out of Special TID No. 3 Fund from the Available Tax Increment resulting from this development project to Developer, defined in Section 4(c) below, as estimated on Exhibit D, and subject to adjustment after completion of the Fast Track Improvements and the limitations thereon, as provided herein.

(h) "General Contractor" means: The general contractor or general contractors hired by Developer to construct the Project or components of the Project under one or more contracts. General Contractor may include Developer to the extent it makes direct contracts for construction, furnishing or fixturing of parts of the Project.

(i) "Developer" means: P2 Development Company LLC and permitted successors and assigns as approved by the City, which shall have the exclusive management of the Project.

(j) "Project" means: a development as referred to and described in the Approved Plans listed on Exhibit B and including:

- Demolition of existing improvements;
- Removal of any paving and miscellaneous materials;
- Excavation of materials and fill;
- Fill and rough grading of demolition areas;
- Filling, grading, removal and installation of utility services, installation of roads, sidewalks, driveways, walkways, curbs and gutters, parking lot(s); and all other site work as may be required in connection with the development and associated parking, and alterations to public rights-of-way;
- Construction and installation of all other improvements as may be required in order to comply with the Approved Plans which incorporate the zoning ordinances, building codes, TID No. 3 Design Guidelines, and any other applicable rules and regulations identified in Exhibit B;
- Construction and installation, of any Required Offsite Improvements; and
- Construction and installation of any City Owned Improvements.

(k) "Project Completion Date" means: the date of completion of the Project, which shall be no later than June 1, 2023.

(l) "Project Plan" means: The Project Plan for the City of Mequon Tax Incremental District No. 3, as amended from time to time.

(m) "Required Offsite Improvements" means: The work required in the public rights-of-way which the City or the State determine are necessary in connection with the Project, and which are defined on Exhibit C.

(n) "Tax Increment" means: the amount of tax collected from the Property and the Building and Site Improvements to he constructed on the Property by Developer, and the personal property installed or located on the Property which is subject to personal property tax (the "Personal Property"), less the Tax Increment Base, as calculated with reference to and in accordance with the provisions of Section 66.1105 (2)(i) through (m), Wisconsin Statutes.

(o) "Tax Increment Base" means the amount of tax collected on the equalized value (determined as of January 1, 2021) of the Property.

(p) "TIF District" or "TIF No. 3" or "TID No. 3" means: City of Mequon Tax Incremental District No. 3.

2. Conditions Precedent, Developer's Obligations. In addition to all other conditions and requirements set forth in this Agreement, the obligations of the City under this Development Agreement are conditioned upon the satisfaction of each and every one of the following conditions:

(a) At its cost, Developer has provided Fast Track Improvements Cost Breakdown estimates to the City, in the form as shown on Exhibit D certified by Developer and the General Contractor as presenting the then most accurate and complete Fast Track Improvements Cost Breakdown available, and which will demonstrate that estimated Fast Track Improvements Costs are $710,687. To the extent that the actual Fast Track Improvements Costs are less than $710,687, the Fast Track Incentive will be modified as identified in Section 4(c)(i), below.

(b) Developer, at its cost and prior to building permit approval, shall provide the City with a timetable for completion of the Project.

(c) Prior to the execution of this Agreement, Developer shall provide the City with evidence satisfactory to the City that Developer is authorized to enter into this Agreement and that the persons signing this Agreement on behalf of Developer are authorized to sign this Agreement. Prior to the execution of this Agreement, Developer, at its cost, shall provide a certified copy of its articles of organization, operating agreement and its resolutions and a certificate of status issued by the Wisconsin Department of Financial Institutions. Such formation documents and resolutions must be acceptable to the City and must show a state of facts as to ownership, management and control acceptable to the City.

(d) Prior to the execution of this Agreement, Developer shall provide a certificate of incumbency and resolutions or consents of its board, all of which resolutions and consents shall show that Developer has been duly authorized to enter into this

Agreement and all other agreements, documents and contracts required to be executed by it in connection with the transactions which are the subject of this Agreement.

(e) No uncured default, or event which with the giving of notice or lapse of time or both would be a default, shall exist under this Agreement.

(f) Not later than April 1, 2022, the Developer shall provide to the City, all of the contracts and agreements necessary for construction and installation of any of the Required Offsite Improvements and City-Owned Improvements, all of which contracts and agreement must be reasonably acceptable to the City and show a state of facts acceptable to the City.

If all conditions contained in this section are satisfied within the time periods for satisfaction of such conditions as set forth above or if such conditions are waived in writing by the City within the time, periods for satisfaction of such conditions as set forth above, of if the City fails to disapprove or object to any of the deliverables furnished by or performance of Developer as to such conditions within ten (10) business days of receipt by the City, then the above conditions shall be deemed satisfied. The City shall issue a certificate (the "Certificate") confirming that all of the above Conditions Precedent have been satisfied or waived, which can be relied on to confirm that the obligations in this section have been satisfied, If the City shall timely disapprove or object to the deliverables or performance of Developer specifying the reason(s) for which the matter is not satisfactory to the City, Developer shall have ten (10) business days to cure by resubmission of satisfactory deliverables or performance. In the event Developer does not timely resubmit or the resubmission is unsatisfactory to the City, the City, at its option, exercised in its reasonable discretion, may terminate this Agreement, by providing written notice to the Developer as provided herein, in which event, none of the parties to this Agreement shall have any further liability or obligation to the other parties; provided, however, Developer shall pay all costs and expenses incurred by the City, up to a total amount of $10,000, in connection with the Project and the preparation and negotiation of this Development Agreement, including without limitation, attorneys' fees and the fees of the City's outside financial consultant.

3. <u>Representations and Warranties and Covenants of Developer</u>. Developer represents and warrants to the City to the best of its knowledge, and covenants with the City as follows:

(a) All copies of preliminary cost estimates, and final costs of the Fast Track Improvements and agreements related to them, which Developer has furnished to the City are true and correct in all material respects. There has been no material adverse change in the cost estimates of the Fast Track Improvements since the date of the last cost estimate furnished by Developer to the City.

(b) Developer has paid, and will pay when due, all property taxes on the Property prior to any such taxes becoming delinquent.

(c) Developer will pay for all work performed and materials furnished for the Required Offsite Improvements, which upon completion, final inspection and acceptance by the City, shall be dedicated to the City, or State of Wisconsin, as applicable. City confirms this Required Offsite Improvements work is not subject to any public bidding requirements, but that Developer's contractor shall provide notice to the City 3 days prior to commencement of that work, in order to allow the City to inspect the work.

(d) No statement of fact by Developer contained in this Agreement and no statement of fact furnished or to be furnished by Developer to the City pursuant to this Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact necessary in order to make the statements herein or therein contained not misleading at the time when made.

(e) Developer is a duly organized Wisconsin limited liability company and is duly formed and validly existing and has the power and has or will have all necessary licenses and permits to own the Property and to carry on its business at the Property.

(f) The execution, delivery and performance of this Agreement have been duly authorized by all necessary board action of Developer and constitute the valid and binding obligations of Developer enforceable in accordance with their terms, subject only to applicable bankruptcy, insolvency, reorganization, moratorium, general principles of equity, and other similar laws of general application affecting the enforceability of creditors' rights generally.

(g) The execution, delivery, and performance of Developer's obligations pursuant to this Agreement will not violate or conflict with Developer's formation documents nor will the execution, delivery, or performance of Developer's obligations pursuant to this Agreement violate or conflict with any law applicable to Developer or the Project.

(h) There is no litigation or proceeding pending or threatened against or affecting the Project of Developer's interest in the Project.

(i) No default, or event which with the giving of notice or lapse of time or both would be a default, exists under this Agreement.

(j) Prior to completion of the Project, Developer will not sell, transfer or convey the Property except to an Affiliate who shall take title subject to this Agreement. This shall not prevent the mortgaging of the Property.

(k) Construction of Project shall commence not later than the date required by the Building and Site Plan approved listed in the Approved Plans. The building on the Property will be deemed completed upon occurrence of all the following: a certificate of occupancy is issued by the appropriate governmental authorities for all spaces intended to be occupied.

(l) Developer will cause the Project to be completed in conformance and compliance with all applicable federal, state, local and other laws, rules, regulations and ordinances, including without limitation, all zoning and land division laws, rules, regulations and ordinances, all building codes and ordinances of the City and County, all environmental laws, rules, regulations and ordinances, and all terms and conditions of this Agreement.

(m) Developer will cause the City Owned Improvements to be constructed in a good and workmanlike manner and substantially in accordance with the Approved Plans for the Project as approved by the City and the State of Wisconsin, and will promptly correct any defects, structural or otherwise, in construction or deviations from the Plans for the Project. Construction of the City Owned Improvements shall be completed free of all liens and encumbrances except for those liens and encumbrances permitted by this Agreement, and lien waivers for the City Owned Improvements shall be submitted to the City as a condition precedent to its acceptance of dedication of such improvements, and as reimbursement to Developer for the costs of the City Owned Improvements.

(n) The Developer understands that the permitted uses for the Project are as enumerated in the TC Zoning District of the City of Mequon, as modified by the PUD, and agrees to use the Project in compliance with this zoning.

(o) The representations and warranties contained herein shall be true and correct at all times during the term of this Agreement.

4. Covenants of City. The City covenants with the Developer as follows:

(a) City will expeditiously provide to Developer and its lenders such information as is reasonably requested by them, City will provide Developer's lender(s) such estoppel certificates and other assurances as may be reasonably requested of City.

(b) The City shall cooperate with Developer throughout the development of the Project and shall promptly review and/or process all submissions and applications as expeditiously as possible, taking into account applicable laws, rules, regulations and ordinances.

(c) Subject to the verification of the costs incurred by Developer/Owner for the Fast Track Improvements (as defined herein) in accordance with Section 4(c)(vii) below, the City, through TID No. 3 shall provide the Fast Tract Incentive to the Developer to offset part or all of the site repair and demolition costs (the "Fast Track Improvements"), as indicated and described in the Fast Track Improvements Cost Breakdown appended to this Agreement as Exhibit D, in the manner provided herein, and subject to the following terms, conditions and procedures.

i. In the event, Developer completes construction of the Project in the time and manner required herein, the City agrees that this Agreement shall constitute a Municipal Revenue Obligation under the terms contained herein (the "MRO"), in the amount of the Fast Track Incentive. The total amount of the Fast Track Incentive shall be calculated using the total project gap, defined to be the "Base Improvement Value" (as shown on Exhibit D) plus the Developer's actual costs of completing the Fast Track Improvements. Based upon the current value projections, and exclusive of the 5% incentive, the total potential incentive would be $710,687 (based on an estimated Completion Value of the Project being $6,775,000). However, Developer understands and agrees that, based on the remaining life of TID No. 3, there is not sufficient time to recover the maximum potential incentive and instead the total Fast Track Incentive shall be equal to four years of annual installments called for hereunder, except that if the Project is completed not later than December 31, 2022, then the Fast Track Incentive shall be equal to five years of annual installments. The total Fast Track Incentive shall be paid from an amount equal to 60% of the Available Tax Increment generated by the Project in annual instalments in accordance with the payment schedule attached hereto as Exhibit H (the "MRO Repayment Schedule"). The obligation to make such payments shall terminate as provided in Section4(c)(vi) and (viii) below, or at the earlier of the end of the currently remaining life of T1D No. 3 or the date the full Fast Track Incentive has been paid to Developer or as provided in Section 12 below. The Municipal Revenue Obligation shall not bear interest and shall be a project cost of TID No. 3.

ii. In addition to the logs and reports to be provided to the City pursuant to Section 2(h), Owner/ Developer will provide notice to the City when the Project site excavation is complete and before the excavation is refilled, to allow the City to verify the amount of excavation and condition of the soils.

iii. Payments on the Municipal Revenue Obligation shall be payable solely from the Special TID NO. 3 Fund, and only to the extent that the City shall have received as of such payment date Available Tax Increment generated by the Property and the Personal Property, and no MRO Default shall have occurred, and shall not be an obligation of or a charge against the City's general credit or taxing power.

iv. After the Project Completion Date, for Available Tax Increment paid by Developer and collected by the City in the year in which the tax bill is generated or by the following July 31st, the payment date for the Municipal Revenue Obligation shall be September 1st. By way of example, if the Project shall be completed and the Personal Property fixtures and equipment installed and fully assessable on or before January 1, 2024, then the tax bill generated in December 2024 and paid by Developer on or before July 31, 2025 will result in a Fast Track Incentive payment to Developer on September 1, 2025. All obligations for payment of the Municipal Revenue Obligation shall terminate with the end of the final year of TID No. 3 as provided in Section 66.1105, Wisconsin Statutes, or may be sooner terminated as provided in accordance with this Section 4 or Section 12 below.

v. Developer understands and agrees that the Municipal Revenue Obligation of City hereunder will be payable only to the extent that there exists Available Tax Increment as defined herein and generated pursuant to Section 66.1105, Wisconsin Statutes with respect to the Property and Personal Property, and no MRO Default has occurred under this Agreement, and will never represent or constitute general obligation debt or bonded indebtedness of the City, the State of Wisconsin or any political subdivision, all pursuant to the provisions of Section 66.1105, Wisconsin Statutes.

vi. To satisfy in full the City's obligations under the Municipal Revenue Obligation, the City shall have the right to prepay the outstanding balance of the Municipal Revenue Obligation at any time. The prepayment option is available to provide the City the option of early termination of TID No. 3.

vii. Upon completion of the Fast Track Improvements, Developer will provide to the City's independent financial consultant all contracts, costs, books and records pertaining to the Project as a whole, and for the Fast Track Improvements to verify actual Project and Fast Track Improvements costs incurred. City assumes no obligation to Developer for the sufficiency or adequacy of such reviews, it being acknowledged that such reviews are made for the sole and separate benefit of City. Any and all notes and copies of records made by or on behalf of the City related to such reviews shall be treated as confidential to the full extent permitted by law. The fact that City may make construction reviews shall in no way relieve Developer from its duty to independently ascertain that the construction of the Project is being completed substantially in accordance with the approved Plans.

viii. If the Project taken as a whole fails to generate at least $3,000,000 in new tax value above the Tax Increment Base, then the Developer shall not qualify for the Fast Track Incentive, In such case, City and TID No. 3 shall be under no obligation to provide the Fast Track Incentive to Developer, City shall provide Developer notice of the termination of this obligation, the Guaranteed Tax Increment obligation in Section 12 below shall terminate, and the Tax-Exempt Covenant in Section 11 below shall terminate.

ix. Notwithstanding this above, and as illustrated in the MRO Payment Schedule, with the exception of the final annual payment, no annual payment of the Fast Track Incentive (a "Scheduled Payment") may exceed 60% of the Available Tax Increment generated by the Property and the Personal Property, charged on the real and personal property tax bill issued in the prior year (the "60% Limit"). Therefore, if there is insufficient Available Tax Increment in any year to pay the Scheduled Payment out of 60% of the Available Tax Increment, the deficiency shall be deemed a "Shortfall". If in a later year, 60% of the Available Tax Increment is greater than the regularly Scheduled Payment, the amount in excess of the Scheduled Payment but not exceeding the 60% Limit, shall be paid to Developer for the oldest Shortfall first, to the extent such amounts are available and until all Shortfalls are paid. The final year payment shall be a balloon payment equal to the total amount outstanding amount of the Fast Track Incentive less any payments made pursuant to the terms of this Agreement, provided that the total Available Tax Increment and total Differential Payment(s) (defined in Section 12) collected over the term of this Agreement is sufficient to cover the amount of the Fast Track

Incentive, Under no circumstance shall the City pay more to the Developer than the total amount of (i) Available Tax Increment generated by Project and (ii) any Differential Payment(s) collected by the City during the term of this Agreement.

x. If the total costs for the Fast Track Improvements actually incurred by Developer for the Project taken as a whole are less than $710,687, then the City may adjust the percentage of Available Tax Increment to be used for the Scheduled Payment to an amount that is less than the 60% Limit (such new amount is the "Adjusted Annual Percentage"), and the City shall negotiate the Adjusted Annual Percentage in good faith with Developer. Nothing in this Section 4(c)(x) shall result in a change to the amount of the Fast Track Incentive.

5. Default. The occurrence of any one or more of the following events shall constitute a default ("Default") hereunder.

(a) Developer shall fail to pay any amounts due from it under this Agreement on or before thirty (30) days following notice of nonpayment when due; or

(b) Any representation or warranty made by Developer in this Agreement, or any document or financial statement delivered by Developer pursuant to this Agreement, shall prove to have been false in any material respect as of the time when made or given and not curable; or

(c) Developer shall breach or fail to perform timely or observe timely any of its covenants or obligations under this Agreement, and such failure shall continue for thirty (30) days following notice thereof from City to Developer (or such longer period of time as is necessary to cure the default as long as Developer has commenced the cure of the default within the 30-day period, is diligently pursuing the cure of the default and as long as the default is cured not later than 120 days following the notice thereof from the City); or

(d) Developer shall: (i) become insolvent or generally not pay, or be unable to pay, or admit in writing its/his inability to pay, its/his debts as they mature; or (ii) make a general assignment for the benefit of creditors or to an agent authorized to liquidate any substantial amount of its/his assets; or (iii) become the subject of an "order for relief" within the meaning of the United States Bankruptcy Code, or file a petition in bankruptcy, for reorganization or to effect a plan or other arrangement with creditors; or (iv) have a petition or application filed against it/him in bankruptcy or any similar proceeding, or have such a proceeding commenced against it/him, and such petition, application or proceeding shall remain undismissed for a period of ninety (90) days or Developer shall file an answer to such a petition or application, admitting the material allegations thereof; or (v) apply to a court for the appointment of a receiver or custodian for any of its/his assets or properties, or have a receiver or custodian appointed for any of its/his assets or properties, with or without consent, and such receiver shall not be discharged within ninety (90) days after his appointment; or (vi) adopt a plan of complete liquidation of its/his assets; or

(e) Developer shall cease to exist; or

(f) A default shall occur under any other documents executed with and delivered to the City in connection with the Project, and remain uncured within in 60 days following notice thereof from the City.

6. Remedies.

(a) Upon the occurrence of any Default by Developer, without further notice, demand or action of any kind by the City, the City may, at its option, pursue any or all of the rights and remedies available to the City at law and/or in equity against Developer and/or the Project, except that, as provided in Section 6(b) below, the City shall only have the right to suspend performance of any of its obligations or covenants under this Agreement and/or to terminate this Agreement, as stated therein. Except as may be otherwise specifically set forth herein, no remedy herein conferred upon the City is intended to be exclusive of any other remedy and each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement, and/or now or hereafter existing at law or in equity. No failure or delay on the part of the City in exercising any right or remedy shall operate as a waiver thereof nor shall any single or partial exercise of any right preclude other or further exercise thereof or the exercise of any other right or remedy. Notwithstanding any of the foregoing authorizations, the City shall have no duty or obligation whatsoever with respect to any of the matters so authorized.

(b) Notwithstanding anything contained herein to the contrary, acknowledging that the remedy of stopping payment to Developer or its permitted assigns, of amounts otherwise due it under the MRO is a heavy penalty which should not be invoked for a small and immaterial default, or a material, but curable default provided Developer is diligently pursuing a cure of the default, the parties hereto agree that no default hereunder shall result in the termination of the City's obligations to pay the Fast Track Incentive under the MRO except for a MRO Default, which shall be defined as a default under the provisions of Section 6(a) above regarding warranties or representations which are not curable, or a default of the Tax-Exempt Covenant or under the Guaranteed Tax Increment below, which are not paid within 30 days after notice from the City. Except for an MRO Default, no default shall cause the termination or postponement of the City's obligation to perform any one or more of its obligations under the MRO including, but not limited to, any payment obligations on the MRO. In the event of an MRO Default, the City may immediately with only concurrent, but not prior notice to Developer, suspend its obligation to make any further payments on the MRO. Further, the termination of City's obligation to make payments under the MRO shall not terminate City's obligation to reimburse Developer for the City Owned Improvements provided that Developer satisfies all requirements with respect to same.

7. Costs. All reasonable fees, costs and expenses incurred by the City, including that for City staff time and attorneys and consultant's fees, expended and incurred in connection with the negotiation, preparation and drafting of this Agreement, and all documents and agreements executed in connection therewith, as well as the inspection and approval of all deliverables relating

to authority, and any other considerations necessary to creation of this Development Agreement, which are required to be provided the City, shall be paid by Developer in an amount not to exceed $10,000. Said amount shall not include, and shall be in addition to amounts which Developer shall be obligated to pay for plan reviews, permitting, and inspections which shall be separately charged by the City at the usual and customary rates. The Developer shall pay all costs and expenses associated with the enforcement of the City's rights against Developer under this Agreement, including without limitation the enforcement of such rights in any bankruptcy, reorganization or insolvency proceeding involving Developer. Any and all such fees, costs and expenses incurred by the City which are to be paid by the Developer, shall be paid by Developer to the City within 30 days of demand by the City.

8. City's Right to Cure Default. In case of failure by Developer to pay any fees, assessments, charges or taxes arising with respect to the Project or to comply with the terms and conditions of this Agreement or any other document, contract or agreement affecting the Project, the City shall have the right, but shall not be obligated, to pay such fees, assessments, charges or taxes or take such action as is necessary to remedy the failure of Developer to comply with the documents, contracts or agreements affecting the Project, and, in that event, the cost thereof shall be payable by Developer to the City.

9. Parking. Developer understands and agrees that it shall be Developer's obligation to provide adequate parking for the Project complying with all applicable laws, rules, regulations and ordinances, and in conformity with the site plan which is included within the Approved Plans.

10. Signage. All signage installed at the Project, both during construction and after completion of the Project, must comply with all applicable laws, rules, regulations and ordinances, and shall conform to the sign plan included in the Approved Plans. All signage shall be maintained, repaired and replaced as necessary to ensure it remains in good order by Developer at its expense.

11. Real Estate Taxes and Assessments.

(a) Developer agrees to pay before delinquent all generally applicable real and personal property taxes assessed and levied against the Property and the Personal Property by the City under its applicable property tax laws, rules, rates, regulations and ordinances in effect from time to time. Nothing in this Agreement shall impair any statutory rights of the City with respect to the assessment, levy, priority, collection and/or enforcement of real estate and personal property taxes.

(b) In addition, Developer agrees to pay timely to the City all special assessments as may be assessed or levied in connection with the Project under the applicable special assessment laws, rules, regulations, ordinances and rates in effect at the time said special assessments are assessed or levied, but any special assessments or charges to be paid in connection with the initial construction of the Project are as shown on Exhibit E.

(c) Developer agrees that it will not sell, lease, assign or otherwise transfer or convey any interest in the Property to a person or entity exempt from general property taxation or in a manner which would cause all or any portion of the Property to be exempt from general property taxation (the "Tax-Exempt Covenant"). The provisions of the Tax-Exempt Covenant shall be included in the Memorandum of Development Agreement which is attached hereto as Exhibit F, which Tax-Exempt Covenant will run with the land and will be binding upon the Developer and the Property and/or lessee and/or mortgagee of all or any portions of the Property, and then successors and assigns, but only until the earlier of the expiration of the currently remaining term of the TIF District, or the date on which the full Fast Track Incentive amount has been paid to Developer. In the event a court finds this Tax-Exempt Covenant is not valid or enforceable or if for any reason the Tax-Exempt Covenant is terminated, then Developer and its successors and assigns shall make a payment in lieu of taxes to the City, equal to the amount of taxes that would be due if the Property or owner was not tax exempt, but if Developer pays the Differential Payment required in Section 12 below, no amount shall be due hereunder.

12. Guaranteed Tax increment. Developer guarantees that the equalized value of the Property plus Personal Property will be not less than the estimated “Completion Value” of $6,775,000 in and for tax year 2024 and each subsequent year thereafter, such guaranty ending with the earlier of (i) the expiration of the currently remaining term of the TID No. 3, (ii) the date on which the full Fast Track Incentive amount has been paid to Developer, or (iii) the termination of this Agreement. In the event the equalized value of the Property and the Personal Property fails to meet the Completion Value in any year following the Completion Date during the term of this Agreement, as a result of an Unrepaired Casualty as defined below, or in the event the equalized value falls below the minimum eligibility for the Fast Track Incentive program of $3,000,000 for any reason other than Unrepaired Casualty, then this Agreement shall terminate if the Developer fails to make any Differential Payment required below. An "Unrepaired Casualty" shall be defined to exist if the Property and Personal Property are damaged in a material amount by a casualty, and Developer has not rebuilt the improvements and restored the personal property to a combined equalized value of at least the Completion Value, within 12 months after the date of loss. Developer covenants to keep the Property and Personal Property insured under commercially reasonable policy or policies of insurance in amounts adequate to pay for the rebuilding in the event of a total loss of the insured improvements and personal property. However, if Developer does build the improvements with an equalized value of at least the Completion Value as of the Project Completion Date, and, other than in the case of an Unrepaired Casualty, the equalized value in any subsequent year covered by this Agreement shall be less than the Completion Value in any given tax year, City shall submit a bill to Developer, for the differential in such tax year ("Differential Payment"). The Differential Payment shall be equal to the amount the City would have billed Owner for real and personal property taxes assessed and levied against the Property and the Personal Property in a given year had the Completion Value been achieved less the actual property taxes assessed and levied against the Property and the Personal Property for the year. Such a billing shall be submitted to Developer by the City Treasurer by December 31st of the relevant tax year and shall be paid in full by Developer, without interest thereon, by March 31st of the following year. If not fully paid when due, the amount remaining unpaid on and after April 1st of the following year shall accrue interest at the statutory rate prescribed for delinquent real and personal property taxes until fully paid.

13. Indemnification. Developer hereby indemnifies, defends and covenants not to sue and holds the City (which for the purposes of this paragraph includes the persons/entities referenced in Section 18 below) harmless from and against all loss, liability, damage and expense, including attorneys' fees, suffered or incurred by the City in any way in connection with the Project, including without limitation: (a) the failure of Developer or its contractors, subcontractors, agents, employees, or invitees to comply with any environmental law, rule, regulation or ordinance, or any order of any regulatory or administrative authority with respect thereto; (b) any release by Developer or its contractors, subcontractors, agents, employees, or invitees of petroleum products or hazardous materials or hazardous substances on, upon or into the Project; (c) any and all damage to natural resources or real property or harm or injury to persons resulting or alleged to have resulted from any failure by the Developer and/or its contractors, subcontractors and/or agents to comply with any law, rule, regulation or ordinance or any release of petroleum products or hazardous materials or hazardous substances as described in clauses (a) and (b) above; (d) any material violation by Developer at the Project or on the Property of any environmental law, rule, regulation or ordinance; (e) claims arising under the Americans With Disabilities Act, and any other laws, rules, regulations or ordinances; (f) the failure by Developer to comply with any term or condition of this Agreement; (g) injury to or death of any person at the Project; injury to any property caused by or at the Project; and (h) the failure of Developer to maintain, repair or replace, as needed, any portion of the Project. The terms "hazardous substances" means any flammable explosives, radioactive materials, hazardous wastes, toxic substances, or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances" under any applicable federal or state or local laws or regulations.

14. City Owned Improvements. The City Owned Improvements shall be constructed and installed in accordance with the Approved Plans. The City Owned Improvements shall at all times be subject to City inspection and approval and the City shall not be required to accept dedication and conveyance of the City Owned Improvements unless the City Owned Improvements have been constructed in a good workmanlike manner, in accordance with the City-approved plans for the City Owned Improvements, are warranted against defects as provided herein, and otherwise in a condition reasonably acceptable to the City. Following approval by the City of the completed City Owned Improvements, the City Owned Improvements shall be dedicated and conveyed to the City, at no cost or expense to the City other than the costs therefor which shall be reimbursed to Developer as provided in Sections 1(f) and 3(m). The Developer shall provide to the City from the Developer and all contractors and consultants involved in connection with the construction and installation of the City Owned Improvements, a two-year warranty against defects in construction, materials and workmanship, in a form reasonably acceptable to the City. The Developer shall also provide to the City as-built construction records for the City Owned Improvements in an electronic format acceptable to the City,

15. Security for Guaranty Obligation. Following final completion of the City Owned Improvements, Developer will provide the City with a latent defects guarantee for City Owned Improvements in the form of a cash hold-back by the City in an amount equal to 4% of the aggregate total contract cost of such City Owned Improvements. The guarantee shall insure against defects in construction, materials and workmanship, for a period of two years following the date on which all of the City Owned Improvements have been accepted by the City. The guarantee must

be in form and content acceptable to the City, and shall contain procedures for warranty claims to be made against the holdback. Any hold back funds not applied to correct defective materials or work during the two year guaranty period or which are awaiting disbursement for work contracted or to be contracted to cure such defects arising during the warranty period, shall be refunded to Developer within thirty (30) days following the expiration of the guaranty period.

16. Fire and Safety Hazards. Developer agrees to construct the Project in conformance with all fire and safety standards specified by applicable law.

17. Nondiscrimination. The City and Developer agree that Developer shall not use the Project in a manner to permit discrimination or restriction on the basis of race, creed, ethnic origin or identity, color, gender, religion, marital status, familial status, age, handicap or national origin, and that the construction and operation of the Project shall be in compliance with all federal, state, and local laws, rules, regulations and ordinances relating to discrimination or any of the foregoing, and any lease for any portion of the Project will include this obligation.

18. No Personal Liability. Under no circumstances shall the City, or any officer, official, director, attorney, employee or agent of the City have any personal liability arising out of this Agreement, and no party shall seek or claim any such personal liability.

19. City Authorization. The execution of this Agreement by the City was authorized by Resolution No. _______ of the Mequon Common Council adopted on February 8, 2022, which also authorized the City Attorney and City Director of Community Development to finalize the wording of this Agreement, the Exhibits hereto, and the documents required herein, and authorized the parties signing below to sign the Agreement and related agreements, on behalf of the City.

20. Miscellaneous.

(a) Except as otherwise specifically set forth herein, the respective rights and liabilities of City and Developer under this Agreement are not assignable or delegable, in whole or in part, without the prior written consent of the other party. The provisions of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

(b) No waiver, amendment, or variation in the terms of this Agreement shall be valid unless in writing and signed by the City and Developer, and then only to the extent specifically set forth in writing, but the City Attorney and City Director of Community Development are authorized to approve non-substantive and non-material changes to this Agreement, the Exhibits and the agreements required herein, without further City Council Action.

(c) All agreements, representations, warranties, covenants, liabilities and obligations made in this Agreement and in any document delivered pursuant to this Agreement shall survive the execution and delivery of this Agreement.

(d) All communications or notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given (i) upon delivery to an officer of the person entitled to such notice, if hand delivered, or (ii) two business days following deposit in the United States mail, postage prepaid, or with a nationally recognized overnight commercial carrier that will certify as to the date and time of delivery, airbill prepaid, or (iii) upon transmission if by facsimile, and each such communication or notice shall be addressed as follows, unless and until any of such parties notifies the other in accordance with this paragraph of a change of address:

If to the City:

City of Mequon
11133 North Cedarburg Road
Mequon, WI 53092
Attention: City Administrator

With a copy to:
City Attorney
Community Development Director
Public Works Director

If to the Developer:

P2 Development Company LLC
524 Technology Way
Saukville, WI 53080
Attn: Robert Bach

(e) This Agreement and the documents executed pursuant to this Agreement contain the entire understanding of the parties with respect to the subject matter hereof. There are no restrictions, promises, warranties, covenants or undertakings other than those expressly set forth in this Agreement and the documents executed in connection with this Agreement. This Agreement and the documents executed in connection herewith supersede all prior negotiations, agreements and undertakings between the parties with respect to the subject matter hereof. All Exhibits referenced herein are attached hereto and incorporated herein by this reference. The City Attorney and City Director of Community Development have the authority to replace Exhibits to this Agreement with updated Exhibits initialed by the Developer and the City, as updated versions of those Exhibits are approved by both parties. It is intended that Exhibit B, the List of Approved Plans, will be those as approved and on file, for the entirety of the project as on file with the Department of Community Development.

(f) This Agreement is intended solely for the benefit of Developer and the City, and no third party (other than successors and permitted assigns) shall have any rights or interest in any provision of this Agreement, or as a result of any action or inaction of the City in connection therewith. Without limiting the foregoing, no approvals given pursuant to this Agreement by Developer or the City, or any person acting on behalf of any of them, shall be available for use by any contractor or other person in any dispute relating to construction of the Project.

(g) This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Wisconsin applicable to contracts made and wholly performed within such state.

(h) This Agreement may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. Facsimile signatures shall be deemed original signatures for all purposes of this Agreement.

(i) Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement in such jurisdiction or affecting the validity or enforceability of any provision in any other jurisdiction.

(j) Nothing contained in this Agreement or any other documents executed pursuant to this Agreement, shall be deemed or construed as creating a partnership or joint venture between the City and Developer or between the City and any other person, or cause the City to be responsible in any way for the debts or obligations of Developer or any other person. Developer further represents, warrants and agrees, for itself and its successors and permitted assigns, not to make any assertion inconsistent with their acknowledgment and agreement contained in the preceding sentence in the event of any action, suit or proceeding, at law or in equity, with respect to the transactions which are the subject of this Agreement and this paragraph may be pleaded and construed as a complete bar and estoppel against any assertion by or for Developer and its successors and permitted assigns, that is inconsistent with its acknowledgment and agreement contained in the preceding sentence.

(k) Time is of the essence of each and every obligation or agreement contained in this Agreement.

(l) If any party is delayed or prevented from timely completing construction of the Project, by reason of fire, earthquake, war, flood, riot, strikes, labor disputes, governmental restrictions, judicial order, public emergency, or other causes beyond the control of the party obligated to perform, performance of such act shall be excused for the period of such delay and the time for the performance of any such act shall be extended for a period equivalent to such delay.

(m) This Development Agreement shall terminate upon the latest to occur of the following: (i) the conveyance of the City Owned Improvements to the City; (ii) the completion of the Project as described above; (iii) receipt by the City of all payments it is entitled to pursuant to this Development Agreement; (iv) the receipt by Developer of all payments it is entitled to pursuant to this Development Agreement and the MRO.

(n) This Agreement shall be recorded in the office of the Register of Deeds of Ozaukee County, Wisconsin, prior to the recording of any other mortgage on the Project, it being understood by the parties that until termination of this Agreement as set forth above, this Agreement will run with the land and will be binding upon the Property and the Project and any Developer and/or lessee and/or mortgagee of all or any portions of the Property and the Project and their successors and assigns,

(o) Nothing contained in this Agreement is intended to or has the effect of releasing Developer from compliance with all applicable laws, rules, regulations and ordinances in addition to compliance with all terms, conditions and covenants contained in this Agreement.

(p) All financial reports and information required to be provided by Developer to the City under this Agreement shall be provided to the City's outside financial consultant for review on behalf of the City.

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EXHIBIT A:

11040 and 11110-11112 North Buntrock Avenue

EXHIBIT B:

Approval Plan Set and All Other Plans as Approved an On File with the Department of Community Development

Required Off-Site Improvements (all infrastructure to serve site as part of the Developer Build and Contribute and as part of Approved Plan Set)

All required public improvements as shown in the Approved Plan Set including but not limited to the following:

Public Sidewalk

Public Streetscape

Public Parking

EXHIBIT C:

Public water connection(s)

Public sewer connection(s)

Removal/relocation/installation of utilities and utility structures including but not limited to electric, cable, telephone, lighting, fiber optic and gas.

Grade modification and restoration within the Buntrock Avenue right-of-way.

Stormwater controls and BMP's

EXHIBIT D:
P2 Development Company Fast Track Formula

FAST TRACK FORMULA: P2 Buntrock TownHomes	
Base Improvement Value	$353,700
Site Demolition & Repair	$356,987
Total Cost of Gap	$710,687
New Development Value	$6,775,000
5% Incentive	$321,065
Total City Incentive	**$1,031,752**

EXHIBIT E:
Special Assessments

None

EXHIBIT F:
MOU of Development Agreement

Intentionally Left Blank

EXHIBIT G:
City-Owned Improvements

None.

EXHIBIT H:
MRO Repayment Schedule

September 1, 2025	The lesser of the Scheduled Payment or 60% of the Available Tax Increment
September 1, 2026	The lesser of the Scheduled Payment or 60% of the Available Tax Increment
September 1, 2027	The lesser of the Scheduled Payment or 60% of the Available Tax Increment
September 1, 2028	The lesser of the unpaid balance of the Fast Track Incentive or 60% of the Available Tax Increment

City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2902
Fax: 262-242-9655

www.ci.mequon.wi.us **Office of Community Development**

TO:	**Common Council**
FROM:	**Kim Tollefson, Director of Community Development**
DATE:	**February 8, 2022**
SUBJECT:	**RESOLUTION 3917 A Resolution Approving a Third Amendment to the Development Agreement for the Town Center Master Planned Mixed-Use Development for Foxtown Center, LLC, Allowing for Infrastructure Improvements and a Town Center TIF Incentive of $4.95M for a $51M Development**

Background

Foxtown Ventures, owners of the Town Center Foxtown Master Planned Project, City staff and legal counsel are continuing to discuss the necessary amendments and contingencies of the development agreement. On December 14, 2021, through Resolution #3902, the City declared both parties would remain in compliance through February 2022, in order to provide an opportunity to review issues related to the Tax Increment District (TID) #3, and the City's satisfaction of progress to date has been made. Both parties wish to table this item with an extension through March 2022 and plan to return with a finalized agreement at the March Finance & Personnel Committee meeting.

Recommendation

A recommendation is forthcoming from the Finance & Personnel Committee on February 8, 2022.

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3917

A Resolution Approving a Third Amendment to the Development Agreement for the Town Center Master Planned Mixed-Use Development for Foxtown Center, LLC, Allowing for Infrastructure Improvements and a Town Center TIF Incentive of $4.95M for a $51M Development

RECITALS

A. The Common Council granted approval of Resolution 3554 for the Foxtown Center Development Agreement to allow for infrastructure improvements and a Town Center TIF Incentive on September 11, 2018.

B. A First Amendment to the Development Agreement provided an adjustment to the timing and complettion of phasing and public improvements.

C. A Second Amendment to the Development Agreement provided an exemption for default by either party subject to consideration of timing and completion of certain phases.

D. A Third Amendment to the Development Agreement extends certain deadlines desired by the Developer and adds certain terms desired by the City in consideration of the extensions.

E. The Finance & Personnel recommended approval of the Third Amendment to the Development Agreement, which is attached as Exhibit A, on February 8, 2022.

BASED ON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon , Wisconsin that:

1. The Third Amendment to the Foxtown Center Development Agreement in substantial conformity with the form attached to this Resolution subject to any clerical, typographical or technical changes deemed necessary by the City's legal counsel is approved.

2. The Mayor and City Clerk are authorized and directed to execute and deliver the same.

____
Approved by: John Wirth, Mayor

Date Approved: February 8, 2022

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on February 8, 2022.

____

Caroline Fochs, City Clerk

City of Mequon

11333 N. Cedarburg Road
Mequon, WI 53092-1930
Phone: 262-236-2915
Fax: 262-242-9655

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Office of the City Attorney

TO: **Mayor and Common Council**
FROM: **Brian C. Sajdak, City Attorney**
DATE: **February 3, 2022**
SUBJECT: **Closed Session for City Attorney and Administrator Performance Reviews – February 8, 2022 Meeting**

Background

The Common Council may enter closed session pursuant to Wis. Stat. § 19.85(1)(c) for the purpose of considering employment, promotion, compensation or performance evaluation data of any public employee over which the Council has jurisdiction or exercises responsibility. This section allows for the use of a closed session to discuss performance reviews for City employees and officers such as the City Attorney and Administrator.

Recommendation

Should the Council decide that it wishes to enter closed session, a motion to enter closed session pursuant to Wis. Stat. §19.85(1)(c) for the purpose of considering employment, promotion, compensation or performance evaluation data of the City Attorney and/or City Administrator.