



11333 N. Cedarburg Road
Mequon, WI 53092
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www.ci.mequon.wi.us

Office of the City Clerk
Taped and Televised

**COMMON COUNCIL
Regular Meeting
Tuesday, August 10, 2021 - 7:30 PM
or Immediately Following the
Mequon Municipal Water Utility Commission Meeting
Christine Nuernberg Hall**

Amended Agenda

1) Call to Order, Pledge of Allegiance, Roll Call

2) 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.**

3) Committee of the Whole:

- a) Wisconsin Department of Transportation Presentation on the I-43 North/South Corridor Project
- b) Reconvene as the Common Council

4) Public Hearings:

- a) **ORDINANCE 2021-1593** - An Ordinance Amending Chapter 58 of the Mequon Municipal Code to Rezone the Property Located at 9961 N. Baehr Road from R-2B, R-1B and Floodway to R-2B, R-4 and Floodway, and to Rezone the Property Located at 9931 N. Baehr Road from R-4 to R-2B; **Recommended by Planning Commission May 24, 2021; First Reading at Common Council June 8, 2021.**
- b) **ORDINANCE 2021 - 1594** - An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to the Minimum Lot Size and Setback of Producing Animals, Specifically Chickens; **Recommended by Public Welfare Committee June 8, 2021; Recommendation to Deny by Planning Commission June 28, 2021; First Reading at Common Council July 13, 2021.**

5) Ordinances:

- a) **ORDINANCE 2021-1593** - An Ordinance Amending Chapter 58 of the Mequon Municipal Code to Rezone the Property Located at 9961 N. Baehr Road from R-2B, R-1B and Floodway to R-2B, R-4 and Floodway, and to Rezone the Property Located at 9931 N. Baehr Road from R-4 to R-2B; **Recommended by Planning Commission May 24, 2021; First Reading at Common Council June 8, 2021.**
- b) **ORDINANCE 2021-1594** - An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to the Minimum Lot Size and Setback of Producing Animals, Specifically Chickens. **Recommended by Public Welfare Committee June 8, 2021; Recommendation to Deny by Planning Commission June 28, 2021; First Reading at Common Council July 13, 2021.**
- c) ~~**ORDINANCE 2021-1595** - An Ordinance Repealing and Recreating Section 62-8(b) (4) of the Mequon Municipal Code Relating to the Regulation of Political Messages. **Recommended by Public Welfare Committee June 8, 2021; First Reading at Common Council July 13, 2021.**~~ ***Item Removed from the Agenda**

6) Potential Closed Session:

- a) Potential Claim of Amber Schroeder Relating to Political Signage on Public Property: The Common Council may convene into closed session pursuant to Wis. Stat. § 19.85(1)(g) for the purpose of conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved and then will reconvene into open session.

7) Public Officials' Reports:

- a) Mayor
- b) City Administrator

8) Consent Agenda:

- a) Common Council meeting minutes of July 13, 2021
- b) Architectural Board meeting minutes of June 14, 2021
- c) Economic Development Committee meeting minutes of June 29, 2021
- d) Festivals Committee meeting minutes of June 10, 2021
- e) Finance-Personnel Committee meeting minutes of June 8, 2021
- f) Park and Open Space Board meeting minutes of June 23, 2021
- g) Planning Commission meeting minutes of June 28, 2021
- h) Planning Commission Policy Subcommittee meeting minutes of June 7, 2021
- i) Public Safety Committee meeting minutes of June 8 and July 13, 2021
- j) Public Welfare Committee meeting minutes of June 8, 2021

- k) Public Works Committee meeting minutes of June 8, 2021
- l) **RESOLUTION 3867** - A Resolution Granting Final Plat Approval for The Residence at Foxtown, a 23-Lot Single-Family Home Subdivision Located Immediately East of 11050 N. Weston Drive; **Recommended by Planning Commission July 26, 2021.**
- m) **RESOLUTION 3869** - A Resolution Granting Final Plat Approval for Lakeshore Estates, a 9-Lot Subdivision Located at the Southwest Corner of Lakeshore Drive and Pioneer Road; **Recommended by Planning Commission July 26, 2021.**
- n) **RESOLUTION 3870** - A Resolution Granting a Permanent Easement to WE Energies for Installation of New Electrical Cables at the City's Department of Public Works Facility at 10800 North Industrial Drive; **Recommendation Forthcoming by Public Works Committee August 10, 2021.**
- o) Ordinance First Readings:
 NOTE: First readings 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 2021-1596** - A Charter Ordinance Amending Provisions of the Mequon Municipal Code, Establishing Terms of Office for Elected Officials; **Recommended by Public Welfare Committee, July 13, 2021; First Reading.**
 - 2) **ORDINANCE 2021-1597** - An Ordinance Amending Article II of Chapter 2 within the Mequon Municipal Code, in Connection with the Roles, Duties and Functions of the Mayor and Common Council; **Recommended by Public Welfare Committee July 13, 2021; First Reading.**

9) Resolutions:

- a) **RESOLUTION 3871** - A Resolution Approving a State/Municipal Maintenance Agreement (SMMA) and Three State/Municipal Financial Agreements (SMFA) for a State-Let Highway Project with the Wisconsin Department of Transportation for the County Line Road and Mequon Road Interchanges; **Recommendation for the SMMA Forthcoming by Public Works Committee August 10, 2021; Recommendation Forthcoming for Two SMFAs by Sewer Utility District Commission August 10, 2021 and Approval of the SMFA by Mequon Municipal Water Utility Commission August 10, 2021.**
- b) **RESOLUTION 3866** - A Resolution Increasing Compensation for the Position of Mayor; **Recommended by Finance-Personnel Committee July 13, 2021.**
- c) **RESOLUTION 3872** - A Resolution Authorizing the Collateral Assignment of the Development Agreement with Blue Ribbon Self Storage III, LLC to First Midwest Bank; **Recommendation Forthcoming by Finance-Personnel Committee August 10, 2021.**
- d) **RESOLUTION 3868** - A Resolution Awarding an Architectural/Engineering Design Services Contract for a Combined Restroom, Concession and Storage Facility at Lemke Park to Kueny Architects, L.L.C. of Pleasant Prairie, Wisconsin in an Amount Not-to-Exceed \$38,000; **Recommended by the Park and Open Space Board on July 21, 2021; Further Recommendation Forthcoming by Public Works Committee August 10, 2021.**

- e) **RESOLUTION 3873** - A Resolution Approving the Following Items: A) The Purchase of a John Deere 624P Loader from Brooks Tractor, Milwaukee, Wisconsin in the Amount of \$232,043; B) The Purchase of Associated Plow & Wing Attachments from Universal Truck Equipment, Inc., Galesville, Wisconsin in the Amount of \$35,947; and C) The Transfer of \$228,715 from Various Department of Public Works Operating Accounts to the Department's Equipment Replacement Account; **Recommendation Forthcoming by Public Works Committee August 10, 2021.**
- f) **RESOLUTION 3874** - A Resolution Approving the Receipt of a Donation from the Mequon Community Foundation for the Purchase of Police Bicycles and Associated Equipment in the Estimated Amount of \$7,069; **Recommendation Forthcoming by Public Safety Committee August 10, 2021.**

10) Specified Unfinished Business: None.

11) Presentation of Petitions, Memorials, and/or Remonstrances and Communications: None.

12) Specified Miscellaneous New Business: None.

13) Potential Closed Session:

- a) Acquisition of a Stormwater Drainage Easement Across the Property at 9731 N. Courtland Drive: The Common Council may convene into closed session pursuant to Wis. Stat. §19.85(1)(e), deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, and then may reconvene into open session to take such action as deemed appropriate.

14) Adjourn

Dated: August 5, 2021

/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



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Office of Engineering

TO: Common Council
FROM: Kristen Lundeen, Director of Public Works/City Engineer
DATE: August 10, 2021
SUBJECT: Wisconsin Department of Transportation Presentation on the I-43 North/South Corridor Project

Background

Staff from the Wisconsin Department of Transportation (WisDOT) and design consultants from HNTB Corporation will be in attendance at the August 10 Common Council meeting to give a presentation on the I-43 North/South Corridor Project.

Project Overview

The I-43 North-South Freeway is among the busiest routes in Wisconsin and is a critical Interstate link between southeast Wisconsin and the entire state. I-43 provides access to manufacturers, merchants, commuters and tourists within southeast Wisconsin, the Milwaukee metropolitan area, and other areas including Green Bay, Sheboygan, Manitowoc and Chicago.

WisDOT has maintained and rehabilitated the ramps, bridges, pavements and other structures on I-43 for 50 years. The North-South Freeway has exceeded its design life and it is no longer economical to maintain.

This project includes the expansion of I-43 from four to six lanes, the reconstruction of five existing interchanges along the corridor, and the replacement of the Union Pacific railroad bridge over I-43 in Glendale. The project also includes the expansion of a section of Port Washington Road in Glendale from two lanes to four lanes. During construction, WisDOT will work to keep two lanes open in each direction - similar to existing conditions.

The I-43 North-South Freeway project stretches from Silver Spring Drive up to WIS 60, spanning 14 miles in Milwaukee and Ozaukee Counties.

Project Information

Residents interested in obtaining more information or monitoring project progress may view WisDOT's project website at: [Wisconsin Department of Transportation I-43 North-South \(Silver Spring Dr. to WIS 60\), Glendale to Grafton - Milwaukee and Ozaukee counties \(wisconsin DOT gov\) <https://wisconsin DOT gov/Pages/projects/by-region/se/43crdr/default.aspx> .](http://wisconsin DOT Department of Transportation I-43 North-South (Silver Spring Dr. to WIS 60), Glendale to Grafton - Milwaukee and Ozaukee counties (wisconsin DOT gov) <https://wisconsin DOT gov/Pages/projects/by-region/se/43crdr/default.aspx> .)



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Office of Community Development

TO: Common Council
FROM: Kim Tollefson, Director of Community Development
DATE: June 8, 2021
SUBJECT: ORDINANCE 2021-1593 An Ordinance Amending Chapter 58 of the Mequon Municipal Code to Rezone the Property Located at 9961 N. Baehr Road from R-2B, R-1B and Floodway to R-2B, R-4 and Floodway, and to Rezone the Property Located at 9931 N. Baehr Road from R-4 to R-2B

Background

The applicant, Charles Zens, is seeking approval of a rezoning request for the properties located at 9961 N. Baehr Road and 9931 N. Baehr Road. The rezoning affects two existing lots that are modified in parcel size and layout through a recorded boundary line adjustment. Ultimately, the applicant is requesting a rezoning and reconfiguring two lots through a boundary line adjustment (see Exhibit A). The applicant owns both properties.

Analysis

9961 N. Baehr Road:

The north property, 9961 N. Baehr Road, currently has a single-family dwelling and barn on the property and is 6.4 acres in size. The purpose for the rezoning request is to separate the single-family dwelling from the barn through a boundary line adjustment. This property is intended to include the single-family dwelling and accessory detached structures and result in a .75-acre lot. Currently, this lot is 6.4-acres and split-zoned R-1B, R-2B and FW, which requires a larger lot size than .75 acres.

9931 N. Baehr Road:

The south property, 9931 N. Baehr Road, is currently zoned R-4 and is .75 acre but is intended to result in a 6.4-acre parcel. After the boundary line adjustment, the property is intended to include the single-family dwelling, accessory dwellings and the barn. This property is proposed to be rezoned to R-2B to have consistent zoning for the entire new parcel acreage.

The parcels in the surrounding area include the following:

Direction/Use	Zoning	Lot Size(s)
North	R-2B	1.55 acres
East	B-5	10.94 acres
South	R-3	1 acre
West	C-1, R-2B	1.03 acres
Proposed Rezoning - 9931 N. Baehr Road	R-4	.74 acre
Proposed Rezoning - 9961 N. Baehr Road	R-2B, FW	6.4 acres

Based on the surrounding land uses, which are a mix of industrial, single-family residential and general conservancy, staff believes the rezoning to R-4 (3/4 acre) and R-2B (1.5 acres) is consistent with current uses and current lot sizes in the area.

The property line for both parcels currently extend to the centerline of Baehr Road. The right-of-way has not been dedicated and the boundary survey shows proposed lot sizes that include the Baehr Road right-of-way. Even with the right-of-way included the property at 9961 N. Baehr Road does not meet the proposed R-4 minimum lot size. As a condition of the rezoning request, the boundary line adjustment shall create conforming parcels not including the acreage of the ultimate road right-of-way. In addition, dedication of right-of-way along Baehr Road is recommended.

Fiscal Impact

This project is fiscally neutral.

Recommendation

The Planning Commission recommended approval by a vote of 8-0 on May 24, 2021.

Attachments:

Exhibit A (PDF)

Zoning Map (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2021-1593

An Ordinance Amending Chapter 58 of the Mequon Municipal Code to Rezone the Property Located at 9961 N. Baehr Road from R-2B, R-1B and Floodway to R-2B, R-4 and Floodway, and to Rezone the Property Located at 9931 N. Baehr Road from R-4 to R-2B

RECITALS

A. The Common Council has determined that an amendment to the City's Zoning Map within Chapter 58 of the Mequon Municipal Code, as requested and consented to by the owner, is appropriate.

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

SECTION I

The zoning map is amended, subject to the conditions of approval by the Planning Commission's action of May 24, 2021:

1. Any boundary line adjustment shall create lots that meet all zoning district requirements.
2. The right-of-way along N. Baehr Road shall be dedicated to the City.
3. The R-4 property (9961 N. Baehr Road) shall be a minimum of $\frac{3}{4}$ -acre in size after the road area is dedicated.

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 other ordinances or parts of ordinances contravening the terms of this ordinance are hereby and to that extent repealed.

SECTION IV

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

Approved by: John Wirth, Mayor

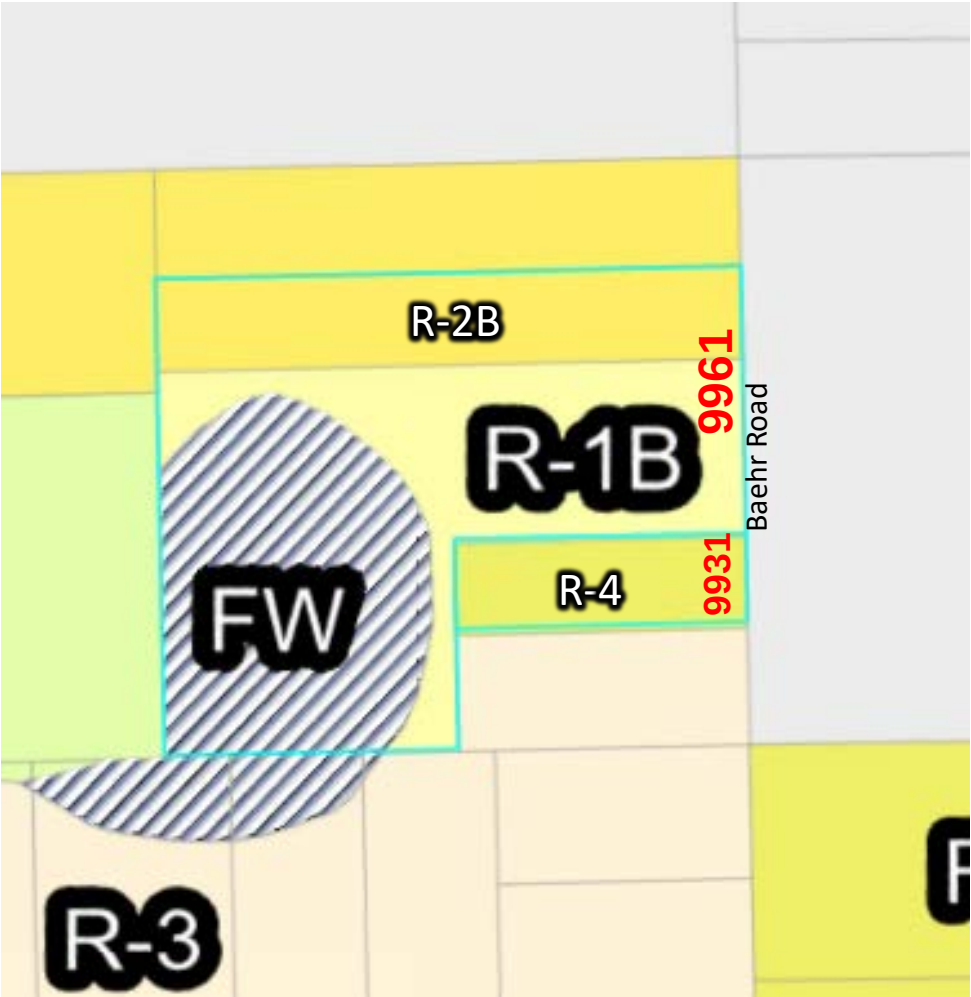
Date Approved: August 10, 2021

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

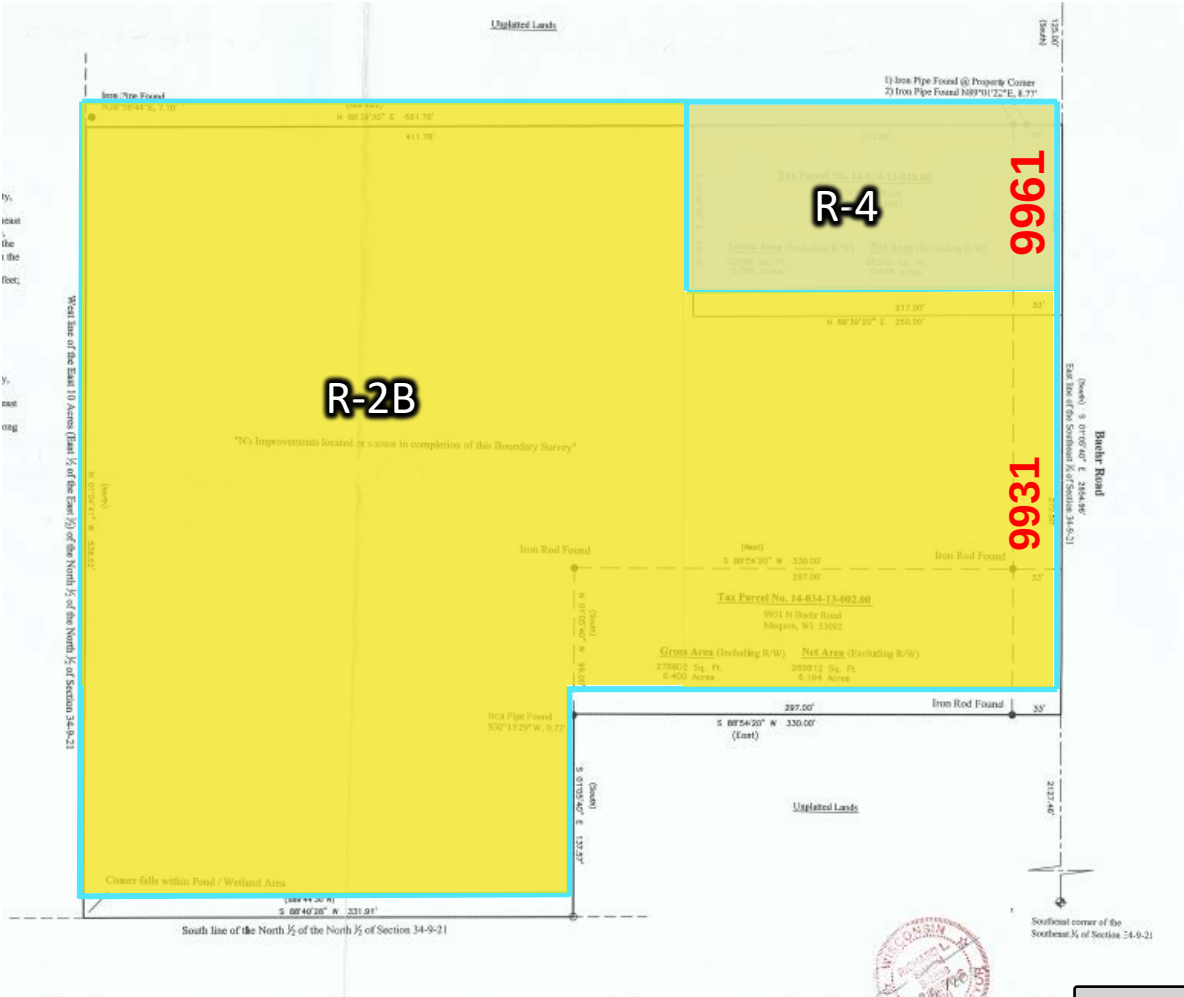
Caroline Fochs, City Clerk

Published: _____

CURRENT ZONING AND LOT CONFIGURATION

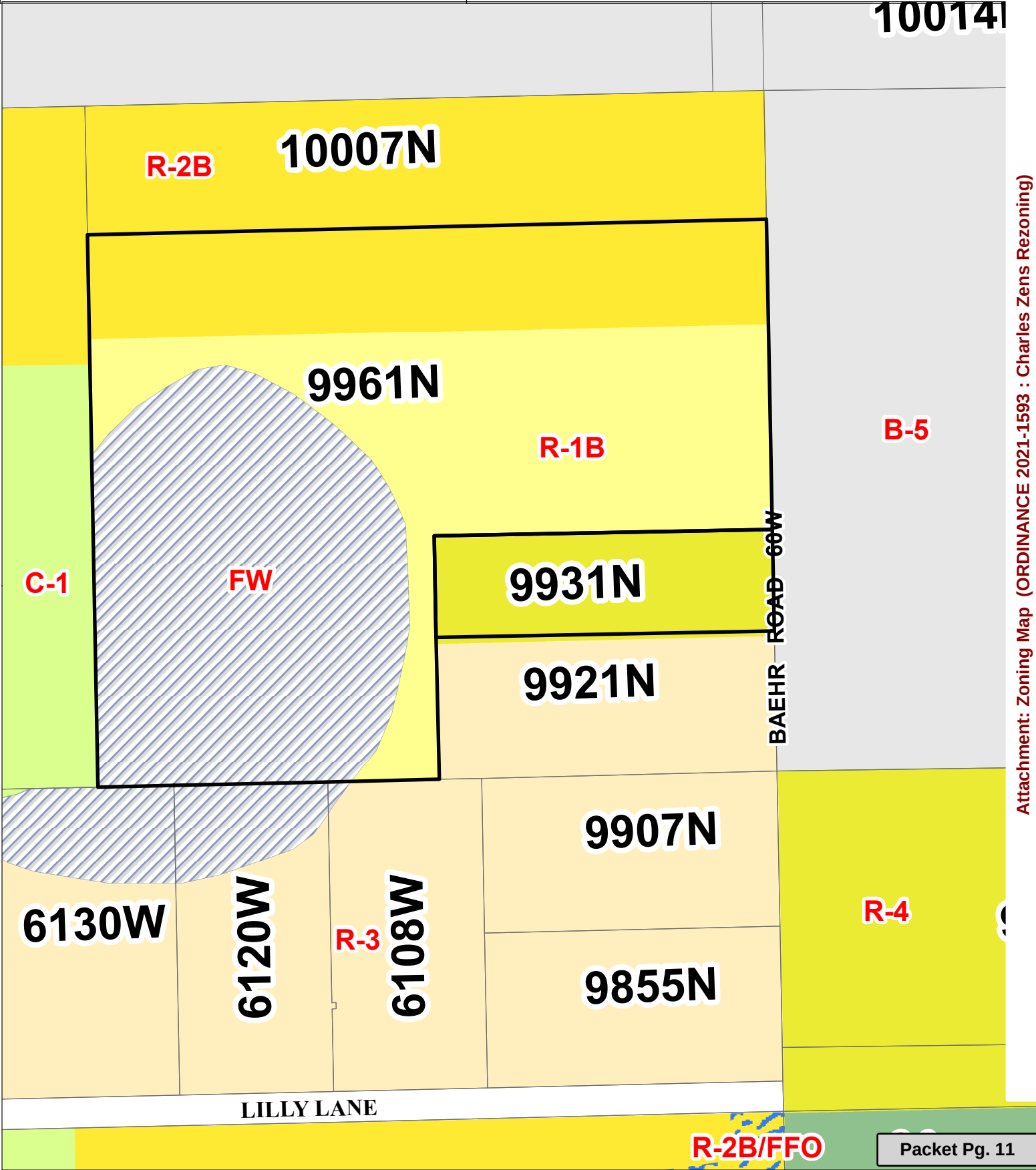


PROPOSED ZONING AND LOT CONFIGURATION



Charles Zens

AC	Arrival Corridor	LTD	Limited Use	5.a.b
A-1	Agricultural Preserve	OA	Agricultural Overlay	
A-2	General Agricultural	PUD	Planned Unit Development Overlay	
B-1	Neighborhood Business	P-1	Park & Recreation	
B-2	Community Business	R-1	Single-Family Residential (5 Ac. Min.)	
B-3	Office & Service Business	R-1B	Single-Family Residential (2.5 Ac. Min.)	
B-4	Business Park	R-2	Single-Family Residential (2.0 Ac. Min.)	
B-5	Light Industrial	R-2B	Single-Family Residential (1.5 Ac. Min.)	
B-6	Rural Industrial	R-3	Single-Family Residential (1.0 Ac. Min.)	
B-7	Rural Business	R-4	Single-Family Residential (3/4 Ac. Min.)	
C-1	Shoreland/Wetland Conservancy	R-5	Single-Family Residential (1/2 Ac. Min.)	
C-2	General Conservancy	R-6	Single-Family Residential (4 du/Ac)	
CGO	Central Growth Overlay	RM	Multi-Family Residential	
FFO	Flood Fringe Overlay	TC	Town Center	
FW	Floodway	TDR	Transfer of Development Rights	
IPS	Institutional & Public Service			





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Office of Community Development

TO: Common Council
FROM: Kim Tollefson, Director of Community Development
DATE: July 13, 2021
SUBJECT: ORDINANCE 2021-1594 An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to the Minimum Lot Size and Setback of Producing Animals, Specifically Chickens

Background

Alderwoman Kathleen Schneider is sponsoring a text amendment related to the keeping and raising of chickens. The City currently allows chickens subject to a permit and regulations governing the number of chickens, an eligible property's lot size, an enclosure's location and size, property setback requirements and upkeep/maintenance. Currently, the minimum lot size for keeping and raising chickens is 1.5 acres (please see attached current regulations regarding chickens). The proposed, sponsored amendment reduces the minimum lot size to $\frac{3}{4}$ acre.

Analysis

Previously, chickens, as domesticated animals, were determined to be kept on lots of 1.5 acres in size or greater, up to 9.99 acres, to maintain consistency with other animal regulations per the Municipal Code, as well as community character and the distinction between suburban and agriculture neighborhoods.

Under Chapter 58 of the Mequon Municipal Code, all residential zoning districts regulate animals including poultry and livestock, including chickens, horses, hogs, goats and other fur-bearing animals based on lot size and quantity. In addition, a Conditional Use grant can be applied for if quantities of animals exceed these regulations. Only chickens require an initial and annual permit.

Alderwoman Schneider has received several inquiries for the allowance of chickens on lot sizes of less than 1.5 acres, and there are several surrounding communities that allow chickens on lot sizes of less than 1.5 acres, as summarized below:

- City of Cedarburg: An annual permit is required and there is no minimum lot size.
- Town of Port Washington: 25 chickens permitted on $\frac{3}{4}$ acre, and an annual license is required for more than 5 chickens.
- Village of Grafton: Four chickens are permitted regardless of lot size, subject to an annual permit.

- City of Wauwatosa: Four chickens are permitted regardless of lot size, subject to an annual permit.

The attached chart presents the proposed table of regulations for chickens, amending the minimum lot size to $\frac{3}{4}$ acres.

Recommendation

On June 8, 2021, the Public Welfare Committee recommended **approval** of the proposed text amendment subject to the following:

1. Minimum lot size allowed is $\frac{3}{4}$ acres.
2. A reduction to the required 50-foot setback is permitted subject to the adjacent neighbor's approval.

Conversely, on June 28, 2021, the Planning Commission recommended to **deny** the proposed text amendment by a vote of 7-1.

Attachments:

EXHIBIT A Track Change Table 58-517a (DOCX)

EXHIBIT B Track Change 58-530 (DOCX)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2021-1594

An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to the Minimum Lot Size and Setback of Producing Animals, Specifically Chickens

RECITALS

A. The Common Council of the City of Mequon previously adopted a Zoning Code that is presently codified in Chapter 58 of the Mequon Municipal Code.

B. On June 8, 2021, the Public Welfare Committee recommended approval of changes to Chapter 58 as it relates to Producing Animals, specifically chickens.

C. On June 28, 2021, the Planning Commission recommended denial of the same changes to Chapter 58 as it relates to Producing Animals, specifically chickens.

D. The Common Council wishes to amend Chapter 58 of the Mequon Municipal Code as it relates to Producing Animals, specifically chickens, modifying Table 58-517(a) (as attached in Exhibit A) and modifying 58-530(b) Specific Requirements - Producing Animals (as attached in Exhibit B).

E. The Common Council finds that the regulation of land use through zoning and, more specifically, the regulation of the keeping of animals within the City, promotes 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 58 of the Municipal Code as it relates to Producing Animals is amended as shown in the attached Exhibits A through B.

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 repealed.

SECTION IV

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: August 10, 2021

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk

Published: _____

EXHIBIT A: TRACK CHANGE VERSION

TABLE 58-517(a) PRODUCING ANIMALS

<i>Poultry</i>						
Chickens	¾ acres (but less than 10 acres)	R-1 to R-4	4 for ¾ acres and 1 more for each additional acre	Permitted	Chicken permit	✓
Poultry	10 acres	A-1, A-2, OA	20 per acre	Permitted	None	
Poultry	10 acres	A-1, A-2, OA	More than allowed by right	Conditional	Conditional use permit	

EXHIBIT B: TRACK CHANGES VERSION

58-530 Specific Requirement – Producing Animals

- (b) **Chickens** on residentially zoned properties.
- (1) Roosters are prohibited.
- (2) All **chickens** on residentially zoned properties must always be kept in a secure enclosure that satisfies the requirements of [section 58-519](#).
- (3) All enclosures shall be set back at least 50 feet from any property line. Any enclosure may be permitted closer than 50 feet from an adjoining lot line, other than a street line, with the written consent of the adjoining property owner. Such enclosure shall not project forward of the building setback line. All enclosures~~and~~ shall be located in the rear yard closer to the principle dwelling on the subject parcel than the neighboring lot lines.
- (4) Enclosures shall not exceed 40 square feet and six feet in height.
- (5) Food supplies shall be stored in rodent-proof containers, and food and water containers shall be kept clean.
- (6) Feces shall be removed from yards and enclosures daily and stored in tightly covered metal containers that are setback at least 50 feet from the property line.
- (7) Yards, enclosures, premises and animals shall be kept free of insect infestations, rodents and other vermin.
- (8) No odor or noise nuisance shall be permitted.
- (9) The owner shall, as a condition of keeping such poultry, obtain and maintain a permit as described in [section 58-533](#).
- (10) No initial permit shall be issued unless the applicable homeowners association, if any, provides written consent to the owner keeping **chickens** in accordance with the foregoing standards. No such association consent shall be a condition of any subsequent annual permit.



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Office of City Attorney

TO: Common Council
FROM: Brian Sajdak, City Attorney
DATE: July 13, 2021
SUBJECT: ORDINANCE 2021-1595 An Ordinance Repealing and Recreating Section 62-8(b) (4) of the Mequon Municipal Code Relating to the Regulation of Political Messages. ** Item Removed from the Agenda

***Removed from Agenda**

Background

Historically, First Amendment law has provided communities with reasonably broad authority to regulate speech, including campaign signs, provided that such regulations are content neutral. In other words, as long as a regulation did not regulate the content of the sign, the regulation would be upheld as long as it was aimed at a substantial governmental interest. If the regulation is not content neutral, then the government must show a compelling interest and that the regulation is the least restrictive means of addressing that compelling interest. Most regulations do not meet this standard of review.

Recent case law has significantly changed the analysis related to whether a regulation is truly content neutral. One such case from the U.S. District Court for the Eastern District of Wisconsin is attached for consideration. The bottom line in this case is that the simple classification of a sign as a “campaign sign” takes the regulation out of the realm of content neutral under First Amendment law - even if the regulation makes no other content determinations. With this shift, time-based regulations have been increasingly struck down by the Courts.

Based on this case law, City staff have generally not enforced the temporal aspects of the Municipal Code by utilizing education and voluntary compliance instead of threats of citations - an approach that has mostly worked. However, following the November 2020 presidential election, numerous complaints were received concerning signs for both candidates that remained in place well beyond the election as the challenges to the results wore on. While most complainants understood the position of the City, it nonetheless became clear that the Mequon Municipal Code should be updated to remove time-based restrictions to eliminate confusion.

Discussion

Accordingly, the proposed ordinance does three primary things. First, it eliminates the time-based restrictions (e.g., limits signs to specified periods before and after elections) to address concerns raised by existing case law. Second, it reformats this section of the Municipal Code to make it consistent with other Code provisions and easier to read, although there are no material or substantive changes. Finally, in light of the broader applicability to all political message signs (campaign, social movements, referendums, etc.) during the year, the ordinance adopts the

“political message” language of the state statute versus the “campaign sign” utilized previously.

At the Public Welfare Committee’s meeting in April, members asked that the City’s current ordinance (Section 62-8. Exemptions. - a copy of which is attached) be revised to include language that would limit the number of total signs allowed. In order to accomplish this, Sections c.7. and c.8. were added. Section c.7. limits signs in residential districts to not more than 4 feet in height and a total cumulative square footage of 12 sq. ft. This limitation would allow for four 18’ x 24” signs, which is the typical sign found on residential properties. Section c.8. would allow for signs in non-residential districts up to six feet in height and a total square footage of 32 sq. ft. per commercial tenant, which would thus enable multiple smaller signs or a single 4’ x 8’ sign, which is the largest typical roadside sign utilized.

Fiscal Impact

None.

Recommendation

On June 13, 2021, the Public Welfare Committee approved a recommendation in favor of adopting the proposed ordinance amendments by a vote of 3-0.

Attachments:

20210407_173710_643026-Sec._62_8.____Exemptions_ (DOCX)

Fiedorowicz v City of Pewaukee (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2021-1595

An Ordinance Repealing and Recreating Section 62-8(b) (4) of the Mequon Municipal Code
Relating to the Regulation of Political Messages. ** Item Removed from the Agenda

RECITALS

A. The Common Council previously adopted section 62-8(b)(4) of the Mequon Municipal Code which regulates campaign signs within the City.

B. Recent case law, including a decision in Fiedorowicz v. City of Pewaukee by the U.S. District Court for the Eastern District of Wisconsin, substantially limits the City's ability to place time restrictions on campaign signs.

C. The Common Council finds that the regulation of the placement of signs so as to ensure the safety of pedestrians, traffic, and occupants of buildings remains a critical and necessary component of preserving the health, safety, and welfare of the community.

D. The Common Council wishes to update section 62-8(b)(4) to ensure that the regulation of political messages within the City extends only to preserving the safety of pedestrians, traffic, and occupants of buildings.

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

SECTION I

Section 62-8(b)(4) of the Mequon Municipal Code is repealed and recreated to read as follows:

(4) *Communication of Political Messages.*

a. The common council of the City of Mequon finds and declares the following legislative intent regarding the subject of political campaign signs:

1. Citizens possess important rights of free speech and association, the regulation of which may stem only from compelling governmental interests or significant governmental interests, as the case may be.

2. The public is possessed with the important right of safe and unobstructed travel over the public rights-of-way.

3. It is necessary as a matter of public policy that the buildings and grounds of public agencies maintain a strict appearance of political neutrality.

4. In the absence of regulation, there exists a substantial possibility of a proliferation of political messages in the city with the attendant traffic safety, litter, structural hazards, and loss of meaning of the message conveyed by said messages.

5. Section 12.04 of the Wisconsin Statutes authorizes the city to regulate political messages to ensure public safety.

6. A significant governmental interest therefor exists for a reasonable system of regulation of political messages in order to protect the rights and advance the concerns stated in this section, while being narrowly tailored, and affording ample alternative means to communicate the desired speech.

7. These narrowly tailored regulations are the least restrictive method of preserving the safety of the public.

b. Within this section, "political message" means a message intended for a political purpose or a message which pertains to an issue of public policy of possible concern to the electorate, but does not include a message intended solely for a commercial purpose.

c. No political message shall be placed or posted on any property within the City:

1. In any manner that adversely impacts pedestrian or traffic safety by blocking or obstructing any public right of way, private road, sidewalk, or trail, including the impairment of visibility or sightlines from or to.

2. In any manner that adversely impacts pedestrian or traffic safety by impairing the visibility or sightlines from or to any public right-of-way, private road, sidewalk, or trail.

3. In any manner that obstructs a window, door, fire escape, ventilation shaft or other area which is required by an applicable building or fire code to remain unobstructed.

4. On any public building, public structure, public right-of-way or grounds that are owned, operated or maintained by any public or governmental agency.

5. On private property without the consent of the owner or tenant of such property.

6. In any manner that may use or employ an electronic, mechanical or electro-mechanical message generator, or audio broadcast component.

7. On any property within a residential zoning district in a manner that exceeds four feet in height and/or a total of 12 square feet of cumulative size per property.

8. On any property in a non-residential zoning district in a manner that exceeds six feet in height and/or a total of 32 square feet of cumulative size per property, except that in the case of a multi-tenant commercial property the cumulative square feet limitation shall apply to each commercial tenant.

d. The Mequon Police Department and/or the Community Development Department shall be authorized to remove any political campaign signs that are found to be placed in the public right of way, or on other public property, in violation of the provisions of this section.

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: August 10, 2021

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk

Published: _____

Sec. 62-8. Exemptions.

- (4) *Political campaign signs.* The common council of the City of Mequon declares the following legislative intent regarding the subject of political campaign signs:
- a. Citizens possess important rights of free speech and association, the regulation of which may stem only from compelling governmental interests or significant governmental interests, as the case may be.
 - b. The public is possessed with the important right of safe and unobstructed travel over the public rights-of-way.
 - c. It is necessary as a matter of public policy that the buildings and grounds of public agencies maintain a strict appearance of political neutrality.
 - d. The substantial possibility exists of a proliferation of political campaign signs in the city with the attendant traffic safety, litter, structural hazards, and loss of meaning of the message conveyed by said signs in the absence of any regulation of such signs.
 - e. A significant governmental interest therefor exists for a reasonable system of regulation of political campaign signs in order to protect the rights and advance the concerns stated in this section, while being narrowly tailored, and affording ample alternative means to communicate the desired speech.
1. The provisions of Wis. Stats. § 12.04 are hereby adopted and incorporated by reference herein.
 2. *Size, shape and placement.* The gross surface area of a political campaign sign shall not exceed 11 square feet where its proposed or actual placement will impair visibility or site lines from and to public rights of way and private roads, so as to adversely impact on pedestrian or traffic safety.
 3. *Location(s).*
 - A. Political campaign signs shall not be posted on any public building, public structure, public right-of-way or grounds that are owned, operated or maintained by any public or governmental agency.
 - B. Political campaign signs located on private property may be placed by an owner or lessee, or with the consent of either. No such sign may obstruct a window, door, fire escape, ventilation shaft or other area which is required by an applicable building or fire code to remain unobstructed.
 4. *Special conditions.* The Mequon Police Department shall be authorized to remove any political campaign signs that are found to be placed in the public right of way, or on other public property, in violation of the provisions of this section.
 5. *Time limit.* Political campaign signs may be posted during the election campaign period, as that term is defined in Wis. Stats. § 12.04(12)(a), namely from the first day for circulation of nomination papers through the day of the election, except that the city shall not enforce removal of such signs until ten days after the election campaign period.
 6. *Prohibition of electronic/mechanical/audible signs.* No political campaign sign may use or employ an electronic, mechanical or electro-mechanical message generator, or audio broadcast component.

2004 WL 6338545

Only the Westlaw citation is currently available.

United States District Court,
E.D. Wisconsin.

Walter **FIEDOROWICZ**, Plaintiff,

v.

The CITY OF PEWAUKEE, Defendant.

No. 02-C-0830.

|
April 9, 2004.

Attorneys and Law Firms

Brady C. Williamson, James A. Friedman, Godfrey & Kahn SC, Madison, WI, Laurence J. Dupuis, Legal Action of Wisconsin Inc, Milwaukee, WI, for Plaintiff.

Raymond J. Pollen, Crivello Carlson SC, Milwaukee, WI, for Defendant.

DECISION AND ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, DENYING DEFENDANTS MOTION FOR SUMMARY JUDGMENT, DECLARING UNCONSTITUTIONAL THE ORDINANCES AT ISSUE, AND AWARDING PLAINTIFF ATTORNEY'S FEES

C.N. CLEVERT, JR., District Judge.

*1 Plaintiff, Walter **Fiedorowicz**, brought this action under 28 U.S.C. § 1983 asking the court to declare the City of Pewaukee, Wisconsin's Election Sign Ordinance § 17.702(c) and Temporary Sign Permit Process, §§ 17.703(b), 17.0713, and 17.0719 unconstitutional. **Fiedorowicz** and the City of Pewaukee (the City) have filed cross motions for summary judgment. For the reasons set forth below, the court will grant **Fiedorowicz's** summary judgment motion, deny the City of Pewaukee's summary judgment motion, declare the ordinances unconstitutional, and award **Fiedorowicz** his attorney's fees as the prevailing party pursuant to 42 U.S.C. § 1988.

Summary Judgment Standard

Summary judgment is proper when “there is no genuine issue as to any material fact and ... the moving party is entitled to judgment as a matter of law.” Fed.R.Civ.P. 56(c). That the parties have filed cross-motions for summary judgment does not affect this standard. See *I.A.E., inc. v. Shaver*, 74 F.3d 768, 774 (7th Cir.1996). Also, all inferences are construed in favor of the party against whom the motion is made in determining whether there is a genuine issue of material fact. *Id.* However, in this case the facts relevant to the pending motions are not in dispute.

Findings of Fact

Walter **Fiedorowicz** resides and votes in the City. (Aff.Fiedorowicz, ¶ 1) The City is a municipal entity organized and existing pursuant to Wisconsin Statutes. (Am. Complaint, ¶ 4; Answer and Affirmative Defenses to Am. Complaint, ¶ 4)

Chapter 17.0700 of the City's Municipal Code governs “SIGNS AND GRAPHICS.” (Aff.Peterson, Ex. E) Section 17.0701 states:

INTENT AND PURPOSE

The intent of this section is to provide for and regulate the location and safe construction of signs in the Town in a manner that will ensure that signs are compatible with surrounding land uses, and to express the identity of individual proprietors and the community as a whole. It shall be unlawful for any person, firm or corporation to locate, erect, move, reconstruct, extend, enlarge, convert, or structurally alter any sign without first complying with the requirements of this section.

(Aff.Peterson, Ex. E)

Section 17.0702 provides:

SIGNS PERMITTED IN INDIVIDUAL ZONING DISTRICTS WITHOUT A PERMIT

Certain signs are permitted as accessory uses in individual zoning districts *without a permit* as set forth in the individual district regulations. In addition, the following signs may also be *permitted without permit*:

...

c. *Election Campaign Signs* may be permitted in any district without a permit provided that permission shall

be obtained from the property owner, renter, or lessee, and provided that such sign shall not be erected more than 45 days prior to an election and shall be removed within seven (7) days following the election. Such signs in residential zoning districts shall not exceed four (4) square feet in sign area per sign nor more than a total of 20 square feet per individual property (ownership). Such signs in all other zoning districts shall not exceed four (4) square feet in sign area per sign nor more than a total of 32 square feet in sign area per individual property (ownership or lease).

*2 (Aff.Peterson, Ex. E)

Section 17.0703 provides:

SIGNS PERMITTED IN INDIVIDUAL-ZONING DISTRICTS WITH A PERMIT

Certain signs may be permitted in any specific zoning district after application and permit by the Building Inspector as follows:

...

b. *Temporary Signs or Banners* when authorized by the Building Inspector. For purposes of this provision a temporary sign is one which will be used for no more than thirty (30) days in a six (6) month period. Such signs shall not exceed thirty-two (32) square feet in sign area. (Aff.Peterson, Ex. E)

Section 17.0713 provides:

ADMINISTRATION

Applicants [sic] for permits shall be filed with the Town Building Inspector, who shall review the application for its completeness and accuracy and approve or deny the application within 45 days of receipt unless the time is extended by written agreement with the applicant. A sign permit shall become null and void if work authorized under the permit has not been completed within six (6) months from the date of issuance. Applicants [sic] shall be made on forms provided by the Building Inspector and shall contain or have attached thereto at least the following information:

a. *Name, Address, and Telephone Number* of the applicant, and location of building, structure, lot or property to which or upon which the sign is to be attached or erected.

b. *Name of Person. Firm. Corporation, or Association* erecting the sign.

c. *Written Consent* of the owner or leasee of the building, structure, or land to which or upon which the sign is to be affixed or erected.

d. *A Scale Drawing* of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.

e. *A Scale Site Drawing* indicating the location and position of such sign in relation to nearby buildings, structures, property boundaries, or signs.

f. *Information for type of information or message) to be displayed* on the face(s) of the sign.

g. *Copies* of any other permit required and issued for said sign, including the written approval by the Electrical Inspector in the case of illuminated signs. The Building Inspector shall examine the plans and specifications, inspecting all wiring and connections to determine if the same complies with the Town Codes and Ordinances.

h. *Additional Information* such as photographs as may be required by the Building Inspector.

i. *Payment* of a fee as set forth herein. The Building Inspector may, if necessity requires, direct that the applicant for a sign permit meet with the Plan Commission to review the request and provide guidance in the issuance of the permit.

(Aff.Peterson, Ex. E.)

Section 17.0717 provides:

PERMIT FEES

a. *Application and Sign Erection Permit Fee.* Each application for a permit shall be accompanied by a minimum fee of \$25.00 plus thirty-five cents (\$0.35) for each square foot over ten (10) square feet on one (1) side to a maximum of \$200.00.

*3 (Aff.Peterson, Ex. E)

Section 17.0210 provides:

PRINCIPLES AND STANDARDS FOR THE AESTHETIC EVALUATION OF SITE AND BUILDING PROJECTS

a. *Introduction and Intent*

The process of private building and development in a community may be simple or complex depending upon the size of the project, the number of participants, the ease of communication among the various private and public parties involved, and the content and clarity of the public rule and regulations. While the community representatives can not usually directly affect either the project size or the number of project participants, they can have a direct affect on the content and clarity of rules and regulations as well as the communication, and indeed, interpretation of any such rules and regulations.

Like inhabitants of most developing communities, Pewaukee Town officials and citizens have legitimate concerns about both the future character of the community and the integrity of existing (and even historic) development. One such concern is in regard to land uses or the mix of land uses, both existing and planned. Another concern is the financial capability of development (developers) to provide the required and promised improvements and, the financial capability of the community to provide the necessary and requested services. A third major concern, importantly, is in regard to the visual impact or image of the community by people both living within or only traveling through the Town. The intent or purpose of this sub-section is to provide principles and standards for use by both the potential developer and Town officials in the preparation and review of site and building plans proposed within the Town with emphasis on and the primary objective of heightening the visual character of the sites and buildings proposed and, thereby, the entire community. It is understood that such visual enhancement is also expected to be maintained overtime and not be only and initial accomplishment to be forgotten.

b. *Site Planning and Design Principles*

Following is a list of principles which should be utilized by everyone concerned in any *Site Planning and Design Projects* in the Town of Pewaukee:

...

- (3) All elements and aspects of the site, both natural and man-made, are important to the aesthetic character of the site.

...

- (7) Site grading, landscaping, paving, fencing, lighting, signage, and other site enhancement are an integral part of any building and development project.

c. *Building, Design, Layout and Construction Principles*

Following is a list of principles which should be utilized by everyone concerned in any *Building Design, Layout and Construction* project in the Town of Pewaukee.

- (1) No side or facade of a building or structure is exempt from public view and, consequently, all sides or facades should be visually pleasing and architecturally and aesthetically compatible.
- (2) The shape, size, dimension, architectural style, facade material, texture and color, building landscaping, building signage, and, the setting of the building within its immediate environment are all elements of the building structure design addressed by the designer, both individually and in concert.

*4 ...

- (8) Building signage, that is signage which is or appears to be an integral part of the building facade design, needs to be carefully planned and the appropriate sign materials, sign lighting and color used so as not to detract from the architecture of the building or be disruptive.

d. *Site Planning and Design Standards*

...

(7) *STANDARD NO. SD-7*

Signage of uses and buildings on the site shall be limited by the Plan Commission in number, size and type so as not to detract from the visual attractiveness of the site or architecture, or be a distraction to the traveling public or the neighborhood in general.

e. *Building Design Standards*

Standards must be related to the various Principles which, in turn, are related to the overall Objective which, in this case, is to "Heighten the visual character of sites and buildings in the Town of Pewaukee." It should be noted that the visual aspects of building design are difficult to relate to quantitative standards,

and, therefore, many of the building design standards must be qualitative. Following are both quantitative and qualitative *standards related to the visual aspects of building construction* which will be used by the Plan Commission in the review of every site plan or development.

...

(5) *STANDARD NO. BD-5*

...

(b) Building landscaping, lighting and signage shall be presented as an integral part of the building design and shall not be so large or distinct as to detract from the architecture of the building.

(Aff.Peterson, Ex. E)

As a resident and voter, **Fiedorowicz** supports a referendum addressing consolidation of the City of Pewaukee and the Village of Pewaukee. (Aff.Fiedorowicz, ¶ 2) In support of his position, **Fiedorowicz** and others prepared signs stating: "Let us vote; 1 Pewaukee Committee." (Aff.Fiedorowicz, ¶¶ 3, 4) **Fiedorowicz** obtained permission from property owners to place signs on their property within the City. (Aff.Fiedorowicz, ¶ 5) Moreover, he sought permission from the City of Pewaukee to place signs on private property within the City more than 45 days before the Fall 2002 election. (Aff.Fiedorowicz, ¶ 6)

The City's Common Council denied **Fiedorowicz** permission to erect signs by a vote of three to two, with one abstention, at a meeting on May 6, 2002. (Aff. Peterson, Ex. C; Aff. **Fiedorowicz**, ¶ 7) During that meeting, Common Council members and the City Attorney stated that the election campaign sign ordinance, § 17.0702(c), applied to **Fiedorowicz's** request. (Aff.Peterson, Ex. C) Consequently, **Fiedorowicz** was not given permission to place signs on private property more than 45 days before the Fall 2002 election. (*Id.*)

In a letter to the City's Mayor, Jeffrey Nowak, dated July 11, 2002, **Fiedorowicz**, by counsel, asked the City to reconsider its decision denying him permission to place signs on private property in the City. (Aff.Peterson, Ex. D) However, the City did not respond. (Aff.Fiedorowicz, ¶ 8) Regardless, the City maintains that **Fiedorowicz** could have posted signage pursuant to the temporary signs or banners ordinance, § 17.0703(b).

Conclusions of Law

*5 The First Amendment, which is applicable to the States under the Fourteenth Amendment, prohibits States from enforcing laws "abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." U.S. Const amend. I. This Amendment "was fashioned to assure unfettered interchange of ideas for the bringing about of political and social changes desired by the people ." *Roth v. United States*, 354 U.S. 476, 484, 77 S.Ct. 1304, 1 L.Ed.2d 1498 (1957). Courts have held that communication by signs and posters is virtually pure speech. *Arlington County Republican Comm. v. Arlington County, Va.*, 983 F.2d 587, 593 (citing *Baldwin v. Redwood*, 540 F.2d 1360, 1366 (9th Cir.1976)).

Not all limitations on political speech are impermissible. For example, signs may be subject to municipal regulation because they pose distinctive problems that are subject to police powers. *City of Ladue v. Gilleo*, 512 U.S. 43, 48, 114 S.Ct. 2038, 129 L.Ed.2d 36 (1994). "Unlike oral speech, signs take up space and may obstruct view, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation." *Id.* "It is common ground that governments may regulate the physical characteristics of signs—just as they can, within reasonable bounds and absent censorial purpose, regulate audible expression in its capacity as noise." *Id.* (citing *Ward v. Rock Against Racism*, 491 U.S. 781, 109 S.Ct. 2746, 105 L.Ed.2d 661 (1989) and *Kovacs v. Cooper*, 336 U.S. 77, 69 S.Ct. 448, 93 L.Ed. 513 (1949)). **Fiedorowicz** does not challenge the City of Pewaukee's ability to regulate the physical characteristics of signs. Rather, he launches a facial attack on the time limits or duration that a sign may be posted. (Plaintiffs Brief, p. 9, n.2).

Traditionally, courts examining an ordinance under the First Amendment first determine whether the ordinance is content-based or content-neutral. A content-based regulation, which restricts speech because of the ideas or messages expressed, is presumptively invalid and subject to strict scrutiny. *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382, 112 S.Ct. 2538, 120 L.Ed.2d 305 (1992). Consequently, the government must demonstrate a compelling state interest and that the regulation is the least restrictive alternative. *Sable Communications of Cal., Inc. v. FCC*, 492 U.S. 115, 126, 109 S.Ct. 2829, 106 L.Ed.2d 93 (1989). Most content-based regulations do not

survive this exacting standard of review. *See, e.g., City of Ladue*, 512 U.S. at 43 (prohibiting yard signs in order to minimize visual clutter may be a substantial interest but it is not a compelling interest); *Linmark Associates, Inc. v. Willingboro*, 431 U.S. 85, 97 S.Ct. 1614, 52 L.Ed.2d 155 (1977) (the city's interest in maintaining a stable, racially integrated neighborhood held insufficient to support a prohibition of residential "For Sale" signs); *New York Times v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964) (potential for libel of public official held insufficient to prevent publication in newspaper); *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503, 89 S.Ct. 733, 21 L.Ed.2d 731 (1969) (undifferentiated fear or apprehension of disturbance held insufficient to support regulation prohibiting anti-war armbands).

*6 On the other hand, a lesser standard is applied if the regulation on speech is deemed content-neutral. In such cases, the government need only show that it has a significant interest at stake, that the regulation is narrowly tailored to promote that interest, and that there are ample alternative means available to communicate the desired speech. *See Lee v. International Society for Krishna Consciousness, Inc.*, 505 U.S. 830, 112 S.Ct. 2709, 120 L.Ed.2d 669 (1992) (finding that flow of passengers into and out of the airport terminal was a substantial governmental interest); *Ward*, 491 U.S. at 781 (regulating noise levels at an outdoor concert was a substantial governmental interest); *Heffron v. International Society for Krishna Consciousness Inc.*, 452 U.S. 640, 101 S.Ct. 2559, 69 L.Ed.2d 298 (1981) (finding that a rule requiring solicitation at a state fair be done from a booth was narrowly tailored because it focused on the incidental effects of providing exemptions).

Section 17.0701 of the City ordinance makes it unlawful to "locate, erect, move, reconstruct, extend, enlarge, convert, or structurally alter any sign" without first complying with the requirements of the section. The section includes restrictions based on the type of sign at issue. For example, bulletin boards for public, charitable or religious institutions require a permit but may be displayed indefinitely. § 17.0703(a). Real estate signs require a permit but may be displayed six months, unless extended by action of the Town Plan Commission. § 17.0704(c). **Fiedorowicz's** "Let us vote" signs fall within the election campaign sign ordinance, § 17.0702(c) or the temporary sign ordinance, § 17.0703(b). The election campaign sign ordinance allows signs conveying "election" or "campaign" messages to be posted without a permit 45 days before an election and seven days after

§ 17.0702(c). The temporary signs or banners ordinance provides that residents must file an application with the Town Building Inspector on a form that includes the "Information (or type of information or message)" to be displayed on the face(s) of the sign. § 17.0713(f). In addition, the applicants must pay a minimum fee of \$25 plus thirty-five cents for each square foot over ten square feet on one side of the proposed sign to a maximum of \$200. § 17.0717(a). The Building Inspector may require the applicant to meet with the Plan Commission to review the request and to provide guidance in the issuance of the permit. § 17.0713(i). If approved, the sign may be used no more than 30 days in a six month period. § 17.0703(b).

Most courts addressing the constitutionality of durational limitations similar to those in the City have proceeded under the traditional framework and found the limitations to be content-based. *Curry v. Prince George's County, Maryland*, 33 F.Supp.2d 447, 452 (D.Md.1999) (collecting cases). In *Curry*, the court held unconstitutional an ordinance prohibiting campaign signs more than 45 days before an election and 10 days after the election. In *Whitton v. City of Gladstone, Missouri*, 54 F.3d 1400 (8th Cir.1995), the court held unconstitutional an ordinance prohibiting campaign signs more than 30 days before an election and seven days after the election. The ordinance was content-based because the words on the sign defined whether the sign was subject to the durational limitations. *Id.*, at 1404. Similarly, in *Painesville Bldg. Dept. v. Dworken & Bernstein Co., L.P.A.*, 89 Ohio St.3d 564, 733 N.E.2d 1152 (Ohio 2000), the Ohio Supreme Court held unconstitutional an ordinance prohibiting campaign signs more than 17 days prior to an election and 48 hours after the election.

*7 According to the City, these cases are inapposite because they do not address adequately the United States Supreme Court's approach in *City of Ladue*, 512 U.S. at 43. *Ladue* banned political signs displayed from a private residence, but carved out exceptions for what *Ladue* deemed to be indispensable signs. *Id.* at 45. *Ladue* justified its ban because signs create "ugliness, visual blight and clutter" which "tarnish the natural beauty of the landscape as well as the residential and commercial architecture, impair property values, substantially impinge upon the privacy and special ambience of the community, and may cause safety and traffic hazards to motorists, pedestrians, and children." *Id.*, at 47 n. 6. In striking down the ordinance, the Supreme Court found it unnecessary to categorize a challenged political sign ordinance as content-based or content-neutral. This approach

troubled Justice O'Connor, who accused the Supreme Court of stepping away from its normal analytical structure and failing to determine whether the ordinance was content-based or content-neutral. *Id.* at 60.

This court is not persuaded by the City of Pewaukee's assertion that *City of Ladue* “heralds a new approach in First Amendment jurisprudence.” (Defendant's Brief in Opposition, p. 13). The Supreme Court acknowledged problems with the content discrimination rationale. For example, Ladue could remove theoretically the defects in its ordinance by repealing all exemptions to its ban. But in doing so, Ladue could still run afoul of the First Amendment by prohibiting too much speech. *Id.* at 51. Ultimately, the Ladue ordinance could not prevail under any level of scrutiny. Therefore, rather than engaging in the content discrimination question, the Supreme Court assumed, for the sake of deciding the case, the validity of Ladue's submission that the various exemptions were free of impermissible content or viewpoint discrimination. *Id.*

City of Ladue is instructive because of the similarities to the case at bar. Ladue argued, just as the City of Pewaukee argued in this case, that the ordinance was a mere regulation of the time, place, or manner of speech because residents remained free to convey their desired messages by other means, such as hand-held signs, letters, handbills, flyers, telephone calls, newspaper advertisements, bumper stickers, speeches and neighborhood or community meetings. *Id.*, at 56. Yet, the Supreme Court was not persuaded that there were adequate substitutes for the important medium of speech that Ladue closed off:

Displaying a sign from one's own residence often carries a message quite distinct from placing the same sign someplace else, or conveying the same text or picture by other means. Precisely because of their location, such signs provide information about the identity of the “speaker.” As an early and eminent student of rhetoric observed, the identity of the speaker is an important component of many attempts to persuade. A sign advocating “Peace in the Gulf in the front lawn of a retired general or decorated war veteran may provoke a different reaction than the same sign in a 10-year old child's bedroom window or the same message on a bumper sticker of a passing automobile. An espousal of the socialism may carry different implications when displayed on the ground of a stately mansion than when pasted on a factory wall or an ambulatory sandwich board.

*8 *Id.*, at 56. The Supreme Court noted that “Residential signs are an unusually cheap and convenient form of communication. Especially for persons of modest means or limited mobility, a yard or window sign may have no practical substitute.” *Id.* at 57.

Though careful to note that they were not confronted with “mere regulations short of a ban,” the Supreme Court mentioned that “individual residents themselves have strong incentives to keep their own property values up and to prevent ‘visual clutter’ in their own yards and neighborhoods—incentives markedly different from those of persons who erect signs on others' land, in others' neighborhoods, or on public property.” *Id.* at 58. “Residents' self-interest diminishes the danger of the ‘unlimited’ proliferation of residential signs that concerns the City of Ladue.” *Id.*

Admittedly, Ladue implemented a near total ban on signs. However, the same rationale applies even if the City of Pewaukee grants a short grace period in which political signs may be displayed. The vast majority of the year, the City of Pewaukee has completely foreclosed “a venerable means of communication that is both unique and important.” *Id.* at 54. Moreover, under the *City of Ladue* analysis, the City of Pewaukee is not providing ample alternative channels for communication. The City of Pewaukee submits that “[b]esides posting temporary signs, door-to-door distributions, mass mailing or telephone campaigns, peaceful face-to-face communication, leafleting and picketing, and print, radio, and television are all effective alternative avenues of communication for Plaintiff.” *Defendant's brief at p. 16.* However, the Supreme Court rejected this argument because the means of communication cited by Ladue were not adequate substitutes for a sign displayed at one's own residence. *Id.* at 56.

Even if this court does not proceed under the *City of Ladue* analysis, the City of Pewaukee's durational limitations on signs are content-based. To comply with the requirements, the content of the sign must be considered to determine what section applies. The various sections of the ordinance value certain speech over others. A commercial real estate sign, church bulletin board, and political speech receive different treatment. If the sign advocates a cause or issue and falls outside of the 45 days prior to the election, the resident must file an application, pay a fee, and hope for the approval of the Building Inspector. The Inspector considers, in part, the type of speech being conveyed on the sign. If approved, the resident can voice his or her opinion, but only for 30 days in

a six-month period. Quintessentially, this is a content-based restriction on speech.

Another case from this district, *Deida v. City of Milwaukee and Scott McCallum*, 176 F.Supp.2d 859 (E.D.Wis.2001), proceeds under this traditional framework while acknowledging the impact of *City of Ladue*. In *Deida*, the court struck down a city ordinance that prohibited the placement of pamphlets on vehicles except for those pamphlets containing “educational material ... approved by the council on physical disabilities ... relating to the parking privileges of physically disabled persons.” *Id.* at 866. In concluding that the ordinance was content-based, the court reasoned as follows:

*9 Under the ordinance, an officer who observes someone placing a leaflet on a vehicle must examine the content of the leaflet in order to determine if the leafleter violated the ordinance. If the content of the leaflet relates to parking privileges of the disabled and has been approved by the Council, then the leafleter acted lawfully. If the content of the leaflet relates to any subject other than the parking rights of the disabled or if it has not been approved by the Council, the leafleter has violated the ordinance. Like the ordinance in *Mosley*, the regulation's operative distinction between lawful and unlawful is the message in the leaflet. The ordinance, therefore, restricts speech based on its content and is presumptively subject to strict scrutiny.

Id. Under strict scrutiny, the court found that Milwaukee's proffered interests in protecting private property, reducing litter and visual clutter and improving driver and pedestrian safety were not compelling. Aesthetic interests and traffic safety have been found substantial, *see, e.g., City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 805–87, 104 S.Ct. 2118, 80 L.Ed.2d 772 (1984), but not compelling, *see, e.g., Curry*, 33 F.Supp.2d at 452 (traffic safety and aesthetic interests not compelling); *Whitton*, 54 F.3d at 1409 (same); *City of Ladue*, 512 U.S. at 54 (reducing visual clutter not compelling).

In so holding, the *Deida* court rejected the “secondary effects” rationale that the City asserts in this case. The court noted that “outside the adult entertainment context neither the Supreme Court nor the Seventh Circuit has found a secondary-effects justification warrants applying lesser scrutiny to a facially content-based regulation.” *Id.* at 867 (citing *Schultz v. City of Cumberland*, 228 F.3d 831 (7th Cir.2000)). The rationale for relaxed scrutiny is warranted where the “sexually explicit material is the source of social problems that the government wishes to address.” *Id.* However, in *Deida* and the case at

bar, the speech proscribed by the ordinance is not an alleged source of any social problem, and, “in fact, includes speech of the highest value.” *Id.*

The City has failed to justify the limitations on speech it has imposed as a compelling state interest, and has not crafted a remedy that is the least restrictive alternative. The justifications for the ordinances at issue—aesthetics, property values, safety, and space management—have not been determined to be compelling interests. *Deida*, 176 F.Supp.2d at 869; *Whitton*, 54 F.3d at 1408. Moreover, the City has not persuaded this court that the limitations are tailored to serve these objectives. Restrictions on the size and maintenance of signs adequately promote these interests, and there is nothing in this record which supports the durational limitations the City has placed on political signs versus other signs tolerated under the ordinance. The fee and permit requirements for the temporary signs and banners ordinance act only to increase the cost and the inconvenience of a favored means of communication.

*10 The temporary signs and banners ordinance faces an additional hurdle. It operates as an unconstitutional prior restraint of speech. A prior restraint is one in which a party must apply to a government body for a permit or license before it can engage in the protected activity. *S.E. Promotions, Ltd. v. Conrad*, 420 U.S. 546, 552–53, 95 S.Ct. 1239, 43 L.Ed.2d 448 (1975). Prior restraints are presumptively unconstitutional, *Freedman v. Maryland*, 380 U.S. 51, 56, 85 S.Ct. 734, 13 L.Ed.2d 649 (1965), because of the likelihood that they will be used as a method of censoring unfavorable speech, *Forsyth County, Ga. v. The Nationalist Movement*, 505 U.S. 123, 131–32, 112 S.Ct. 2395, 120 L.Ed.2d 101 (1992).

To be permissible, a prior restraint has to contain specific, detailed criteria upon which the licensing body must base its decision to grant or deny a permit. *Id.* at 132 (citations omitted). It is insufficient for the government body to claim that it uses set criteria; rather, those standards must be incorporated into the regulation or publicized by binding administrative or judicial construction. *City of Lakewood v. Plain Dealer Publ'g Co.*, 486 U.S. 750, 770, 108 S.Ct. 2138, 100 L.Ed.2d 771 (1988).

Section 17.0713 requires that applicants provide the “Information (or type of information or message) to be displayed on the face(s) of the sign.” Knowing that content, the Building Inspector has 45 days to decide whether to

approve the application. Section 17.0210, “Principles and Standards for the Aesthetic Evaluation of Site and Building Projects,” enumerates “general standards” relating to the intent of the ordinance. Standard No. SD–7, addresses “signage of uses and buildings” and cites broad, aesthetic goals of not detracting from the visual attractiveness of the site or architecture, or distracting the traveling public or the neighborhood in general. These guidelines are not objective, narrow, and definite standards required by case law. *Shuttlesworth v. Birmingham*, 394 U.S. 147, 150–51, 89 S.Ct. 935, 22 L.Ed.2d 162 (1969). A building inspector who disagrees with the content of a proposed sign may deny the application, and there is no requirement that he or she provide reasons or otherwise reduce those reasons to writing absent a request. If a written decision is requested within ten days, there is no time frame for delivering that decision to the individual who requested it.

For the above reasons, the court will grant **Fiedorowicz's** motion for summary judgment. As the City did not respond to plaintiff's request for an award of attorney's fees pursuant to 42 U.S.C. § 1988, the court will grant that request and require **Fiedorowicz** to file documents supporting a reasonable fee award.

Now, therefore,

IT IS ORDERED that plaintiff's motion for summary judgment is granted.

IT IS FURTHER ORDERED that defendant's motion for summary judgment is denied.

IT IS FURTHER ORDERED that the City of Pewaukee's Election Campaign Sign Ordinance, § 17.0702(c), and the Temporary Sign Permit Process, §§ 17.0703(b), 17.0713 and 17.0717 are unconstitutional. The City of Pewaukee is permanently enjoined from applying these ordinances.

*11 IT IS FURTHER ORDERED that plaintiff's request for attorney's fees pursuant to 42 U.S.C. § 1988 is granted. Plaintiff shall submit a proposed order and supporting documents on or before April 30, 2004.

All Citations

Not Reported in F.Supp.2d, 2004 WL 6338545

End of Document

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Attachment: Fiedorowicz v City of Pewaukee (ORDINANCE 2021-1595 : Regulation of Political Messages)



To: Common Council
From: Brian C. Sajdak, City Attorney
Date: August 9, 2021
Subject: Potential Claim of Amber Schroeder Relating to Political Signage on Public Property

Background:

The Common Council may convene into closed session pursuant to Wis. Stat. §19.85(1)(g) for the purpose of conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is likely to become involved. The purpose of this closed session will be to discuss the strategy to be employed in response to the threatened litigation involving Ms. Schroeder's claims.

Common Council Action Required:

Motion to enter closed session pursuant to Wis. Stat. § 19.85(1)(g) for the purpose of conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is likely to become involved.



draft

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Office of the City Clerk
Taped and Televised

COMMON COUNCIL
Regular Meeting
Tuesday, July 13, 2021 - 7:30 PM
Christine Nuernberg Hall/GoToMeeting Platform

Minutes

1) Call to Order, Pledge of Allegiance and Roll Call

Mayor Wirth call the meeting to order at 7:36 PM.

Present:

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

Also present: City Administrator Jones, Assistant City Administrator Schoenemann, City Attorney Sajdak, City Clerk Fochs, Acting Finance Director Keyser, Community Development Director Tollefson, Police Chief Pryor, Fire Chief Bialk, Deputy Fire Chief Zellman, Deputy Director of Utilities Driscoll, Deputy Director of Public Works Weyker, Police Officer Phil Nelson, Jim Malcom, Employer Outreach Director for the Employer Support of Guard and Reserve, Lynn Streeter and Rick Lemke, Future of the Fire Department Committee Members, press and interested public.

2) Personal Appearances and Public Comment:

Bob Walerstein, the President of Country Estates, would like to donate a park bench to the City on Parkview Drive and Mequon Road, at no expense to the City.

3) Public Hearing: None.

Attachment: 07-13-21_CC Draft minutes (6456 : Common Council meeting minutes of July 13, 2021)

4) Public Officials' Reports:

- a) Mayor: Mequon Police Officer/Army Reservist Phil Nelson and Jim Malcolm, Employer Outreach Director of the Employer Support of Guard and Reserves (ESGR), presented Human Resource Director/Assistant City Administrator Justin Schoenemann with the Seven Seals Award. This award recognizes Mr. Schoenemann and the City's support during Officer Nelson's deployment at the vaccine clinic at the Wisconsin Center in spring 2021.
- b) City Administrator: Mr. Jones announced that the reevaluation letters of new assessments were mailed to all property owners on June 30, 2021. The last reevaluation occurred in 2009. The purpose is to ensure uniformity across the tax base. Open Book is scheduled for July 26-July 30. Call the Assessor's Office to make a phone/email appointment. Residents who wish to appeal their assessment can appear before the Board of Review. The first scheduled meetings of the Board of Review are September 10th and September 13th. Information can be found on the Assessor's website page.

In addition, WisDOT representatives will give a presentation on the I-43 expansion project at the next Common Council meeting to be held August 10, 2021.

5) Consent Agenda:

- a) Common Council meeting minutes of June 8, 2021.
- b) Economic Development Board meeting minutes of May 25, 2021.
- c) Festivals Committee meeting minutes of May 13, 2021.
- d) Finance-Personnel Committee meeting minutes of May 11, 2021.
- e) Mequon Municipal Water Utility Commission meeting minutes of March 9, 2021.
- f) Park and Open Space Board meeting minutes of May 19 and May 27, 2021.
- g) Planning Commission meeting minutes of May 24, 2021.
- h) Public Safety Committee meeting minutes of May 11, 2021.
- i) Public Welfare Committee meeting minutes of May 11 and May 25, 2021.
- j) Public Works Committee meeting minutes of May 11, 2021.
- k) Sewer Utility District Commission meeting minutes of May 11, 2021.
- l) **RESOLUTION 3855** - A Resolution Authorizing Final Plat Approval for The Enclave at Mequon Preserve - Phase V, Consisting of 12 Lots within an 82-Lot Single-Family Subdivision Located at 7711 and 7801 West Preserve Parkway.

Motion to approve the Consent Agenda Items A – L.

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

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

m) 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 2021-1594** - An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to the Minimum Lot Size and Setback of Producing Animals, Specifically Chickens.

RESULT: First Reading

- 2) **ORDINANCE 2021-1595** - An Ordinance Repealing and Recreating Section 62-8(b) (4) of the Mequon Municipal Code Relating to the Regulation of Political Messages.

RESULT: First Reading

The Common Council convened as the Committee of the Whole at 7:55 PM.

6) Committee of the Whole:

- a) Approve Committee of the Whole meeting minutes of May 4, 2021.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Parrish
SECONDED BY: Alderman Nerbun

AYES:	Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun
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- b) Future of Our Fire Department Report on Facilities and Equipment.

Lynn Streeter provided an overview of the Future of our Fire Department Committee, its members and purpose. The committee was created to evaluate and make recommendations regarding the current state and future needs of our Fire Department and EMS Services. Phase I was the staffing report and was previously presented to the Council. Phase II focused on Facilities, Equipment and Information Technology (IT). Findings at both Station 1 (Buntrock Avenue) and Station 2 (Port Washington Road) include: outdated space in kitchen, day rooms and dorm rooms, limited office space, inefficiencies in design for modern day work practices, safety concerns, inadequate dorm rooms, ongoing flooding issues, air quality concerns, no functional meeting space or study space, sub-standard facilities. Recommendations regarding facilities/buildings are: 1) major upgrades are needed for our facilities, 2) Station 2 should be replaced with a larger facility as soon as possible and planning should begin now, 3) Station 1 should be remodeled. The Committee feels these recommendations are needed to retain and recruit personnel and to maintain our community pride.

Rick Lemke further presented the Committee's findings and recommendations regarding Equipment and IT. Equipment findings are that the apparatus and vehicles are in good shape. Our City's plans for vehicle replacements and upgrades are solid. Our IT is currently inadequate for a modern Fire Department. Findings include: 1) fire inspections are all done by hand which

can be old school, unprofessional, inefficient, error prone, no data collection capabilities, difficult to follow up, and are not integrated with other City departments, 2) payroll system is also done by hand, error prone, not integrated with City payroll, and 3) communications are severely lacking because, i.e. employees do not have City emails, limited access to track calls,. Recommendations regarding IT are: 1) implement a digital payroll system, 2) need an official department email system, and 3) integrate IT systems with other City departments, including digitizing inspections.

Discussion ensued on location of a new Station 2 and the next steps to determine potential locations, the functional plan and rough estimates of costs. The Mayor supported pursuing the facility assessment Request-for-Proposal.

c) Discussion of **RESOLUTION 3856** - A Resolution Requiring the Resumption of In-Person Meetings

Mayor Wirth explained his reasoning in putting forth this resolution. Apart from some exceptions, it is time to conduct in-person city meetings again. This brings the City back to pre-COVID status and suggests exceptions be discussed at either the Public Welfare Committee or a special Ad Hoc Committee. Such exceptions, i.e., consultant presentations, could be money saving for the City. Some investment may be needed to augment our technology to enhance the hybrid meeting experience by consultants and/or the public.

The Committee of the Whole recommended **RESOLUTION 3856** to the Common Council and wants the Public Welfare Committee to consider and potentially propose to the Common Council a policy ordinance that permits virtual or hybrid meeting attendance by the public and/or consultants, in emergency or time-sensitive situations and under other limited circumstances.

Motion to recommend **RESOLUTION 3856** as amended to the Common Council.

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

AYES:	Strzelczyk, Bushee, Mayr, Hansher, Gierl, Parrish, Schneider, Nerbun, Wirth
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d) Reconvene as Common Council

The Committee of the Whole reconvened as the Common Council at 8:36 PM.

7) **Ordinances:** None.

8) **Resolutions:**

a) **RESOLUTION 3856** - A Resolution Requiring the Resumption of In-Person Meetings.

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

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

- b) **RESOLUTION 3857** - A Resolution Approving a Revolving Loan Fund Application for Aleksa Learning Center, Located at 1415 Donges Bay Road, in the Amount of \$100,000.

Julie Klimkovish, owner of Aleksa Learning Center provided an overview of the plans for building purchase, upgrades, furniture and electronics. She hopes to open the Learning Center in fall of 2021.

RESULT: Approved by Roll Call Vote [Unanimous]
MOVED BY: Alderman Nerbun
SECONDED BY: Alderman Schneider

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

- c) **RESOLUTION 3858** - A Resolution Appointing Jennifer Engroff to the Position of Director of Finance/City Treasurer.

Mr. Jones explained that Ms. Engroff was chosen from a pool of 20 very qualified applicants and will likely be starting her employment in mid-August.

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

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

- d) **RESOLUTION 3859** - A Resolution Approving the Award of a Contract for Development of an Organizational Strategic Plan with Better Dash Faster Consulting of Madison, Wisconsin in the Amount of \$8,500.

Mr. Jones stated that Better Dash Faster is the firm recommended to help the City develop our first strategic plan. This year strategic planning will be combined with budget development process.

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

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

- e) **RESOLUTION 3860** - A Resolution Approving a Waiver of Repurchase and Right of First Refusal Under the Mequon Business Park Covenants and Restrictions for Copps Industries, Inc..

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

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

- f) **RESOLUTION 3861** - A Resolution Rejecting All Bids for the City of Mequon's 2021 Road Improvements Irrigation Removal Contract.

RESULT: Approved by Voice Acclamation [Unanimous]
MOVED BY: Alderman Mayr
SECONDED BY: Alderman Nerbun

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

- g) **RESOLUTION 3862** - A Resolution Awarding the Mequon Business Park Street Light Removal Contract to J Miller Electric of Port Washington, Wisconsin in the Amount of \$42,000.

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

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

- h) **RESOLUTION 3863** - A Resolution Authorizing an Agreement with the Wisconsin Department of Transportation for a Temporary Limited Easement at 9961 North Port Washington Road, in Connection with the I-43 Freeway Expansion Project.

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

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

- i) **RESOLUTION 3864** - A Resolution Awarding a Contract for 2021 Cleaning Services at the Public Safety Building to Vanguard Cleaning Systems, Greenfield, Wisconsin for a Total Not-to-Exceed Cost of \$23,310.

The Public Works Committee approved this resolution unanimously and directed the city staff to get bid/cost estimate on including the East Side Fires Station 2 in the contract.

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

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

j) Motion to suspend the rules and take action on **RESOLUTION 3865**.

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

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

RESOLUTION 3865 - A Resolution Approving the Purchase of One Police Vehicle from Ewald Automotive Group, Hartford, Wisconsin and the Installation of Associated Equipment from General Communications, Milwaukee, Wisconsin in the Total Amount of \$37,885.

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

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

9) **Specified Unfinished Business:** None.

10) **Presentation of Petitions, Memorials, and/or Remonstrances and Communications:** None.

11) **Specified Miscellaneous New Business:**

Mayoral Appointment: Architectural Board: Andrew Kerr, Regular Member, At Large

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

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

12) **Potential Closed Session:**

Acquisition of a Stormwater Drainage Easement Across the Property at 9731 N. Courtland Drive: The Common Council may convene into closed session pursuant to Wis. Stat. §19.85(1)(e), deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, and then may reconvene into open session to take such action as deemed appropriate.

Motion to table going into a Closed Session to discuss the Acquisition of a Stormwater Drainage Easement Across the Property at 9731 N. Courtland Drive.

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

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

13) Adjourn

Motion to adjourn at 8:54 PM.

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

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

Respectfully Submitted,
Kathy Andrykowski

**ARCHITECTURAL BOARD MINUTES****Monday, June 14, 2021****6:00 PM****Via Teleconference GoToMeeting****Minutes****1. Call to Order, Roll Call**

Present: Chairman Scott Reed

Members at Large: Paul Apfelbach, Jenna Daniele, John Mikkelson, Jo Steinberg

Aldermanic District Members: Dawn Sederholm, Anthony LaGalbo, Nathaniel Stein

Building Inspector: Mike Hadley

2. Meeting Minutes

Minutes from the May 10, 2021, meeting were approved by Vice-Chair, Paul Apfelbach and seconded by At-Large Member, John Mikkelson.

3. Application Submittals:

No.	Alder. District /Time	Type of App	Owner(s) / Project Address	Contractor
1)	Dist. 8 6:00 pm	Addition: Kitchen & Mudroom	J.Scott & Barbara Allen 10922 N. Lake Shore Drive Subd: N/A	Cont: Owner Arch: The Garrett Studio
Moved to Approve: <u>LaGalbo</u> Seconded by: <u>Stein</u> Approved: <u>Yes</u> Vote: <u>Unanimously</u> Conditions: Plans approved as submitted.				

Attachment: Arch Board minutes_06-14-21 (6477 : Architectural Board meeting minutes of June 14, 2021)

2)	Dist. 8 6:10 pm	Addition: Second Story Master Suite & Remodel	Phil & Karin Censky 225 W. Thornapple Lane Subd: Thornapple Farms	Cont: Amethyst Contracting Arch: Amethyst Contracting
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Moved to Approve: LaGalbo
 Seconded by: Stein
 Approved: Yes
 Vote: Unanimously

Conditions: Plans approved as submitted with the addition of shutters to windows on addition.

3)	Dist. 1 6:20 pm	New Single-Family Residence	Tim & Jessica Rautmann 12938 Highgate Court Subd: Highgate Court	Cont: Mikkelson Builders Arch: John Mikkelson
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Moved to Approve: Apfelbach
 Seconded by: Sederholm
 Recused: Mikkelson
 Approved: Yes
 Vote: Unanimously

Conditions: Plans approved as submitted.

4)	Dist. 1 6:25 pm	New Single-Family Residence	Gino & So Chong Pak 12875 N. Highgate Court Subd: Highgate Court	Cont: Mikkelson Builders Arch: John Mikkelson
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Moved to Approve: Reed
 Seconded by: Apfelbach
 Recused: Mikkelson
 Approved: Yes
 Vote: Unanimously

Conditions: Plans approved as submitted with the following condition:

1. Add a brick beltline on rear elevation which would run from the dinette and kitchen bump-out's and then die on the inside corner.

5)	Dist. 3 6:30 pm	Detached Garage	Tim Bigonia 8504 W. Holly Road Subd: Solar Heights	Cont: JD Griffiths Company Arch: JD Griffiths Company
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Moved to Approve: Reed
 Seconded by: Apfelbach
 Approved: Yes
 Vote: Unanimously

Conditions: Plans approved as submitted with the following conditions:
 1. Addition of same size windows on all elevations.
 2. Addition of shutters to all windows.

6)	Dist. 4 6:40 pm	New Single-Family Residence	Veridian Homes 10595 N. Coneflower Drive Subd: The Enclave (South)	Cont: Veridian Homes Arch: Veridian Homes
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Moved to Approve: Reed
 Seconded by: Sederholm
 Approved: Yes
 Vote: Unanimously

Conditions: Plans approved with the following condition:
 1. Addition of two windows on rear elevation garage. The windows should match the style and size of the upper bathroom window on rear elevation.

7)	Dist. 4 6:45 pm	Addition: Sunroom	Judy Wilder 8540 W. Highlander Drive Subd: Highlander Estates	Cont: Great Day Improvements Arch: James Clancy
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Moved to Table: Reed
 Seconded by: Mikkelson
 Tabled: Yes
 Vote: Unanimously

Conditions: Plans were tabled for re-draw to show constancy with the roof pitch, slope and materials to match existing house.

4. Action

Vice-Chair, Paul Apfelbach made a motion to adjourn.
 District Four Representative, Dawn Sederholm seconded the motion.
 A vote was taken, vote passed unanimously.

Meeting adjourned at 6:42 p.m.



See Agenda Packet for
Login and Complete Packet Details
Mequon, WI 53092
Phone:
Fax: 262-242-9655

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ECONOMIC DEVELOPMENT BOARD

Tuesday, June 29, 2021

8:00 AM

Virtual Meeting

Minutes

1) Call to Order, Roll Call

Present:

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

2) Approval of Meeting Minutes from May 25, 2021

Action

Mr. Kramer made a motion to approve the meeting minutes from May 25, 2021.
Mr. McClean seconded the motion.
A voice vote was taken; vote passed (6-0)

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

3) Revolving Loan Fund Application for Aleska Learning Center

1. **RESOLUTION 3857** A Resolution Approving a Revolving Loan Fund Application for Aleksa Learning Center, Located at 1415 Donges Bay Road, in the Amount of \$100,000
Kathleen Cady-Schilling, Ozaukee County Economic Development Director, stated that the

applicant, Julia Klimkovich, contacted her in April regarding her interest in purchasing and renovating the building at 1415 W. Donges Bay Road for a daycare; Aleksa Learning Center. Her mother, who has 30 years of experience in the daycare industry, will be the director and in charge of the daily operations. Julia will own the building and the business.

Ms. Cady-Schilling explained that both herself and Trish McEnerney, representative from BMO Harris Bank, reviewed the financials as well as the business plan and agrees that Ms. Klimkovich has a strong business plan to support her request for a \$100,000 loan. The prime will be 1.75 with a 6-month deferral of principal. She has received a loan of \$327,000 from First Bank Financial Centre but will also contribute her own equity of \$150,000 and will continued working full time as Finance Director for Sargento.

Ms. Klimkovich stated that she is very excited about this new business and believes it will be successful as there is a market for high-quality daycare in Mequon. Their program is focused on education and learning, and she believes her mother's experience, 20 years working in daycares in Ozaukee County, will help provide a wonderful daycare experience for local families. She explained that she plans to invest in technology to enhance the communication that parents can have with their children throughout the day. She requested some extended hours from the Planning Commission approval to provide some parent social network opportunities as well as a night for parents to have a date night. She will update the property's landscaping and will decorate the building to be a bright, fun and attractive place for children.

Director Kim Tollefson stated that the RLF is created based on adding new jobs to the city; a commitment of 5 new full-time positions must be created. On June 28, 2021, the Planning Commission did approve the business operations in the CUG, which is required for a daycare use. She commented that no other actions by the city are required as the necessary approvals have been achieved.

The Board asked the applicant about her pricing related to revenue stream. Ms. Klimkovich explained that she built her business plan based on a conservative figure of \$280 per week per child. She believes that the market will allow for \$290/week. She explained that typically these rates go up 3-5% annually. The fees are paid bi-weekly.

When questioned about loans received, Mrs. Cady-Schilling made a correction to page 11 to discard a sentence that states a loan from First Bank for a 5-year term was received. This was simply a clerical error, and that sentence was left over from a previous document.

There were questions from the Board about the history of the past few owners of this building and whether there is a market for another daycare in the community. Ms. Klimkovich stated that her market research shows that there is a market for this use and specifically that there are waiting lists for newborns. Ms. Cady-Schilling stated that when reviewing this application, Ms. McEnerney confirmed that on the bank business side there is a need for daycares in Mequon.

A Board member asked about the financials of the applicant and Ms. Cady-Schilling

answered that the applicant has very strong personal financials, a very high credit score and plenty of personal assets that enabled her to receive the recommendation of approval to the EDB of the requested RLF. She is also maintaining her full-time job which provides a stable income.

There was discussion about the challenge of the ability to hire enough staff given the tight job market. It was commented that it may take longer to build the business to full operating status, but Ms. Klimkovich is stiving to be at full occupancy with 52 students and 12 teachers in two years. She plans to have an incentive program for her staff and to utilize local colleges to attract employees.

Ms. Klimkovich stated she will purchase the building for \$385,000 and she will fix the roof after she closes on the property and will she need renovation funds for improvements on site.

Action

Mr. Gannon made a motion to recommend the approval of the requested RLF to the Common Council.

Mr. Kramer seconded the motion.

A voice vote was taken; vote passed (7-0)

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

4) Staff Updates

Dir. Tollefson reminded the Board that last spring some of the RLF dollars were shifted to the Emergency Load Funds (ELF) for community businesses that were open to the public, smaller sized and affected by the closures due to the pandemic. Those loans had a maximum dollar amount of \$15,000 and there were 20 recipients of the loan with most of them at the maximum loan amount. The payments were deferred until July of 2021, and all the loan recipients have received a courtesy notice that the loan payments are coming due in July. Three of the recipients have already paid back the loan in full and a fourth is expected sometime this week. Once these loans are paid back the funds will replenish the existing \$270,000 in the RLF. She commented she believes it was a very successful program provided from the city.

Asst. Dir. Zader updated the Board on a few questions asked at the previous meeting regarding the I-43 project. He explained that the properties on the south end of Port Washington Road, the properties targeted by the Board as high priority, will not be impacted by the construction project.

He stated that he has found some traffic count studies for that corridor, but he is still looking for some projected traffic count studies based on the I-43 project changes.

Asst. Dir. Zader stated that he has been working to create a TIF policy for Port Washington Road that will highlight the targeted properties. He also has some developed some strategies for the properties outside of the Fast-Track Formula. This will be presented to the Board at the July meeting.

Ms. Tollefson stated the following items were approved at the Planning Commission meeting the previous evening:

- A 68-unit assisted living facility on Port Washington Road, just north of the eastside fire station.
- The White Rabbit Bar & Grill was approved for a new outdoor deck to expand seating.
- Life Storage received approval for their master sign plan.
- Last month the Common Council took action for Coops Industries, currently constructing a new building in the industrial park, as a recipient of an industry revenue bond.

5) Announcements

The next meeting is Tuesday, July 27, 2021, at 8:00 a.m. and this meeting will be virtual.

The Board will not meet in August but will meet again in September, which may be in person.

6) Adjourn

Action

Mr. Gannon made a motion to adjourn the meeting.

Mr. Sipiora seconded the motion.

A voice vote was taken; vote passed (7-0)

Respectfully Submitted,

Kim Tollefson

Director of Community Development



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FESTIVALS COMMITTEE
Thursday, June 10, 2021
6:30 PM
Virtual Meeting

Minutes

1) Call to Order, Roll Call

Present:

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

Also Present: Executive Assistant Enea

2) Approval of Meeting Minutes

a. May 13, 2021 Minutes

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

MOVED BY: Board Member Johnson

SECONDED BY: Committee Member Fussell

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

3) Committee Chair Update

4) Discussion Items

a. Vendors

Attachment: Festivals Minutes 06-10-21 (6471 : Festivals Committee meeting minutes of June10, 2021)

The vendor deadline has been extended to 7/16 and the liquor license until 7/19. Atlas BBQ is still considering because of staffing. Rise & Shine is booked. Harvey's said no. WI Cheese Curd and Foxtown are interested. Happy Go Lucky thought they had already submitted their application, but they have not. Following up with Fiddleheads and another popcorn vendor.

1. Vendor List June 10, 2021

b. Event Logistics

Reservations have been made to secure electrical, dumpster, Port-A-Johns, light towers, message boards, and shuttle service.

1. Area Rental

2. DBA Event Services

c. Sponsorships

Lisa has secured Concordia as a sponsor to help underwrite the cost of performers. Vanessa and Carrie will work this coming week on sending out sponsor solicitation letters to previous sponsors. Carrie emailed the sponsor packet to all the committee members to see the sponsor level options.

d. Marketing & Communications

Miranda has been doing Facebook posts and will work on getting the website up-to-date. The city can update the message board across from City Hall.

e. Entertainment

All the bands have been booked thanks to Lisa. Gypsy Geoff will be performing 2 shows, contract has been signed. KC Inflatables will send a quote this coming week. The art area is very popular, we can borrow easels from Bridget King. We will work on contacting the high school and Rotary Club for volunteers once we see how many volunteers we used in past years. Kristin Gies from the Nature Preserve may have an exhibit we can use.

5) Work Plan

If you have a Facebook account, post on your account to get the word out. We are on target with number of vendors, extending the deadline is what we needed to do. Let's plan to do a strategic planning event once event is over. If you have ideas on how we can recognize the 20th anniversary of 9/11, please let Vanessa know.

6) Next Meeting Date and Time: July 8, 2021 at 6:30 PM

7) Adjourn

Motion to adjourn the meeting at 7:18 PM.

RESULT: Approved by Voice Acclamation [Unanimous]

MOVED BY: Committee member Fussell
SECONDED BY: Committee member Liljegren
AYES: Nerbun, Fussell, Hohn, Johnson, Liljegren, Luchins, McLean, Hildebrand,
and White

Respectfully Submitted,

Carrie Enea



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Office of the City Administrator

FINANCE-PERSONNEL COMMITTEE

Tuesday, June 8, 2021

6:45 PM

Virtual Meeting

Minutes

1) Call to Order, Roll Call

a. Call to Order

Present:

Alderman Jeffrey Hansher

Alderman Glenn Bushee

Alderman Robert Strzelczyk

Mayor John Wirth

Also Present: Acting Finance Director Keyser, City Clerk Fochs, City Administrator Jones, Assistant City Administrator Schoenemann, Wendi Unger, Baker Tilly, Chris Wood and Greg Palmer.

2) Approve Meeting Minutes

a. May 11, 2021 Finance & Personnel Meeting Minutes

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

MOVED BY: Alderman Hansher

SECONDED BY: Alderman Strzelczyk

AYES: Hansher, Bushee, Strzelczyk

3) License Applications

a. June 2021 Licenses

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

MOVED BY: Alderman Hansher

SECONDED BY: Alderman Strzelczyk

AYES: Hansher, Bushee, Strzelczyk

b. 2022 Waste Hauler Permits

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

4) Vouchers for Payment

a. May 2021 Voucher Approval List

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

5) Resolutions

a. **RESOLUTION 3848** An Amended and Restated Final Resolution Regarding Industrial Development Revenue Bond Financing For Copps Industries, Inc. Project**RESULT:** **Approved by Voice Acclamation [Unanimous]****MOVED BY:** Alderman Bushee**SECONDED BY:** Alderman Hansher**AYES:** Hansher, Bushee, Strzelczyk

6) Discussion Items

a. Acceptance of the FY2020 Comprehensive Annual Financial Report and Report on Internal Control

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

b. FY2020 Popular Annual Financial Report (PAFR)

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

c. Work Plan

7) Adjourn

A motion to adjourn was moved by Alderman Hansher and seconded by Alderman Bushee. All three members voted "aye" at 6:54 p.m.

Respectfully Submitted,

Carrie Enea

Attachment: F & P minutes-06-08-21 (6460 : Finance-Personnel Committee meeting minutes of June 8, 2021)



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Office of Parks and Operations

PARK AND OPEN SPACE BOARD

Wednesday, June 23, 2021

6:30 PM

Virtual Meeting

Minutes

1) Call to Order, Roll Call

Board Member Bratt called the meeting to order at 6:30PM.

Present:

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

Also present were Parks and Forestry Superintendent Gies, and Administrative Assistant Deuster.

2) Approval of Meeting Minutes

a. May 19, 2021 Minutes

RESULT: **Approved [Unanimous]**

MOVED BY: Board Member Vite

SECONDED BY: Board Member Lysaught

AYES: Branch, Bratt, Lysaught, Plier, Schneider, Usowski, Vite

NOT PRESENT: Hurtado

b. May 27, 2021 Minutes

RESULT: **Approved [Unanimous]**

MOVED BY: Board Member Vite

SECONDED BY: Board Member Lysaught

AYES: Branch, Bratt, Lysaught, Plier, Schneider, Usowski, Vite

NOT PRESENT:

Hurtado

3) Parks and Forestry Superintendent Report

a. Parks and Forestry Updates

Parks and Forestry Superintendent Gies provided an update to the board of the resignation/retirement of Chair Marchese. The Board agreed to send a Thank You Letter to Pat Marchese for his time on the Board.

There was an update for the Lemke Park Consultant RFP, result of the Goats in the Park approval with the City. Also an update on the parking lot work done at Rotary Park.

b. 2021 Work Plan

Parks and Forestry Superintendent Gies provided an update on the 2021 Work Plan.

4) Discussion Item

Discussion and Possible Action

a. Finalization of the Budget for 2022

Parks and Forestry Superintendent Gies provided the board with the letter to submit from the board to Common Council with requests for the 2022 budget. The main items being: Restoration of operation and maintenance budget cuts applied for the FY 2021 due to anticipated decrease in revenue, Increase of operation and maintenance, facilities, parks capital -restoration of previous funding, Removal of dead trees due to EAB -restoration of previous funding, parking lots, and additional parks staffing.

The Board discussed a ballpark figure for increase of restoring funds, along with detail of why it is required. The board recommended providing a chart/graph with context for why the increase requests. There was support for each item and agreement to have the board sign the letter after approval in July prior to Common Council budget meetings.

b. Strategic Planning

Parks and Forestry Superintendent Gies stated the consultant would be hired in July and recommended to the board to wait to present the strategic plan from the Park and Open Space Board. The board agreed to review the plan and provide Mike with any corrections or changes prior to the July Park and Open Space Board meeting.

5) Motion to Adjourn at 7:33 PM.

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

MOVED BY: Board Member Vite

SECONDED BY: Alderman Schneider

AYES: Branch, Bratt, Lysaught, Schneider, Usowski, Vite

NOT PRESENT: Hurtado, Plier

Respectfully Submitted,

Casey Deuster
Administrative Assistant



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Department of Community Development
Taped and Televised

PLANNING COMMISSION

Regular Meeting

Monday, June 28, 2021

6:00 PM

Virtual Meeting

Minutes

1) Call to Order, Roll Call

Present:

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

Mayor Wirth stated the protocols for the hybrid meeting.

a) Approval of Meeting Minutes from May 24, 2021

Action

Commissioner Stoker made a motion to approve the May 24, 2021, meeting minutes.

Commissioner Becky Schaefer seconded the motion.

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

RESULT:	APPROVED [8 TO 0]
MOVER:	John Stoker, Commissioner
SECONDER:	Rebecca Schaefer, Commissioner
AYES:	Wirth, Bach, Choren, Gentges, Lemke, Schaefer, Schaefer, Stoker
ABSTAIN:	Goldberger

2) Consent Agenda

- a) Veridian Homes. The applicant is seeking final plat approval to allow for a 12-lot subdivision for the properties located at 7711 and 7801 W. Preserve Parkway.

Action

Commissioner Bach made a motion to approve the final plat.

Commissioner Stoker seconded the motion.

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

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

3) Public Hearing/Regular Business

- a) TRK Tavern LLC for The White Rabbit Bar & Grill. The applicant is seeking conditional use grant ratification and amendment approval to allow for an addition of an outdoor deck for the property located at 14015 N. Cedarburg Road (Public Hearing).

Action

Commissioner Stoker made a motion to open a public hearing.

Commissioner Becky Schaefer seconded the motion.

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

There was no public comment.

Action

Commissioner Stoker made a motion to close the public hearing.

Commissioner Becky Schaefer seconded the motion.

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

Planner Vang stated the applicant is seeking approval for an outdoor patio to provide additional seating. The site has been used as a restaurant for a few years although there is not a conditional use grant (CUG) recorded for the site. This patio proposal does include a CUG amendment which will be recorded, thus a CUG will also be recorded for the site. Staff has received some feedback regarding loud music at the property recently. Through the CUG, reasonable conditions such as noise, traffic and other issues that may threaten the peace of the surrounding neighborhood can be controlled. A condition is included in the CUG to only allow a maximum of 65 dba at the property line. Similar to other restaurants in the community, staff recommends loud music be prohibited past 10:00 pm.

Staff also informed the applicant that a Special Event permit approved by staff is required for all

outdoor special events taking place at the property.

Staff recommends hours of operation be 11:00 a.m. – 10:00 p.m. Planner Vang stated that there are a few conditions on the site that need to be addressed and staff recommends them as part of the Planning Commission approval. Staff believes if the conditions of approval listed in the staff report are complied with than the outdoor patio should be harmonious with the surrounding neighborhood and recommends approval based on the recommended conditions.

The applicant, Rick Kosidowski, stated that he is agreeable to all the conditions in the staff report.

There was a short discussion about other restaurants in the community and if the conditions recommended for this location are similar. Staff commented that the conditions are similar and explained that the Special Event permit helps staff monitor and control activity at the site.

Action

Commissioner Stoker made a motion to approve the CUG amendment.

Commissioner Lemke seconded the motion.

A roll call vote was taken; vote passed (8-0)

RESULT:	APPROVED [8 TO 0]
MOVER:	John Stoker, Commissioner
SECONDER:	Rick Lemke, Commissioner
AYES:	Wirth, Bach, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer, Stoker
ABSTAIN:	Goldberger

- b) Julia Klimkovich for Aleska Learning Center. The applicant is seeking conditional use grant approval to allow for a daycare for the property located at 1415 W. Donges Bay Road (Public Hearing).

Action

Commissioner Stoker made a motion to open a public hearing.

Commissioner Becky Schaefer seconded the motion.

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

There was no public comment.

Action

Commissioner Stoker made a motion to close the public hearing.

Commissioner Becky Schaefer seconded the motion.

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

Planner Vang stated that in 2013 the Commission approved a daycare for this site, but it has been vacant for over a year and the previous conditional use grant (CUG) is now void and approval of a new one is required. The applicant is seeking approval for a CUG for a daycare for 52 students. The site is surrounded by residential condominiums to the south and to the west. She commented

that other than the outdoor playground, all activities will be conducted indoors. There were some noise complaints in the past from the previous daycare, but now there is additional landscaping buffering and a 6-foot-tall fence was installed on the west side of the property. Staff believes the property is well screened and the daycare use is a nice transition between the residential properties and the commercial uses on Port Washington Road.

Planner Vang stated the hours of operation are 7:00 a.m. – 6:00 p.m. Monday -Friday and 9:00 a.m. – 6:00 p.m. on Saturdays. The applicant is requesting additional extended evening hours and staff is supportive of extended hours for 3 days out of the month with a sunset clause of 18 months at which time the applicant would need Commission approval for extended evening hours. This is in place to monitor noise issues as well as provide the applicant some flexibility as she builds her business.

There are added conditions requesting a revised site plan to accurately depict the playground area as well as the removal of the non-conforming monument sign. Based on all the conditions listed in the staff report, staff recommends approval of the requested CUG.

The applicant, Julia Klimkovich, stated that she is the owner and operator of the daycare; Aleska Learning Center. She described this as a high-quality daycare for 52 children. She explained that the requested extended hours will be used for the parents to form relationships with other parents at the daycare. One day may also be used for additional daycare time in the evening for pizza and a movie for parents to have a date night.

There was a question about the number of requested students, which is fewer than previously approved. The hours of operation were discussed, and there was agreement that the operating hours should be clarified that those are the hours when the children are allowed to be present but that staff may be in the building outside of those specific hours.

Action

Commissioner Becky Schaefer made a motion to approve the CUG with the amendment that the hours of operation be clarified to specify those hours are for clientele on site.

Commissioner Bach seconded the motion.

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

RESULT:	APPROVED WITH CONDITIONS [8 TO 0]
MOVER:	Rebecca Schaefer, Commissioner
SECONDER:	Gregg Bach, Commissioner
AYES:	Wirth, Bach, Choren, Gentges, Lemke, J. Schaefer, R. Schaefer, Stoker

- c) Matter X, LLC for Artis Senior Living of Mequon, LLC. The applicant is seeking conditional use grant, building and site plan and fill permit approval for a proposed 68-unit senior assisted living and memory care development for the property located at 11900 N. Port Washington Road (Public Hearing).

Commissioner Choren recused himself from this item.

Action

Commissioner Stoker made a motion to open a public hearing.

Commissioner Becky Schaefer seconded the motion.

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

There was no public comment.

Action

Commissioner Stoker made a motion to close the public hearing.

Commissioner Becky Schaefer seconded the motion.

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

Asst. Dir. Zader stated that this is a request for conditional use grant (CUG) and building and site plan approval for an assisted living facility and memory care. The request includes 26 memory care beds and 42 assisted living units. He explained that staff has been working with the applicant on this proposal over the past several months and that most of the issues have been worked out. Overall, the site plan does comply with the zoning requirements, the parking meets the code requirements but there are some issues with the wetlands and the floodplain; they will need to fill some of these areas which will require approvals from the DNR and FEMA. The only outstanding issue not settled is regarding a proposed 8-foot fence in the rear of the building; the code requirement limits the height to 6-feet. The applicant has modified the landscaping plan per the recommendations of the landscape consultant. The lighting plan has mostly been signed off on except for one question about a lumen amount on a partially shielded fixture which will be addressed.

Asst. Dir. Zader showed the building elevations and some of the proposed renderings. Overall staff is supportive of the design and believes it fits in well with the surrounding area. It is 2-stories on one side and 1-story on the other side and staff believes this low-profile design is desirable to the community.

He explained that there is a retaining wall on the south elevation as there is a 10-foot drop off. Staff recommends some greenery there, but the applicant communicated that the area is not visible from any public view, and they do not want to provide additional landscaping there. Based on this feedback, the recommendation from staff is modified to require landscaping there only if it is visible from public view. Staff is supportive of the project and recommends approval based on the conditions in the report.

The applicant, John Ford, President of Catalyst Partners, stated that they are excited about the proposed project. and although this vacant parcel has multiple site challenges, they believe it will be an asset to the community.

Action

Commissioner Stoker made a motion to approve the CUG and building and site plan per staff recommendations.

Commissioner Jim Schaefer seconded the motion.

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

RESULT:	APPROVED [8 TO 0]
MOVER:	John Stoker, Commissioner
SECONDER:	James Schaefer, Commissioner
AYES:	Wirth, Bach, Gentges, Goldberger, Lemke, J. Schaefer, R. Schaefer, Stoker
RECUSED:	Choren

4) Regular Business

- a) Blue Ribbon Management for Life Storage. The applicant is seeking master sign plan approval for the property located at 10448 N. Port Washington Road.

Asst. Dir. Zader stated that this request is for a master sign plan approval for Life Storage, and they are requesting some deviations from the sign code. They are requesting 4 wall signs and 1 freestanding monument sign. The freestanding sign is compliant with the code.

Overview of the 4 proposed wall signs:

- 1. West Side of the Building sign:** applicant proposed a 159 sq. ft. wall sign which is above the 60 sq. ft. sign code maximum. They are requesting this size due to the massing of the building. Staff recommends placing the sign in the brown band above the windows. They would need a height waiver, but staff believes it would fit in that area well.
- 2. South elevation signs:** applicant is proposing a drive-in sign and an office sign. The reasoning is that it is directional signage; per the code it does not apply to this type of application, it would be considered an additional wall sign. They are also requesting the size of the signs be larger and staff does support the drive-in sign use but does not support the proposed size. Staff recommends a sign larger than the office sign but not as large as the proposed drive-in sign. Staff recommends both signs be 15 square feet.
- 3. East Side/I-43 Signage:** applicant is proposing a sign larger than code allowance due to poor visibility from I-43 due to foliage there. Staff does not support this request.

Overall, staff does not support the larger signs for I-43 or the west elevation but does support slightly larger sized signs for the two wayfinding signs.

The applicant, Michael Kelly from Blue Ribbon Management, stated that they understand the proposed signs are not code compliant, but the sign sizes are typical of what the brand has previously done at other locations, and they believe that due to the size of the building and the large facades, the proposed signs are a more appropriate size. He also stated that there are a few larger signs located nearby at The Pavilions (Bed, Bath & Beyond and Sendiks).

Mr. Kelly agreed to the 15-foot allowance of the two wayfinding signs. He stated that the monument sign is only being resurfaced.

The Commission questioned the reasoning for wall signs in addition to the monument sign, as

some believe it is redundant, although this is allowed per the sign code. There was some discussion regarding the I-43 sign and the applicant stressed the importance of brand recognition, and that they specifically wanted a site on the interstate for this reason. Staff commented that over the past several years waivers have not been granted for signage on I-43.

Mayor Wirth made a motion that supports staff recommendations and explained that although he understands branding, he does not feel that a hardship is incurred in this situation or a reason for the community to deviate from the sign code requirements.

Action

Mayor Wirth made a motion to approve per staff recommendations.

Commissioner Stoker seconded the motion.

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

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

5) Policy

- a) **ORDINANCE 2021-1594** - An Ordinance Amending Chapter 58 of the Mequon Municipal Code, Related to the Minimum Lot Size and Setback of Producing Animals, Specifically Chickens.

Asst Dir. Zader stated that this policy issue was brought by Alderwoman Schneider to the Public Welfare Committee (PW), they discussed the size of the lot requirement for permitting chickens be lowered from 1.5-acres to $\frac{3}{4}$ -acres. She has received feedback from some of her constituents requesting this change. PW reviewed the ordinance and recommended approval of the lot size requirement change to the Planning Commission, and then it will be presented to the Common Council. Staff did add some language to include the 50-foot setback requirement for the coops but acknowledged this would not work on a $\frac{3}{4}$ -acre lot, so language was added to stipulate that the adjacent neighbor can approve the 50-foot setback be waived and the property would be grandfathered in at that time.

Some Commissioners do not support the lot size change as they believe the proposed lot size is too small and would have a negative impact on neighbors or new homeowners moving in next to properties with existing chickens. Mayor Wirth stated that anyone residing in a subdivision would not be allowed to have chickens per their HOA guidelines; this ordinance mostly applies to older homes not located in subdivisions.

Action

Commissioner Becky Schaefer made a motion to approve the lot size change to $\frac{3}{4}$ -acres.

No second.

Action

Commissioner Stoker made a motion to deny the lot size requirement to ¾-acre lots and forward to the Council not to approve the proposed lot size change.

Commissioner Lemke seconded the motion.

A roll vote call was taken; vote passed (7-1) (No: Becky Schaefer)

RESULT: APPROVED [7 to 1]

MOVED BY: Mayor Wirth

SECONDEDER: Rick Lemke, Commissioner

AYES: Wirth, Bach, Choren, Gentges, Lemke, J. Schaefer, Stoker

NAYS: R. Schaefer

6) Announcements

The next meeting is Monday, July 26, 2021, at 6:00 p.m.

7) Adjourn**Action**

Commissioner Stoker made a motion to adjourn the meeting.

Commissioner Choren seconded the motion.

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

Respectfully Submitted,

Jac Zader



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Department of Community Development
Taped and Televised

PLANNING COMMISSION

Policy Subcommittee

Monday, June 7, 2021

6:00 PM

Virtual Meeting

Minutes

1) Call to Order, Roll Call

Present:

Chair John Wirth
Alderman Brian Parrish
Commissioner Gregg Bach
Commissioner Dan Gentges
Alternate Stephanie Hawley
Commissioner James Schaefer - **Absent**
Commissioner John Stoker - **Absent**

2) Approval of Minutes from March 8, 2021

Action

Ald. Parrish made a motion to approve the meeting minutes from March 8, 2021.
Commissioner Hawley seconded the motion.
A voice vote was taken; vote passed (5-0)

RESULT:	APPROVED [UNANIMOUS]
AYES:	Wirth, Parrish, Bach, Gentges, Hawley
ABSENT:	Schaefer, Stoker

3) Ulao Creek Draft Open Space Map

Asst. Dir. Zader stated that a broad plan was included in the packet, and staff is looking for feedback from the Subcommittee so that the Parks and Open Space Committee can review it. Any comments or additions can be added as part of the recommendations to that Committee. He explained that there are some hypothetical paths on the map for some of the private properties

that will be developed as well as a linear multi-use trail along Port Washington Road (most likely paved) as well as one possibly along the backside of I-43 (most likely grass).

Mayor Wirth noted an error in the memo that mentioned 60 acres of parking which should read parks.

Asst. Dir. Zader talked about some of the specific areas on the map (pg. 10 in the packet). He explained that the map is purposefully not very detailed as many of the area conditions are unknown at this time, and this is a beginning step with general guidelines. The Subcommittee discussed possible areas for the path and connectivity. It was suggested that a narrower width be considered. Discussion included the concern for future development and ensuring the paths continue to be implemented. Another issue mentioned was regional drainage and the opportunity to incorporate ponds or other features as this area is being developed. Gateway signage was mentioned and that there may be too many signs in the community already. It was suggested that smaller “welcome to Mequon” signs may be more appropriate.

Mayor Wirth suggested that the Open Space Map also be forwarded to the Bikeway Commission for review.

4) Selection of Ulao Creek streetlight fixture and street tree specifications

Feedback from the Subcommittee regarding the lights is to support staff recommendations as it appears to have been well vetted.

Asst. Dir. Zader stated the lights are warm (softer, more yellow light) and not overbearing as there are other lights in the area. This was supported by the Subcommittee. The lighting is for the multipurpose trail along the main road, and it is not intended to light the roadway. There was a suggestion to provide some other examples of the light fixtures that are not as modern looking.

6) Announcements

7) Adjourn

Action

Ald. Parrish made a motion to adjourn the meeting.

Commissioner Gentges seconded the motion.

A voice vote was taken, vote passed (5-0)

Respectfully Submitted,

Jac Zader



Virtual Meeting
Mequon, WI 53092
Phone: 262-242-3500
Fax: 262-242-7655

www.ci.mequon.wi.us

Police and Fire Departments

PUBLIC SAFETY COMMITTEE

Tuesday, June 8, 2021

5:00 PM

Virtual Meeting

Minutes

1) Call to Order

Present:

Chair Andrew Nerbun
Alderman Mark Gierl
Alderman Dale Mayr

Also Present: Police Chief Pryor, City Attorney Sajdak, and Administrative Coordinator Melina Bowen.

2) Approve Meeting Minutes

- a. Public Safety Committee - Regular Meeting – May 11, 2021 5:00 PM

RESULT: Approved by Voice Acclamation [Unanimous]

MOVED BY: Alderman Mayr

SECONDED BY: Alderman Gierl

AYES: Gierl, Mayr, Nerbun

3) Ordinance Discussion

Action requested: review and recommend approval

- a. **ORDINANCE 2021-1592** An Ordinance Amending Section 50-100 of the Mequon Municipal Code Relating to Sex Offender Residency Restrictions and Child Safety Zones

The Committee discussed two options for the Review Board in relation to the sex offender residency ordinance updated by City Attorney Sajdak following the May meeting.

Review Board options are as follows:

- Residency appeals to be sent to the Board of Appeals.
- Create an ad hoc committee any time that an appeal is presented.

A motion to create an ad hoc committee as needed when appeals are received was made by Alderman Mayr and seconded by Alderman Gierl.

Attachment: 2021, 6-8 updated (6463 : Public Safety Minutes June 8 and July 13, 2021)

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

AYES: Mayr, Gierl, Nerbun

City Attorney addressed changes correcting capitalization and removing a sentence (first sentence of section A-6) as suggested by the Mayor. A motion to make these amendments was made by Alderman Gierl, and seconded by Alderman Mayr.

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

AYES: Gierl, Mayr, Nerbun

The timeframe for the ad hoc committee to be appointed was amended to 30 days from 14. The motion was made by Alderman Mayr and seconded by Alderman Gierl.

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

AYES: Mary, Gierl, Nerbun

A motion to recommend the version of Ordinance 2021-1592 with the ad hoc committee, as amended to recommend to Common Council was approved by unanimous vote.

AYES: Mayr, Gierl, Nerbun

4) Adjourn

Motion to adjourn the meeting at 5:15 PM.

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

AYES: Gierl, Nerbun, Mayr

Respectfully Submitted,

Melina Bowen
Administrative Coordinator



Virtual Meeting
Mequon, WI 53092
Phone: 262-242-3500
Fax: 262-242-7655

www.ci.mequon.wi.us

Police and Fire Departments

PUBLIC SAFETY COMMITTEE

Tuesday, July 13, 2021

5:30 PM

Virtual Meeting

Minutes

The July 13, 2021 meeting of the Public Safety Committee was unable to be held due to technological issues.

Respectfully Submitted,

Melina Bowen

Attachment: Public Safety minutes_07-13-21 (6463 : Public Safety Minutes June 8 and July 13, 2021)



See Agenda Packet for
Login and Complete Packet Details
Mequon, WI 53092
Phone: 262-236-2941
Fax: 262-242-9655

www.ci.mequon.wi.us

Office of the City Administrator

PUBLIC WELFARE COMMITTEE

Tuesday, June 8, 2021

5:30 PM

Virtual Meeting

Minutes

1) Call to Order, Roll Call

Present:

Chair Mark Gierl

Alderman Glenn Bushee

Alderman Kathleen Schneider

Also Present: Alderman Mayr, Mayor Wirth, City Administrator Jones, Assistant City Administrator Schoenemann, City Attorney Sajdak, Assistant Director of Community Development Zader, and Executive Assistant Enea

2) Approval of Meeting Minutes

a. May 11, 2021 and May 25, 2021 Meeting Minutes

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

MOVED BY: Alderman Bushee

SECONDED BY: Alderman Schneider

AYES: Gierl, Bushee, Schneider

3) Ordinances

Action requested: review and recommend approval

a. **ORDINANCE 2021-1591** An Ordinance Amending Chapter 58 of the Mequon Municipal Code as it Relates to: A) Conditional Uses in Residential Zoning Districts; B) Conservation Subdivision Requirements in the R-1 District; and C) Other Modifications to Sections 58-8 (Definitions) and 58-265 (Agricultural Overlay)

Assistant Director of Community Development Zader made the changes that the Committee was looking for from the previous meeting on 5/25.

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

MOVED BY: Alderman Schneider

SECONDED BY: Alderman Bushee

AYES: Gierl, Bushee, Schneider

4) Discussion Items

- a. Chapter 2: Article II – Common Council and Article IV – Officers and Employees Ordinance Updates

Assistant City Administrator Schoenemann briefed the Committee on where the revisions had left off at the City Mayor and City Administrator section. Alderman Schneider had asked Alderman Mayr to attend since he had been a part of the original discussion when it was being looked at previously. The Committee then discussed what leadership they envision for a growing city. Mayor Wirth will make revisions to discuss at the next meeting.

RESULT: **Tabled [Unanimous]**

MOVED BY: Alderman Schneider

SECONDED BY: Alderman Bushee

AYES: Gierl, Bushee, Schneider

- b. An Ordinance Repealing and Recreating Section 62-8(b) (4) of the Mequon Municipal Code Relating to the Regulation of Political Messages

City Attorney Sajdak explained how a time frame on political signage could not be enforced. The Committee then discussed if there could be a limit on the number and size of signs depending on a lot's zoning and/or acreage. The Committee decided to leave the Regulation as is.

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

MOVED BY: Alderman Bushee

SECONDED BY: Alderman Schneider

AYES: Gierl, Bushee, Schneider

- c. Amendment to Chapter 58, Zoning Code, Regulation of Lot Size for the Keeping of and Raising Chickens

Chair Gierl presented the Committee with background information of how the 1 1/2 acres for 4 chickens came into existence approximately 6 years ago. The Committee discussed lowering the lot size to 3/4 acre. Currently, the coop must be setback by 50 feet. The Committee agreed that if the coop is setback less than 50 feet, then neighbor approval would be required. Assistant Director of Community Development Zader would make the revisions and send it to the Planning Commission. Alderman Schneider moved to approve with neighbor approval revisions. Alderman Bushee seconded it. Approved by Voice Acclamation.

5) Information Items

- a. Work Calendar

At July's meeting, the Committee will review:

- The Mayor's revisions of Chapter II
- The Mayor's email regarding changes to the Architectural Board

c. Assistant City Administrator will check with Alderman Strzelczyk if they need to look at his request regarding buildings destroyed

6) Adjourn

Alderman Schneider moved to adjourn at 6:53 P.M. Alderman Bushee seconded. The meeting was adjourned by Voice Acclamation.

Respectfully Submitted,

Carrie Enea

Attachment: Public welfare meeting minutes 06 08 2021 (6437 : Public Welfare Committee meeting minutes of June 8, 2021)



11333 N Cedarburg Road
Mequon, WI 53092
Phone: 262-236-8145
Fax: 262-242-9655

www.ci.mequon.wi.us

Public Works Department

PUBLIC WORKS COMMITTEE

Tuesday, June 8, 2021

6:30 PM

Virtual Meeting

Minutes

1) Call to Order, Roll Call

Chair Mayr called the meeting to order at 6:30 PM.

Present:

Chair Dale Mayr

Alderman Andrew Nerbun

Alderman Brian Parrish

Also present were Director of Public Works/City Engineer Lundeen, Deputy Director of Public Works Weyker, Parks and Forestry Superintendent Gies, Director of Community Development Tollefson, M-T Rotary Club Member Connie Pukaite, and Administrative Assistant Deuster.

2) Approval of Minutes

a. May 11, 2021 Minutes

RESULT: Approved [Unanimous]

MOVED BY: Alderman Parrish

SECONDED BY: Alderman Nerbun

AYES: Mayr, Nerbun, Parrish

3) Resolutions

Action requested: review and recommend approval

- a. **RESOLUTION 3851** A Resolution Approving a Special Event Agreement for the Mequon-Thiensville Sunrise Rotary Club to Utilize Goats as a Tool for Invasive Plant Control in Pukaite Woods

Director of Public Works/City Engineer Lundeen stated last year was a pilot agreement. The event was well received and the group is back again to continue removal of invasive species. The agreement going forward will allow for staff to review and approve on an annual basis without it needing to return to Common Council.

Alderman Parrish questioned if there were changes would city staff bring it back for review.

Parks and Forestry Superintendent Gies clarified that if the event would change from the agreement in place, it would be similar to other special event agreements, go through Park and Open Space Board, Public Works, and Common Council for approval.

RESULT: **Approved [Unanimous]**

MOVED BY: Alderman Nerbun

SECONDED BY: Alderman Parrish

AYES: Mayr, Nerbun, Parrish

- b. **RESOLUTION 3849** A Resolution Identifying Public Improvement Projects within Tax Increment District No. 3 for Design and Development Prior to April 15, 2023

Community Development Director Tolleffson stated the resolution is intended to review and document the Committee of the Whole-Town Center Workshop. These were the concenses projects and staff listed a number of concept ideas that council members indicated they were interested in exploring. This gives direction to staff to pursue the public improvement projects, it does not authorize any expenditures of those projects because many of the projects will require resources across multiple departments and coordination with multiple governmental entities. This gives staff the direction for the projects and prior to any expenditures staff would bring the item forward for Common Council approval.

RESULT: **Approved [Unanimous]**

MOVED BY: Alderman Parrish

SECONDED BY: Alderman Nerbun

AYES: Mayr, Nerbun, Parrish

- c. **RESOLUTION 3850** A Resolution Authorizing the City of Mequon's Notice of Intent to We Energies for the Relocation of Overhead Utilities within Town Center Tax Increment District No. 3

Director of Community Development Tolleffson stated after the workshop staff reached out to We Energies. Once they receive the City's notice of intent they will assemble a design team to get closer to an understanding of the cost and timing of the project.

RESULT: **Approved [Unanimous]**

MOVED BY: Alderman Nerbun

SECONDED BY: Alderman Parrish

AYES: Mayr, Nerbun, Parrish

- d. **RESOLUTION 3852** A Resolution Approving the Purchase and Installation of a Replacement Plow Truck and Related Components from Lakeside International, LLC Milwaukee, Wisconsin, Universal Truck Equipment, Galesville, Wisconsin and Olson Trailer & Body, Green Bay, Wisconsin for a Total Cost of \$199,433

Deputy Director of Public Works Weyker stated the City took a year off of purchasing a plow truck last year and provided comparison's from 2019 to current. Overall it is up 9.7% from two years ago.

Alderman Mayr inquired what the 60 month extended warranty cover.

Deputy Director of Public Works Weyker stated it is on the truck and chassis of the build.

Director of Public Works/City Engineer Lundeen clarified the City typically doesn't normally receive a warranty of this length.

Deputy Director of Public Works Weyker stated it comes with a 24 month warranty and this extends it per the recommendation from the Fleet Superintendent Zeller.

RESULT: **Approved [Unanimous]**

MOVED BY: Alderman Parrish

SECONDED BY: Alderman Nerbun

AYES: Mayr, Nerbun, Parrish

- e. **RESOLUTION 3853** A Resolution Authorizing Execution of a Contract with D&H Demolition, LLC, of Milwaukee, Wisconsin for Demolition of the Property Located at 10036 N. Port Washington Road in an Amount Not to Exceed \$78,452, Plus the Applicable Costs of Electrical Utility Disconnection

RESULT: **Approved [Unanimous]**

MOVED BY: Alderman Nerbun

SECONDED BY: Alderman Parrish

AYES: Mayr, Nerbun, Parrish

4) Discussion Items

a. Little Free Library Policy Discussion

Director of Public Works/City Engineer Lundeen stated there was an inquiry on one location and she had concerns of placement within the City right-of-way and how staff would administer the request, but thought if it was a singular request, staff would work through the logistics and determine the best methodology. In short order staff has since received 3 more inquiries totaling to 4. Inadvertently staff found out Public Works and Community Development were unintentionally passing the inquiries back and forth because Public Works was stating they could be installed but not within the right of way and Community Development was indicating that they could be installed but must be within the right of way. Recognizing the logistical constraints and concerns on behalf of both staffs as it relates to regulating them, should the City chose to do so, and doing more research. Staff stated it was worth a policy discussion with feedback from the committee.

The committee discussed the concern of if it is private property having a possible ordinance change to allow within a set-back with notification to neighbors of the structure.

The Committee agreed the library's should be located on private property and not within the road right-of-way. The Committee directed staff to explore allowing structures such as the Little Free Library and other similar structures within the building setback that did not require significant administration.

b. 2020 Work Plan (6.8.21)

Director of Public Works/City Engineer Lundeen provided an update to the 2021 Work Plan.

5) Adjourn

a. Adjourn at 7:05 PM.

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

MOVED BY: Alderman Nerbun

SECONDED BY: Alderman Parrish

AYES:	Mayr, Nerbun, Parrish
--------------	-----------------------

Respectfully Submitted,

Casey Deuster
Administrative Assistant



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: August 10, 2021
SUBJECT: RESOLUTION 3867 A Resolution Granting Final Plat Approval for The Residence at Foxtown, a 23-Lot Single-Family Home Subdivision Located Immediately East of 11050 N. Weston Drive

Background

The applicant, Lakeside Development, is requesting final plat approval for The Residence at Foxtown subdivision located immediately east of 11050 N. Weston Drive as part of the Town Center neighborhood. The subdivision consists of 23 homes on 3.56 acres which was approved as part of the overall Foxtown Development.

Analysis

The developer is seeking final plat approval for the subdivision which includes outlots that contain private roads and alleys, open space and storm water detention facilities. The final plat is consistent with the approved preliminary plat. All the required improvements associated with the development are installed on the site. The Development Agreement allows up to 24 months from plat approval to install the final lift of asphalt, street trees and sidewalks.

Fiscal Impact

The 23-lot phase is estimated to be valued at \$500,000/lot, resulting in estimated annual tax revenue equivalent to \$170,000.

Recommendation

On July 26, 2021, the Planning Commission recommended approval by a vote of 5-0.

Attachments:

Exhibit A: Zoning Map (PDF)

Exhibit B: Final Plat (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3867

A Resolution Granting Final Plat Approval for The Residence at Foxtown, a 23-Lot Single-Family Home Subdivision Located Immediately East of 11050 N. Weston Drive

RECITALS

A. The preliminary plat for The Residence at Foxtown subdivision, located immediately east of 11050 N. Weston Drive as part of the Town Center neighborhood, received Planning Commission approval.

B. The developer seeks final plat approval for this subdivision, which includes 23 lots.

C. The final plat is consistent with the approved preliminary plat and all required improvements have been installed on the property.

D. The Planning Commission recommended Final Plat approval for the property on July 26, 2021.

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

1. The Final Plat for Residence at Foxtown is approved subject to the completion of all required conditions of the Planning Commission's approval on July 26, 2021.

2. The appropriate City officials are hereby authorized to sign the Final Plat, and upon completion of all required conditions of the Planning Commission on July 26, 2021, the Final Plat shall be recorded with the Ozaukee County Register of Deeds.

Approved by: John Wirth, Mayor

Date Approved: August 10, 2021

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk

Residence at Foxtown

AC Arrival Corridor
 A-1 Agricultural Preserve
 A-2 General Agricultural
 B-1 Neighborhood Business
 B-2 Community Business
 B-3 Office & Service Business
 B-4 Business Park
 B-5 Light Industrial
 B-6 Rural Industrial
 B-7 Rural Business
 C-1 Shoreland/Wetland Conservancy
 C-2 General Conservancy
 CGO Central Growth Overlay
 FFO Flood Fringe Overlay
 FW Floodway
 IPS Institutional & Public Service

LTD Limited Use
 OA Agricultural Overlay
 PUD Planned Unit Development Overlay
 P-1 Park & Recreation
 R-1 Single-Family Residential (5 Ac. Min.)
 R-1B Single-Family Residential (2.5 Ac. Min.)
 R-2 Single-Family Residential (2.0 Ac. Min.)
 R-2B Single-Family Residential (1.5 Ac. Min.)
 R-3 Single-Family Residential (1.0 Ac. Min.)
 R-4 Single-Family Residential (3/4 Ac. Min.)
 R-5 Single-Family Residential (1/2 Ac. Min.)
 R-6 Single-Family Residential (4 du/Ac)
 RM Multi-Family Residential
 TC Town Center
 TDR Transfer of Development Rights

MEQUON ROAD 112N

167

MEQUON ROAD

TC/PUD

TC

WESTON DRIVE

TC/PUD

TC

C-2

B-5

CANADIAN NATIONAL RAILWAY COMPANY

R-4

Attachment: Exhibit A: Zoning Map (RESOLUTION 3867 : Residence at Foxtown Final Plat)

THE RESIDENCE AT FOXTOWN

LOT 2 OF CERTIFIED SURVEY MAP 4049
RECORDED AS DOCUMENT NO. 1074319 BEING
PART OF THE NORTHEAST 1/4 OF THE
NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 9
NORTH, RANGE 21 EAST, IN THE CITY OF
MEQUON, COUNTY OF OZAUKEE, STATE OF
WISCONSIN.

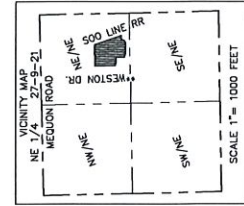
OWNER:
LAKESIDE DEVELOPMENT OF MEQUON, LLC
PO BOX 365
MEQUON, WI 53092

TOTAL AREA: 154,965 SQUARE FEET / 3.5575 ACRES

BEARINGS ARE REFERENCED TO THE WISCONSIN STATE PLANE
COORDINATE SYSTEM SOUTH ZONE. THE NORTH LINE OF NE 1/4
OF SECTION 27-9-21 BEARS NORTH 88°38'32" EAST, AS
PUBLISHED BY SEWRPC.

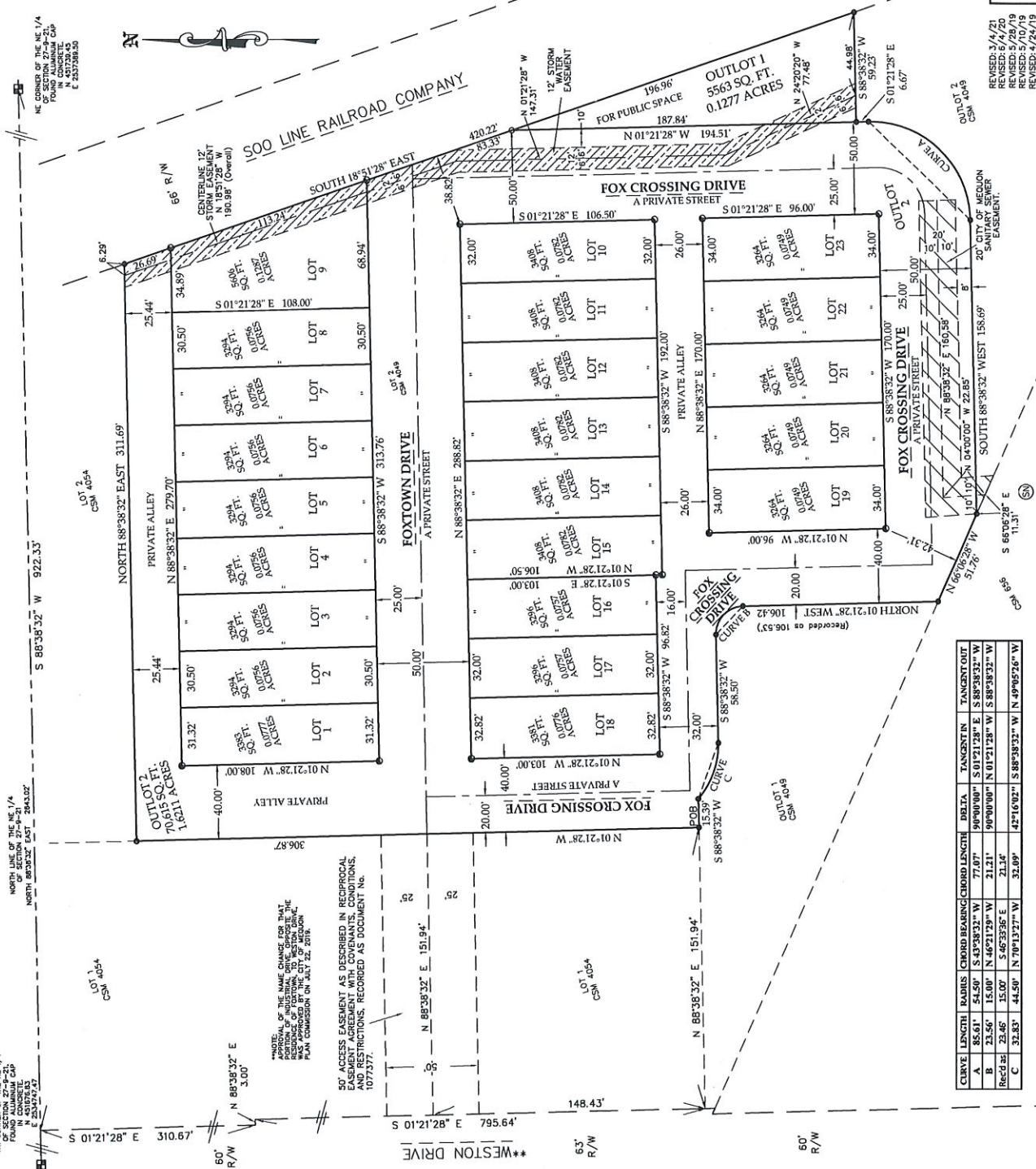


- LEGEND**
- 3/4" REBAR FOUND
 - 25-18 IRON PIPE WEIGHING 3.65 LBS/FOOT SET
 - 3/4"x18" REBAR WEIGHING 3.65 LBS/FOOT SET
 - 3/4"x18" REBAR FOUND AT LOT CORNERS UPON COMPLETION OF FINAL LOT GRADING.



QUAM ENGINEERING, LLC
Residential and Commercial Site Design Consultants

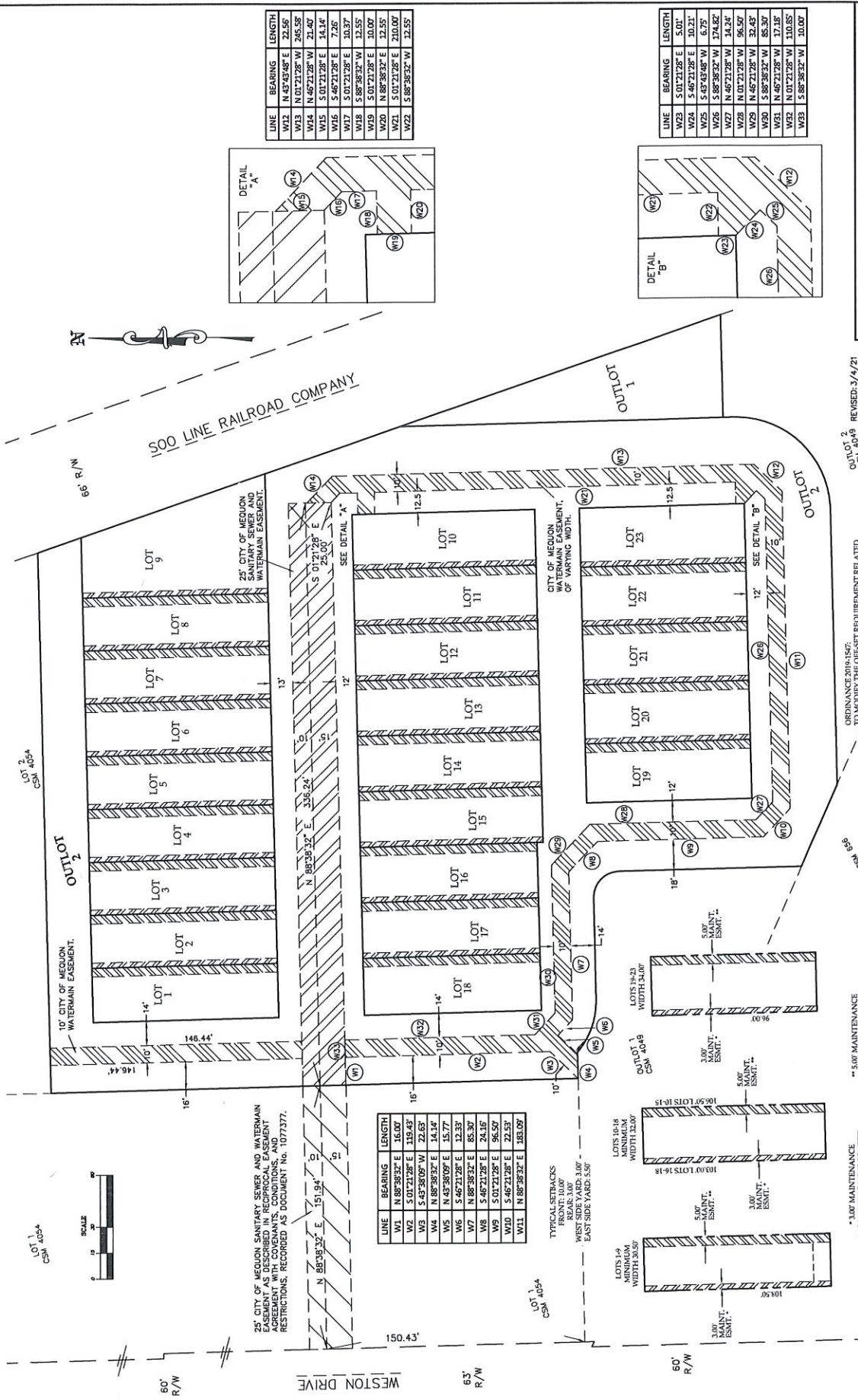
122 Wisconsin Street, West Bend, Wisconsin 53095
Phone (262) 340-7800; www.quamengineering.com



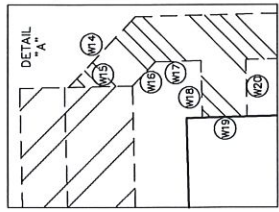
REVISED: 3/4/21
REVISED: 5/28/19
REVISED: 5/28/19
REVISED: 4/22/19
REVISED: 4/12/19

THE RESIDENCE AT FOXTOWN

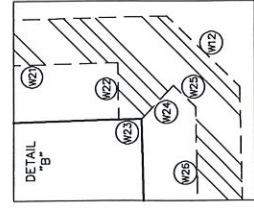
LOT 2 OF CERTIFIED SURVEY MAP 4049 RECORDED AS DOCUMENT No. 1074319 BEING PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 9 NORTH, RANGE 21 EAST, IN THE CITY OF MEQUON, COUNTY OF OZAUKEE, STATE OF WISCONSIN.



LINE	BEARING	LENGTH
W12	N 43°43'48" E	22.56'
W13	N 01°21'28" W	24.58'
W14	N 46°21'28" W	21.40'
W15	S 01°21'28" E	14.14'
W16	S 46°21'28" E	7.26'
W17	S 01°21'28" E	10.37'
W18	S 88°38'32" W	12.55'
W19	S 01°21'28" E	10.00'
W20	N 88°38'32" E	12.55'
W21	S 01°21'28" E	21.00'
W22	S 88°38'32" W	12.55'



LINE	BEARING	LENGTH
W23	S 01°21'28" E	5.01'
W24	S 46°21'28" E	10.21'
W25	S 43°43'48" W	6.75'
W26	S 88°38'32" W	174.62'
W27	N 46°21'28" W	14.24'
W28	N 01°21'28" W	96.50'
W29	N 46°21'28" W	32.43'
W30	S 88°38'32" W	85.30'
W31	N 46°21'28" W	17.15'
W32	N 01°21'28" E	110.85'
W33	S 88°38'32" W	10.00'



OUTLOT 2
CSM 4049

ORDINANCE 2018-1547
APPROVED BY THE CITY OF MEQUON COUNCIL ON JULY 9, 2019.
TO THE CONSTRUCTION OF 3 SINGLE-FAMILY HOMES AT THE
FOXTOWN PLANNED UNIT DEVELOPMENT WAS APPROVED BY
THE CITY OF MEQUON COMMON COUNCIL ON JULY 9, 2019.

** 5.0' MAINTENANCE
EASEMENT FOR THE BENEFIT
OF THE EASTERLY ADJACENT
EASEMENT DOES NOT IMPACT
LOT 1, LOT 18, AND LOT 19.

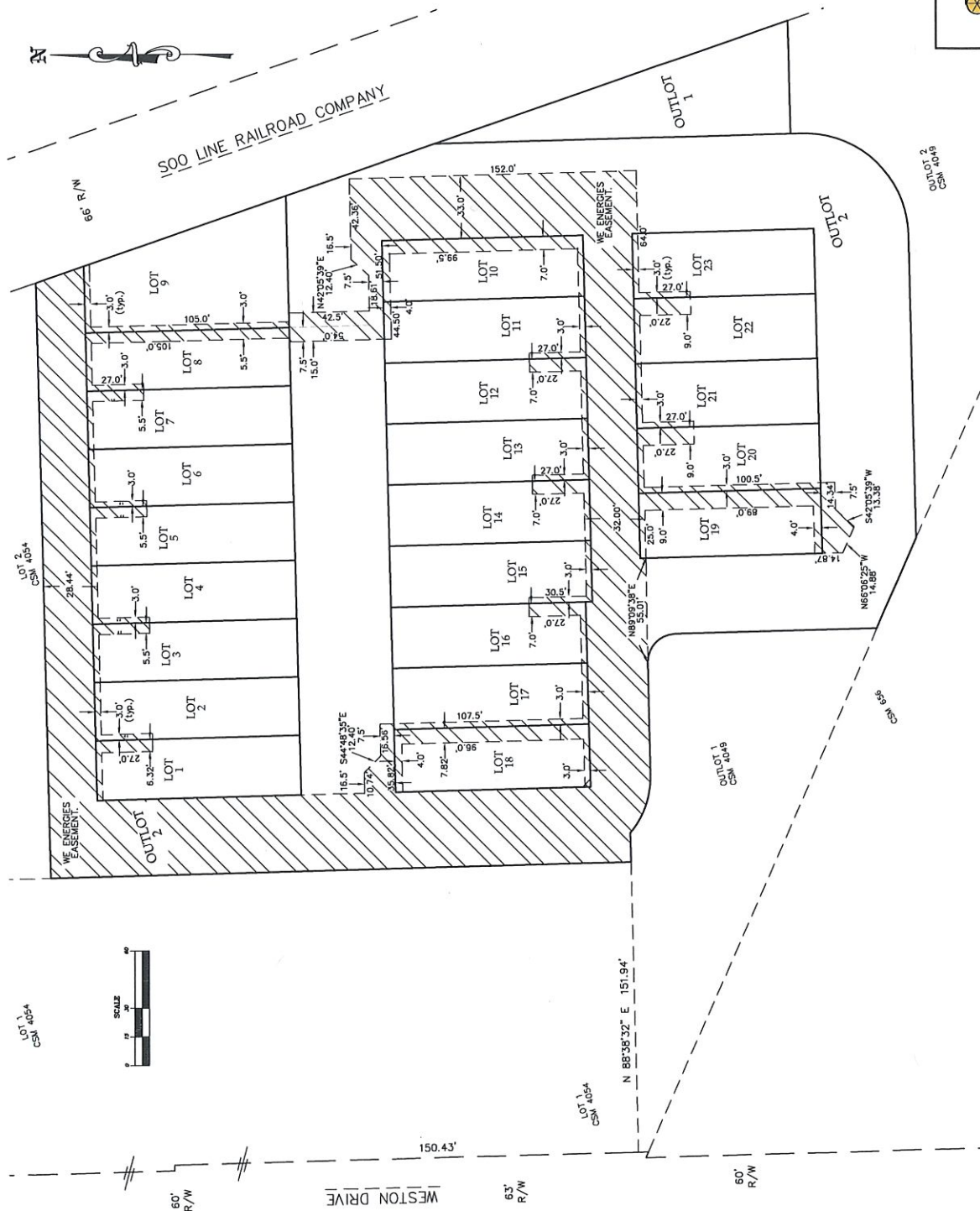
** 5.0' MAINTENANCE
EASEMENT FOR THE BENEFIT
OF THE EASTERLY ADJACENT
EASEMENT DOES NOT IMPACT
LOT 1, LOT 18, AND LOT 19.

DRAFTED BY J. SCOTT HENKEL

1/2 1/4

THE RESIDENCE AT FOXTOWN

LOT 2 OF CERTIFIED SURVEY MAP 4049 RECORDED AS DOCUMENT No. 1074319 BEING PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 9 NORTH, RANGE 21 EAST, IN THE CITY OF MEQUON, COUNTY OF OZAUKEE, STATE OF WISCONSIN.



DRAFTED BY J. SCOTT HENKEL

REVISÉ: 6/18/20
REVISÉ: 6/4/20



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: August 10, 2021
SUBJECT: RESOLUTION 3869 A Resolution Granting Final Plat Approval for Lakeshore Estates, a 9-Lot Subdivision Located at the Southwest Corner of Lakeshore Drive and Pioneer Road

Background

The applicant, Pinnacle Engineering Group, is requesting final plat approval for the Lakeshore Estates subdivision located at the southwest corner of Lakeshore Drive and Pioneer Road. The Planning Commission approved the preliminary plat on May 24, 2021.

Analysis

The applicant requests final plat approval for this subdivision, which includes 9 single-family lots. The final plat is consistent with the approved preliminary plat. The lots will be served by individual driveways off Pioneer Road and shared driveways off Lake Shore Drive. One lot has proposed access off Shady Lane.

Fiscal Impact

The estimated project value, not including home values, is suggested to be \$2M, resulting in approximate annual tax revenue equivalent to \$29,450.

Recommendation

On July 26, 2021, the Planning Commission recommended approval by a vote of 5-0.

Attachments:

Zoning Map (PDF)
Final Plat (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3869

A Resolution Granting Final Plat Approval for Lakeshore Estates, a 9-Lot Subdivision Located
at the Southwest Corner of Lakeshore Drive and Pioneer Road

RECITALS

A. The preliminary plat for Lakeshore Estates subdivision, located at the southwest corner of Lakeshore Drive and Pioneer Road, received Planning Commission approval on May 24, 2021.

B. The developer seeks final plat approval for this subdivision, which includes 9 single-family lots.

C. The final plat is consistent with the approved preliminary plat.

D. The Planning Commission recommended Final Plat approval for the property on July 26, 2021.

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

1. The Final Plat for Lakeshore Estates is approved subject to the completion of all required conditions of the Planning Commission's approval on July 26, 2021.

2. The appropriate City officials are hereby authorized to sign the Final Plat, and upon completion of all required conditions of the Planning Commission on July 26, 2021, the Final Plat shall be recorded with the Ozaukee County Register of Deeds.

Approved by: John Wirth, Mayor

Date Approved: August 10, 2021

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

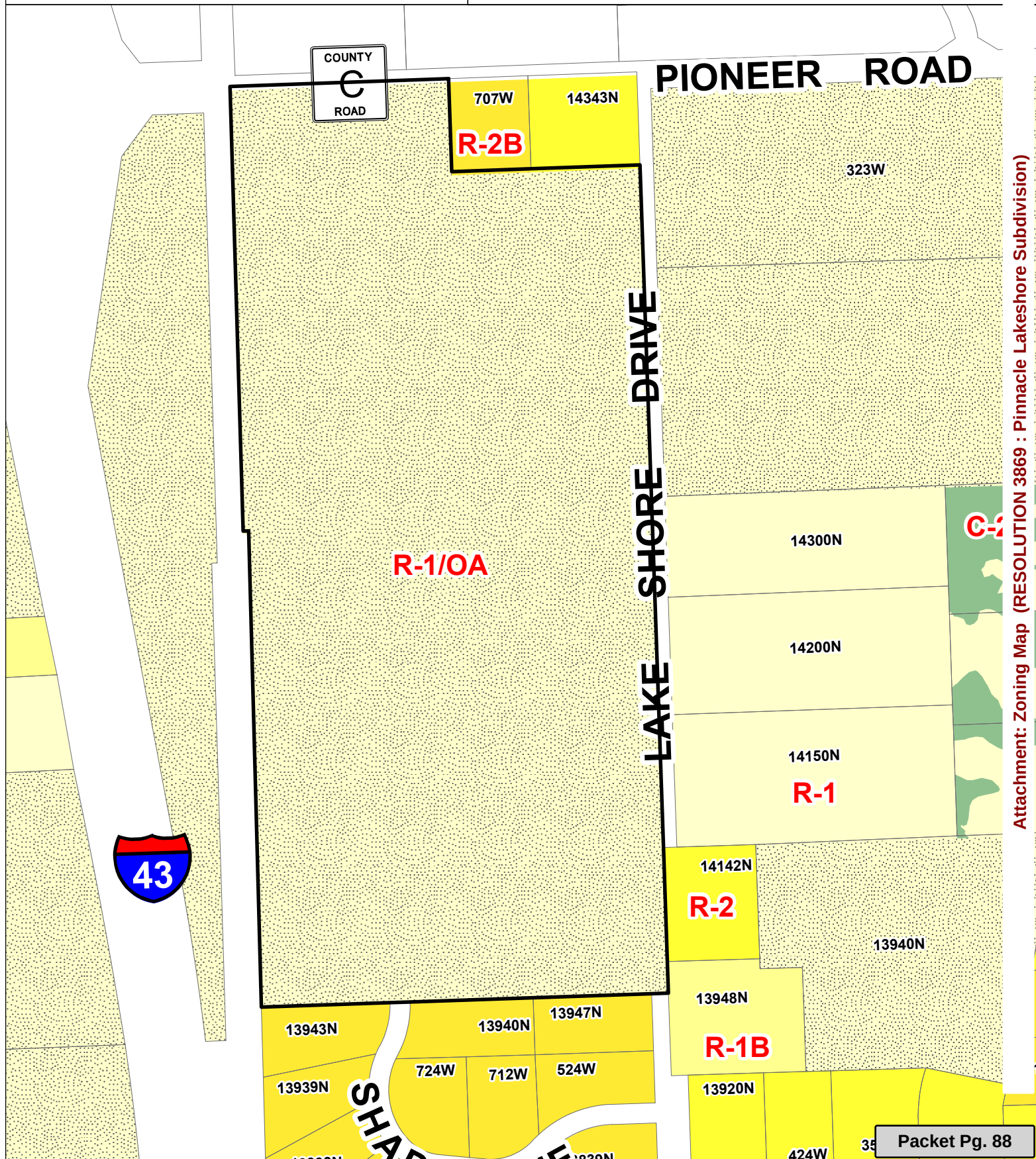
Caroline Fochs, City Clerk

Lakeshore Estates

AC	Arrival Corridor
A-1	Agricultural Preserve
A-2	General Agricultural
B-1	Neighborhood Business
B-2	Community Business
B-3	Office & Service Business
B-4	Business Park
B-5	Light Industrial
B-6	Rural Industrial
B-7	Rural Business
C-1	Shoreland/Wetland Conservancy
C-2	General Conservancy
CGO	Central Growth Overlay
FFO	Flood Fringe Overlay
FW	Floodway
IPS	Institutional & Public Service

LTD	Limited Use	8
OA	Agricultural Overlay	
PUD	Planned Unit Development Overlay	
P-1	Park & Recreation	
R-1	Single-Family Residential (5 Ac. Min.)	
R-1B	Single-Family Residential (2.5 Ac. Min.)	
R-2	Single-Family Residential (2.0 Ac. Min.)	
R-2B	Single-Family Residential (1.5 Ac. Min.)	
R-3	Single-Family Residential (1.0 Ac. Min.)	
R-4	Single-Family Residential (3/4 Ac. Min.)	
R-5	Single-Family Residential (1/2 Ac. Min.)	
R-6	Single-Family Residential (4 du/Ac)	
RM	Multi-Family Residential	
TC	Town Center	
TDR	Transfer of Development Rights	

8.m.a



NORTH LAKE SHORE DRIVE

Being a part of the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 of Section 5, Township 9 North, Range 22 East, in the City of Mequon, Ozaukee County, Wisconsin.

~~JUNE 18, 2021~~

NOTES:

1. SEE NOTES ON SHEET 2.
2. SEE WETLAND LINE TABLE ON SHEET 3.

ND:

- Denotes Found Stone Monument
- Denotes Found 2" Iron Pipe
- Denotes Found 1" Iron Pipe
- Denotes Found 3/4" Iron Pipe
- Denotes Set 1-1/4" X 18" Iron Rebar, 4.30 LBS./FT.

- All other corners monumented by a 3/4" X 18" Iron Rebar, 1.5 LBS./FT.

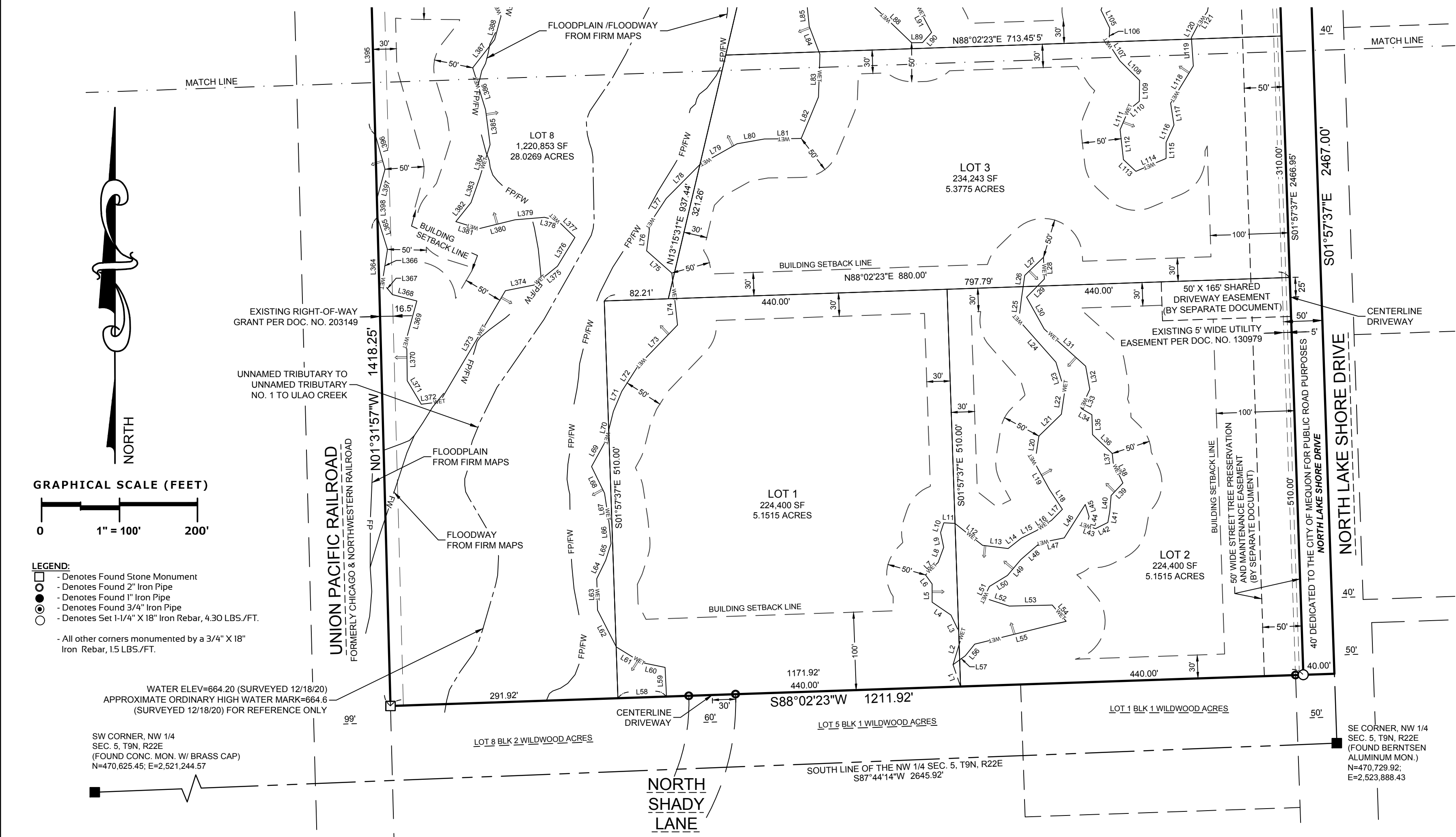
Prepared by:
PINNACLE ENGINEERING GROUP
20725 WATERTOWN ROAD | SUITE 100
BROOKFIELD, WI 53186
OFFICE: (262) 754-8888

PINNACLE ENGINEERING GROUP

Packet Pg. 89

LAKE SHORE ESTATES

Being a part of the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 of Section 5,
Township 9 North, Range 22 East, in the City of Mequon, Ozaukee County, Wisconsin.



NOTES:

1. THE PROPERTY IS ZONED R-1/OA. THE REQUIREMENTS ARE:
 - MINIMUM LOT AREA = 5 ACRES
 - MINIMUM AVERAGE LOT WIDTH = 300'
 - STREET SETBACK = 100'
 - SIDE AND REAR YARD = 30'
 - WETLAND PROTECTIVE AREA SETBACK = 50' (PER WDNR NR.151.125(1)(B))
2. THE SUBDIVISION IS LOCATED IN ZONE "X" AND ZONE "AE" PER FEMA FIRM MAP COMMUNITY PANEL NO. 55089C0193F WITH AN EFFECTIVE DATE OF DECEMBER 4, 2007.
3. DRIVEWAY CONSTRUCTION SHALL ADHERE TO THE LOCATION AND CONFIGURATION AS SHOWN ON THIS PLAT UNLESS OTHERWISE APPROVED BY THE CITY ENGINEER.
4. DRIVEWAY LOCATIONS FOR LOTS 8 AND 9 ARE SUBJECT TO THE APPROVAL OF OZAUKEE COUNTY.
5. THE DRIVEWAY LOCATION FOR LOT 1 SHALL BE LOCATED TO MAXIMIZE THE SEPARATION BETWEEN THE DRIVEWAYS FOR 13940 AND 13943 SHADY LANE.
6. INDIVIDUAL LOT OWNERS SHALL PROVIDE WETLAND FILL APPROVAL FROM THE WDNR TO THE CITY, IF FILLING OF THE WETLANDS IS PROPOSED.
7. EACH INDIVIDUAL LOT WITH HOME/DRIVEWAY CONSTRUCTION THAT EXCEEDS 5,000 SQUARE FEET OF IMPERVIOUS SURFACE WILL BE REQUIRED TO PROVIDE GREEN INFRASTRUCTURE MEETING MMSD REQUIREMENTS. IN ADDITION FOR HOME/DRIVEWAY CONSTRUCTION WHICH TRIGGERS THE MMSD REQUIREMENTS, THAT PROPERTY OWNER WILL ALSO BE REQUIRED TO PROVIDE A STORM WATER MAINTENANCE AND EASEMENT AGREEMENT FOR THE GREEN INFRASTRUCTURE DEVICE.
8. FOR HOME/DRIVEWAY CONSTRUCTION WHICH TRIGGERS THE MMSD REQUIREMENT FOR GREEN INFRASTRUCTURE, EACH PROPERTY OWNER WILL ALSO BE REQUIRED TO PROVIDE A DRAINAGE FINANCIAL GUARANTEE. CITY ORDINANCE 58-877(B) REQUIRES THAT THE APPLICANT DEPOSIT AN ESCROW OR LETTER OF CREDIT TO GUARANTEE A GOOD FAITH EXECUTION OF THE APPROVED PLAN AND ANY PERMIT CONDITIONS. THE ESCROW/LETTER OF CREDIT SHALL BE IN AN AMOUNT EQUAL TO 125% OF THE ESTIMATED COST OF CONSTRUCTION AND MAINTENANCE OF THE STORM WATER MANAGEMENT PRACTICES AND THE CITY WILL RELEASE THE PORTION OF THE FINANCIAL GUARANTEE LESS ANY COSTS INCURRED BY THE CITY TO COMPLETE INSTALLATION OF PRACTICES, UPON SUBMISSION OF A CERTIFICATION IN ACCORDANCE WITH 58-878(H).
9. ARCHITECTURAL DESIGN OF RESIDENTIAL BUILDINGS SHALL COMPLY WITH THE ARCHITECTURAL BOARD'S PUBLICATION ENTITLED "GUIDELINES FOR RESIDENTIAL STRUCTURES" AND ARE SUBJECT TO THE ARCHITECTURAL REVIEW BOARD.
10. ANY LAND BELOW THE ORDINARY HIGH WATER MARK OF A LAKE OR A NAVIGABLE STREAM IS SUBJECT TO THE PUBLIC TRUST IN NAVIGABLE WATERS THAT IS ESTABLISHED UNDER ARTICLE IX, SECTION 1, OF THE STATE CONSTITUTION.
11. THE PLAT OF LAKE SHORE ESTATES IS SUBJECT TO THE DECLARATION OF TREE PRESERVATION COVENANT, RECORDED BY SEPARATE DOCUMENT, AND THE CITY OF MEQUON TREE PRESERVATION ORDINANCE AND RESTRICTIONS.
 - IT SHALL BE UNLAWFUL TO REMOVE, INJURE, DESTROY, OR UNDERTAKE ANY PROCEDURE THAT MAY CAUSE THE DEATH OR SUBSTANTIAL DESTRUCTION OF ANY SPECIMEN TREE LOCATED ANYWHERE ON ANY LAND IN THE CITY WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE CITY FORESTER OR HIS REPRESENTATIVE. AUTHORIZATION FOR REMOVAL OF ANY SPECIMEN TREE LOCATED ON ANY LAND IN THE CITY MAY BE GRANTED FOR DEAD OR DYING TREES, DISEASED TREES, DAMAGED/INJURED TREES TO THE EXTENT THAT IT IS LIKELY TO DIE OR BECOME DISEASED OR WHERE REMOVAL WILL AVOID OR ALLEVIATE UNREASONABLE DIFFICULTY OR HARDSHIP OR IT CONSTITUTES A HAZARD TO PERSONS OR PROPERTY.
 - DOCUMENTATION REQUESTING REMOVAL SHALL BE SUBMITTED TO THE CITY FORESTER AND PLANNING COMMISSION AS PART OF A LANDSCAPE PLAN THAT SHALL PROVIDE FOR TREE REMOVAL, TREE REPLACEMENT AND ADDITIONAL TREE PLANTING.
 - IF A SPECIMEN TREE IS PROPOSED TO BE REMOVED IN THE BUILDABLE AREA ON ANY LAND IN THE CITY, THE CITY FORESTER SHALL REVIEW THE SITE FOR ANY ALTERNATIVE BUILDING LOCATIONS IN ORDER TO PRESERVE THE SPECIMEN TREES. IF IT IS FOUND THAT CONSTRUCTION CANNOT OCCUR ON THE PLATTED LOT, WITHOUT REMOVAL OF THE SPECIMEN TREE, THE CITY FORESTER AND PLANNING COMMISSION, MAY ALLOW THE TREE(S) TO BE REMOVED, AND IF NECESSARY, THE CITY FORESTER MAY RECOMMEND THE HOMEOWNER/DEVELOPER SEEK SETBACK AND/OR OFFSET VARIANCES AT THE BOARD OF APPEALS IN ORDER TO PRESERVE SPECIMEN TREES.
 - IN THE EVENT THE TREE IS UNLAWFULLY REMOVED IN VIOLATION WITH THIS SUBDIVISION, THE FORESTER WILL DIRECT REPLACEMENT BASED UPON THE REPLACEMENT VALUE AS DETERMINED IN ACCORDANCE WITH THE TREE PRESERVATION GUIDELINES.
12. WETLAND WERE DELINEATED BY SHORT ELLIOTT HENDRICKSON INC., ERICA PERGANDE (WDNR ASSURED WETLAND DELINEATION) ON MAY 28, 2021. WETLAND RESTRICTIONS:
 - GRADING AND FILLING SHALL BE PROHIBITED UNLESS SPECIFICALLY AUTHORIZED BY THE MUNICIPALITY IN WHICH THEY ARE LOCATED AND, IF APPLICABLE, OZAUKEE COUNTY, THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES, AND THE ARMY CORPS OF ENGINEERS.
 - THE REMOVAL OF TOPSOIL OR OTHER EARTHEN MATERIALS SHALL BE PROHIBITED.
 - THE REMOVAL OR DESTRUCTION OF ANY NATIVE VEGETATIVE COVER, I.E., TREES, SHRUBS, GRASSES, ETC., SHALL BE PROHIBITED, WITH THE EXCEPTION OF THE REMOVAL OF DEAD, DYING OR DISEASED VEGETATION, NON-INDIGENOUS SPECIES, OR NOXIOUS WEEDS (AS DEFINED BY LOCAL ORDINANCE) AT THE DISCRETION OF A FORESTER OR NATURALIST AND THE APPROVAL OF OZAUKEE COUNTY.
 - GRAZING BY DOMESTICATED ANIMALS, I.E., HORSES, COWS, ETC., SHALL BE PROHIBITED.
 - THE INTRODUCTION OF PLANT MATERIAL NOT INDIGENOUS TO THE EXISTING ENVIRONMENT OF THE WETLAND AREA OR PRIMARY ENVIRONMENTAL CORRIDOR SHALL BE PROHIBITED.
 - CREATION OF A MOWN LANDSCAPE, GARDENING, CULTIVATING, OR DEPOSITING YARD WASTE OF ANY TYPE SHALL BE PROHIBITED.
 - PONDS MAY BE PERMITTED SUBJECT TO THE APPROVAL OF THE MUNICIPALITY IN WHICH THEY ARE LOCATED AND, IF APPLICABLE, THE OZAUKEE COUNTY, THE WISCONSIN DEPARTMENT OF NATURAL RESOURCES, AND THE ARMY CORPS OF ENGINEERS.
 - CONSTRUCTION OF BUILDINGS WITHIN THE WETLAND BOUNDARY IS PROHIBITED.

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

Certified _____, 20____

Department of Administration



SURVEYOR'S CERTIFICATE

STATE OF WISCONSIN
WAUKESHA COUNTY) SS

I, John P. Konopacki, Professional Land Surveyor, do hereby certify:

That I have surveyed, mapped and divided that part of the Northeast 1/4 and Southeast 1/4 of the Northwest 1/4 of Section 5,
Township 9 North, Range 22 East, City of Mequon, Ozaukee County, Wisconsin, described as follows:

Commencing at the northeast corner of the Northwest 1/4 of said Section 5;
Thence South 01°57'37" East along the east line of said Northwest 1/4, 277.00 feet to the Point of Beginning;
Thence continuing South 01°57'37" East along said east line, 2467.00 feet;
Thence South 88°02'23" West and then along the north line of Wildwood Acres, a recorded subdivision, 1211.92 feet to the east line
of the Union Pacific Railroad;
Thence North 01°31'57" West along said east line, 1418.25 feet;
Thence South 87°44'23" West along said east line, 16.50 feet;
Thence North 01°31'57" West along said east line, 924.00 feet;
Thence North 02°03'41" West along said east line, 320.16 feet to the south right-of-way line of Pioneer Road (C.T.H. "C");
Thence North 87°56'44" East along said south right-of-way line, 42.53 feet;
Thence North 81°32'23" East along said south right-of-way line, 421.48 feet;
Thence North 02°03'00" West along said south right-of-way line, 33.00 feet to the north line of said Northwest 1/4;
Thence North 87°56'44" East along said north line, 189.24 feet;
Thence South 02°03'16" East, 277.00 feet;
Thence North 87°58'19" East, 560.54 feet to the Point of Beginning.

Dedicating the Easterly and Northerly portion of subject property as graphically shown for public right of way purposes.

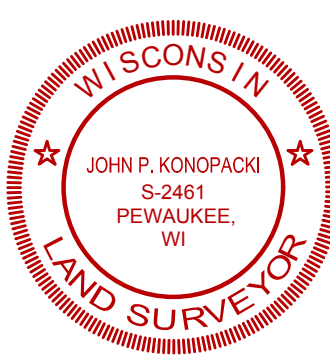
Containing 3,136,646 square feet (72.0075 acres) of land Gross and 3,027,217 square feet (69.4953 acres) of land Net more or less.

That I have made such survey, land division and map by the direction of DOOR CREEK CONSTRUCTION, LLC, owner of said land.

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

That I have fully complied with the requirements of Chapter 236 of the Wisconsin State Statutes and the City of Mequon Land Division Ordinance in surveying, mapping and dividing the land within the subdivision.

Date: JUNE 18, 2021



John P. Konopacki
Professional Land Surveyor S-2461

PLAN COMMISSION APPROVAL

Approved by the Plan Commission of the City of Mequon on this _____ day of _____, 2021.

Date _____ John Wirth, Chairman

Date _____ Secretary

COMMON COUNCIL APPROVAL

Approved by the Common Council of the City of Mequon, Wisconsin, on this _____ day of _____, 2021.

Date _____ John Wirth, Mayor

Date _____ Caroline Fochs, City Clerk

CITY OF MEQUON FINANCE CERTIFICATE

I, Marie Keyser, being the duly elected, qualified, and acting Director of Finance for the City of Mequon, do hereby certify that in
accordance with the records in my office, there are no unpaid taxes or unpaid special assessments as of this _____ day of
_____, 2021, on any of the land included in the plat of LAKE SHORE ESTATES.

Date _____ Marie Keyser, Acting Director of Finance

OZAUKEE COUNTY TREASURER'S CERTIFICATE

STATE OF WISCONSIN
OZAUKEE COUNTY) SS

I, Joshua Morrison, being duly elected, qualified and acting Treasurer of Ozaukee County, do hereby certify in accordance with
the records in my office, there are no unpaid taxes or special assessments as of _____ day of _____, 2021
on any of the lands in the plat of LAKE SHORE ESTATES.

Date _____ Joshua Morrison, Ozaukee County Treasurer

OWNER'S CERTIFICATE OF DEDICATION

DOOR CREEK CONSTRUCTION LLC, a Limited Liability Company duly organized and existing under and by virtue of the
laws of the State of Wisconsin, as owner, does hereby certify that said limited liability company caused the land described on
this subdivision plat to be surveyed, divided, mapped and dedicated as represented on this plat of LAKE SHORE ESTATES.

DOOR CREEK CONSTRUCTION LLC, as owner, does further certify that this subdivision plat is required by s.236.10 or s.
236.12 of the Wisconsin State Statutes to be submitted to the following for approval or objection:

1. City of Mequon
2. Department of Administration

IN WITNESS WHEREOF, the said DOOR CREEK CONSTRUCTION LLC has caused these presents to be signed by (name
- print) _____, (title) _____, at
(city) _____, 2021. County, Wisconsin, on this _____ day of _____.

In the presence of: DOOR CREEK CONSTRUCTION LLC

Name (signature) - Title

STATE OF WISCONSIN
_____) COUNTY) SS

Personally came before me this _____ day of _____, 2021, (name) _____
(title) _____, of the above named limited liability company, to me known to be the person
who executed the foregoing instrument, and to me known to be such _____ (title) of
said limited liability company, and acknowledged that they executed the foregoing instrument as such officer as the deed of
said limited liability, by its authority.

Notary Public
Name: _____
State of Wisconsin
My Commission Expires: _____

CONSENT OF CORPORATE MORTGAGEE

_____, a corporation duly organized and existing under and by virtue of the laws of the State of
Wisconsin, mortgagee of the above described land, does hereby consent to the surveying, dividing, mapping and dedication
of the land described in the foregoing affidavit of John P. Konopacki, surveyor, and does hereby consent to the above
certification of owners.

IN WITNESS WHEREOF, the said _____, has caused these presents to be signed by
_____, its President, and its corporate seal to be hereunto affixed this _____ day of
_____, 2021.

Date _____ President

STATE OF WISCONSIN
_____) COUNTY) SS

Personally came before me this _____ day of _____, 2021, _____, to me known to be
the person who executed the foregoing instrument and to me known to be such officer of said corporation and
acknowledged the same.

Notary Public
Name: _____
State of Wisconsin
My Commission Expires: _____

NOTE:

1. SEE WETLAND LINE TABLE ON SHEET 3.



LAKESHORE ESTATES

Being a part of the Northeast 1/4 and the Southeast 1/4 of the Northwest 1/4 of Section 5, Township 9 North, Range 22 East, in the City of Mequon, Ozaukee County, Wisconsin.

WETLAND LINE TABLE

LINE TABLE		
LINE NO.	BEARING	DISTANCE
L1	N19°15'18"W	29.61'
L2	N17°06'54"E	37.31'
L3	N25°53'05"W	31.29'
L4	N55°50'20"W	29.20'
L5	N00°12'12"E	23.42'
L6	N36°03'45"W	14.33'
L7	N44°55'23"E	22.72'
L8	N20°47'58"E	20.53'
L9	N12°10'51"W	19.46'
L10	N18°39'22"E	13.23'
L11	S87°11'49"E	14.09'
L12	S51°40'17"E	45.36'
L13	S82°44'30"E	33.05'
L14	N52°01'27"E	21.82'
L15	N63°18'16"E	22.18'
L16	N55°39'13"E	22.57'
L17	N44°31'47"E	20.02'
L18	N33°19'22"W	30.42'
L19	N28°52'04"W	38.96'
L20	N08°55'42"E	34.85'
L21	N45°45'34"E	40.16'
L22	N08°16'35"E	29.79'
L23	N16°55'51"W	38.90'
L24	N41°22'37"W	71.87'
L25	N06°42'04"E	27.19'
L26	N08°19'29"E	30.76'
L27	N45°58'46"E	33.28'
L28	S02°26'55"E	27.78'
L29	S44°15'31"W	32.65'
L30	S28°57'15"E	46.57'
L31	S48°10'20"E	71.46'
L32	S10°09'26"E	30.14'
L33	S24°20'11"W	26.99'
L34	S59°36'43"E	15.91'
L35	S02°09'31"E	25.49'
L36	S46°03'50"E	35.00'
L37	S05°43'53"E	12.12'
L38	S26°00'04"E	28.57'
L39	S43°18'13"W	22.24'
L40	S04°26'55"W	20.28'
L41	S10°06'24"W	14.50'
L42	S63°24'37"W	17.79'
L43	N70°49'18"W	11.85'
L44	N14°27'12"E	12.14'
L45	N17°36'08"W	15.99'
L46	S32°20'25"W	50.67'
L47	S78°29'18"W	31.70'
L48	S48°50'15"W	32.55'
L49	S40°06'25"W	26.65'
L50	S58°26'02"W	27.24'
L51	S26°13'28"W	16.20'
L52	S72°03'33"E	34.27'
L53	N88°37'21"E	55.25'
L54	S40°31'04"E	27.43'
L55	S75°56'43"W	121.00'
L56	S39°01°16"W	19.30'
L57	S54°14°54"W	19.38'
L58	N88°02'23"E	62.48'
L59	N02°55'01"W	37.50'
L60	N78°16°00"W	30.67'
L61	N58°24°47"W	38.06'
L62	N27°03'36"W	53.13'
L63	N01°24'05"W	40.28'
L64	N25°46'40"E	26.36'
L65	N17°41'21"E	22.50'
L66	N05°34'57"W	25.94'
L67	N08°31'07"W	39.14'
L68	N26°04°54"W	37.97'
L69	N28°43'07"E	39.03'
L70	N14°10'06"E	37.83'
L71	N22°47'47"E	28.06'
L72	N32°44'08"E	38.22'
L73	N43°53'27"E	73.21'
L74	N06°16'10"W	67.15'
L75	N48°41'23"W	42.99'
L76	N07°25'28"E	36.41'
L77	N33°22'32"E	37.14'
L78	N44°39'45"E	60.39'
L79	N60°41'48"E	55.57'
L80	N79°58'00"E	35.46'
L81	N89°06'23"E	47.41'
L82	N22°33'35"E	57.61'
L83	N01°58'43"E	54.88'
L84	N20°59'55"W	38.29'
L85	N05°49'47"W	36.07'
L86	N77°09'39"E	34.04'
L87	S73°19'01"E	52.70'
L88	S46°13'51"E	71.16'
L89	N89°53'36"E	13.90'
L90	N42°07'24"E	17.57'

LINE TABLE		
LINE NO.	BEARING	DISTANCE
L91	N28°00'53"W	41.04'
L92	N18°58'07"W	37.47'
L93	N25°02'58"E	50.18'
L94	N71°16'05"E	49.52'
L95	N54°59'07"E	60.52'
L96	N55°52'15"E	36.53'
L97	N74°55'52"E	43.41'
L98	S73°19'58"E	34.00'
L99	S65°03'52"E	56.60'
L100	S74°30'49"E	58.33'
L101	S03°06'59"W	31.17'
L102	S55°39'20"W	43.43'
L103	S54°21'29"W	37.85'
L104	S20°27'07"W	46.75'
L105	S25°43'51"E	25.52'
L106	S02°06'30"W	20.78'
L107	S33°00'18"E	25.47'
L108	S45°06'04"E	35.71'
L109	S00°38'06"W	26.77'
L110	S50°28'51"W	18.09'
L111	S23°13'47"W	27.13'
L112	S06°26'17"E	38.67'
L113	S46°47'37"E	21.90'
L114	N66°58'07"E	42.06'
L115	N00°05'47"E	20.62'
L116	N24°10'19"E	24.62'
L117	N08°50'55"W	28.22'
L118	N31°25'17"E	55.94'
L119	N03°57'45"W	36.47'
L120	N27°42'18"E	17.40'
L121	N34°43'32"E	21.95'
L122	N10°54'02"E	56.67'
L123	N21°14'02"W	53.26'
L124	N18°50'17"E	42.96'
L125	N10°14'41"E	60.72'
L126	N54°37'19"E	23.63'
L127	N78°21'10"E	14.80'
L128	N43°27'15"E	31.31'
L129	N09°26'47"W	50.98'
L130	S82°00'36"W	49.22'
L131	S34°01'52"W	51.28'
L132	S30°57'30"W	42.94'
L133	S48°27'34"W	48.72'
L134	N87°03'31"W	60.77'
L135	N47°50'29"W	24.19'
L136	N60°35'22"W	35.25'
L137	S83°52'00"W	71.07'
L138	S43°44'07"W	55.25'
L139	S33°51'43"W	29.15'
L140	S50°50'36"W	48.92'
L141	S57°57'23"W	62.81'
L142	S57°06'20"W	33.69'
L143	S81°06'49"W	50.19'
L144	S86°08'37"W	46.55'
L145	N80°34'00"W	47.86'
L146	N11°44'33"W	32.62'
L147	N18°12'12"W	42.65'
L148	N08°12'37"E	48.70'
L149	N32°29'19"E	62.06'
L150	N13°47'11"E	76.08'
L151	N19°11'42"E	52.77'
L152	N01°27'35"W	59.45'
L153	N06°32'06"W	43.32'
L154	N22°48'18"W	62.52'
L155	N26°55'39"W	27.46'
L156	N11°06'28"W	24.68'
L157	N21°42'33"E	24.12'
L158	N57°10'53"E	9.82'
L159	N41°07'09"E	37.60'
L160	N34°51'45"E	41.59'
L161	N58°41'50"E	20.15'
L162	S75°49'13"E	25.68'
L163	N56°14'01"E	25.41'
L164	N74°35'08"E	21.10'
L165	N67°01'27"E	29.54'
L166	S89°13'13"E	35.41'
L167	N72°35'14"E	53.79'
L168	N78°16'42"E	52.17'
L169	N50°31'20"E	61.44'
L170	N42°53'28"E	24.28'
L171	N71°17'43"E	37.00'
L172	N06°18'40"W	23.06'
L173	N84°29'37"E	20.57'
L174	N68°51'01"E	23.99'
L175	S80°39'02"E	35.78'
L176	N21°50'58"E	35.26'
L177	N50°35'10"E	33.52'
L178	N04°55'53"E	21.36'
L179	S87°16'10"E	38.87'
L180	N89°55'48"E	41.17'

LINE TABLE		
LINE NO.	BEARING	DISTANCE
L181	N73°13'14"E	16.67'
L182	N01°57'37"W	8.39'
L183	N78°21'02"W	19.34'
L184	N09°53'20"W	25.64'
L185	N25°57'48"E	13.24'
L186	N64°10'57"W	11.43'
L187	S71°51'07"W	17.81'
L188	N63°05'16"W	12.52'
L189	N36°56°14"W	15.70'
L190	N22°16'23"W	21.34'
L191	N60°59°11"W	23.07'
L192	N14°23'36"E	32.90'
L193	N52°42'29"E	27.57'
L194	N62°21'52"E	35.17'
L195	N78°42'22"E	14.60'
L196	N05°31'21"W	22.78'
L197	N03°27'10"E	44.46'
L198	N00°26°09"W	31.04'
L199	N36°57'44"W	10.01'
L200	N62°21'53"W	11.75'
L201	N86°29'32"W	14.55'
L202	N86°51°39"W	27.65'
L203	S81°05'53"W	40.38'
L204	S75°49'53"W	31.73'
L205	S57°49'45"W	32.13'
L206	S56°36'30"W	49.85'
L207	S46°50'39"W	67.30'
L208	S42°27'44"W	55.94'
L209	S20°31°18"W	57.82'
L210	S30°01'25"W	50.55'
L211	S78°41'57"W	45.84'
L212	S72°40'55"W	34.48'
L213	S50°31°05"W	46.36'
L214	S45°02'02"W	28.40'
L215	S39°52'55"W	45.77'
L216	S46°54°59"W	29.14'
L217	S16°17'58"W	32.73'
L218	S07°34'53"W	43.02'
L219	S33°23'45"W	21.90'
L220	S49°45'30"W	37.87'
L221	N85°46'57"W	38.47'
L222	N75°22'13"W	37.37'
L223	N52°39'40"W	44.01'
L224	N68°06'13"W	24.63'
L225	N56°06°04"W	26.17'
L226	N26°23'57"W	38.48'
L227	N43°51'34"E	15.11'
L228	N87°14°56"E	43.31'
L229	N05°00'22"E	33.78'
L230	N32°06'17"E	37.02'
L231	N25°18'32"W	20.40'
L232	N03°40°39"W	34.72'
L233	N35°22'38"E	21.87'
L234	N53°58'03"E	24.28'
L235	N32°47'14"E	18.78'
L236	S71°18°22"E	28.53'
L237	N78°28'30"E	30.54'
L238	N28°59'21"E	49.43'
L239	N18°51°09"E	27.83'
L240	N33°29'50"E	41.89'
L241	N26°03'44"E	62.40'
L242	N64°08'11"E	27.71'
L243	N17°50'41"E	30.09'
L244	N33°52°09"W	20.68'
L245	N03°41'08"E	42.06'
L246	N07°08'48"W	27.58'
L247	N12°19'21"E	39.65'
L248	N07°14'43"E	41.69'
L249	N12°35'57"W	39.40'
L250	N16°29'49"E	51.21'
L251	N49°31'41"E	31.34'
L252	N40°13'57"E	99.30'
L253	N14°26'28"E	36.90'
L254	N20°30'53"E	20.53'
L255	N77°57'49"E	10.98'
L256	S75°52'39"E	25.75'
L257	S72°14'51"E	33.60'
L258	S88°53'54"E	34.33'
L259	S83°22'24"E	58.66'
L260	N88°33'23"E	33.72'
L261	N85°28'05"E	40.10'
L262	N77°08'32"E	50.35'
L263	N57°00'13"E	19.26'
L264	N07°47°16"W	11.26'
L265	N52°24'14"W	15.02'
L266	N65°41'52"W	17.04'
L267	N68°08'08"W	25.49'
L268	S82°41'57"W	30.11'
L269	S75°23'00"W	29.66'
L270	N78°02°35"W	45.43'

LINE TABLE		
LINE NO.	BEARING	DISTANCE
L271	S85°55'51"W	33.47'
L272	S86°41'22"W	41.72'
L273	S89°53'46"W	28.03'
L274	S69°48'49"W	19.77'
L275	S89°08'38"W	12.04'
L276	S55°59'15"W	13.09'
L277	S46°12'32"W	20.13'
L278	S19°10'18"W	19.41'
L279	S23°01'27"W	29.11'
L280	S45°37'46"W	40.29'
L281	S46°38'02"W	33.86'
L282	S80°38'58"W	22.03'
L283	S13°15'22"W	20.38'
L284	S10°12'03"W	48.30'
L285	S19°57'15"W	26.08'
L286	S04°02'54"W	32.31'
L287	S30°56'27"W	21.04'
L288	S19°51'21"W	43.65'
L289	S09°44'52"W	7.45'
L290	N16°58'04"W	11.97'
L291	N08°57'50"E	30.19'
L292	N06°28'31"E	22.27'
L293	N02°35'05"W	10.16'
L294	N18°54'16"E	16.85'
L295	N19°26'53"E	31.34'
L296	N10°44'12"E	23.18'
L297	S71°45'48"W	8.66'
L298	S30°35'05"W	14.14'
L299	S33°07'05"W	28.32'
L300	S75°11'44"W	18.02'
L301	S63°44'45"W	33.04'
L302	S88°45'16"W	35.40'
L303	N61°26'11"W	22.29'
L304	N40°37'13"W	24.19'
L305	N20°43'11"E	40.49'
L306	N22°03'07"E	17.42'
L307	N88°33'12"E	11.81'
L308	S81°03'08"E	23.24'
L309	N61°16'29"E	17.45'
L310	N53°04'01"W	39.61'
L311	N63°17'03"W	31.80'
L312	S57°08'54"W	12.93'
L313	S05°42'54"W	24.83'
L314	S21°00'10"W	47.44'
L315	S28°13'45"W	14.69'
L316	S13°42'42"W	31.96'
L317	S52°16'28"E	31.63'
L318	S66°23'46"E	28.53'
L319	S15°48'20"W	38.52'
L320	S51°16'52"W	39.26'
L321	S09°46'25"W	36.02'
L322	S20°39'32"W	32.53'
L323	S12°26'33"W	41.05'
L324	S58°21'38"W	38.89'
L325	N71°53'18"W	25.43'
L326	S75°49'36"W	36.90'
L327	S69°19'29"W	47.49'
L328	S79°41'06"W	52.96'
L329	S82°06'33"W	40.80'
L330	N63°14'21"W	41.92'
L331	N04°39'49"W	32.00'
L332	N20°59'00"W	39.50'
L333	N03°23'07"E	40.01'
L334	N11°47'35"E	42.83'
L335	N11°08'28"W	33.04'
L336	N44°47'40"W	52.90'
L337	N44°32'13"W	45.02'
L338	N26°16'33"W	26.85'
L339	N31°35'15"W	44.08'
L340	N19°24'36"W	31.01'
L341	N53°00'38"W	16.23'
L342	N09°31'57"W	66.95'
L343	N16°20'47"W	64.00'
L344	N07°51'02"W	28.99'
L345	N19°31'30"E	50.94'
L346	N12°11'17"E	37.81'
L347	N17°57'30"E	39.75'
L348	N35°40'54"E	11.33'
L349	S81°32'35"W	65.72'
L350	N87°56'44"E	37.95'
L351	S48°14'46"E	4.70'
L352	S76°04'33"E	30.65'
L353	S64°17'21"W	16.50'
L354	S32°23'38"E	31.78'
L355	S08°23'21"E	68.63'
L356	S19°56'43"E	55.82'
L357	N85°29'51"E	23.44'
L358	N31°56'47"W	26.77'
L359	N01°45'44"W	49.69'
L360	N06°30'57"W	43.40'



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

www.ci.mequon.wi.us

Office of Public Works

TO: Common Council
FROM: Kristen Lundeen, Director of Public Works/City Engineer
DATE: August 10, 2021
SUBJECT: RESOLUTION 3870 A Resolution Granting a Permanent Easement to WE Energies for Installation of New Electrical Cables at the City's Department of Public Works Facility at 10800 North Industrial Drive

Background

Staff received the following request from We Energies:

We Energies requests an easement across the north portion of a City of Mequon Department of Public Works parcel to install new electrical cables. The existing cables have been failing repeatedly and must now be replaced with new cables with a higher load rating. These new cables will serve your building at 10800 North Industrial Drive and will greatly improve the future reliability of the electrical service there. We Energies would like to complete this work as soon as we can obtain the necessary railroad license and easement.

Analysis

The easement is required for We Energies to replace failing infrastructure with a direct benefit to the Combined Department of Public Works facility. The attached legal description and exhibit for the easement will be updated after installation, to reflect the final location.

Fiscal Impact

Compensation for easements is generally not provided when there is a direct benefit to the grantor. The proposed easement and associated cable replacement do not result in a fiscal impact to the City.

Recommendation

Staff recommends that the Public Works Committee favorably endorse, and the Common Council approve the resolution granting a permanent easement to We Energies at 10800 North Industrial Drive.

Attachments:

We Energies Easement (PDF)

We Energies Construction Sketch (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3870

A Resolution Granting a Permanent Easement to WE Energies for Installation of New Electrical Cables at the City's Department of Public Works Facility at 10800 North Industrial Drive

RECITALS

- A. The City of Mequon owns land at 10800 North Industrial Drive.
- B. WE Energies has proposed to install new electrical cables with a higher load rating to replace the existing cables have been failing repeatedly.
- C. Staff has reviewed WE Energies requested easement and is in agreement with the proposed installation, restoration and easement agreement.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Common Council of the City of Mequon, Wisconsin, that the City hereby grants the easements to WE Energies as proposed and shown on the attached easement documents and that the appropriate City officials be authorized to execute the easement documents.

Approved by: John Wirth, Mayor

Date Approved: August 10, 2021

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk

DISTRIBUTION EASEMENT UNDERGROUND

Document Number

WR NO. **4618618** IO NO. **CR0817**

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **CITY OF MEQUON**, hereinafter referred to as "Grantor", owner of land, hereby grants and warrants to **WISCONSIN ELECTRIC POWER COMPANY, a Wisconsin corporation doing business as We Energies**, hereinafter referred to as "Grantee", a permanent easement upon, within, beneath, over and across a part of Grantor's land hereinafter referred to as "easement area".

The easement area is described as the North 15 feet of **Parcel 1 of Certified Survey Map No. 2114** as recorded in the office of the Register of Deeds for Ozaukee County in Volume 15 of Certified Survey Maps on Pages 362, 363, and 364, as Document No. 422334 and being a division of a part of the **Northeast ¼ of the Southeast ¼ of Section 27** and the **Northwest ¼ of the Southwest ¼ of Section 26**, Township 9 North, Range 21 East, City of Mequon, Ozaukee County, Wisconsin.

RETURN TO:
We Energies
PROPERTY RIGHTS & INFORMATION GROUP
231 W. MICHIGAN STREET, ROOM P129
PO BOX 2046
MILWAUKEE, WI 53201-2046

14-027-13-007.00
(Parcel Identification Number)

1. **Purpose:** The purpose of this easement is to construct, install, operate, maintain, repair, replace and extend underground utility facilities, conduit and cables, electric pad-mounted transformers, manhole, electric pad-mounted switch-fuse units, electric pad-mounted vacuum fault interrupter, concrete slabs, power pedestals, riser equipment, terminals and markers, together with all necessary and appurtenant equipment under and above ground as deemed necessary by Grantee, all to transmit electric energy, signals, television and telecommunication services, including the customary growth and replacement thereof. Trees, bushes, branches and roots may be trimmed or removed so as not to interfere with Grantee's use of the easement area.
2. **Access:** Grantee or its agents shall have the right to enter and use Grantor's land with full right of ingress and egress over and across the easement area and adjacent lands of Grantor for the purpose of exercising its rights in the easement area.
3. **Buildings or Other Structures:** Grantor agrees that no structures will be erected in the easement area or in such close proximity to Grantee's facilities as to create a violation of all applicable State of Wisconsin electric codes or any amendments thereto.
4. **Elevation:** Grantor agrees that the elevation of the ground surface existing as of the date of the initial installation of Grantee's facilities within the easement area will not be altered by more than 4 inches without the written consent of Grantee.
5. **Restoration:** Grantee agrees to restore or cause to have restored Grantor's land, as nearly as is reasonably possible, to the condition existing prior to such entry by Grantee or its agents. This restoration, however, does not apply to any trees, bushes, branches or roots which may interfere with Grantee's use of the easement area.
6. **Exercise of Rights:** It is agreed that the complete exercise of the rights herein conveyed may be gradual and not fully exercised until some time in the future, and that none of the rights herein granted shall be lost by non-use.
7. **Binding on Future Parties:** This grant of easement shall be binding upon and inure to the benefit of the heirs, successors and assigns of all parties hereto.
8. **Easement Review:** Grantor acknowledges receipt of materials which describe Grantor's rights and options in the easement negotiation process and furthermore acknowledges that Grantor has had at least 5 days to review this easement document or voluntarily waives the five day review period.

Attachment: We Energies Easement (RESOLUTION 3870 : We Energies Easement @ 10800 N Industrial Dr)

Grantor:

CITY OF MEQUON

By: _____

JOHN WIRTH, MAYOR

By: _____

CAROLINE FOCHS, CITY CLERK

Personally came before me in Ozaukee County, Wisconsin on _____, 2021,
the above named John Wirth, the Mayor, and Caroline Fochs, the City Clerk of the CITY OF MEQUON, for the municipal
corporation, by its authority, and pursuant to Resolution _____ adopted by its Common Council on
_____, 2021.

Notary Public Signature, State of Wisconsin

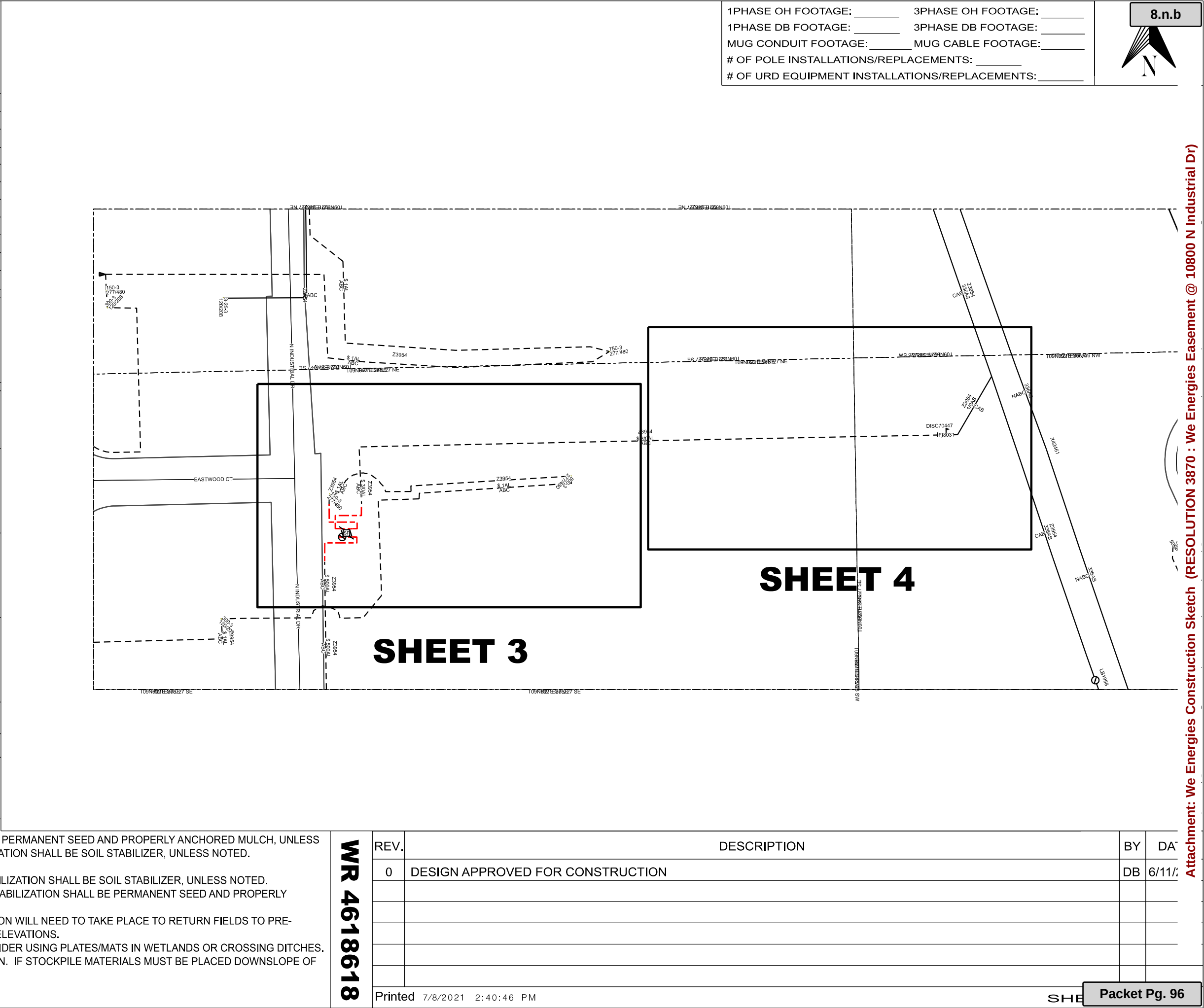
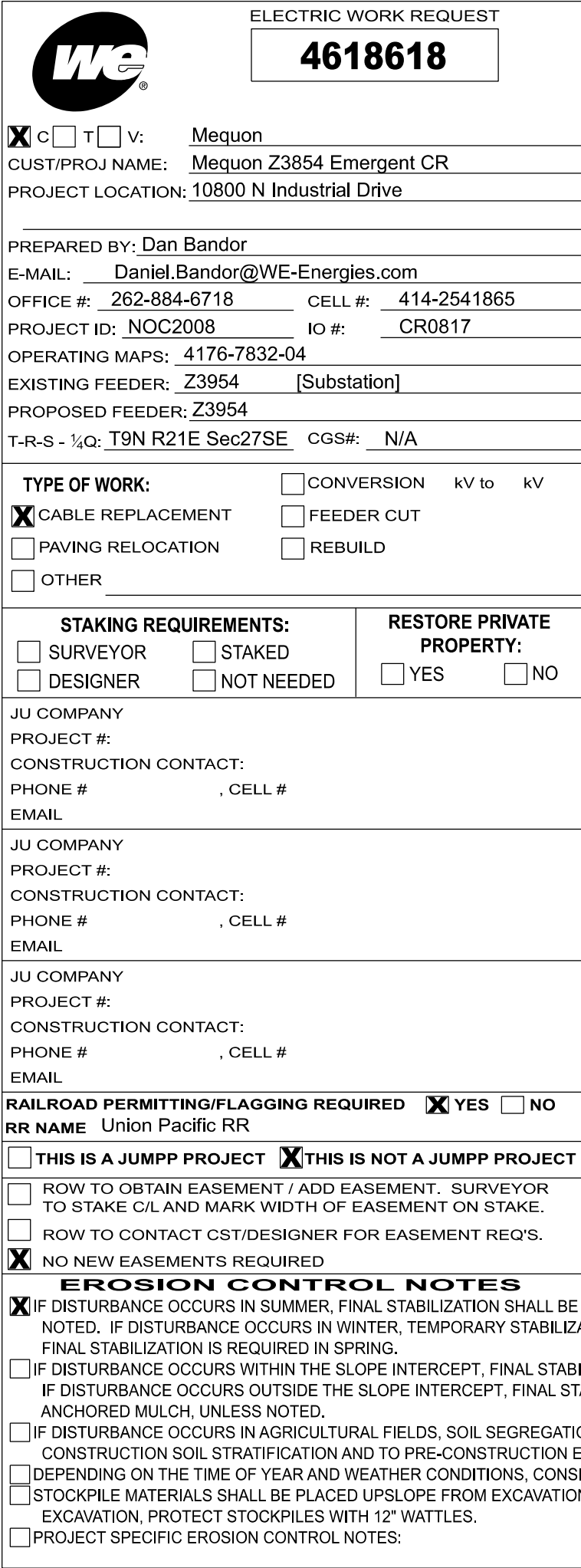
Notary Public Name (Typed or Printed)

(NOTARY STAMP/SEAL)

My commission expires _____

Attachment: We Energies Easement (RESOLUTION 3870 : We Energies Easement @ 10800 N Industrial Dr)

This instrument was drafted by Douglas J. Hartmann on behalf of Wisconsin Electric Power Company, PO Box 2046,
Milwaukee, Wisconsin 53201-2046.

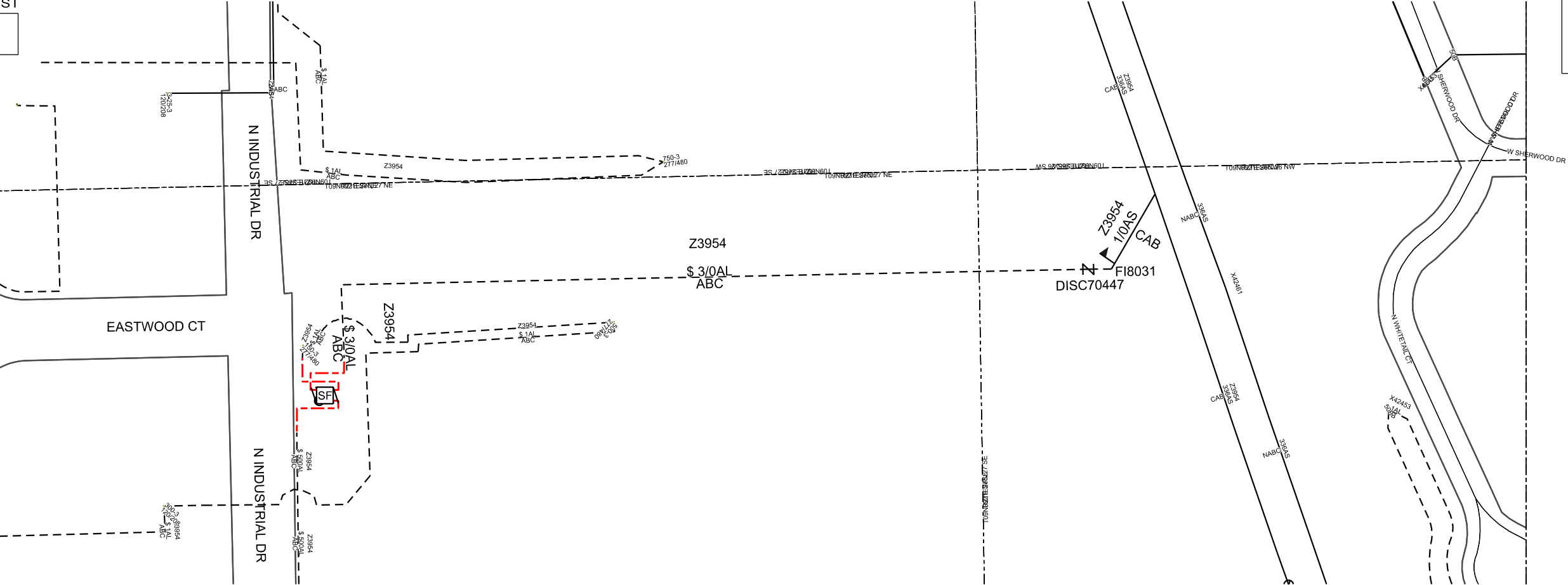
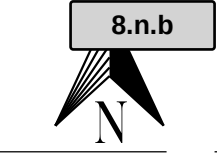


Printed 7/8/2021 2:40:46 PM SHE Packet Pg. 96



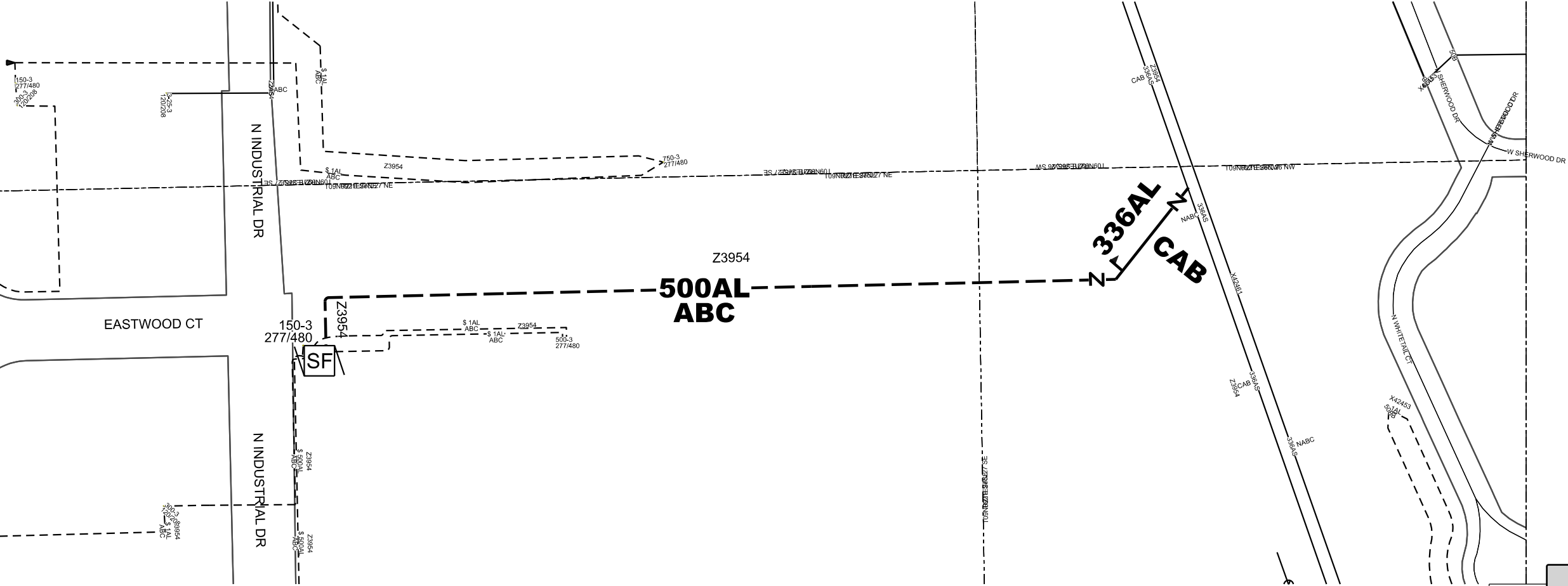
ELECTRIC WORK REQUEST

4618618



EXISTING FEEDER Z3984

PROPOSED FEEDER Z3984



Attachment: We Energies Construction Sketch (RESOLUTION 3870 : We Energies Easement @ 10800 N Industrial Dr)



4618618



EASTWOOD CT

N INDUSTRIAL DR

110 ENV 8, 27

120 ENV 8, 27

1,150'
DISCONTINUED
Z19

DISCONTINUED
Z19

Z15
242'

Z15
400'

91U3591
150-3
277/480

in 6" duct
Z15
83'

Z14
359'
Z14
347'

Z13
Z13

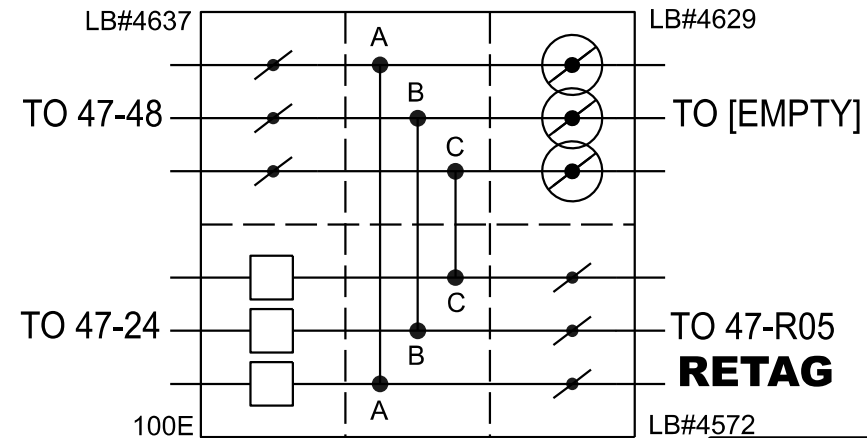
GEN
16U00643
500-3
277/480

100

90U4747
SW-FU
RETAG

10800

SW/VFI DIA. 90U4747



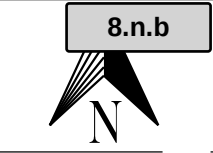
SCALE 1" = 40'

SH

Packet Pg. 98



4618618



FCI ATTRIBUTE

- PLANNING
- Feeder Z3954
 - Mount# 21-
 - Direction East
 - Pole Ht 55'
 - Phase ABC
 - Type (OH/UG) OH

- PROTECTION
- Size _____
 - Const. Units _____
 - FCI # 801647

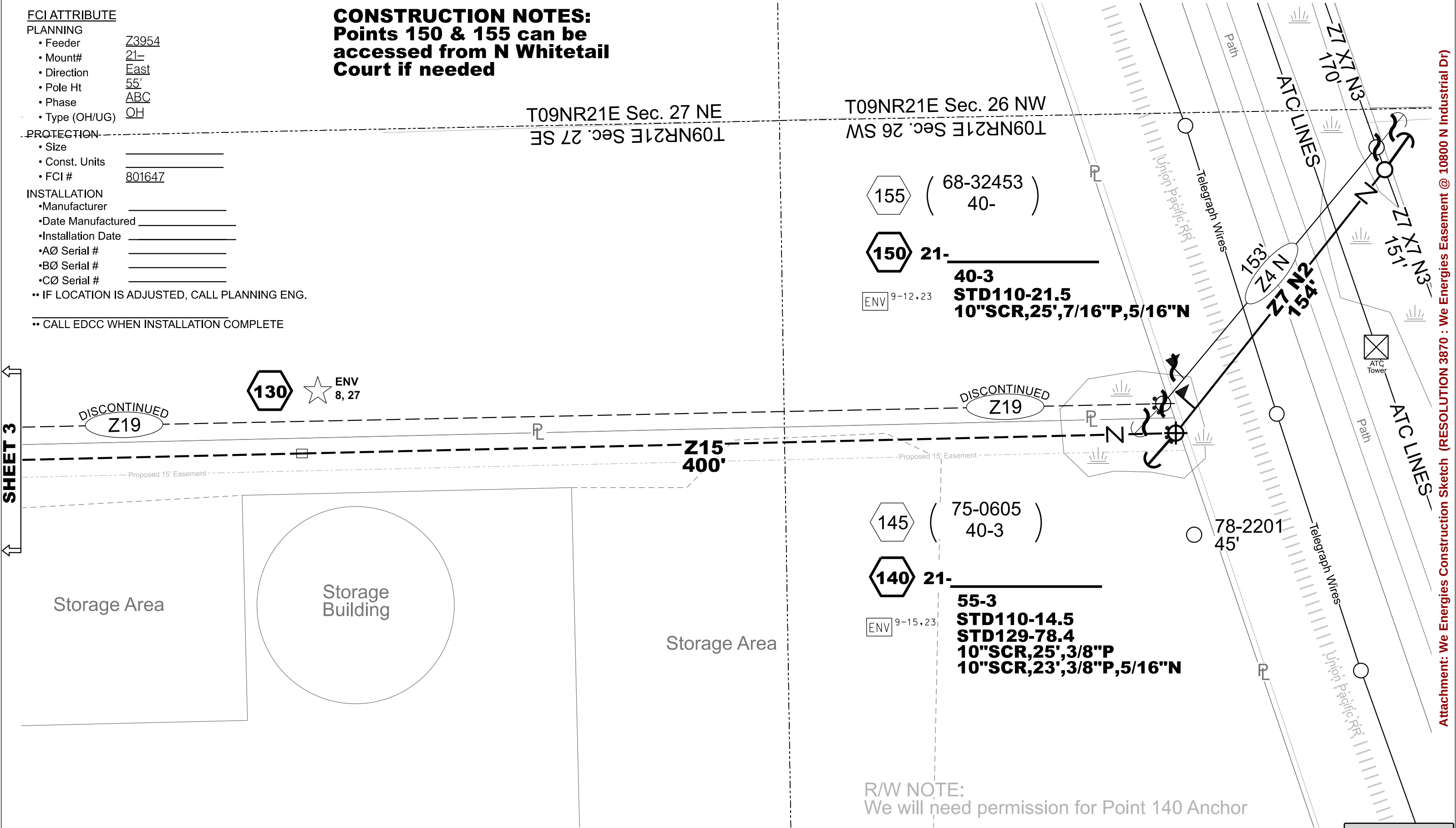
- INSTALLATION
- Manufacturer _____
 - Date Manufactured _____
 - Installation Date _____
 - AØ Serial # _____
 - BØ Serial # _____
 - CØ Serial # _____

•• IF LOCATION IS ADJUSTED, CALL PLANNING ENG.

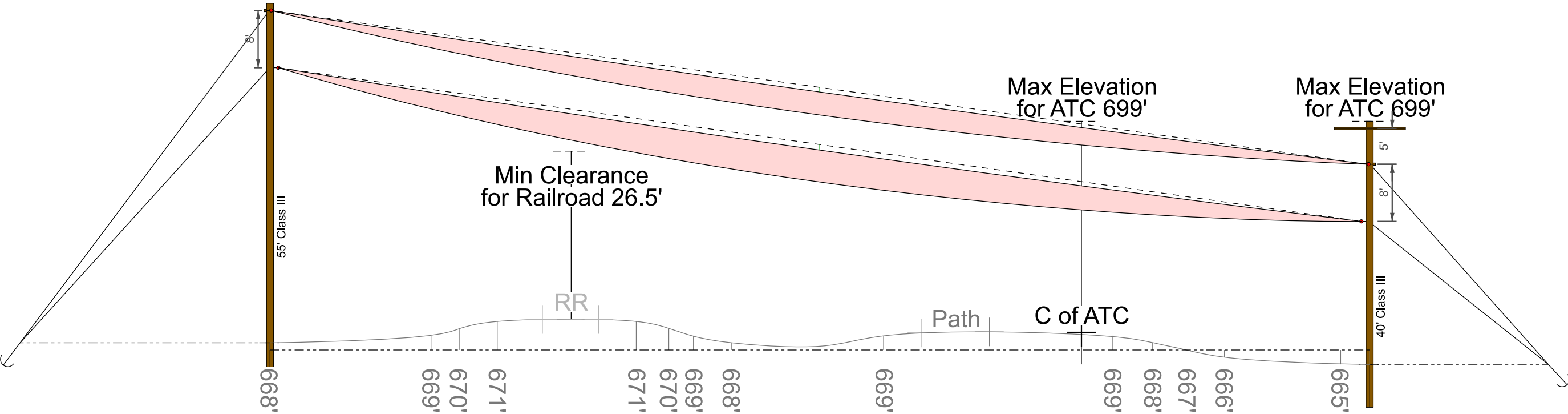
•• CALL EDCC WHEN INSTALLATION COMPLETE

CONSTRUCTION NOTES:
Points 150 & 155 can be
accessed from N Whitetail
Court if needed

SHEET 3



Attachment: We Energies Construction Sketch (RESOLUTION 3870 : We Energies Easement @ 10800 N Industrial Dr)



WE ENERGIES - ELECTRIC OPERATIONS CLEARANCE NOTES: -LOCATION OF OBSTRUCTIONS ARE FROM RECORDS AND MUST BE VERIFIED IN THE FIELD. -MAINTAIN 2' MIN. CLEARANCE BETWEEN OUTSIDE FACE OF MANHOLE & BELL OF PIPE. -THIS APPLIES TO GAS AND WATER MAINS. -MAINTAIN 2' MIN. VERTICAL CLEARANCE AT CROSSINGS OF SEWER OR WATER MAINS. -MAINTAIN 5' MIN. HORIZONTAL DIST. BETWEEN CONDUIT AND SEWER. -MAINTAIN 3' MIN. HORIZONTAL DIST. BETWEEN CONDUIT AND WATER MAINS. NOTE - CLEARANCES SHOWN ARE MINIMUM DISTANCES - REFERENCE PERMITS FOR SPECIFIC CLEARANCE REQUIREMENTS. ADDITIONAL UNDERGROUND INFORMATION ON EXCAVATION, BACKFILLING AND CLEARANCES CAN BE FOUND IN STD. 281-02.	OVERHEAD PRIMARY E, F, H, Q, R, W, X or Z Z1#2 ACSR Z11#1/0 ACSR Z21#3/0 ACSR Z33#2 ACSR Z43#1/0 ACSR Z53#3/0 ACSR Z73#336 ACSR Z9SPECIAL LIST ON SKETCH Z101 WIRE REMOVAL Z112 WIRE REMOVAL Z123WIRE REMOVAL STANDARD WIRE KEY DIRECT BURY PRIMARY - E, F, H, Q, R, W, X or Z Z131#1 AL 25KV Z143#1 AL 25KV Z153#500 AL 28KV X161#2 AL 15KV X173#2 AL 15KV X183#500 AL 15KV R193#1/0 AL 35KV R203#750 AL 35KV Z213#750 AL 28KV X221#2 Cu 15kV X233#2 Cu 15kV Z241#2 Cu 25kV Z253#2 Cu 25kV X263#500 Cu 15kV Z273#500 Cu 28kV Z283#750 Cu 28kV Z29SPECIAL - LIST ON SKETCH		NEUTRAL N1#2 ACSR N11#1/0 ACSR N21#3/0 ACSR N31#4/0 AL N41#336 ACSR N5REMOVAL GUYING G1/4" ARM GUY G15/16" ARM GUY G23/8" ARM GUY G35/16" POLE GUY G43/8" POLE GUY G57/16" POLE GUY	SECONDARY - 1PHASE S6DX S14 TX S22 TX S31/0 TXR S43/0 TXR S5350 TXR S6750 TXR S71/0 TXF S84/0 TXF S9336 TXR S10750 TXF S113 WIRE REMOVAL S123 WIRE MAIN S146DX CIC S151/0TX CIC	SECONDARY - \$1/0 TXF \$14/0 TXF \$2336 TXF \$33/0 TX \$4350 TX \$5750 TX \$61/0 QXF \$73/0 QXF \$8350 QXR \$9750 QXR \$103 WIRE REMOVAL \$113/0 QXR \$124 WIRE REMOVAL

00 N Industrial Dr

EROSION CONTROL LEGEND	
ENY 8, 27 APPROXIMATE LOCATION FOR UNDERGROUND FACILITY EXCAVATION	
A/B/C/D INLET PROTECTION, TYPE	
12" WATTLE or 12"/20" SEDIMENT LOG or 9.5"/20" EROSION EEL	
STONE DITCH CHECK	
SAND or ROCK BAG	
MULCH	
SOIL STABILIZER, TYPE B	
EROSION MAT CLASS I, TYPE A	
EROSION MAT CLASS I, TYPE B	
EROSION MAT CLASS I, TYPE A URBAN	
EROSION MAT CLASS I, TYPE B URBAN	
EROSION MAT CLASS II	
EROSION MAT CLASS III	
VEGETATIVE BUFFER	
TRACKING PAD	
TIMBER MAT	
SILT FENCE	
DW APPROXIMATE DEWATERING BASIN LOCATION	
SURFACE WATER FLOW	

WE ENERGIES WORK REQUEST ENVIRONMENTAL NOTES (Notes 1 through 7 apply to ALL work requests)

General

- If WDNR and/or USACE permits were obtained for the project, all permit conditions shall be met during construction of the project.

Erosion Control

- If soil disturbance occurs on slopes or channels/ditches leading to wetlands or waterways, or within wetlands, the disturbed areas shall be stabilized and appropriate erosion control Best Management Practices (BMP's) shall be implemented.
- Erosion Control BMR's shall meet or exceed the approved WDNR Storm Watter Management Technical Standards (http://dnr.wi.gov/topic/stormwater/standards/const_standards.html). Refer to We Energies Construction Site Sediment and Erosion Control Standards.
- Inspect installed erosion control BMP's at least one time per week and after ½" rain events: repair as necessary.
- When temporary stabilization is required (e.g. for winter or short-term construction) prior to final restoration, soil stabilizer shall be installed wherever possible. Erosion mat shall be used temporarily only where appropriate, in accordance with state standards, and when approved by the Operations Supervisor.

Contaminated Soils

- Whenever soil exhibiting obvious signs of contamination (e.g., discoloration, petroleum or solvent odor, free liquids other than water, buried containers or tanks, or other obvious signs of environmental impacts) is encountered during excavation or installation, cease work immediately, take appropriate immediate precautions to ensure worker health and safety, and contact the Operations Supervisor or Inspector.

Spills

- If an oil spill occurs during construction, call the Environmental Incident Response Team (EIRT) at 414-430-3478:
 - Any quantity of oil is spilled into surface water;
 - Any oil spill greater than 50 ppm PCB into a sewer, vegetable garden, or grazing land;
 - Any oil spill containing greater than 500 ppm PCB;
 - Five gallons or more of oil spilled to the ground;
 - Any oil spill involving a police department, fire department, DNR, or concerned property owner.

Notes 8 through 27 apply as noted at speciflc points withln each work request:

Dewatering

- Dewatering of pits or trenches shall be done in accordance with state standards. Use an approved sediment bag, a straw bale dewatering basin, a combination of both, or equivalent.

Wetlands

- As much as practicable, the majorityof the work shall be staged from the public roadways and road shoulders, keeping equipment out of adjacent wetlands.
- All work shall be conducted to minimize soil disturance. No rutting will be allowed within the wetlands.
- If soils are not frozen or stable to a point that avoids rutting, timber mats, mud tracks, or equivalent shall be utilized to access pole locations.
- Excavated soils cannot be stockpiled in wetlands.

Waterways

- All excess spoils shall be removed from wetlands and placed in a suitable upland location.
- Trenching and pit excavations within wetlands shall include soil segregation to facilitate restoration of pre-construction soil stratification, and restoration to pre-construction elevations.
- Poles scheduled to be removed, and that occur within wetland, shall be cut at the ground surface.
- No work can be performed within the banks or below the ordinary high watermark of any navigable waterways/streams.
- No crossing of navigable waterways with equipment can occur. Foot traffic is allowed.
- Any disturbed soil within 75-feet of the ordinary high water mark of any navigable waterways/streams shall be stabilized within 24 hours of construction completion.

Threatened and Endangered Species

- Threatened or endangered species are known to occur in the work area. It is illegal to harass, harm, or kill a protected species under state and federal regulations. Proper precautions shall be taken to ensure harm to individuals is avoided.
- In order to protect the threatened or endangered species, work must be conducted between November 5 and March 15.
- Exclusion fencing must be installed at the work area prior to March 15.
- A qualified biologist must be present when conducting work at this location.

Invasive Species

- State regulated invasive species are known to occur in the work area. Reasonable precautions are legally required to prevent the spread of these species. The Wisconsin Council on Forestry Transportation and Utility Rights-of Way Best Management Practices should be followed: (<http://council.wisconsinforestry.org/invasives/transportation/>).

Cultural and Historical Resources, cont.

- The project is within or adjacent to an area that is identified by the State of Wisconsin as potentially having Native American artifacts, burial mounds or burial sites, which could be encountered during construction.
- If human bone or any artifacts are discovered during construction, work must cease immediately. Contact the Environmental Department who will contact the State Burial Sites Preservation Office and determine the next steps that must be taken in order to comply with state law. Work at that site MAY NOT PROCEED until the Environmental Department authorizes it.
- A "qualified archaeologist," as specified under Wis. Stats 157.70 (1) (i) and Wis. Admin. Code HS 2.04 (6), must be present to monitor all ground disturbing activities.

Frac-out Contingency Plan

- A frac-out contingency plan shall be on-site and implemented accordingly. The contingency plan shall incorporate the following components.
 - Continuously inspect the bore paths for frac-outs in order to respond quickly and appropriately.
 - Containment materials (e.g. silt fence, straw bales, sand bags, etc.) shall be on site and available should a frac-out occur.
 - A vac truck shall be accessible on short notice in order to respond quickly to a frac-out.





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Office of Administration

TO: Common Council
FROM: Justin Schoenemann, Assistant City Administrator
DATE: July 13, 2021
SUBJECT: ORDINANCE 2021-1596 A Charter Ordinance Amending Provisions of the Mequon Municipal Code, Establishing Terms of Office for Elected Officials

Background

The proposed ordinance submitted by Mayor Wirth contemplates amending the Mequon Municipal Code to establish terms of office for elected officials. The proposed amendment would make a person who has served as mayor or as an alderperson in one district for four consecutive terms ineligible to be elected again until one election has elapsed without his or her name on the ballot. An official would also be ineligible for re-election as a write-in candidate until one election elapsed without their name on the ballot. Additionally, an official could not be appointed until three years have elapsed after he or she vacates the office.

The proposed ordinance would allow an official who has served four consecutive terms as mayor to be elected as an alderperson without having to wait one election cycle. It would also allow an alderperson who has served four consecutive terms in one district to run for a different aldermanic seat or for mayor without having to wait one election cycle.

At its July meeting, the Public Welfare Committee amended the proposed ordinance to define four consecutive terms as four “full” consecutive terms. The intent behind the amendment is to ensure that an appointment to complete a partial term associated with a vacated office does not count towards an official’s four consecutive terms.

Fiscal Impact

None.

Recommendation

On July 13, 2021, the Public Welfare Committee approved a recommendation in favor of adopting the proposed ordinance by a vote of 3-0.

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2021-1596

A Charter Ordinance Amending Provisions of the Mequon Municipal Code, Establishing Terms
of Office for Elected Officials

RECITALS

A. The qualifications to hold, and the terms of, the offices of mayor and alderman are established under Wis. Stat. § 62.09 and may be changed by a charter ordinance duly passed by the common council.

B. The Common Council desires to establish term limits for the offices of mayor and alderman.

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

SECTION I:

Charter Ordinance Article I (formerly known as Charter Ordinance No. 58-23) is repealed and replaced in its entirety with the following:

Sec. I.01. - Mayor.

- (a) The term of office of mayor shall be three years. This ordinance shall not affect the term of office of the existing mayor.
- (b) A person who has been elected as mayor for full four consecutive terms shall be ineligible:
 - (1) To have his or her name on the ballot for mayor, or to be elected as mayor as a write-in candidate, until one election for mayor has elapsed without his or her name on the ballot; and
 - (2) To be appointed as mayor until three years have elapsed after he or she vacates the office.

Sec. I.02. - Alderman.

- (a) The term of office of an alderman shall be three years. This ordinance shall not affect the term of office of any existing alderman.

- (b) A person who has been elected as alderman for an aldermanic district for four full consecutive terms shall be ineligible:
- (1) To have his or her name on the ballot for alderman in that district, or to be elected to that office as a write-in candidate, until one election for that office has elapsed without his or her name on the ballot; and
 - (2) To be appointed as alderman for that district until three years have elapsed after he or she vacates the office.

Sec. I.02. - Current Office Holders.

No election occurring prior to the effective date of this ordinance shall be counted in determining the eligibility for any candidacy or appointment.

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 in conflict or inconsistent with this ordinance, in whole or in part, are repealed to the extent necessary to give this ordinance full force and effect.

SECTION IV:

This is a charter ordinance. It shall take effect 60 days after its passage and publication unless, within such 60-day period, a referendum petition is filed as provided in Wisconsin Statutes Section 66.0101(5), in which event this ordinance will not take effect until it is submitted to a referendum and approved by a majority of the electors voting.

Approved by: John Wirth, Mayor

Date Approved: August 10, 2021

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk

Published: _____



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Office of Administration

TO: Common Council
FROM: Justin Schoenemann, Assistant City Administrator
DATE: July 6, 2021
SUBJECT: ORDINANCE 2021-1597 An Ordinance Amending Article II of Chapter 2 within the Mequon Municipal Code, in Connection with the Roles, Duties and Functions of the Mayor and Common Council

Background

In January of 2020, the Public Welfare Committee commenced a review of *Chapter 2 Article II. - Common Council*, which governs all standing committees, the Common Council, mayoral duties, meeting procedures, agenda format, and meeting minutes. However, due to the impacts of COVID-19 this project was paused while the City pivoted to respond to the public health emergency. Once the emergency normalized, the Public Welfare Committee resumed its review of the ordinances in November of 2020.

In connection with this initiative, the Committee's initial work focused on standardizing language throughout *Article II* for each of the City's four standing committees and specifying which standing committee is designated to review items from the City's various boards, committees, and commissions. The Committee also worked to review, amend and establish language provisions pertaining to a number of subject areas, including appointments, vacancies, voting procedures, special meetings, agenda creation and formatting, meeting minutes, and recommendations. Additionally, the Committee established a new section memorializing mayoral duties and current practices. Enclosed is a copy of the current ordinances for reference purposes.

Furthermore, the Committee also included a review of duties of the City Administrator established in *Chapter 2 Article IV. - Departments and Agencies*. The Public Welfare Committee recommended no changes at this time. However, *Article IV* is continuing to be reviewed by the Public Welfare Committee and additional recommendations may come forward at a subsequent meeting.

Fiscal Impact

None.

Recommendation

On July 13, 2021, the Public Welfare Committee approved a recommendation in favor of adopting the proposed changes to Article II of Chapter 2.

Attachments:

Current Chapter II Ordinance (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2021-1597

An Ordinance Amending Article II of Chapter 2 within the Mequon Municipal Code, in
Connection with the Roles, Duties and Functions of the Mayor and Common Council

SECTION I

Chapter 2 Article II is repealed and recreated to read as follows:

Sec. 2-20. - Generally.

The common council shall consist of the mayor and eight aldermen. The common council shall be elected, and vacancies shall be filled, pursuant to section 2-63. The common council shall have the committees described in division 2. The common council shall hold meetings pursuant to division 3.

Sec. 2-21 - Mayor.

- (a) In addition to those powers and duties set forth in this code, the mayor shall have the powers and duties of a mayor set forth in the Wisconsin Statutes.
- (b) The mayor shall be the city's chief executive officer. The mayor shall take care that city ordinances and state laws are observed and enforced and that all city officers and employees discharge their duties.
- (c) The mayor shall from time to time give the common council such information and recommend such measures as the mayor may deem advantageous to the city.
- (d) When present, the mayor shall be a member of, and presiding officer at, all meetings of the common council, whether regular, special or organizational, and its committee of the whole and appropriations committee.
- (e) Except as otherwise limited by state law, the mayor shall have the power to veto all acts of the common council and all acts of any committee that could have been taken by the common council if not delegated by the common council or this code to such committee, including acts by the planning commission. All such acts shall be submitted to the mayor by the clerk and shall be in force upon approval evidenced by the mayor's signature, whether signed as mayor or as the chair of the planning commission, or upon the mayor's failure to approve or disapprove such act within five days. If the mayor fails to approve or disapprove any act within five days, the clerk shall certify such failure on the relevant document. If the mayor vetoes any act, the mayor shall file his or her objections with the clerk, and the clerk shall present them to the common council at its next meeting. A two-

thirds vote of all members of the common council shall make the act effective notwithstanding the objections of the mayor, except that in the case of an act by a committee, the common council may, upon majority vote, return the vetoed act to the committee who shall have the opportunity at its next meeting to overrule the veto by a two-thirds vote of all members of the committee.

- (f) The mayor shall be the head of the fire and police departments.

Sec. 2-22 - Acting mayor.

- (a) If the mayor is absent or unable to perform any duty, the president of the common council shall be the “acting mayor.” If both the mayor and the president are absent or unable to perform any duty, the following shall be the order of succession as “acting mayor”: the chair of the public welfare committee, the chair of the public works committee and the chair of the public safety committee.
- (b) The acting mayor shall not have power to approve an act of the common council which the mayor has vetoed or to veto any act approved at a meeting at which the mayor was the presiding officer.

Sec. 2-23. - Standing Committees.

The common council shall have the following four standing committees:

- (a) Finance-personnel committee.
 - (1) Except as otherwise specifically delegated by this code or state law, the finance-personnel committee shall consider licenses, vouchers for payment, collective bargaining contracts, employee wages and benefits, employee policies, ethics, financial policies, tax assessments, audits, investments, fees charged by the city, debt issuances and similar matters.
 - (2) Except for matters directed by the mayor to the committee of the whole or to another committee, matters coming before the common council from the following citizen committees shall first go to the finance-personnel committee to the extent that such matters require standing committee review:
 - a. Board of Review
 - b. Ethics Board
 - c. Planning Commission (development agreements, land acquisitions and similar matters that involve the city’s finances)
 - (3) All bills and other financial claims against the city shall be itemized and, upon receipt, shall be examined by the treasurer and paid pursuant to the city’s financial policies after verification by the city administrator or the relevant department

head. However, no such item shall be paid prior to approval by the finance-personnel committee if it is subject to any dispute. The treasurer shall provide the itemization to the clerk, who shall in turn provide it to the finance-personnel committee for examination and ratification at its next meeting. Any disputed item shall be particularly identified on or with the itemization, and the finance-personnel committee shall provide direction to the treasurer regarding payment. To the extent the finance-personnel committee has concerns regarding any items that have been paid, it may promulgate policies for future similar payments. The mayor may require any such policy to be approved by the common council before implementation.

(b) Public safety committee.

- (1) Except as otherwise specifically delegated by this code or state law, the public safety committee shall consider matters regarding police, fire, ambulance, traffic, boating, building safety and similar matters.
- (2) Except for matters directed by the mayor to the committee of the whole or to another committee, matters coming before the common council from the following citizen committees shall first go to the public safety committee to the extent that such matters require standing committee review:
 - a. Board of Police and Fire Commissioners
 - b. Milwaukee River Advisory Committee

(c) Public welfare committee.

- (1) Except as otherwise specifically delegated by this code or state law, the public welfare committee shall consider all matters not delegated to the other standing committees, including without limitation matters regarding the committees of the city, redistricting, voting, citywide surveys, economic development, planning, health, public assistance, recreation, nuisances.
- (2) Except for matters directed by the mayor to the committee of the whole or to another committee, matters coming before the common council from the following citizen committees shall first go to the public welfare committee to the extent that such matters require committee review:
 - a. Board of Appeals
 - b. Economic Development Board
 - c. Festivals Committee
 - d. Frank L. Weyenberg Library Board of Trustees
 - e. Hiram Schmitt Fund Advisory Board
 - f. Landmarks Commission
 - g. Planning Commission (all text amendments, that are not assigned to the finance-personnel committee or the public works committee)

(d) Public works committee.

- (1) Except as otherwise specifically delegated by this code or state law, the public works committee shall consider matters involving roads, municipal buildings, parking lot and grounds maintenance, sidewalks, public lighting, stormwater, engineering and similar matters.
- (2) Except for matters directed by the mayor to the committee of the whole or to another committee, matters coming before the common council from the following citizen committees shall first go to the public works committee to the extent that such matters require standing committee review:
 - a. Architectural Board
 - b. Joint Mequon-Thiensville Bike and Pedestrian Way Commission
 - c. Mequon Nature Preserve Board of Directors
 - d. Park and Open Space Board
 - e. Planning Commission (text amendments and other matters which are primarily related to architecture, parks, public works projects and policies or trees)
 - f. Tree Board

Sec. 2-24. - Appointments to standing committees.

At the organizational meeting, the president shall nominate three aldermen to each standing committee and the required aldermanic representatives and alternate aldermanic representatives under division IX of this chapter (including the planning commission). Subsequently, any alderman may make one or more additional nominations to the standing committees. After all nominations are made, the common council shall elect by majority vote three members to each standing committee. In the event of any second or subsequent tie vote, the mayor may vote to break the tie or call for another vote. Each alderman shall serve on at least one common council standing committee. Each member shall serve as appointed unless excused by a majority vote of the common council. The mayor shall be a non-voting, *ex officio* member of all standing committees.

Sec. 2-25. - Chairs of standing committees.

- (a) The members of each standing committee, other than the finance-personnel committee, shall select a chair from among themselves at the first committee meeting following the organizational meeting.
- (b) The mayor shall chair the finance-personnel committee on an *ex officio*, non-voting basis.
- (c) In the absence or upon recusal of a standing committee's chair, the member of the standing committee with the most years of service on the common council shall serve as chair.

- (d) The chair of a standing committee shall call meetings to order at the appointed hour. The chair shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meeting in accordance with the parliamentary rules contained in Robert's Rules of Order Revised, unless otherwise provided by state law or this code. Any member shall have the right to appeal a decision of the chair. The appeal may be sustained by an affirmative vote of the members present, exclusive of the chair.

Sec. 2-26. - Vacancies.

- (a) If there is an aldermanic vacancy, the person filling the vacancy shall automatically fill the vacated member's membership in any standing committee.
- (b) In the event that two or more aldermanic vacancies leave any standing committee without sufficient members to reach a quorum, the president shall appoint interim members to the standing committee to allow the committee to conduct its business. The appointment of any such interim members shall be confirmed by the common council at its next meeting except that the lack of confirmation shall not invalidate any action taken by such interim members.
- (c) To the extent that the vacated member was the chair of a standing committee, the standing committee shall elect a new chair at the first meeting of the standing committee following the date the vacancy is filled.

Sec. 2-27. - Quorum of a standing committee.

A quorum for a standing committee shall consist of two voting members. A quorum shall be required to be present to transact business or to take any action on any agenda item on the meeting's agenda.

Sec. 2-28. - Action of a standing committee.

- (a) Unless otherwise required by law, an affirmative vote of two members of a standing committee shall constitute the action of the standing committee.
- (b) Except as specifically provided in this code, standing committees shall have no final decision-making or policy-making authority; instead, standing committees shall recommend resolutions, ordinances and policies to the common council.
- (c) Matters favorably recommended by a standing committee shall be submitted to the mayor to place on a common council agenda for consideration within two months from the standing committee's approval of a matter. The mayor may place any matter on the common council agenda that has been considered but not recommended for approval by a standing committee.

- (d) With respect to a matter referred to the common council by the planning commission, if the applicable standing committee identified in sec. 2-23 fails to make a recommendation on such matter to the council within 60 days of the planning commission action, the mayor may place the same on an agenda for the committee of the whole.

Sec. 2-29. - Meetings, agenda, minutes and recommendations.

- (a) Each standing committee shall conduct its first meeting following the organizational meeting at a time and place scheduled by, and pursuant to an agenda established by, the staff liaison to the standing committee and shall include all agenda items specified by the standing committee at its last meeting preceding the organizational meeting.
- (b) A standing committee shall conduct all other meetings at scheduled times and places called by its chair or as determined by the standing committee at a prior meeting. The chair shall establish the agenda for each such meeting after consultation with the staff liaison for the standing committee.
- (c) Any member of a standing committee may request in writing, at least five business days prior to a meeting, that an item germane to the standing committee's purpose, duties or powers be placed on an agenda. If the chair fails to place such item on the agenda for a meeting, the proposing member may, at any meeting, move the standing committee to have the item placed on the next agenda.
- (d) Written notice of a meeting of a standing committee and the agenda for such meeting shall be delivered to each committee member and filed with the clerk at least 48 hours in advance of the meeting. The notice shall be in such form as will reasonably apprise the standing committee members, the public and the press of the date, time and subject matter that is intended for consideration and action at the meeting. The clerk will post such notices on the city hall bulletin board and, to the extent possible, the building at which the meeting will be held.
- (e) Minutes of the meetings and recommendations of a standing committee, after review and approval of the standing committee, shall be submitted to the common council. The minutes shall show the vote of each member upon each question. The minutes shall also show if a member is absent or fails to vote on any question. The city clerk shall retain all such minutes.
- (f) Members shall attend meetings of a standing committee in person. No member may appear at any meeting by telephone or other electronic means.
- (g) Any member of the common council may attend any meeting of any standing committee, including any closed session, as a non-voting, ex-officio member, and shall abide by all the rules and regulations of the meeting that pertain to the regular members of the standing committee.
- (h) The chair of any standing committee, or the standing committee by majority vote, may

require any city officer to confer with it and supply information needed in connection with any matter pending before the standing committee.

Sec. 2-30 - Committee of the whole.

- (a) The committee of the whole shall consist of all members of the common council. The committee of the whole shall have the same quorum and voting requirements as meetings of the common council.
- (b) The committee of the whole shall be used for informal discussion among members of the common council.
- (c) The mayor may:
 - (1) Schedule a meeting of the committee of the whole. Such a meeting, when not part of a regular meeting of the common council, shall proceed under the rules in this code for a special meeting.
 - (2) In establishing the agenda for a regular or special meeting of the common council, schedule a meeting of a committee of the whole at any point during the meeting.
 - (3) Provided there is no objection by any alderman present, declare any portion of any meeting of the common council as a meeting of the committee of the whole.
- (d) The mayor, or the committee of the whole by majority vote, may terminate a meeting of the committee of the whole at any time.

Sec. 2-31. - Appropriations committee.

- (a) The appropriations committee shall consist of all members of the common council. The appropriations committee shall have the same quorum requirements as meetings of the common council.
- (b) The appropriations committee shall review and recommend the annual budget to the common council.
- (c) Meetings of the appropriations committee shall proceed under the rules in this code for a special meeting.
- (d) The appropriations committee and its procedures and duties are more specifically described in division 2 of article xi of this chapter.

Sec. 2-32. - Special committees.

Either the mayor by written order or the common council by motion or resolution may create special committees from time to time. The number of committee members, the purpose of

the special committee and its duties shall be stated in the order, motion or resolution. Unless a termination date is specified in the order, motion or resolution creating a special committee, the mayor may terminate a special committee at any time if created by order or the common council may terminate such a committee if created by motion or resolution. The quorum of any special committee shall be 51% of the members of the special committee. All other rules in this code that apply to standing committees shall apply to special committees.

Sec. 2-33. - Referrals to committee.

- (a) No ordinance, resolution, communication or other matter, other than appointments, shall be acted upon by the common council unless such ordinance, resolution, communication or other matter shall have been referred to the common council or reported on by one of the following:
 - (1) An appropriate common council standing committee;
 - (2) The committee of the whole;
 - (3) The appropriations committee;
 - (4) Any special committee of common council members created for that purpose under section 2-32;
 - (5) The sewer utility district commission;
 - (6) The Mequon municipal water utility commission; or
 - (7) For an ordinance or resolution creating, amending or repealing a planned unit development, transferring development rights, amending the city's official zoning map, amending the city's land use plan, or addressing similar property-specific matters, the planning commission.
- (b) The common council may, by the affirmative vote of two-thirds of the aldermen present, suspend the rule established in subsection (a) and act on a matter that has not been appropriately referred to or reported on by a committee as specified in subsection (a).
- (c) Appointments to boards, commissions and committees under article IX, and appointments to standing committees and special committees of the common council, may be acted upon without having been referred to or reported on by a committee unless otherwise specifically required elsewhere in this code. However, the common council may refer any appointment to a committee by motion duly adopted.
- (d) Unless the rule established in subsection (a) is suspended for a matter, any ordinance, resolution, communication or other matter which has not been referred to the common council or reported on by a committee as specified in subsection (a) shall be read by number, abbreviated title, author and sponsor, if any, and referred to the appropriate

committee by the mayor without motion or, if the mayor does not make such a referral, by the common council upon motion duly adopted.

Sec. 2-34. - Types of meetings and how scheduled.

- (a) Regular meetings. Regular meetings of the common council shall be held on the second Tuesday of each calendar month at 7:30 p.m. Any regular meeting falling upon a legal holiday or election day shall be held at the same time on the next day. The mayor may, with at least 14 days' prior notice to the clerk, who shall promptly notify all aldermen, move a regular meeting to the third Tuesday of the month at 7:30 p.m. if the mayor determines that there will be six or fewer aldermen at the meeting on the second Tuesday of the month or that the second Tuesday of the month conflicts with a significant national, civic or athletic event.
- (b) Special meetings. The mayor or any four aldermen may call a special meeting by providing written notice, including by electronic means, to the clerk of the date, time and purpose of the meeting. Except in an emergency, such notice shall be delivered to the clerk at least three business days prior to the proposed time for the special meeting. The clerk shall cause written notice of the special meeting to be delivered to each alderman personally or by providing notice to each alderman in a manner most likely to give each member notice of the meeting and shall send a copy by email to each alderman at his or her city email address. Notice shall be adequate if provided at least six hours before the meeting. The clerk shall cause an affidavit of service of such notice to be filed in the clerk's office prior to the time fixed for such special meeting. A special meeting may be held without such notice when all aldermen either are present in person or consent in writing to the holding of such meeting. Any such consent shall be filed with the clerk prior to the beginning of the meeting. An alderman shall be deemed to have waived any defect of notice if he or she attends the special meeting. In the absence of the clerk, a filing with, and an action by, a deputy of the clerk shall satisfy the requirements of this section. The City Clerk or designee of the City Clerk shall acknowledge receipt of the special meetings request within 24 hours of receiving the notice.
- (c) Organizational meeting. The common council shall hold an organizational meeting on the third Tuesday in April.

Sec. 2-35. - Place; Quorum; Adjournment.

- (a) Place of meetings. All common council meetings, whether regular, special or organizational, and all committee of the whole, standing committee and utility board committee meetings, shall be held in city hall. Notwithstanding the foregoing:
 - (1) A meeting held jointly with one or more bodies that govern other political entities may be held outside of city hall provided that public notice is given at least seven days in advance of such meeting.
 - (2) All or part of a meeting may be held at another location if, in the mayor's opinion, such location might assist the common council in its deliberations.

- (3) The common council may by majority vote at a prior meeting agree to hold a meeting at another location.
- (b) Quorum. No action shall be taken unless a quorum is present. A quorum shall consist of the six aldermen or, if there is one or more vacancies, two-thirds of all aldermen then holding office. The mayor or the majority of aldermen present may compel the attendance of absent members in order to obtain a quorum. Otherwise, the common council shall adjourn for failure to obtain a quorum. The mayor shall not be counted in determining whether a quorum is present. To the extent a regular meeting cannot be held due to the lack of a quorum, any meeting called to replace the missed meeting shall constitute a regular meeting.
- (c) Adjournments. The common council may, by a majority vote of the aldermen present, adjourn from time to time to a specific date and time.

Sec. 2-36. - Presiding Officer.

- (a) Mayor. The mayor shall, when present, be the presiding officer at all common council meetings, whether regular, special or organizational, and all committee of the whole meetings and appropriation committee meetings.
- (b) Absence of Mayor. In the absence of the mayor, the president shall preside over a meeting. In the absence of the mayor and the president, the following shall be the order of succession as presiding officer: the chair of the public welfare committee, the chair of the public works committee and the chair of the public safety committee.
- (c) Conduct of Meeting. The presiding officer shall call meetings to order at the appointed hour. The presiding officer shall preserve order and decorum, decide all questions of order and conduct the proceedings of the meeting in accordance with the parliamentary rules contained in Robert's Rules of Order Revised, unless otherwise provided by state law or by this code. Any member shall have the right of appeal from a decision of the presiding officer. The appeal may be sustained by a vote of the majority of the members present, exclusive of the presiding officer.
- (d) Participation by Presiding Officer. Whenever the presiding officer desires to speak upon any question, or to make any motion, he or she shall designate the alderman in the next position of succession to preside temporarily.

Sec. 2-37. - Order of business - regular meetings.

- (a) The public notice and the agenda for regular meetings of the common council shall reflect the following order of business unless, in establishing the agenda and prior to publication, the mayor opts to change, except order of business one through three, the order to accommodate significant public interest, visitors who will be participating in the meeting or for other good cause.

- (1) Call to order. The presiding officer shall at the appointed hour call the members to order.
- (2) Pledge of Allegiance.
- (3) Roll call.
- (4) Public hearings. This part of the meeting is reserved for those matters requiring a public hearing by this code or other applicable law. To the extent an ordinance has received a first reading at a prior meeting, the ordinance shall be acted upon immediately following its public hearing. Remarks of any individual shall be limited to five minutes.
- (5) Personal appearances and public comment. This part of the meeting is reserved for comments regarding any matter not on the agenda. Remarks of any individual shall be limited to five minutes.
- (6) Public officials' reports. The following may, at the mayor's option, be included at this time: reports by the mayor, proclamations by the mayor, reports by the city administrator, reports by any other city officer and reports by designated representatives of any city committee, board or commission.
- (7) Consent agenda items. Consent agenda items are items that do not include the expenditure of funds and that are, in the discretion of the mayor, routine or ministerial. Consent agenda items include without limitation the following items.
 - a. Adoption of minutes of prior common council meetings;
 - b. Acceptance of minutes from standing committees and city boards, commissions and committees;
 - c. Acceptance of reports of common council and special meetings;
 - d. Adoption of specified ordinances and resolutions that have received unanimous committee recommendation; and
 - e. First readings of ordinances.

Except for resolutions and ordinances, the presiding officer need not list items on the consent agenda but, instead, may announce that the consent agenda includes various minutes and reports. The presiding officer shall announce, before any motion, the number and abbreviated description of each ordinance and resolution included in the consent agenda. A member of the common council may cause any item on the consent agenda to be separately discussed and voted by notifying the mayor, prior to the vote on the consent agenda, that he or she requires such separate consideration. A vote on the consent agenda does not approve any

ordinance before the common council for a first reading except upon a motion to suspend the rules which is seconded and approved by two-thirds of the members present. Such a motion is not debatable and shall be decided without discussion.

- (8) Ordinances.
 - (9) Resolutions.
 - (10) Specified unfinished business from prior meetings.
 - (11) Specified new business. New business may include without limitation petitions, memorials, remonstrances and other communications not otherwise presented during the meeting.
 - (12) Adjourn.
- (b) The mayor may, in establishing the agenda, schedule extraordinary matters and meetings of a committee of the whole at any point during the meeting. Except for the foregoing, no business shall be considered out of the order established in subsection (a) except upon a motion to suspend the rules which is seconded and approved by two-thirds of the members present. Such a motion is not debatable and shall be decided without discussion.

Sec. 2-38. - Order of business - special meetings.

- (a) The public notice and the agenda for special meetings of the common council shall reflect the following order of business.
 - (1) Call to order. The presiding officer shall at the appointed hour call the members to order.
 - (2) Pledge of Allegiance.
 - (3) Roll call.
 - (4) The matters or matters for which the meeting is called.
 - (5) Adjourn.

Sec. 2-39. - Order of business - organizational meeting.

- (a) The public notice and the agenda for the organizational meeting of the common council shall reflect the following order of business.
 - (1) Call to order. The presiding officer shall at the appointed hour call the members to order.

- (2) Pledge of Allegiance.
- (3) Roll call.
- (4) Election results. The clerk shall report the results of the election of common council members.
- (5) Recognition of outgoing members.
- (6) Oath. Newly elected common council members shall take the oath of office.
- (7) Election of President. The aldermen shall elect one of their members as president of the common council. Any alderman may nominate himself or herself or nominate another alderman. No second of any such nomination shall be required. The president shall be elected by the majority vote of the aldermen present.
- (8) Nominations and election of committee members. The nominations and elections of committee members shall be administered pursuant to 2-24.
- (9) Designation of Newspaper. The aldermen shall designate the official city newspaper for legal notices by majority vote of the aldermen present.
- (10) Mayoral and aldermanic appointments. The aldermen shall confirm or deny, by majority vote of the aldermen present, mayoral and aldermanic appointments to committees under division IX of this chapter.
- (11) Other. The common council may take up any other appropriately noticed business, including any matter that could be addressed at a regular meeting.
- (12) Adjourn.

Sec. 2-40. - Agendas.

- (a) The form and content of agendas for all common council meetings, whether regular, special or organizational, and all committee of the whole, appropriations committee and utility board committee meetings, shall be approved by the mayor prior to publication.
- (b) Not less than 72 hours prior to each regular meeting the clerk shall cause to be delivered to each alderman an agenda listing the specific matters which will be considered at the meeting. All reports of committees of the common council, ordinances, resolutions, communications, claims and similar matters to be considered by the common council shall be filed with the clerk not later than 12:00 noon on the Monday of the week preceding a regular common council meeting (or the preceding Friday in the event that the Monday of the week preceding a meeting is a recognized holiday). The mayor may approve the addition to the agenda of documents or matters filed after the above cut-off day or time.

- (c) Additional items shall be placed on a regular meeting agenda if requested in writing by two aldermen prior to noon on Wednesday preceding the meeting. Such request is subject to section 2-33, and the mayor or the common council shall direct the request to a committee if appropriate.

Sec. 2-41. - Procedures for proposed ordinances and resolutions.

Proposed ordinances and resolutions shall appear separately on the common council's agenda, and the agenda shall specify the number and title of each proposed ordinance and resolution and the status, as of publication, of committee consideration. No proposed ordinance or resolution shall be considered or discussed by the common council, and no action shall be taken on any proposed ordinance or resolution, unless the ordinance or resolution is presented to the common council in writing. No action shall be taken on any proposed ordinance without it having had one reading at a previous meeting of the common council unless there has first been a motion to suspend the rules which is seconded and approved by two-thirds of the members present. Such a motion is not debatable and shall be decided without discussion.

Sec. 2-42. - Rules of procedure, reconsideration, resubmission.

The deliberations of the common council at any meeting whether regular, special or organizational, and all committee of the whole, appropriations committee and utility board committee meetings, shall be governed by the following rules:

- (a) Provided there is no objection by any alderman present, the presiding officer may at any time declare the common council a committee of the whole for informal discussion to discuss any matter before the common council. If there is an objection, the objection may be overruled by majority vote of the aldermen present.
- (b) Unless otherwise required for any group exercise, all aldermen shall remain in their allotted seats, and no conversation shall be indulged in, so that the common council may expeditiously proceed with the business before the meeting.
- (c) The parliamentary rules contained in Robert's Rules of Order Newly Revised shall govern deliberations of the common council unless otherwise specifically provided by state law or this code.
- (d) No alderman shall address the common council until he or she has been recognized by the presiding officer.
- (e) When two or more aldermen simultaneously seek recognition, the presiding officer shall name the member who is to speak first.
- (f) Except with respect to committee of the whole and appropriations committee meetings, no alderman shall speak more than twice for five minutes each time on any question without first obtaining permission from the common council. Notwithstanding the

foregoing, the presiding officer may allow a time for questions by alderman of staff.

- (g) Only the presiding officer and aldermen shall address the common council except:
 - (1) The public during any public hearing.
 - (2) City staff when recognized by the presiding officer.
 - (3) Residents during the part of the meeting reserved for personal appearances and public comment.
 - (4) With the permission of the presiding officer, residents of the city and other interested people as to matters which are being considered by the common council at the time the request to speak is made. Unless otherwise specified by the presiding officer, remarks shall be limited to five minutes.
 - (5) Others with the unanimous consent of the common council.
- (h) Any person, including any alderman, addressing the common council shall direct his or her comments to the presiding officer, confine his or her remarks to the question under discussion and avoid all discussion of personalities. Notwithstanding the foregoing, the presiding officer may allow questions of staff on any item.
- (i) No motion shall be discussed or acted upon until it has been seconded unless the rules permit one alderman to initiate action. No motion shall be withdrawn without the consent of both the person making the motion and the person seconding it.
- (j) Any alderman may require the reading in full of any matter at any time it is before the common council.
- (k) With the consent of the presiding officer, questions may be asked prior to a motion and second on a matter. Otherwise, a matter shall not be discussed until a motion is made and seconded.
- (l) When a question is under discussion, no action shall be in order except to:
 - (1) Adjourn
 - (2) Recess
 - (3) Lay on the table
 - (4) Move the previous question
 - (5) Postpone to a certain day

- (6) Refer to a committee
- (7) Amend
- (8) Postpone indefinitely

The foregoing motions shall have precedence in the order listed.

- (m) The presiding officer may put any question when discussion has ended or each alderman has discussed the question twice. Any alderman wishing to terminate the discussion may move the previous question, in which event the presiding officer shall announce the question as: "Shall the main question now be put?" If two-thirds of the aldermen present vote in the affirmative, the main question shall be taken without further discussion, its effect being to put an end to all discussion and to bring the common council to a direct vote, first upon any pending amendments and then upon the main question.
- (n) A motion to adjourn shall always be in order. A motion to adjourn, to recess, to lay on the table or to call the previous question is non-debatable and shall be decided without discussion.

Sec. 2-43. - Voting.

In addition to other specific rules regarding voting in this code, the following rules regarding voting shall apply.

- (a) *Aldermen.* Each alderman shall be a voting member of the common council, whether regular, special or organizational, the committee of the whole, the appropriations committee, the utility boards and each committee (standing, special or otherwise) of which he or she is a member.
- (b) *Mayor.* Except in the case of a tie, the mayor shall not vote at any meeting of the common council, whether regular, special or organizational, or at any meeting of the finance-personnel committee. The mayor shall be a voting member of the committee of the whole, the appropriations committee, the utility boards and any special committee of which he or she is a member.
- (c) *Presiding officer other than the mayor.* When someone other than the mayor is the presiding officer, the presiding officer may vote.
- (d) *Votes necessary for passage or approval.* Five affirmative votes, including the vote of the mayor in case of a tie, in favor of any proposed ordinance, resolution, motion, appointment or other matter shall be necessary for passage or approval unless (1) a larger number is required by state law, (2) a different number is specified by this code or (3) this code specifies that approval shall be by "majority vote of the alderman present," or some substantially similar phrase.
- (e) *Ties.*
 - (1) When the mayor votes in the case of a tie, his or her vote shall be counted in determining whether a sufficient number of members of the common council or the finance-personnel committee has voted favorably or unfavorably on any measure.
 - (2) If one or more aldermen fails or is unable to vote, whether as a result of absence, abstention or vacancy, each non-voting member shall be deemed, for purposes of this subsection only, to have voted "no" on the question, and the minutes shall reflect such status as a "deemed no" vote. The mayor may break any tie resulting from such "deemed no" votes.
 - (3) Notwithstanding the foregoing, during the vote for president or to affirm the president's nominations to committees at the organizational meeting, the mayor shall only vote in the case of a tie if the common council has voted twice and, in each instance, the vote ended in a tie.

(f) Requirement to vote; abstention.

- (1) Any person eligible to vote shall, when within the room in which a vote is to be taken at the time a question is put, give his or her vote unless it is his or her good faith belief that special circumstances compel him or her to abstain.
- (2) An alderman or the mayor shall announce his or her intention to abstain as soon as he or she determines that he or she intends to do so and shall thereafter refrain from participating in discussion on the question and shall remove himself or herself from the chambers for the duration of the discussion and the vote on the matter. Upon notifying the common council of his or her intention to abstain, the abstaining official may, but shall not be compelled to, make a brief oral statement of his or her reason for abstaining.

(g) Roll call. Any alderman may demand a roll call vote on any matter properly pending before the common council or any committee. All roll call votes shall be recorded specifying the vote of each named member in the minutes. Roll call votes shall be taken with respect to the following: adoption of any measure assessing or levying taxes, appropriating or disbursing money, or creating any liability or charge against the city of any fund of the city.

(h) Reconsideration.

- (1) An alderman voting in the majority may move for reconsideration of a vote, but only at the meeting during which the vote was taken, at the next regular meeting or at a special meeting that precedes the next regular meeting. However, no action of the common council shall be subject to a motion to reconsider after material legal rights (other than those rights granted by the common council pursuant to the vote) or obligations have arisen resulting from or by virtue of the vote. If a motion to reconsider is timely made, any rights granted by such vote shall be suspended until final action by the common council on the motion to reconsider. The confirmation of the appointment of a city official shall not be subject to a motion to reconsider. A motion to reconsider that has been made and lost shall not be renewed.
- (2) No measure that has been introduced and lost by final action may be introduced again until the lapse of at least three months from the date of its consideration unless there has been a material change in the measure or an intervening event that changes the circumstances originally considered.

Sec. 2-44. - Clerk, duties.

The city clerk shall, in addition to the duties prescribed by state law, furnish the chairs of committees and other city officers with the resolutions and other matters that may be referred to them and to perform all other clerical duties as the common council may require.

Sec. 2-45. - Minutes of meetings.

With the agenda for each regular meeting of the common council, the city clerk shall, to the extent reasonably possible, supply to each alderman a typewritten copy of the proceedings of the previous meeting. By majority vote of the aldermen present, the common council may require the reading of the minutes at the ensuing meeting.

Sec. 2-46. - Suspension of rules.

Except to the extent mandated by state law, all or any part of this article may be temporarily suspended in connection with any matter under consideration by a motion to suspend the rules which is seconded and approved by two-thirds of the members present. Such a motion is not debatable and shall be decided without discussion.

Sec. 2-47. - Amendments.

The affirmative vote of six aldermen shall be required to amend all or any part of this article.

Secs. 2-48-2-60. - Reserved.

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: August 10, 2021

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk

Published: _____

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ARTICLE II. - COMMON COUNCIL^[2]

Footnotes:

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State Law reference— Common council, Wis. Stats. § 62.11.

Sec. 2-19. - Meetings, adjournments, quorum.

- (a) *Regular meetings.* Regular meetings of the common council shall be held on the 2nd Tuesday of each calendar month, at the hour of 7:30 p.m. Any regular meeting falling upon a legal holiday or election day shall be held on the next following secular day at the same hour and place. All meetings of the common council shall be held in the city hall, including special and adjourned meetings.
- (b) *Special meetings.* Special meetings may be called by the mayor or any four aldermen upon written notice of the time and purpose thereof delivered to each personally or left at his usual place of abode at least six hours before the meeting. The clerk shall cause an affidavit of service of such notice to be filed in his office prior to the time fixed for such special meeting. A special meeting may be held without such notice when all aldermen are present in person, or consent in writing to the holding of such meeting. If written consent is obtained, it shall be filed with the clerk prior to the beginning of the meeting. Attendance by any alderman shall be deemed a waiver on his part of any defect of notice. Any special meeting attended by all aldermen shall be a regular meeting for the transaction of any business that may come before such meeting.
- (c) *Adjournments.* The council may, by a majority of vote of those present, but not less than three affirmative votes, adjourn from time to time to a specific date and hour.
- (d) *Quorum, what constitutes compelling attendance.* No action shall be taken unless a quorum is present, which shall consist of two-thirds of the aldermen of the council. A lesser number may compel the attendance of absent members or may adjourn. The mayor shall not be counted in determining whether a quorum is present at a meeting.

(Code 1957, § 1.01(4); Ord. No. 67-124, 9-5-1967; Ord. No. 76-380, 12-7-1976; Ord. No. 84-563, 9-18-1984)

State Law reference— Council meetings, Wis. Stats. § 62.11(2).

Sec. 2-20. - Agenda and order of business.

- (a) The public notice and the agenda for regular meetings of the common council shall reflect the following order of business before the common council.
 - (1) The presiding officer shall at the hour appointed call the members to order.
 - (2) Pledge of Allegiance.
 - (3) Roll call. No action shall be taken unless a quorum is present which shall consist of two-thirds of the aldermen of the council. A lesser number may compel the attendance of absent members or adjournment.
 - (4) Public hearings.
 - (5) Personal appearances and public comment.
 - (6) Receipt of reports of boards, commissions and city officers.
 - (7) Public officials' reports.
 - (8) Consent agenda for items considered routine, which shall include, but not necessarily be limited to the items listed below; provided however, that a member of the common council may specify any question, which shall then be separately debated and voted.
 - a. Adoption of common council minutes of the preceding meeting;

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- b. Reports of common council and special meetings;
 - c. First readings of all ordinances which shall be listed by number and title reflecting the subject matter, and referral to committee of jurisdiction if necessary;
 - d. Adoption of specified ordinances and resolutions, which have received unanimous committee recommendation.
- (9) Ordinances which may be considered, debated and acted upon.
 - (10) Resolutions may be introduced and referred to committee, or considered and acted upon.
 - (11) Specified unfinished business from previous meetings.
 - (12) Presentation of petitions, memorials, remonstrances and communications.
 - (13) Specified miscellaneous (including new) business.
 - (14) Adjournment.
- (b) No business shall be considered out of the order established in subsection (a) of this section except by the concurrence of two-thirds of the members present, without debate.

(Code 1957, § 1.02; Ord. No. 76-374, 7-20-1976; Ord. No. 2010-1319, § I, 5-11-2010)

Sec. 2-21. - Mayor to preside.

If the mayor at the stated hour shall call the meeting to order. He shall preserve order and decorum, decided all questions of order and conduct the proceedings of the meeting in accordance with the parliamentary rules contained in Robert's Rules of Order revised, unless otherwise provided by Wisconsin Statute or by these rules. Any member shall have the right of appeal from a decision of the presiding officer. The appeal may be sustained by a majority of the members present, exclusive of the presiding officer.

(Code 1957, § 1.03)

Sec. 2-22. - President of council.

If the mayor is absent at the designated time of any meeting, the president of the council shall preside, and during the absence or inability of the mayor shall have the powers and duties of the mayor, excepting that he or she shall not have the power to approve an act of the council which the mayor has disapproved by filing an objection with the clerk. He or she shall, when so officiating, be styled "acting mayor." The president shall be selected by a majority vote of all members of the council at the annual meeting on the 3rd Tuesday of April.

(Code 1957, § 1.04; Ord. No. 2010-1311, § I, 4-13-2010)

Sec. 2-23. - Absence of presiding officer.

In the absence of both the mayor and the president of the council, the following shall be the order of succession as presiding officer: the chair of the committee on public welfare, the chair of the committee on public works, and the chair of the committee on public safety.

(Code 1957, § 1.05; Ord. No. 69-192, 11-18-1969; Ord. No. 2010-1311, § I, 4-13-2010)

Sec. 2-24. - Vacation of chair.

Whenever the presiding officer shall desire to speak upon any question, or to make any motion, he shall vacate the chair and designate the president of the council, if present, and if not, any alderman, to preside temporarily.

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(Code 1957, § 1.06)

Sec. 2-25. - Committees.

- (a) The common council acting as a committee of the whole shall annually at the common council organizational meeting in April nominate and elect by a majority vote the following standing committees:
 - (1) Finance-personnel committee (including licenses);
 - (2) Public works committee (including streets, sewers, lighting, water, etc.);
 - (3) Public safety committee (including police, fire, traffic, boating, building regulations, etc.);
 - (4) Public welfare committee (including health, public assistance, recreation, nuisances, etc.).
- (b) Each committee shall consist of three aldermanic members, who shall select their chair from among them except the committee on finance-personnel, which shall be chaired by the mayor on an ex officio, non-voting basis. The mayor shall further be a non-voting, ex officio member of all other standing committees. Each member shall serve as appointed unless excused by a majority vote of the common council. All aldermen shall serve on at least one standing committee.
- (c) Special committees may be created from time to time either by the mayor or by motion or resolution. In any case, the number of committee members, the purpose of the committee and its duties shall be stated.
- (d) Any alderman may attend any regular or executive meeting of any subsidiary committee or commission of the council as a non-voting, ex-officio member, and shall abide by all the rules or regulations of the meetings as pertain to the regular members of the committee or commission.
- (e) Each committee shall at the next regular meeting submit written minutes to the common council after reviewing and approving such minutes, and such minutes shall be entered in the proceedings. Such report shall recommend a definite action by the council on each item; and be filed with the clerk prior to each meeting. Minority reports may be submitted.
- (f) Previous notice of each committee meeting shall be filed with the clerk by the chair and each meeting shall be open to the public. The clerk will post notice of such meetings on the city hall bulletin board.
- (g) Any committee may require any city officer to confer with it and supply information needed in connection with any matter pending before the committee.

(Code 1957, § 1.07; Ord. No. 96-896, 12-10-1996; Ord. No. 2010-1311, § I, 4-13-2010)

Sec. 2-26. - Referrals to committee.

- (a) No ordinance, resolution, communication or other matter, other than appointments as described below, shall be acted upon by the council unless such ordinance, resolution, communication or other matter shall have been referred to the council or reported on by one of the following:
 - (1) An appropriate standing committee;
 - (2) The committee of the whole;
 - (3) The appropriations committee;
 - (4) Any special committee of council members created for that purpose under section 2-25(c); or
 - (5) For ordinances repealing, creating or amending, planned unit developments or transferring development rights, amending the city's official zoning map, amending the city's land use plan, and resolutions, approving development agreements, final plats and similar property-specific matters, the planning commission.

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- (b) The council may, by the affirmative vote of two-thirds (2/3) of the aldermen present, suspend the rule established in subsection (a) and act on a matter that has not been appropriately referred to or reported on by a committee as specified in subsection (a).
- (c) Appointments to boards and commissions may be acted upon without having been referred to or reported on by a committee unless otherwise specifically required elsewhere in these sections. However, the council may refer any appointment to a committee by motion duly adopted.
- (d) Unless the rule established in subsection (a) is suspended for a matter, any ordinance, resolution, communication or other matter which has not been referred to the council or reported on by a committee as specified in subsection (a) shall be read by number, title, author and sponsor, if any, and referred to the appropriate committee by the mayor without motion or, if the mayor does not make such a referral, by the council upon motion duly adopted. The clerk shall read and record each such reference by title and by noting the person(s) or body submitting, presenting or sponsoring the matter referred.
- (e) Any alderman may require the reading in full of any matter at any time it is before the council.

(Code 1957, § 1.08; Ord. No. 93-787, 8-3-1993; Ord. No. 2008-1246, § I, 8-12-2008)

Sec. 2-27. - Bills and claims.

All bills and other financial claims against the city shall be itemized and, upon receipt, shall be examined by the treasurer and referred by the clerk to the finance-personnel committee for examination and approval at its next meeting; provided, however, that payment of regular wages and salaries of officials and employees according to schedules adopted by the council shall be made by the treasurer prior to approval by the finance-personnel committee after verification by the city administrator or the relevant department head.

(Code 1957, § 1.09; Ord. No. 2008-1248, § I, 5-13-2008)

Sec. 2-28. - Committee reports.

- (a) An aye and no vote shall be taken on each committee report at the next regular council meeting following its submission, provided that nothing herein shall be construed to eliminate the requirement that separate council action be taken on any proposed ordinance or resolution reported out of committee. Any alderman may require a separate vote on any other matter reported out of committee. Action by the council upon a specific matter included in any committee report shall be deferred until its next regular meeting following the council meeting at which the report is received upon the request of any two aldermen.
- (b) Except as otherwise provided in this Code, the approval of a committee report in which the adoption of a matter is recommended shall comprise final action on such matter.

(Code 1957, § 1.10; Ord. No. 93-787, 8-3-1993)

Sec. 2-29. - Procedures for proposed ordinances and resolutions.

Proposed ordinances and resolutions shall appear separately on the council's agenda, and the agenda shall specify the number, title, author and sponsor, if any, of each proposed ordinance and resolution. No proposed ordinance or resolution shall be considered, debated or discussed by the council, and no action shall be taken on any proposed ordinance or resolution, unless the ordinance or resolution is presented to the council in writing. No proposed ordinance shall be considered, debated or discussed by the council, and no action shall be taken on any proposed ordinance, without it having had one reading at a previous meeting of the council, unless debate and discussion shall occur or action shall be taken on the proposed ordinance pursuant to a motion temporarily suspending the rules.

(Code 1957, § 1.11; Ord. No. 93-787, 8-3-1993; Ord. No. 2008-1247, § I, 5-13-2008)

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Sec. 2-30. - Rules of procedure, reconsideration, resubmission.

(a) The deliberations of the council shall be conducted in the following manner:

- (1) Provided there is no objection by any alderman present, the mayor may declare the entire council a committee of the whole for informal discussion at any meeting or for any purpose, and shall ex officio be chairman of the same.
- (2) During the meetings of the council all aldermen shall remain in their allotted seats, and no conversation shall be indulged in, so that the council may expeditiously proceed with the business before the meeting.
- (3) The parliamentary rules contained in Robert's Rules of Order revised shall govern deliberations of the council unless otherwise specifically provided by Wisconsin Statute or these rules.
- (4) No alderman shall address the council until he has been recognized by the presiding officer. He shall thereupon address himself to the presiding officer and confine his remarks to the question under discussion and avoid all personalities.
- (5) When two or more aldermen simultaneously seek recognition, the presiding officer shall name the member who is to speak first.
- (6) No person other than the mayor and an alderman shall address the council, except with the unanimous consent of the council, except that citizens may address the council with the permission of the presiding officer as to matters which are being considered by the council at the time the request to speak is made.
- (7) No motion shall be discussed or acted upon until it has been seconded unless the rules permit one alderman to initiate action. No motion shall be withdrawn or amended without the consent of the person making the same and the person seconding it.
- (8) No alderman shall speak more than twice and not to exceed five minutes each time on any question without first obtaining permission from the council.
- (9) When a question is under discussion, no action shall be in order except to:
 - a. Adjourn
 - b. Recess
 - c. Lay on the table
 - d. Move the previous question
 - e. Postpone to a certain day
 - f. Refer to a committee
 - g. Amend
 - h. Postpone indefinitely

The foregoing motions shall have precedence in the order listed.

- (10) Any alderman wishing to terminate the debate may move the previous question, in which event the presiding officer shall announce the question as: "Shall the main question now be put?" If two-thirds of the aldermen present vote in the affirmative, the main question shall be taken without further debate, its effect being to put an end to all debate and to bring the council to a direct vote, first upon any pending amendments and then upon the main question.
- (11) Every alderman when within the bar of the council chamber at the time a question is put shall give his vote unless it is his good faith belief that special circumstances compel his abstention on the question. Such alderman shall announce his intention to abstain as soon as he shall determine that he intends to do so, and shall thereafter refrain from participation in debate on the question. Upon advising of his intention to abstain from voting, such alderman may, but shall not be compelled to, make a brief oral statement of the reason for his abstention.

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- (12) Any alderman may demand a roll call aye and no vote on any matter properly pending a vote before the common council. All roll call votes shall be recorded specifying the vote of each named member in the journal of minutes. Roll call votes shall be taken with respect to the following: adoption of any measure assessing or levying taxes, appropriating or disbursing money, or creating any liability or charge against the city of any fund thereof and on all ordinances. No alderman may change his vote on any question after the result of a vote thereon has been announced.
- (13) The mayor shall not vote except in case of a tie. When the mayor does vote in the case of a tie, his vote shall be counted in determining whether a sufficient number of the council has voted favorably or unfavorably on any measure.
- (14) A majority vote of all the common council, including the vote of the mayor in case of a tie, in favor of any proposed ordinance, resolution, appointment, or other matter, shall be necessary for passage or approval unless a larger number is required by the Wisconsin Statutes or by specific reference in these codes of ordinances. Notwithstanding, in the case in which an abstention or absence of an aldermanic member of the common council results in a four to three aldermanic vote, the absent or abstaining member shall be deemed, for purposes of this subsection only, to have voted "no" on the question, and the minutes shall reflect such status as a "deemed" vote.
- (15) A motion to adjourn shall always be in order and a motion to adjourn, to recess, to lay on the table and a call for the previous question shall be decided without debate.
- (b) It shall be in order for any alderman voting in the majority to move for a reconsideration of the vote on a question at the meeting during which the vote was taken or at the next succeeding regular meeting, but not otherwise. However, no ordinance may be subject to a motion to reconsider once published and effective pursuant to the provisions of Wis. Stats. § 62.11(4)(a), nor may action of the council be subject to a motion to reconsider after such time as legal rights and obligation have arisen resulting from or by virtue of the action. The confirmation of the appointment of city officials shall not be subject to a motion to reconsider. A motion to reconsider being put and lost shall not be renewed.
- (c) Whenever any measure shall be introduced for the consideration of the council and failed of adoption and passage, such measure (unless substantially changed) shall not be introduced again until the lapse of at least three months from the date of its last preceding consideration.

(Code 1957, § 1.12; Ord. No. 95-864, 2-13-1996; Ord. No. 96-875, 5-14-1996; Ord. No. 97-916, 4-8-1997; Ord. No. 98-961, 12-8-1998; Ord. No. 2006-1194, § I, 11-14-2006)

Sec. 2-31. - Appropriations and charges.

All ordinances or resolutions appropriating money or creating any charge against the city other than the payment of claims for purchases or work previously authorized by the council shall only be acted upon by the council at the next regular meeting, provided that this provision may be suspended by affirmative action by two-thirds of all members of the council.

(Code 1957, § 1.13)

Sec. 2-32. - Clerk, duties.

It shall be the duty of the clerk of this council, in addition to the duties prescribed by the Wisconsin Statutes, to furnish the chairmen of committees and other city officers with the resolutions and other matters that may be referred to them, and to perform all such other clerical duties as may be required by this council.

(Code 1957, § 1.15)

Sec. 2-33. - Agenda.

Current Ordinance

- (a) Not less than 72 hours prior to each regular meeting the clerk shall cause to be delivered to each alderman an agenda listing the specific matters which will be considered at the meeting. All reports of the committees of the common council, ordinances, resolutions, communications, claims and similar matters to be considered by the common council shall be filed with the city clerk not later than 12:00 noon, on the Monday of the week preceding a regular common council meeting (or the preceding Friday in the event that the Monday of the week preceding a meeting of the common council is a recognized holiday). Documents or matters filed after the above cut-off date should be submitted to the mayor for his approval to be added to the agenda.
- (b) Additional items shall be placed on the agenda if requested in writing by two aldermen prior to noon on Wednesday preceding the meeting. Such request is subject to section 2-26, and the common council shall direct the request to a committee if appropriate.

(Code 1957, § 1.17; Ord. No. 76-374, 7-20-1976; Ord. No. 2016-1485, § I, 1-10-2017)

Sec. 2-34. - Minutes of meetings.

With the agenda for each regular meeting of the common council the city clerk shall supply to each alderman at their residence a type written copy of the proceedings of the previous meetings thereof. By majority action of those present the council may require the reading of the minutes at the ensuing meeting.

(Code 1957, § 1.18; Ord. No. 97-925, 10-14-1997)

Sec. 2-35. - Suspension of rules.

Except to the extent mandated by state law, this article or any part thereof may be temporarily suspended in connection with any matter under consideration by a recorded vote of a two-thirds majority of all aldermen.

(Code 1957, § 1.19; Ord. No. 67-118, 7-18-1967; Ord. No. 93-787, 8-3-1993)

Sec. 2-36. - Amendments.

The assent of two-thirds of all the aldermen shall be required to amend this article or any part thereof.

(Code 1957, § 1.20)

Secs. 2-37—2-60. - Reserved.



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

www.ci.mequon.wi.us

Office of Public Works

TO: Common Council
FROM: Kristen Lundeen, Director of Public Works/City Engineer
DATE: August 10, 2021
SUBJECT: RESOLUTION 3871 A Resolution Approving a State/Municipal Maintenance Agreement (SMMA) and Three State/Municipal Financial Agreements (SMFA) for a State-Let Highway Project with the Wisconsin Department of Transportation for the County Line Road and Mequon Road Interchanges

Background

The I-43 North/South Corridor project that the Wisconsin Department of Transportation (WisDOT) will undertake, including the widening of the mainline through the corridor to three lanes and reconstruction of multiple interchanges, will appear to travelers as a singular project. However, WisDOT has the project broken down into multiple bidding packages, each with its own set of plans and agreements.

The City of Mequon and WisDOT have already entered into agreements for the Highland Road interchange, and the Sewer and Water Utility for water main relocation and sanitary manhole adjustments. In addition to those agreements, WisDOT is requesting approval of:

- A State/Municipal Maintenance Agreement (SMMA) for the sidewalk installed as a part of the project
- A State/Municipal Financial Agreement (SMFA) for the sanitary sewer work associated with the County Line Road Interchange project
- A SMFA for the water main work associated with the County Line Road Interchange project
- A SMFA for the sanitary sewer work associated with the Mequon Road Interchange project

Analysis

State/Municipal Maintenance Agreement (SMMA) Sidewalk

The SMMA for the sidewalk installed as a part of the project obligates the City of Mequon to maintain the sidewalk installed as a part of the project. WisDOT does not maintain sidewalks and assigns maintenance responsibility to the local jurisdiction, as the City of Mequon is required to on Mequon Road. Similarly, Ozaukee County does not maintain sidewalks and assigns maintenance responsibility to the local municipality, as the City of Mequon is required to on Port Washington Road.

The I-43 project proposes installation of sidewalks on Port Washington Road, County Line

Road, Mequon Road, Highland Road and the bridge on Donges Bay Road (see the attached exhibit to the agreement). The Joint Mequon-Thiensville Pedestrian and Bikeway Commission previously requested that Ozaukee County install pedestrian/bicycle facilities between Port Lane and County Line Road, as included in the proposed project.

Under the SMMA, the City of Mequon would accept responsibility for snow removal and maintenance, up to and including replacement when required. While the sidewalk provides for pedestrian and bicycle connectivity, it would significantly impact the snow removal operations for the City. If approved, staff will follow with a sidewalk snow removal policy discussion to address the impact on operations. The policy discussion could consider assigning snow removal responsibility to adjacent property owners, adjusting the City's response time to meet current equipment, personnel and operational capabilities, or increasing equipment and/or personnel to meet the needs of the additional infrastructure.

In addition, the City will accept responsibility for maintenance and repair of the sidewalk. The City's operation and maintenance budgets include limited funding for sidewalk shaving (the process of grinding down the trip hazards typically created by the freeze/thaw cycle), mudjacking (the process of lifting sections of sidewalk that have settled) and replacement. Addition of sidewalk will require adequate funding to maintain in the long term.

Alternatively, if the City decides not to enter into the SMMA with WisDOT, the sidewalk would be removed from the project and not installed as a result.

State/Municipal Financial Agreement (SMFA) - Sanitary Sewer

The two SMFAs for the Sewer Utility cover sanitary sewer work that will be completed under the WisDOT projects at County Line Road and Mequon Road. This is work that cannot be completed prior to the project by the Sewer Utility. According to the SMFA, the Municipality will be billed for work completed which is not chargeable to federal/state funds.

State/Municipal Financial Agreement (SMFA) - Water

Likewise, the SMFA for the Water Utility covers water main work that will be completed under the WisDOT project at County Line Road. This is work that cannot be completed prior to the project by the Water Utility. According to the SMFA, the Municipality will be billed for work completed which is not chargeable to federal/state funds.

Fiscal Impact

The SMMA for sidewalks will increase operation and maintenance costs for the Department of Public Works. As indicated and if approved, City staff will follow with a policy discussion which will determine the extent of the fiscal impact. The policy will determine whether the level of service will be adjusted to meet current financial constraints, or whether additional funding will be provided to cover the additional demand on equipment and personnel as a result of the sidewalk installation.

The SMFAs have the following fiscal impacts:

- County Line Road - Sewer Utility: \$3,050
- County Line Road - Water Utility: \$5,850

- Mequon Road - Sewer Utility: \$150

Recommendation

Staff recommends that the Sewer Utility District Commission review and approve the resolution authorizing the two SMFAs for the sanitary sewer work associated with the County Line Road and Mequon Road Interchange projects.

Staff further recommends that the Water Utility District Commission review and approve the SMFA for the water utility work associated with the County Line Road Interchange project.

Staff further recommends that the Public Works Committee and Common Council review the obligations of the City as included in the SMMA, determine whether to accept the impact on operations pending a policy review of sidewalk snow removal, and take the corresponding action on the resolution authorizing the SMMA.

Should the Public Works Committee or the Common Council determine that the City is not willing to accept maintenance responsibility for any new sidewalk, it should make a recommendation to amend the resolution to deny the SMMA. Alternatively, it could conditionally approve the SMMA pending amendments to remove specific sections of sidewalk, if not all of the proposed sections are acceptable.

Attachments:

SMMA Sidewalk (PDF)

SMFA: Sanitary - County Line Interchange (PDF)

SMFA: Sanitary - Mequon Rd Interchange (PDF)

SMFA: Water - County Line Interchange (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3871

A Resolution Approving a State/Municipal Maintenance Agreement (SMMA) and Three State/Municipal Financial Agreements (SMFA) for a State-Let Highway Project with the Wisconsin Department of Transportation for the County Line Road and Mequon Road Interchanges

RECITALS

A. The Wisconsin Department of Transportation (WisDOT) is planning to reconstruct the Interstate 43 corridor from 4 lanes to 6 lanes, which includes construction to change roadway profiles at Highland Road, Donges Bay Road, County Line Road and Port Washington Road.

B. WisDOT has several packages for bidding, each with a unique project number, resulting in the requirement for individual agreements per project number.

C. WisDOT will include adjustments to the City of Mequon sanitary sewer system as a part of the County Line Road and Mequon Road Interchange projects at a total financial obligation of \$3,200, which will be funded by the Gravity Sewer capital account.

D. WisDOT will include adjustments to the Mequon Water Utility infrastructure as a part of the County Line Road project at a total financial obligation of \$5,850, which will be funded by the Buried Utility capital account.

E. WisDOT is requesting approval of an agreement obligating the City to the long-term maintenance of the sidewalk, including snow removal and maintenance and repair of the concrete. Acceptance of the agreement will require a policy discussion to determine how to incorporate the obligations into City operations and budget.

F. The Sewer Utility District Commission approved entering into two State/Municipal Financial Agreements to include Sanitary Utility Work as part of the WisDOT I-43 project at its meeting on August 10, 2021.

G. The Mequon Municipal Water Utility Commission approved entering into a State/Municipal Financial Agreement to include Water Utility Work as a part of the WisDOT I-43 project at its meeting on August 10, 2021.

H. The Public Works Committee approved entering into a State/Municipal Maintenance Agreement for sidewalks installed as a part of the project, subject to a policy discussion on sidewalk snow removal, at its meeting on August 10, 2021.

BASED UPON THE FOREGOING RECITALS, IT IS RESOLVED by the Mequon Municipal Water Utility Commission and Common Council of the City of Mequon, Wisconsin that:

1. Staff is authorized to enter into State/Municipal Maintenance Agreement for sidewalk maintenance, subject to a policy discussion on sidewalk snow removal, subject to any clerical, technical and/or legal changes deemed necessary and appropriate by the City Attorney.
2. Staff is authorized to enter into State/Municipal Funding Agreements to adjust sanitary sewer facilities for the freeway expansion project, subject to any clerical, technical and/or legal changes deemed necessary and appropriate by the City Attorney.
3. Staff is authorized to enter into a State/Municipal Funding Agreement to adjust water facilities for the freeway expansion project, subject to any clerical, technical and/or legal changes deemed necessary and appropriate by the City Attorney.
4. The Director of Public Works/City Engineer, Mayor and the City Clerk are authorized and directed to execute and deliver the same.

Approved by: John Wirth, Mayor

Date Approved: August 10, 2021

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk

 STATE/MUNICIPAL MAINTENANCE AGREEMENT	Date: July 28, 2021 ID: 1229-04-74, 1229-04-75, 1229-04-76 Road Name: IH 43 Limits: W County Line Rd Interchange to STH 60 County: Milwaukee
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The signatory City of **Mequon**, hereinafter called the Municipality, through its undersigned duly authorized officers or officials, hereby requests the State of Wisconsin Department of Transportation, hereinafter called the State, to initiate and affect this agreement to include the associated maintenance responsibilities hereinafter described.

The authority for the Municipality to enter into this agreement with the State is provided by Section 84.07(1) of the Statutes. Wisconsin statutes, Wisconsin Administrative Code, and State policy serve as the defining documents for State Highway maintenance responsibilities.

DESCRIPTION OF FACILITY:

Facility description upon completion of State project – As determined by project ID 1229-04-74, 1229-04-75, 1229-04-76

Facility description upon signature – The proposed roadway improvement is a reconstruction of IH 43 and surrounding roadways.

This request shall constitute agreement between the Municipality and the State; is subject to the terms and conditions that follow (pages [2] – [4]); is made by the undersigned under proper authority to make such request for the designated Municipality and upon signature by the State, delivery to the Municipality and upon fully executed signature of associated, applicable State Municipal Financial Agreement for project 1229-04-74, 1229-04-75 & 1229-04-76. The initiation and signature of the agreement will be subject to all the applicable federal and state regulations. No term or provision of neither the State/Municipal Maintenance Agreement nor any of its attachments may be changed, waived or terminated orally but only by an instrument in writing executed by both parties to the State/Municipal Maintenance Agreement.

Signed for and in behalf of the City of Mequon (Please sign in blue ink)	
Name (print)	Title
Signature	Date
Signed for and in behalf of the State (Please sign in blue ink)	
Name Brian Roper	Title WisDOT SE Region Maintenance Chief
Signature	Date

TERMS AND CONDITIONS:

1. In order to guarantee the Municipality's foregoing agreements to maintain the facility to State standards, the Municipality, through its above duly authorized officers or officials, agrees and authorizes the State to set off and withhold General Transportation Aids or monies otherwise due and payable by the State to the municipality, as determined by the State, for any maintenance the State must perform to the facility should the Municipality fail to comply with the agreement.
2. The State will not install any additional items, not necessitated for the safe and efficient flow of traffic, to a state highway facility without the Municipality agreeing to maintain those items. The State is responsible for maintaining the through travel way of any given highway facility under the State's jurisdiction including:
 - (a) The energy, operation, repair and replacement of traffic signals and associated street lighting required for the signalized intersections within the limits of this agreement for:
 1. Signalized intersections at County Line Rd/Port Washington Rd Interchange, Mequon Rd Interchange, CTH C (Pioneer Rd) interchange, STH 60 Interchange.
 - (b) Signing and pavement marking necessitated for the safe and efficient flow of traffic except those items listed in #3.
 - (c) Permitting authority of utilities and access control on all State Trunk, US and Interstate Highways.
3. The Municipality shall at its own cost and expense maintain all portions within the specified limits of this agreement that lie within its jurisdiction for such maintenance through statutory requirements in a manner satisfactory to the State and shall make ample provision for such maintenance each year to include:
 - (a) Maintain all items outside, and under, the travel way to include, but not limited to, parking lanes, curb and gutter, drainage facilities, sidewalks, multi-use paths, retaining walls, pedestrian refuge islands and landscaping features.
 - (b) Remove snow and ice from sidewalks, multi-use paths, and pedestrian refuge islands along N Port Washington Road, N Port Washington Ln, W County Line Rd, N. Katherine Dr, Donges Bay Rd, Mequon Rd (including on and off ramps at IH 43), and Highland Rd. Reference Attachment 1 appended to this document for sidewalk locations and Attachment 2 letter from Ozaukee County appended to this document for N Port Washington Rd.
 - (c) Implement a street sweeping program to help prevent the accumulation of dirt, sand, leaves, paper, or other clogging debris.
 - (d) Maintain and accept responsibility for the energy, operation, maintenance, repair, and replacement of the street lighting system along N Port Washington Road.
 - i. The Municipality shall accept responsibility for locating utilities for Digger's Hotline.
 - ii. If at any time the Municipality should choose to turn off or remove street lighting, in part or in whole, funded with federal/state dollars, the State will determine potential conflicts and approve/disapprove such request. If removal is approved by the State, the Municipality will reimburse to the State an amount determined by Federal and State coordination.
 - (e) Maintain clear right-of-way of all encroachments.
 - (f) Maintain crosswalk pavement markings. The municipality shall obtain a permit with the State (contact Traffic Operations Unit (signing and marking)).
 - (g) Maintain signs and pavement markings not necessary for the safe and efficient movement of traffic (no parking signs, wayfinding signs, etc.). The municipality shall obtain a permit with the State (contact Traffic Operations Unit (signing and marking)).
 - (h) Maintain and accept responsibility for the following as applicable to this agreement:

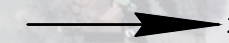
1. Water utilities underneath and adjacent to N Port Washington Rd, N Port Washington Ln, N Katherine Dr and Highland Rd.
 2. Sanitary Sewer underneath and adjacent to County Line Rd, N Port Washington Ln, N Port Washington Rd, Donges Bay Rd, Mequon Rd and Highland Rd.
4. The Municipality, within the specified limits, agrees to:
- (a) Prohibit angle parking along Mequon Rd (STH 167/STH57).
 - (b) Regulate parking along the highway. The Municipality will file a parking declaration with the State.
 - (c) The Municipality will coordinate with the State to obtain any necessary Work on Right-of-Way Permits for maintenance performed on or within the state highway facility or state right-of-way.
5. This agreement does not remove the current municipal maintenance responsibility.
6. The State or Municipality may request an amendment to this agreement to include specific features later requested by the Municipality throughout the design process.
7. Upon completion of each construction project, 1229-04-74, 1229-04-75 and 1229-04-76 the Municipality will assume all afore mentioned maintenance responsibilities.

VILLAGE OF BAYSIDE
PROJECT ID 1229-04-74

CITY OF MEQUON
PROJECT ID 1229-04-74

CITY OF MEQUON
PROJECT ID 1229-04-74

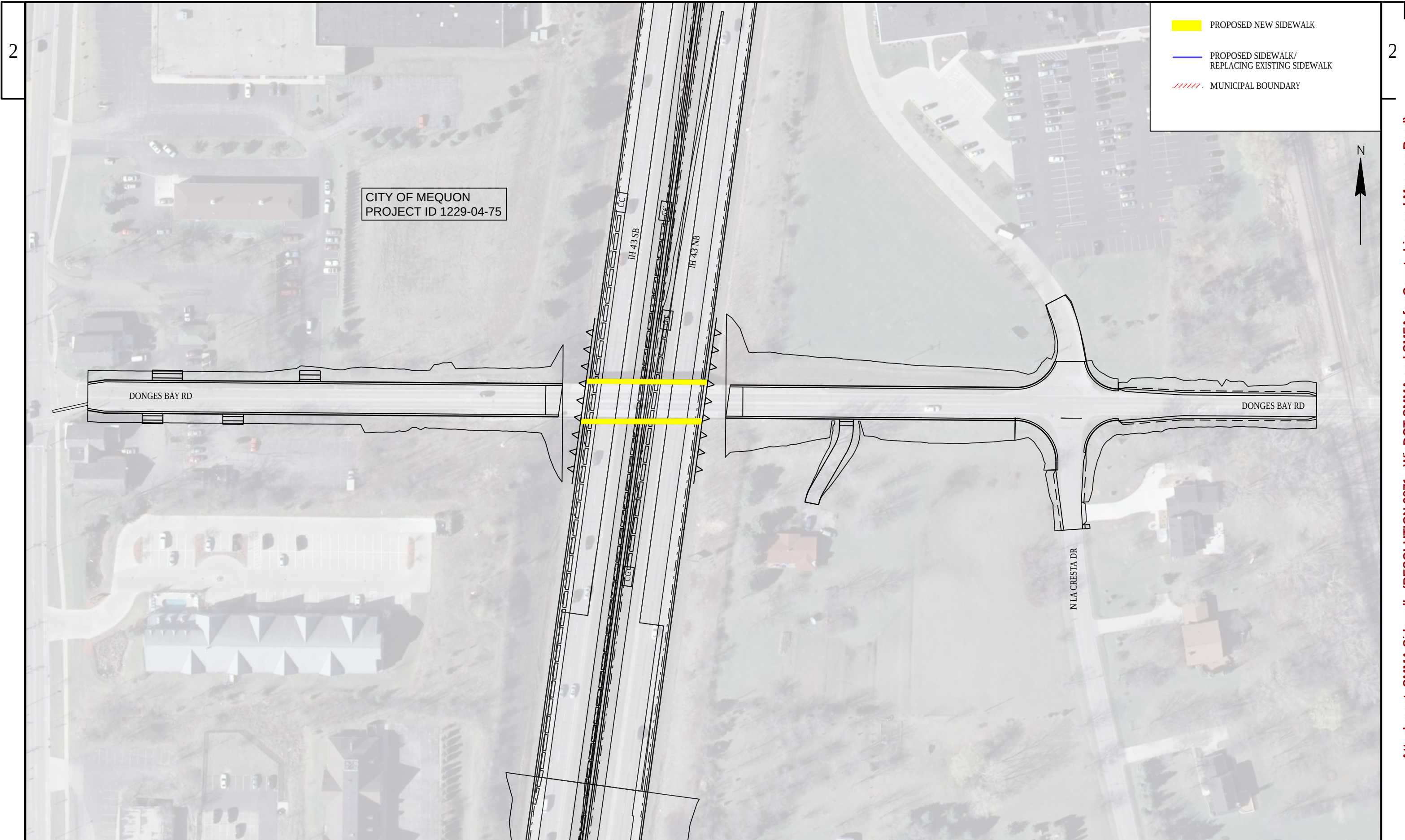
-  PROPOSED NEW SIDEWALK
 PROPOSED SIDEWALK/
REPLACING EXISTING SIDEWALK
 MUNICIPAL BOUNDARY
 EXISTING SIDEWALK



Attachment: SMMA Sidewalk (RESOLUTION 3871 : WisDOT SMMA and SMFA for County Line and Mequon Road)

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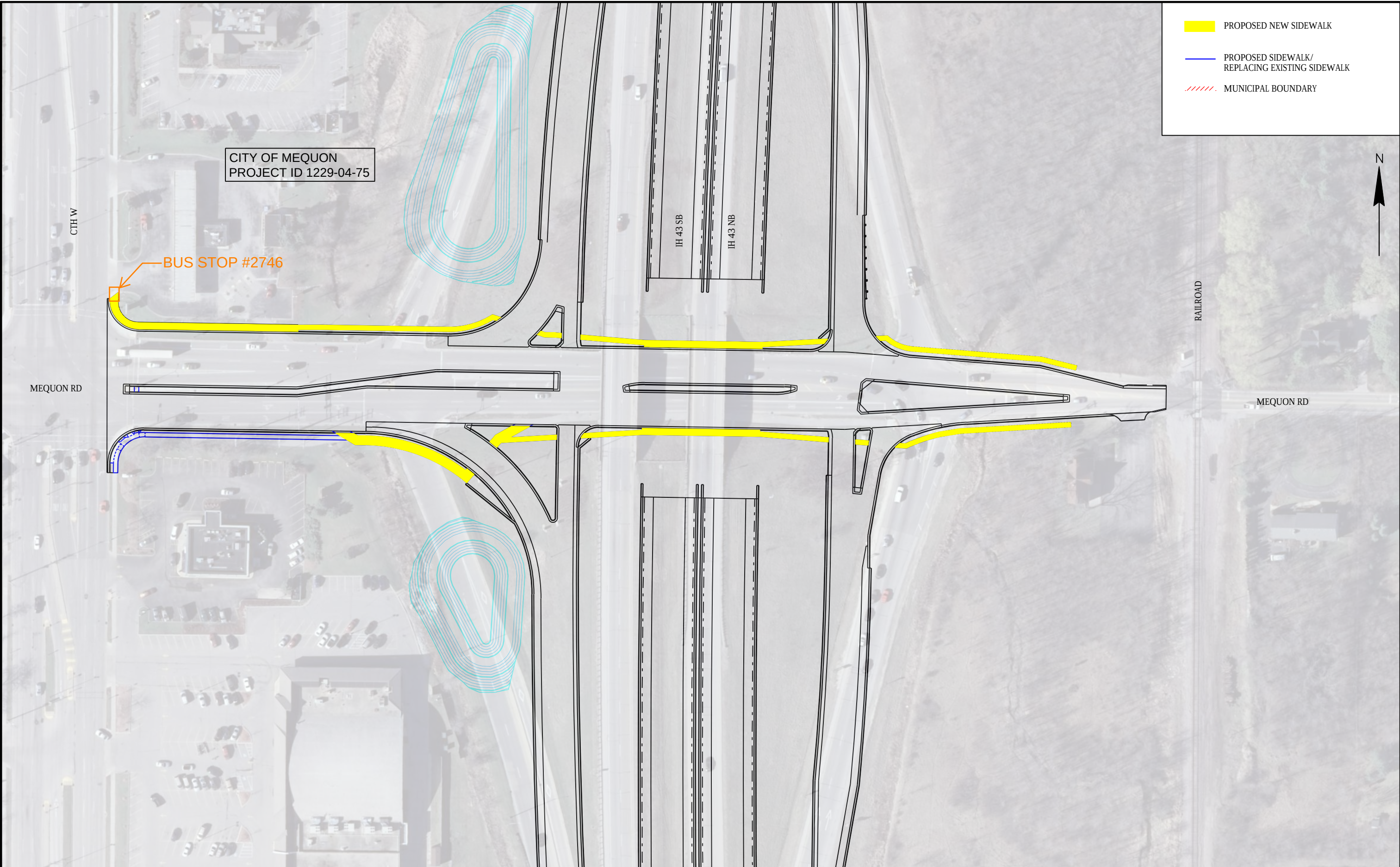
Packet Pg. 142



PROPOSED NEW SIDEWALK

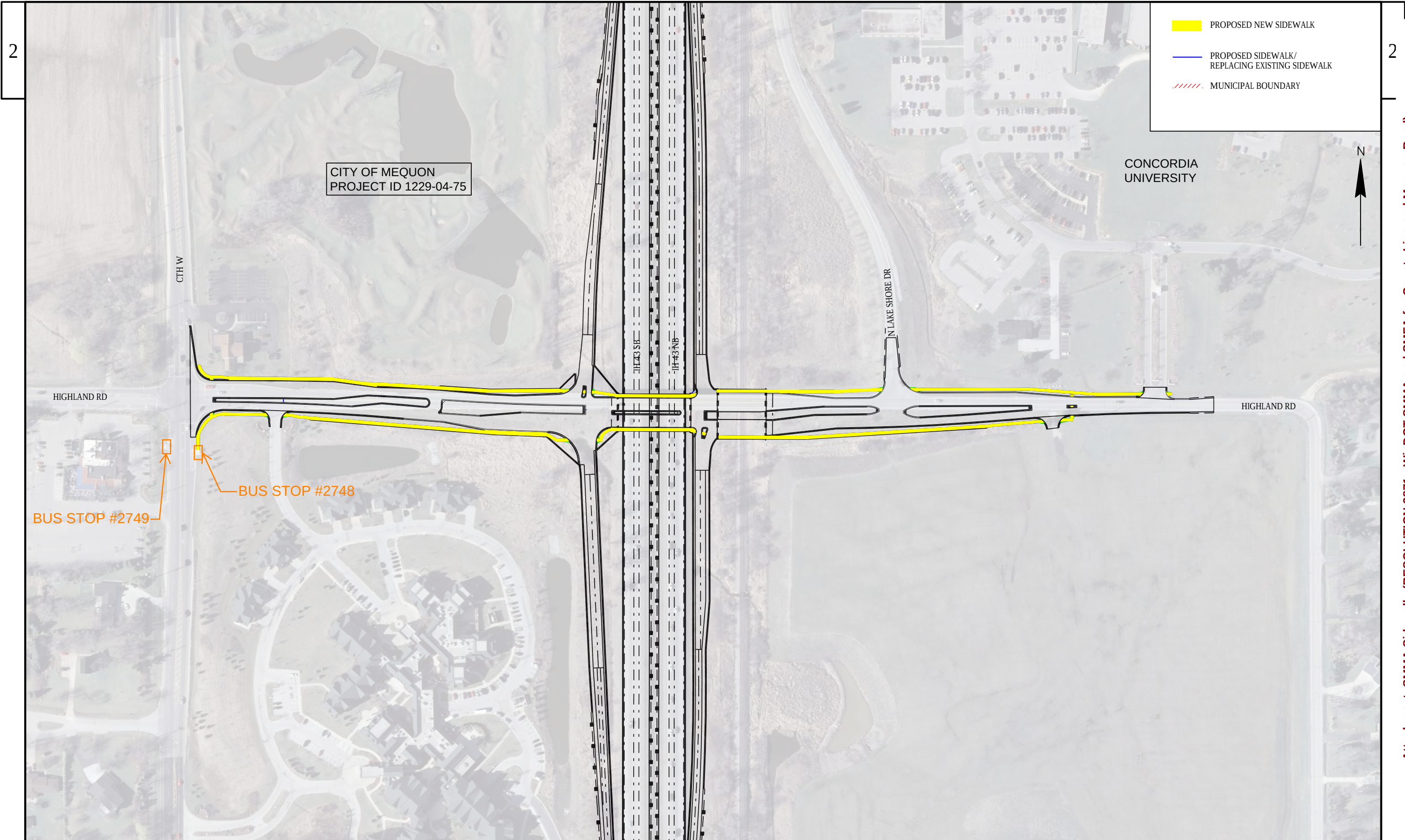
PROPOSED SIDEWALK/
REPLACING EXISTING SIDEWALK

MUNICIPAL BOUNDARY



Attachment: SMMA Sidewalk (RESOLUTION 3871 : WisDOT SMMA and SMFA for County Line and Mequon Road)

PROJECT NO: 1229-04-75	HWY: IH 43	COUNTY: OZAUKEE	PROPOSED SIDEWALK - CITY OF MEQUON	SHEET	E
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2

2

Attachment: SMMA Sidewalk (RESOLUTION 3871 : WisDOT SMMA and SMFA for County Line and Mequon Road)

PROJECT NO: 1229-04-76	HWY: IH 43	COUNTY: OZAUKEE	PROPOSED SIDEWALK - CITY OF MEQUON	SHEET	E
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Ozaukee County Highway Department

410 South Spring Street

Port Washington, Wisconsin 53074-0994

Jon E. Edgren, P.E. – Director of Public Works

Phone 262-238-8335

Fax 262-238-8343

Attachment 9.a.a

July 29, 2021

Mr. Steve Hoff
Wisconsin Department of Transportation
141 N.W. Barstow Street
Waukesha, WI 53188
VIA E-MAIL: Steve.Hoff@dot.wi.gov

RE: Sidewalk Construction along CTH W (N. Port Washington Rd)
I-43 Expansion Project (ID 1229-04-74)

Dear Mr. Hoff:

The Wisconsin Department of Transportation (WisDOT) has notified the Ozaukee County Highway Department of their intent to construct sidewalks in various locations adjacent to County Trunk Highway (CTH) W (N. Port Washington Road), which is under Ozaukee County jurisdiction, as part of WisDOT's I-43/County Line Road Interchange project (ID 1229-04-74). (See attached map for approximate locations.)

Ozaukee County has no objections to the construction of sidewalk along CTH W, but we do not accept maintenance responsibilities for sidewalk. Therefore, any future sidewalk maintenance, repairs, snow removal, etc..., would need to be designated to the local municipality, which should be the City of Mequon for the given locations.

Please feel free to contact me at 262-238-8335 if you have any questions, comments, or concerns.

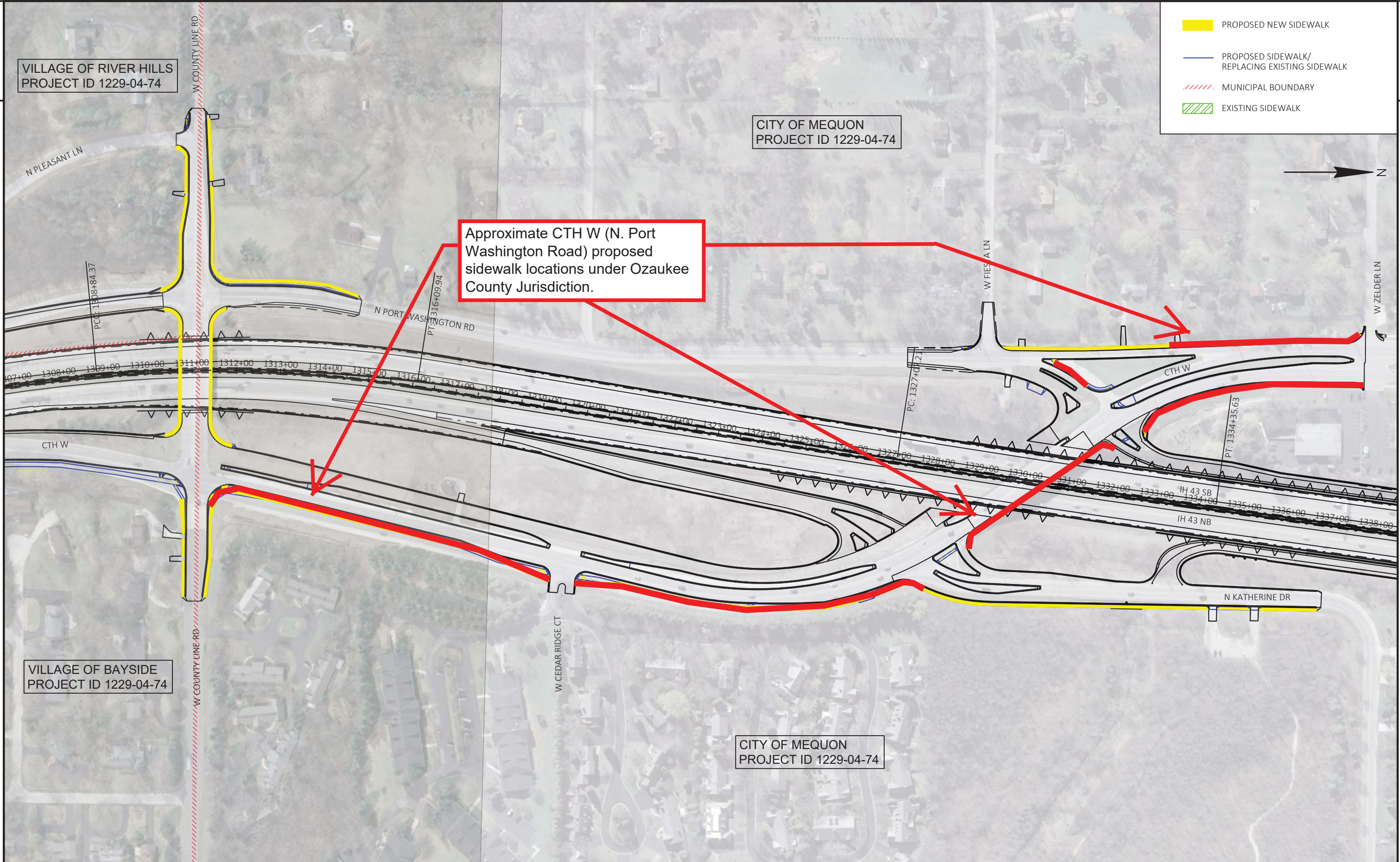
Sincerely,

Jon E. Edgren, P.E.
Ozaukee County Director of Public Works

Cc: Warren Guettel, Ozaukee County's Construction Superintendent,
wguettel@co.ozaukee.wi.us

N:\State Highways\I-43\Projects\Expansion Project\I-43 - County Line Rd Interchange\Hoff_JEE^I-43 Expansion Sidewalk on CTH W.docx

Attachment: SMMA Sidewalk (RESOLUTION 3871 : WisDOT SMMA and SMFA for County Line and Mequon Road)



VILLAGE OF RIVER HILLS
PROJECT ID 1229-04-74

CITY OF MEQUON
PROJECT ID 1229-04-74

Approximate CTH W (N. Port
Washington Road) proposed
sidewalk locations under Ozaukee
County Jurisdiction.

VILLAGE OF BAYSIDE
PROJECT ID 1229-04-74

CITY OF MEQUON
PROJECT ID 1229-04-74

PROJECT NO: 1229-04-74	HWY: IH 43	COUNTY: MILWAUKEE/OZAUKEE	PROPOSED SIDEWALK - VILLAGE OF BAYSIDE / VILLAGE OF RIVER HILLS / CITY OF MEQUON	SHEET	E
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STATE/MUNICIPAL FINANCIAL AGREEMENT FOR A STATE- LET HIGHWAY PROJECT

Date: July 29 2021
I.D.:1229-04-74
Road Name: IH 43
Title: I-43 NORTH SOUTH FREEWAY
Limits: W COUNTY LINE RD INTERCHANGE
County: Ozaukee
Roadway Length: 1.22 Miles

The signatory **City of Mequon**, hereinafter called the Municipality, through its undersigned duly authorized officers or officials, hereby requests the State of Wisconsin Department of Transportation, hereinafter called the State, to initiate and affect the highway or street improvement hereinafter described.

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

NEEDS AND ESTIMATE SUMMARY:

Existing Facility - Describe and give reason for request: Improvement

Proposed Improvement - Nature of work: As determined by project scoping.

Describe non-participating work included in the project and other work necessary to finish the project completely which will be undertaken independently by the municipality: A nominal amount is included to cover items in paragraph 4 (to be adjusted in the final plan).

TABLE 1: SUMMARY OF COSTS

Phase	Total Est. Cost	Federal/State Funds	%	Municipal Funds	% *
Preliminary Engineering: Plan Development	\$ -	\$ -	100%	\$ -	0%
Construction:					
Participating	\$ 66,690,000	\$ 66,690,000	100%	\$ -	0%
Utility (Sanitary)	\$ 30,500	\$ 27,450	90%	\$ 3,050	10%
Total Cost Distribution	\$ 66,720,500	\$ 66,717,450		\$ 3,050	

1 Estimates include construction engineering

This request shall constitute agreement between the Municipality and the State; is subject to the terms and conditions that follow (pages [2] – [3]); is made by the undersigned under proper authority to make such request for the designated Municipality, upon signature by the State, upon fully executed signature of applicable State Municipal Maintenance Agreement and delivery to the Municipality. The initiation and accomplishment of the improvement will be subject to the applicable federal and state regulations. No term or provision of neither the

Central File: Planning\Project Agreement\Ozaukee County Page 1 of 3 ID 1229-04-74 – SE Region

State/Municipal Financial Agreement nor any of its attachments may be changed, waived or terminated orally but only by an instrument in writing executed by both parties to the State/Municipal Financial Agreement.

Signed for and in behalf of the City of Mequon (please sign in blue ink)	
Name (print)	Title
Signature	Date
Signed for and in behalf of the State (please sign in blue ink)	
Name Tony Barth	Title WisDOT SE Region Planning Chief
Signature	Date

TERMS AND CONDITIONS:

1. The Municipality shall pay to the State all costs incurred by the State in connection with the improvement which exceeds federal/state financing commitments or are ineligible for federal/state financing. Local participation shall be limited to the items and percentages set forth in the Summary of Costs table, which shows Municipal funding participation. In order to guarantee the Municipality's foregoing agreements to pay the State, the Municipality, through its above duly authorized officers or officials, agrees and authorizes the State to set off and withhold the required reimbursement amount as determined by the State from General Transportation Aids or any moneys otherwise due and payable by the State to the Municipality.
2. Funding of each project phase is subject to inclusion in an approved program and per the State's Facility Development Manual (FDM) standards. Federal aid and/or state transportation fund financing will be limited to participation in the costs of the following items as specified in the Summary of Costs:
 - (a) Design engineering and state review services.
 - (b) Real Estate necessitated for the improvement.
 - (c) Compensable utility adjustment and railroad force work necessitated for the project.
 - (d) The grading, base, pavement, curb and gutter, and structure costs to State standards, excluding the cost of parking areas.
 - (e) Storm sewer mains, culverts, laterals, manholes, inlets, catch basins, and connections for surface water drainage of the improvement; including replacement and/or adjustments of existing storm sewer manhole covers and inlet grates as needed.
 - (f) Construction engineering incidental to inspection and supervision of actual construction work, except for inspection, staking, and testing of sanitary sewer and water main.
 - (g) Signing and pavement marking necessitated for the safe and efficient flow of traffic, including detour routes.
 - (h) Replacement of existing sidewalks necessitated by construction and construction of new sidewalk at the time of construction. Sidewalk is considered to be new if it's constructed in a location where it has not existed before.
 - (i) Replacement of existing driveways, in kind, necessitated by the project.
 - (j) New installations or alteration resulting from roadway construction of standard State street lighting and traffic signals or devices. Alteration may include salvaging and replacement of existing components.

3. Work necessary to complete the improvement to be financed entirely by the Municipality or other utility or facility owner includes the following items:
 - (a) New installations of or alteration of sanitary sewers and connections, water, gas, electric, telephone, telegraph, fire or police alarm facilities, parking meters, and similar utilities.
 - (b) New installation or alteration of signs not necessary for the safe and efficient flow of traffic.
 - (c) Roadway and bridge width in excess of standards.
 - (d) Construction inspection, staking, and material testing and acceptance for construction of sanitary sewer and water main.
 - (e) Provide complete plans, specifications, and estimates for sanitary sewer and water main work. The Municipality assumes full responsibility for the design, installation, inspection, testing, and operation of the sanitary sewer and water system. This relieves the State and all of its employees from the liability for all suits, actions, or claims resulting from the sanitary sewer and water system construction.
 - (f) Parking lane costs.
 - (g) Coordinate, clean up, and fund any hazardous materials encountered for city utility construction. All hazardous material cleanup work shall be performed in accordance to state and federal regulations.
4. As the work progresses, the Municipality will be billed for work completed which is not chargeable to federal/state funds. Upon completion of the project, a final audit will be made to determine the final division of costs.
5. If the Municipality should withdraw the project, it shall reimburse the State for any costs incurred by the State in behalf of the project.
6. The work will be administered by the State and may include items not eligible for federal/state participation.
7. The Municipality shall, in cooperation with the State, assist with public relations for the project and announcements to the press and such outlets as would generally alert the affected property owners and the community of the nature, extent, and timing of the project and arrangements for handling traffic within and around the project.
8. Basis for local participation:
 - (a) Funding for preliminary engineering 100% State
 - (b) Funding for construction of standard roadway items – 100% State.
 - (c) Funding for utilities 90% State, 10% Municipal, per chapter 84.295, State Statute
 - (d) Funding for non-participating items 100% Municipality.

Comments and Clarification: This agreement is an active agreement that may need to be amended as the project is designed. It is understood that these amendments may be needed as some issues have not been fully evaluated or resolved. The purpose of this agreement is to specify the local and state involvement in funding the project. A signed agreement is required before the State will prepare or participate in the preparation of detailed designs, acquire right-of-way, or participate in construction of a project that merits local involvement.



STATE/MUNICIPAL FINANCIAL AGREEMENT FOR A STATE- LET HIGHWAY PROJECT

Date: July 29 2021
I.D.:1229-04-75
Road Name: IH 43
Title: I-43 NORTH SOUTH FREEWAY
Limits: MEQUON RD INTERCHANGE
County: Ozaukee
Roadway Length: 2.53 Miles

The signatory **City of Mequon**, hereinafter called the Municipality, through its undersigned duly authorized officers or officials, hereby requests the State of Wisconsin Department of Transportation, hereinafter called the State, to initiate and affect the highway or street improvement hereinafter described.

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

NEEDS AND ESTIMATE SUMMARY:

Existing Facility - Describe and give reason for request: Improvement

Proposed Improvement - Nature of work: As determined by project scoping.

Describe non-participating work included in the project and other work necessary to finish the project completely which will be undertaken independently by the municipality: A nominal amount is included to cover items in paragraph 4 (to be adjusted in the final plan).

TABLE 1: SUMMARY OF COSTS

Phase	Total Est. Cost	Federal/State Funds	%	Municipal Funds	% *
Preliminary Engineering: Plan Development	\$ -	\$ -	100%	\$ -	0%
Construction:					
Participating	\$ 53,812,000	\$ 53,812,000	100%	\$ -	0%
Utility (Sanitary)	\$ 1,500	\$ 1,350	90%	\$ 150	10%
Total Cost Distribution	\$ 53,813,500	\$ 53,813,350		\$ 150	

1 Estimates include construction engineering

This request shall constitute agreement between the Municipality and the State; is subject to the terms and conditions that follow (pages [2] – [3]); is made by the undersigned under proper authority to make such request for the designated Municipality, upon signature by the State, upon fully executed signature of applicable State Municipal Maintenance Agreement and delivery to the Municipality. The initiation and accomplishment of the improvement will be subject to the applicable federal and state regulations. No term or provision of neither the

Central File: Planning\Project Agreement\Ozaukee County Page 1 of 3 ID 1229-04-75 – SE Region

State/Municipal Financial Agreement nor any of its attachments may be changed, waived or terminated orally but only by an instrument in writing executed by both parties to the State/Municipal Financial Agreement.

Signed for and in behalf of the City of Mequon (please sign in blue ink)	
Name (print)	Title
Signature	Date
Signed for and in behalf of the State (please sign in blue ink)	
Name Tony Barth	Title WisDOT SE Region Planning Chief
Signature	Date

TERMS AND CONDITIONS:

1. The Municipality shall pay to the State all costs incurred by the State in connection with the improvement which exceeds federal/state financing commitments or are ineligible for federal/state financing. Local participation shall be limited to the items and percentages set forth in the Summary of Costs table, which shows Municipal funding participation. In order to guarantee the Municipality's foregoing agreements to pay the State, the Municipality, through its above duly authorized officers or officials, agrees and authorizes the State to set off and withhold the required reimbursement amount as determined by the State from General Transportation Aids or any moneys otherwise due and payable by the State to the Municipality.
2. Funding of each project phase is subject to inclusion in an approved program and per the State's Facility Development Manual (FDM) standards. Federal aid and/or state transportation fund financing will be limited to participation in the costs of the following items as specified in the Summary of Costs:
 - (a) Design engineering and state review services.
 - (b) Real Estate necessitated for the improvement.
 - (c) Compensable utility adjustment and railroad force work necessitated for the project.
 - (d) The grading, base, pavement, curb and gutter, and structure costs to State standards, excluding the cost of parking areas.
 - (e) Storm sewer mains, culverts, laterals, manholes, inlets, catch basins, and connections for surface water drainage of the improvement; including replacement and/or adjustments of existing storm sewer manhole covers and inlet grates as needed.
 - (f) Construction engineering incidental to inspection and supervision of actual construction work, except for inspection, staking, and testing of sanitary sewer and water main.
 - (g) Signing and pavement marking necessitated for the safe and efficient flow of traffic, including detour routes.
 - (h) Replacement of existing sidewalks necessitated by construction and construction of new sidewalk at the time of construction. Sidewalk is considered to be new if it's constructed in a location where it has not existed before.
 - (i) Replacement of existing driveways, in kind, necessitated by the project.
 - (j) New installations or alteration resulting from roadway construction of standard State street lighting and traffic signals or devices. Alteration may include salvaging and replacement of existing components.

3. Work necessary to complete the improvement to be financed entirely by the Municipality or other utility or facility owner includes the following items:
 - (a) New installations of or alteration of sanitary sewers and connections, water, gas, electric, telephone, telegraph, fire or police alarm facilities, parking meters, and similar utilities.
 - (b) New installation or alteration of signs not necessary for the safe and efficient flow of traffic.
 - (c) Roadway and bridge width in excess of standards.
 - (d) Construction inspection, staking, and material testing and acceptance for construction of sanitary sewer and water main.
 - (e) Provide complete plans, specifications, and estimates for sanitary sewer and water main work. The Municipality assumes full responsibility for the design, installation, inspection, testing, and operation of the sanitary sewer and water system. This relieves the State and all of its employees from the liability for all suits, actions, or claims resulting from the sanitary sewer and water system construction.
 - (f) Parking lane costs.
 - (g) Coordinate, clean up, and fund any hazardous materials encountered for city utility construction. All hazardous material cleanup work shall be performed in accordance to state and federal regulations.
4. As the work progresses, the Municipality will be billed for work completed which is not chargeable to federal/state funds. Upon completion of the project, a final audit will be made to determine the final division of costs.
5. If the Municipality should withdraw the project, it shall reimburse the State for any costs incurred by the State in behalf of the project.
6. The work will be administered by the State and may include items not eligible for federal/state participation.
7. The Municipality shall, in cooperation with the State, assist with public relations for the project and announcements to the press and such outlets as would generally alert the affected property owners and the community of the nature, extent, and timing of the project and arrangements for handling traffic within and around the project.
8. Basis for local participation:
 - (a) Funding for preliminary engineering 100% State
 - (b) Funding for construction of standard roadway items – 100% State.
 - (c) Funding for utilities 90% State, 10% Municipal, per chapter 84.295, State Statute
 - (d) Funding for non-participating items 100% Municipality.

Comments and Clarification: This agreement is an active agreement that may need to be amended as the project is designed. It is understood that these amendments may be needed as some issues have not been fully evaluated or resolved. The purpose of this agreement is to specify the local and state involvement in funding the project. A signed agreement is required before the State will prepare or participate in the preparation of detailed designs, acquire right-of-way, or participate in construction of a project that merits local involvement.



STATE/MUNICIPAL FINANCIAL AGREEMENT FOR A STATE- LET HIGHWAY PROJECT

Date: July 29 2021
I.D.:1229-04-74
Road Name: IH 43
Title: I-43 NORTH SOUTH FREEWAY
Limits: W COUNTY LINE RD INTERCHANGE
County: Ozaukee
Roadway Length: 1.22 Miles

The signatory **Mequon Municipal Water Utility**, hereinafter called the Municipality, through its undersigned duly authorized officers or officials, hereby requests the State of Wisconsin Department of Transportation, hereinafter called the State, to initiate and affect the highway or street improvement hereinafter described.

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

NEEDS AND ESTIMATE SUMMARY:

Existing Facility - Describe and give reason for request: Improvement

Proposed Improvement - Nature of work: As determined by project scoping.

Describe non-participating work included in the project and other work necessary to finish the project completely which will be undertaken independently by the municipality: A nominal amount is included to cover items in paragraph 4 (to be adjusted in the final plan).

TABLE 1: SUMMARY OF COSTS

Phase	Total Est. Cost	Federal/State Funds	%	Municipal Funds	% *
Preliminary Engineering: Plan Development	\$ -	\$ -	100%	\$ -	0%
Construction:					
Participating	\$ 66,690,000	\$ 66,690,000	100%	\$ -	0%
Utility (Water)	\$ 58,500	\$ 52,650	90%	\$ 5,850	10%
Total Cost Distribution	\$ 66,748,500	\$ 66,742,650		\$ 5,850	

1 Estimates include construction engineering

This request shall constitute agreement between the Municipality and the State; is subject to the terms and conditions that follow (pages [2] – [3]); is made by the undersigned under proper authority to make such request for the designated Municipality, upon signature by the State, upon fully executed signature of applicable State Municipal Maintenance Agreement and delivery to the Municipality. The initiation and accomplishment of the improvement will be subject to the applicable federal and state regulations. No term or provision of neither the

Central File: Planning\Project Agreement\Ozaukee County Page 1 of 3 ID 1229-04-74 – SE Region

State/Municipal Financial Agreement nor any of its attachments may be changed, waived or terminated orally but only by an instrument in writing executed by both parties to the State/Municipal Financial Agreement.

Signed for and in behalf of the Mequon Municipal Water Utility (please sign in blue ink)	
Name (print)	Title
Signature	Date
Signed for and in behalf of the State (please sign in blue ink)	
Name Tony Barth	Title WisDOT SE Region Planning Chief
Signature	Date

TERMS AND CONDITIONS:

1. The Municipality shall pay to the State all costs incurred by the State in connection with the improvement which exceeds federal/state financing commitments or are ineligible for federal/state financing. Local participation shall be limited to the items and percentages set forth in the Summary of Costs table, which shows Municipal funding participation. In order to guarantee the Municipality's foregoing agreements to pay the State, the Municipality, through its above duly authorized officers or officials, agrees and authorizes the State to set off and withhold the required reimbursement amount as determined by the State from General Transportation Aids or any moneys otherwise due and payable by the State to the Municipality.
2. Funding of each project phase is subject to inclusion in an approved program and per the State's Facility Development Manual (FDM) standards. Federal aid and/or state transportation fund financing will be limited to participation in the costs of the following items as specified in the Summary of Costs:
 - (a) Design engineering and state review services.
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 - (d) Construction inspection, staking, and material testing and acceptance for construction of sanitary sewer and water main.
 - (e) Provide complete plans, specifications, and estimates for sanitary sewer and water main work. The Municipality assumes full responsibility for the design, installation, inspection, testing, and operation of the sanitary sewer and water system. This relieves the State and all of its employees from the liability for all suits, actions, or claims resulting from the sanitary sewer and water system construction.
 - (f) Parking lane costs.
 - (g) Coordinate, clean up, and fund any hazardous materials encountered for city utility construction. All hazardous material cleanup work shall be performed in accordance to state and federal regulations.
4. As the work progresses, the Municipality will be billed for work completed which is not chargeable to federal/state funds. Upon completion of the project, a final audit will be made to determine the final division of costs.
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6. The work will be administered by the State and may include items not eligible for federal/state participation.
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 - (d) Funding for non-participating items 100% Municipality.

Comments and Clarification: This agreement is an active agreement that may need to be amended as the project is designed. It is understood that these amendments may be needed as some issues have not been fully evaluated or resolved. The purpose of this agreement is to specify the local and state involvement in funding the project. A signed agreement is required before the State will prepare or participate in the preparation of detailed designs, acquire right-of-way, or participate in construction of a project that merits local involvement.



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-242-3100
Fax: 262-242-9655

www.ci.mequon.wi.us

Office of the Mayor

TO: Common Council
FROM: John Wirth, Mayor
DATE: July 13, 2021
SUBJECT: RESOLUTION 3866 A Resolution Increasing Compensation for the Position of Mayor

Background

In March of 1991, or 30 years ago, the City set the mayor's pay at \$800 per month (\$9,600 per year). I recommend that the Common Council increase that pay for the next mayor. I am not requesting it for me. I specifically provide in the resolution that the pay increase would take effect when I leave office. This would never benefit me personally.

Analysis

There are 26 cities in Wisconsin with populations between 16,000 and 40,000. The Mequon mayor receives the lowest compensation among that entire group. Of that group, half have full-time mayors. Of the half with part-time mayors, total compensation ranges from \$9,600 (Mequon) to \$26,212 (Oconomowoc). In 2020, the median annual compensation for mayors in those cities was \$19,200.

No person should undertake elected community service for the money. However, it is only fair to acknowledge the costs, both financial and personal, of serving as an elected official.

Aldermen are currently paid one-half of what the mayor is paid. I argued in the past, when I was an alderman, that aldermanic pay should be reduced. Despite the many hours aldermen devote, and the considerable contribution aldermen make to the City, aldermanic duties can readily be juggled with a full-time job and being active with the alderman's family. Other volunteers, such as Planning Commission members, devote almost as many hours without pay.

Being mayor, however, is different.

- Most or all of an alderman's responsibilities are handled on nights and weekends; however, the mayor is required to devote a considerable number of hours during the workday. I and prior mayors have had weekly meetings with staff. Many weeks there are multiple daytime meetings. Those meetings are essential to the mayor's role.
- Aldermen have an occasional meeting with developers for projects in their district. The mayor ends up with eight times, or more, of those meetings.
- Aldermen receive constituent inquiries. However, the mayor receives almost all of those same inquiries plus many inquiries that never reach aldermen.
- Many organizations and businesses reach out only to the mayor.
- The mayor receives thousands of emails every year. The majority of them require a response.

- Each alderman is involved in some policy initiatives. The mayor is expected to be involved in all of them.
- The mayor is expected to serve as a spokesperson for the City.
- The mayor is the chair of the Planning Commission.
- The mayor makes approximately 100 appointments, excluding alternates and special committees (e.g., Future of our Fire Department). Finding volunteers is incredibly time consuming.
- The mayor is involved in interviews of department heads and consultants, policy formulation and other duties that rarely impact aldermen.

Being mayor is essentially a half-time, or greater, responsibility. A mayor who is disengaged possibly could coast through the job and spend 20 to 30 hours per month. However, an engaged mayor, one who takes the job seriously, spends 75 to 100 hours per month.

The council could opt to change Mequon to a council-manager form. This would save money.

However, so long as Mequon chooses to maintain a mayor, it should also do what it can to make the role feasible for a sizable number of qualified residents. The time commitment by necessity interferes with any working person's job.

Recommendation

On July 13, 2021, the Finance-Personnel Committee approved a recommendation in favor of approving the proposed resolution by a vote of 2-1.

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3866

A Resolution Increasing Compensation for the Position of Mayor

RECITALS

A. The Mayor of the City of Mequon is currently paid a salary of \$800 per month. That salary was set in March of 1991, or about 30 years ago, and has remain unchanged for that period.

B. The annual compensation paid to part-time mayors in the State of Wisconsin for cities with populations from 16,000 to 40,000 ranges from \$9,600 (Mequon) to \$26,212 (Oconomowoc). Mequon is the lowest. In 2020, the median annual compensation for mayors in those cities was \$19,200.

C. Having a part-time mayor with a full-time administrator is the optimal city structure allowed under Wisconsin law, and serving as mayor is a community service and not a substitution for employment. However, serving as mayor requires a very significant time commitment and substantially impacts the employment, if any, of the person serving in that office. The compensation change provided by this resolution only partially compensates the holder of the office for his or her services.

D. State law does not allow an adjustment to compensation for an elected official during a term of office; moreover, the current mayor, John Wirth, does not want any increase in mayoral compensation to take effect until after he leaves office, whenever that occurs.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Mequon, that the salary for the position of Mayor shall be increased to \$1,800 per month effective upon the commencement of the first full term of office in which John Wirth is not the Mayor.

Approved by: John Wirth, Mayor

Date Approved: August 10, 2021

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-242-3100
Fax: 262-242-9655

www.ci.mequon.wi.us

Office of City Attorney

TO: Common Council
FROM: Brian Sajdak, City Attorney
DATE: August 5, 2021
SUBJECT: RESOLUTION 3872 A Resolution Authorizing the Collateral Assignment of the Development Agreement with Blue Ribbon Self Storage III, LLC to First Midwest Bank

Background and Discussion

As part of a proposed development of the property located at 10448 N. Port Washington Road, the City entered into a Development Agreement with Blue Ribbon Self Storage III, LLC ("Blue Ribbon"). That Development Agreement generally provides a "Fast Track Incentive" under Tax Increment District No. 5 to Blue Ribbon which essentially reimburses the developer for the costs necessary to get the subject site into a "green field" state (i.e., the costs to remove existing structure and otherwise get the property ready for the new development) though the use of the tax increment generated by the new development.

In order to finance the development of the property, Blue Ribbon has sought a loan through First Midwest Bank. As a condition of funding the loan, the bank has requested that Blue Ribbon collaterally assign the Development Agreement to the bank, which would allow the bank to step in and complete the project while also receiving the benefit of the Fast Track Incentive in the event that Blue Ribbon would default under the loan agreement. Because the Development Agreement requires City approval of any assignment of Agreement, the bank has requested that approval.

Collateral Assignments are standard in loan agreements of this nature as they protect a bank's interest by collateralizing the loan in part with the rights under the Development Agreement. However, there may be instances where the City would elect not to approve a collateral assignment. For example, if the City had to make significant expenditures up front, providing the bank the flexibility to step in to complete the project or not could put the City at significant risk. In this case, the only action required of the City is to pay the incentive to the extent that the tax increment is generated by the project. If Blue Ribbon would default and the bank elected to walk away from the project, the City would terminate any incentive payments due.

In addition to the discussion on this resolution, it is anticipated that the Finance-Personnel Committee will provide guidance as to whether City staff should bring back a policy related to administrative approvals of similar collateral assignment requests in the future.

Fiscal Impact

There is little to no fiscal impact to the City as a result of this action. As noted above, in the unlikely event of a default, the Development Agreement provides that the incentive payments

would end. Accordingly, the City will either make the payments as anticipated if the project is completed, or it would not make the payments if there is a default.

Recommendation

A recommendation is forthcoming from the Finance-Personnel Committee on August 10, 2021.

Attachments:

Development Agreement Assignment (01145568xC3B04) (DOCX)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3872

A Resolution Authorizing the Collateral Assignment of the Development Agreement with Blue Ribbon Self Storage III, LLC to First Midwest Bank

RECITALS

A. The City and Blue Ribbon Self Storage III, LLC ("Blue Ribbon") entered into a Development Agreement dated June 3, 2021, relating to the development of, and tax increment incentives for, the property located at 10448 N. Port Washington Road.

B. The Development Agreement requires Common Council approval of any assignment of the agreement to a third party.

C. In order to finance development of the property, Blue Ribbon has sought a loan through First Midwest Bank.

D. First Midwest Bank has requested a collateral assignment of the Developer's Agreement as a condition of funding the loan.

E. City Staff and the City Attorney have reviewed the proposed collateral assignment document and recommend its approval.

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

1. The Collateral Assignment of Development Agreement by and between Blue Ribbon Self Storage III, LLC and First Midwest Bank is approved and consented to by the City.

2. The Mayor and City Clerk are authorized and directed to execute and deliver the Consent of City document in the form attached hereto subject to any clerical, technical and/or legal changes deemed necessary and appropriate by the City Attorney.

Approved by: John Wirth, Mayor

Date Approved: August 10, 2021

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk

COLLATERAL ASSIGNMENT OF DEVELOPMENT AGREEMENT

THIS COLLATERAL ASSIGNMENT OF DEVELOPMENT AGREEMENT (this “Assignment”) is made as of July __, 2021 by **BLUE RIBBON SELF STORAGE III, LLC**, a Wisconsin limited liability company (“Borrower”) in favor of **FIRST MIDWEST BANK** (“Lender”).

RECITALS

A. Pursuant to a Loan Agreement between Lender and Borrower of the same date as this Assignment (the “Loan Agreement”), Lender has agreed to make a loan to Borrower in the principal amount of Seven Million Ninety-Five Thousand and 00/100 Dollars (\$7,095,000.00) (the “Loan”). The Loan is evidenced by a Promissory Note executed by Borrower in favor of Lender (the “Note”) and secured by (1) a first priority Mortgage dated July __, 2021 executed by Borrower in favor of Lender (the “Mortgage”) encumbering the real property described on the attached Exhibit A (the “Property”), and (2) other related documents (collectively with the Loan Agreement, the Note, and the Mortgage, and as they may be amended, modified, supplemented restated or replaced from time to time, the “Loan Documents”).

B. Borrower and the City of Mequon, Wisconsin (the “City”) have entered into a Development Agreement dated June 3, 2021, a copy of which is attached to this Assignment as Exhibit B (the “Development Agreement”), pertaining to the development of the Property.

C. Lender requires Borrower to execute and deliver this Assignment as additional collateral for the Loan.

AGREEMENTS

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower hereby agrees as follows:

1. Assignment. As security for the obligations defined in the Mortgage (the “Obligations”), Borrower hereby collaterally assigns to Lender all of its right, title, and interest in the Development Agreement, including all rights to payments thereunder, it being understood and agreed that, if the Obligations are satisfied in full, then this Assignment shall automatically terminate without the necessity of any further act or instrument.

2. Lender’s Rights Upon an Event of Default. If an Event of Default (as defined in the Loan Agreement) occurs and is continuing beyond the applicable cure and/or grace periods, then Lender may, at its option upon written notice to Borrower and the City, but without any obligation to do so, elect to assume Borrower’s rights and obligations under the Development Agreement. If Lender so elects to assume Borrower’s rights and obligations under the Development Agreement, Lender shall have all of the rights and obligations of Borrower under the Development Agreement. Prior to the occurrence of an Event of Default under the Loan

Agreement and the written election by Lender to assume Borrower's rights and obligations under the Development Agreement, nothing in this Assignment shall be construed as an assumption by Lender of any liability or obligation of Borrower under the Development Agreement. Nothing herein constitutes a release by the City of Borrower from its obligations under the Development Agreement even if Lender elects to assume Borrower's rights and obligations thereunder, and to the extent the Development Agreement is not performed by Lender, Borrower remains responsible to the City for all of its obligations under the Development Agreement.

3. Performance of Borrower. Borrower shall faithfully abide by, perform and discharge in all material respects each of Borrower's obligations, covenants and agreements under the Development Agreement. Without the prior written consent of Lender, Borrower shall not (a) modify or in any way alter the terms of the Development Agreement, (b) pledge or assign the Development Agreement (except pursuant to this Assignment), (c) waive any of its rights under the Development Agreement, or (d) terminate or surrender the Development Agreement.

4. Protect Security. At Borrower's sole cost and expense, Borrower shall appear and defend any action or proceeding arising under, during, out of or in any manner connected with the Development Agreement or the obligations, duties or liabilities of Borrower under the Development Agreement, and shall pay any reasonable costs and expense of Lender, including reasonable attorneys' fees, in any such action or proceeding in which Lender decides, in its sole discretion, to appear.

5. Representations and Covenants. Borrower represents and warrants that (a) subject to the approval of the City, Borrower has the full right to collaterally assign the Development Agreement; (b) the Development Agreement is valid, is in full force and effect and has not been modified or amended; (c) there are no outstanding assignments or pledges of the Development Agreement; and (d) there are no existing defaults, rights of setoff, or claims for additional payments under the Development Agreement. Further, Borrower covenants that, if Borrower enters into a future development agreement for the Property, it will provide for the collateral assignment of such development agreement to Lender in accordance with the provisions of an assignment document substantially in the form of this Assignment. This Assignment and any future assignment by the Lender, Borrower or others of the Development Agreement, and any future development agreement assignment(s), shall be subject to the approval of the City.

6. Authorization. Upon an Event of Default and during the continuance thereof, Borrower irrevocably constitutes and appoints Lender its true and lawful attorney-in-fact in Borrower's name or in Lender's name, or otherwise, to enforce all rights of Borrower under the Development Agreement, and such power, being coupled with an interest, is irrevocable.

7. No Liability For Lender. Unless Lender elects to assume Borrower's rights and obligations under the Development Agreement as contemplated by Section 2 of this Assignment, Lender shall not be obligated to perform or discharge and does not by this Assignment undertake to perform or discharge any obligation, duty or liability under the Development Agreement.

8. Borrower Holds Lender Harmless. Borrower shall indemnify and hold Lender harmless of and from (a) any and all liability, loss or damage which it incurs under the

Development Agreement or by reason of this Assignment; and (b) any and all claims and demands which are asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Development Agreement. The amount of all such liabilities, losses, damages, claims and demands, and the cost of defending against them, including costs, expenses and reasonable attorneys' fees, are secured by this Assignment and constitute part of the Obligations. Borrower shall reimburse Lender for such amounts within ten (10) days of a written demand therefor from Lender.

9. Security Interest in Agreements. In addition, Borrower hereby grants to Lender a security interest in Borrower's right, title, and interest in the Development Agreement, if and to the extent that a security interest may be granted therein under the Wisconsin Uniform Commercial Code, and Borrower acknowledges that Lender shall have all of the rights and remedies with respect thereto provided for by the Wisconsin Uniform Commercial Code, in addition to the other rights and remedies herein granted to Lender, in the event of the occurrence of an Event of Default.

10. Successors and Assigns. This Assignment shall be binding upon Borrower and its successors and assigns, and shall inure to the benefit of Lender, its successors and assigns. Borrower shall not further assign its obligations or interests under the Development Agreement or under this Assignment without Lender's prior written consent.

11. Governing Law. This Assignment shall be governed by the laws of the State of Wisconsin.

12. Validity Clause. This Assignment shall confer to Lender the rights and benefits described in this Assignment to the full extent allowable by law. The unenforceability or invalidity of any of the provisions of this Assignment shall not render any other provision or provisions unenforceable or invalid. Any provision found to be unenforceable shall be severable from this Assignment without invalidating the remainder of such provision or the remaining provisions of this Assignment.

13. Notices And Approvals. Any notice which either party may desire or may be required to give to any other party shall be in writing and shall be delivered as required under the Loan Agreement.

14. Counterparts. This Assignment may be signed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one instrument. The signature of a party to this Assignment transmitted by facsimile or electronic mail to the other party shall be deemed an original signature.

15. No Oral Modification. This Assignment may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom

enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

(Signature page follows)

Attachment: Development Agreement Assignment (01145568xC3B04) (RESOLUTION 3872 : Blue Ribbon Storage Collateral Assignment)

Executed of the date first set forth above.

BORROWER:

BLUE RIBBON SELF STORAGE III, LLC

By: Blue Ribbon Storage Manager, Manager

By: _____
Michael Kelly, Manager

By: Mequon Storage Manager, LLC, Manager

By: _____
Matthew Mehring, Sole Member

Attachment: Development Agreement Assignment (01145568xC3B04) (RESOLUTION 3872 : Blue Ribbon Storage Collateral Assignment)

CONSENT OF THE CITY

The City hereby consents to the foregoing Assignment and agrees that if Lender notifies the City in writing that Lender is exercising its right to assume Borrower's rights and obligations under the Development Agreement, the City shall continue to perform its obligations under the terms of the Development Agreement in the manner specified in the Development Agreement as if Lender were originally a party to the Development Agreement. Lender's obligations under the foregoing Assignment are not personal obligations or binding on any of Lender's assets, except Lender's interest in the Property.

Nothing in the foregoing Assignment constitutes a release by the City of Borrower from its obligations under the Development Agreement even if Lender elects to assume Borrower's rights and obligations thereunder, and to the extent the Development Agreement is not performed by Lender, Borrower remains responsible to the City for all of its obligations under the Development Agreement. The City shall provide written notice to Lender of any default of Borrower under the Development Agreement in the same manner and at the same time as required under the Development Agreement to the following address:

First Midwest Bank
330 East Kilbourn Avenue
Milwaukee, Wisconsin 53202
Attn: Regina Levchets

CITY OF MEQUON

John M. Wirth, Mayor

Date: _____, 2021

Carolyn Fochs, Clerk

Date: _____, 2021

Approved as to form and execution:

Brian C. Sajdak, City Attorney

Date: _____, 2021

EXHIBIT A
LEGAL DESCRIPTION

LOT 1 OF CERTIFIED SURVEY MAP NO. _____ RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR OZAUKEE COUNTY, WISCONSIN ON _____, 2021, IN VOLUME _____ OF CERTIFIED SURVEY MAPS, PAGE _____, AS DOCUMENT NO. _____, BEING A REDIVISION OF A PART OF PARCEL 1 OF CERTIFIED SURVEY MAP NO. 2807, BEING A PART OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 22 EAST, IN THE CITY OF MEQUON, OZAUKEE COUNTY, WISCONSIN.

Part of Tax Key No.: 15-029-11-008.00

EXHIBIT B
DEVELOPMENT AGREEMENT

[See attached]

EXHIBIT B
COLLATERAL ASSIGNMENT OF DEVELOPMENT AGREEMENT

Attachment: Development Agreement Assignment (01145568xC3B04) (RESOLUTION 3872 : Blue Ribbon Storage Collateral Assignment)



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2945
Fax: 262-242-9655

www.ci.mequon.wi.us

Office of Parks and Forestry

TO: Common Council
FROM: Mike Gies, Parks and Forestry Superintendent
DATE: July 21, 2021
SUBJECT: RESOLUTION 3868 A Resolution Awarding an Architectural/Engineering Design Services Contract for a Combined Restroom, Concession and Storage Facility at Lemke Park to Kueny Architects, L.L.C. of Pleasant Prairie, Wisconsin in an Amount Not-to-Exceed \$38,000

Background

Lemke Park is a 42-acre Community Park located in the southwest corner of Mequon. The primary amenities of the park include a pair of baseball fields, a park shelter, football fields, archery range, playground, and sand volleyball courts. Absent from those amenities is a permanent restroom facility to support the stakeholder groups that occupy time at the park. Currently two portable restrooms fulfill the needs of the users. With the expanded use of the park, it has become increasingly obvious that a restroom facility is needed and a frequent request of user groups. According to National Park and Recreation Association standards, restroom facilities are listed as one of the primary features necessary for determining and supporting uses at a Community Park. In 2012, a park pavilion feature was added to the park. The addition of the combined restroom, concession, and storage facility just south of the existing pavilion would create a more synergistic common space between the existing pavilion and the new facility; creating a courtyard feel and gathering space in the park. This would also provide the park with the ability to generate new rental revenues, that were previously not realized due to the lack of a facility.

Per the Park and Open Space Plan updated in 2019, and a community survey initiated in connection with the 2019 update, restrooms facilities at Lemke Park were identified as a primary need of the Mequon Park and Open Space system. Now, in 2021, the Park and Open Space Board (POSB) has prioritized moving forward with a space needs analysis, and architectural, site, and design plans for future implementation of a new facility.

At the March POSB meeting the Board approved moving forward with an RFP for Architectural/Engineering Design Services for a Combined Restroom, Concession, and Storage Facility at Lemke Park. The RFP was issued April 20 with responses due back by June 4. Staff received (6) responses to the RFP.

All proposals received by the City are available for review by clicking here:

<https://www.ci.mequon.wi.us/parks/page/architecturalengineering-design-services-combined-restroom-concession-and-storage-0>.

The POSB formed a subcommittee of members plus additional City staff to review the proposals and interview the top three consultant candidates. Interviews and scoring were completed by July 9.

Analysis

After the interviews two consultant firms rose to the top based on the following considerations:

- Incorporation and knowledge of the City's existing Master Plan for Lemke Park
- Community Involvement
- Sustainability Design
- Consideration of future maintenance needs and cost
- Needs Analysis based on current park usage and future usage
- A cost benefit analysis of potential revenues generated for the city
- Overall cost
- Marketing/fundraising/branding
- Overall accessibility and involvement
- Experience

The two firms that best met or exceeded the requirements based on their proposals and interviews were Kueny Architects, L.L.C. and Parkitecture and Planning.

Both consultants displayed good comprehension of the scope of work and an overall incorporation of past knowledge and experience. The consultant that met the highest aim of the needs for the City of Mequon on this project was Kueny Architects, L.L.C.

Fiscal Impact

In summary, the costs for the work as summarized in the proposal are as follows:

Firms brought in for Interviews	
Firm	Price
Kueny Architects, L.L.C	\$33,826
Parkitecture & Planning	\$45,392
Bloom	\$69,465
Firms Disqualified Prior to Interviews	
Graef	\$70,327
GCA	\$88,000
Sketchworks Architecture	\$97,800

Please note that the project was advertised as a Request for Proposal. Within the document, it outlines the City's ability to negotiate with any of the proposers, not solely the low proposer. While staff is recommending the lowest cost proposal, the POSB has based their recommendation on the quality of the proposer and proposal, rather than based solely upon cost.

Kueny Architects, L.L.C. completed the Facility Needs Analysis and design of the Combined

Department of Public Works facility and has extensive municipal design experience. Kueny Architects, L.L.C. is a full-service firm, with the capability to provide construction oversight services, if contracted.

Kueny Architects, L.L.C. has represented their proposal at a not-to-exceed cost of \$33,826. As with previous contract awards, staff recommends award with a contingency for a total not-to-exceed contract cost of \$38,000.

The contract will be funded using Park Impact Fees (PIF). The project deliverables will be received by the end of February 2022. The design and future installation of the facility at Lemke Park is based on current and future needs at the park which meet the requirements for usage of PIF. The future installation of the building will also utilize PIF but is also anticipated to utilize a combination of capital, private funding, and stakeholder funding.

Recommendation

A recommendation from the Public Works Committee is forthcoming on August 10, 2021.

Attachments:

Master Plan Final Report - LEMKE PARK (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3868

A Resolution Awarding an Architectural/Engineering Design Services Contract for a Combined Restroom, Concession and Storage Facility at Lemke Park to Kueny Architects, L.L.C. of Pleasant Prairie, Wisconsin in an Amount Not-to-Exceed \$38,000

RECITALS

A. Staff issued a Request-for-Proposals for a Contract for Lemke Park: Design Services for a Combined Restroom, Concession, and Storage Facility.

B. Staff and the appointed Park and Open Space Board Subcommittee received and reviewed six proposals and firm qualifications and interviewed three firms for consideration.

C. Staff has determined that the proposals received are in accord with the Request for Proposals and that firm qualifications have been met and, on that basis, has made a recommendation to the Public Works Committee.

D. Architectural and Design Services are eligible for and therefore shall be funded through Park Impact Fees.

E. As the low proposer for all equitable efforts, staff recommends award to Kueny Architects, L.L.C of Pleasant Prairie, Wisconsin based upon the proposal amount of \$33,826.

F. To provide for additional services that may result from execution of the contract and proper project design, the contract award amount shall be authorized with a contingency, for a total not-to-exceed cost of \$38,000.

G. The Park and Open Space Board unanimously recommended approval at its meeting on July 21, 2021.

H. The Committee on Public Works at the meeting on August 10, 2021, approved staff's recommendation.

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

1. The Architectural/Engineering Design Services for a Combined Restroom, Concession, and Storage Facility at Lemke Park is awarded to Kueny Architects of Pleasant Prairie, Wisconsin, in an amount not to exceed \$38,000, subject to any clerical, technical and/or legal changes deemed necessary and appropriate by the City Attorney.

2. The Mayor and the City Clerk are authorized and directed to execute and deliver the same.

Approved by: John Wirth, Mayor

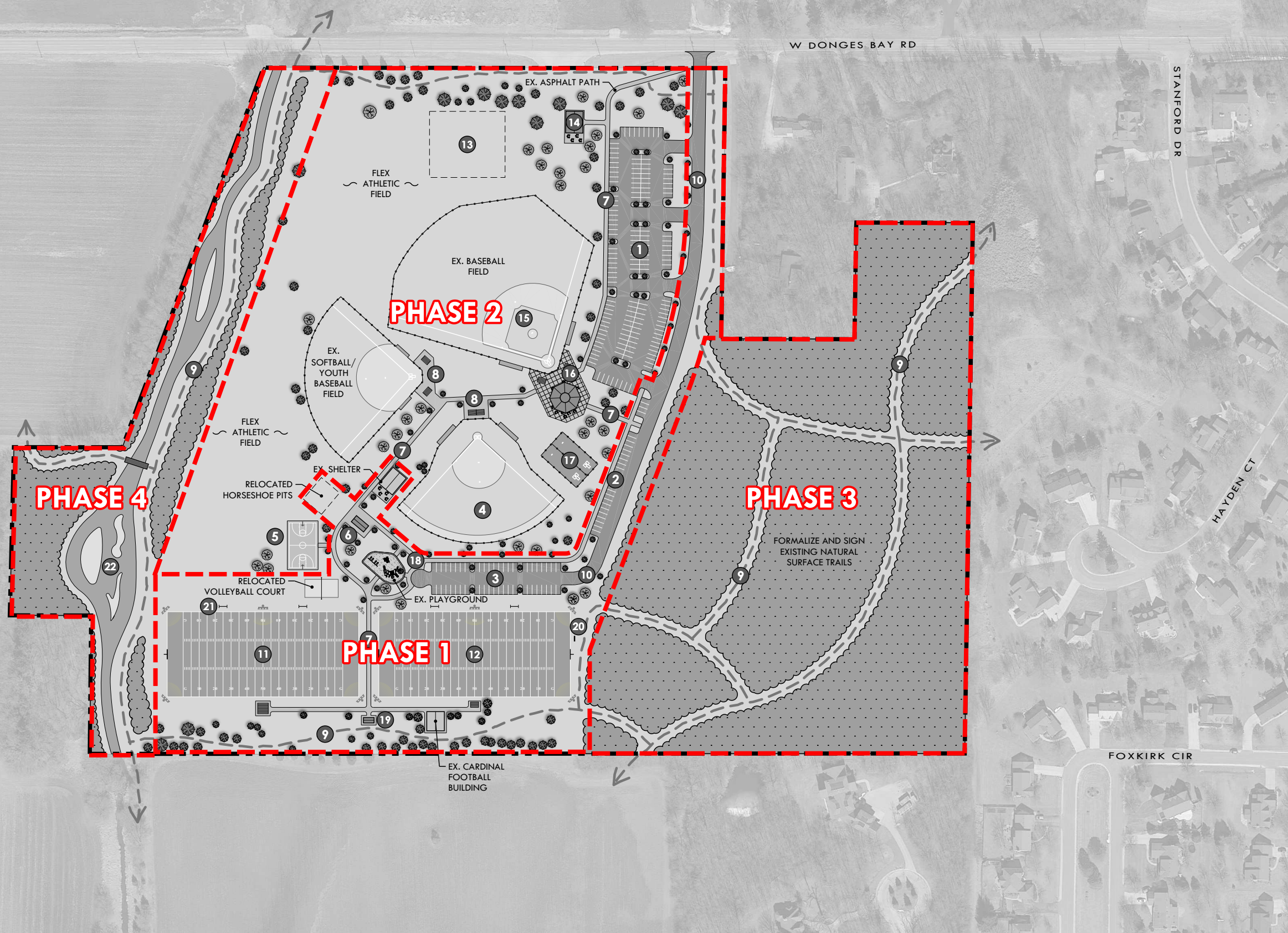
Date Approved: August 10, 2021

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk

PROPOSED FACILITIES

- 1 NORTH PARKING LOT
• 125 stalls
- 2 CENTRAL PARKING LOT
• 25 stalls
- 3 SOUTH PARKING LOT
• 52 stalls
- 4 YOUTH BASEBALL FIELD
• 12 year-olds and under
• Field dimensions: 200' LF, 200' CF, 200' RF
- 5 BASKETBALL COURT
- 6 STORAGE/RESTROOM BUILDING
- 7 CONCRETE PATH
• Construct an 8' concrete or asphalt path connecting park facilities and providing ADA accessibility.
- 8 CONCRETE PADS
• Install concrete pads under bleachers
- 9 TRAILS
• Trail material to be determined
- 10 PARK ENTRANCE DRIVE
• 24' wide, asphalt
- 11 FOOTBALL FIELD #1
• With large bleachers from River Barn Park and potentially field lighting
- 12 FOOTBALL FIELD #2
• With small bleachers and potentially field lighting
- 13 POTENTIAL RELOCATED ARCHERY
• Consider relocation to another park
- 14 SHELTER
- 15 BASEBALL FIELD IMPROVEMENTS
• Grass infield and raise pitcher's mound
- 16 BASEBALL PLAZA
• Hardscape area with concession/restroom building
- 17 BATTING CAGES
- 18 DROP-OFF CIRCLE
- 19 STORAGE SHED
• 10' x 20'
- 20 SCOREBOARD
• Relocated from River Barn Park
- 21 WATER TROUGHS
• Moveable drinking water units
- 22 RIVER RESTORATION & STORMWATER MANAGEMENT



COST ESTIMATE

Project: LEMKE PARK

Date: 10/18/2019

Project Number: 52-0658

Estimated by: JW, AO

Cost Estimate Status: PREFERRED CONCEPT

Approved by: BT



LEMKE PARK - PERFERRED CONCEPT

Item	Qty.	Unit	Unit cost	Item Total	Comments
MOBILIZATION	1	LS	\$100,000.00	\$100,000.00	
EROSION CONTROL	1	LS	\$10,000.00	\$10,000.00	
DEMOLITION	1	LS	\$30,000.00	\$30,000.00	
EARTHWORK	1	LS	\$60,000.00	\$60,000.00	
			SUBTOTAL	\$200,000.00	
PAVEMENT					
BASE AGGREGATE DENSE, 1-1/4"	8,040	TN	\$20.00	\$160,800.00	
ENTRANCE DRIVE PARKING LOT	5,045	TN			8"
PATH SYSTEM	2,183	TN			8"
BASKETBALL COURT	261	TN			8"
CURB AND GUTTER	551	TN			6"
ASPHALT PAVEMENT	2,766	TN	\$100.00	\$276,600.00	
ENTRANCE DRIVE PARKING LOT	2,630	TN			4"
BASKETBALL COURT	136	TN			4"
PAVED PATH SYSTEM	44,202	SF	\$5.00	\$221,010.00	
TRAIL SYSTEM	57,864	SF	\$2.50	\$144,660.00	8' WIDE AGGREGATE TRAIL
CONCRETE CURB AND GUTTER, 18"	5,008	LF	\$30.00	\$150,240.00	ENTRANCE DRIVE PARKING LOT
PAVEMENT MARKING STRIPING, 4" WHITE	4,535	LF	\$4.00	\$18,140.00	
PAVEMENT MARKING ACCESSIBLE SYMBOLS	10	EA	\$500.00	\$5,000.00	
PAVEMENT MARKING CROSSWALK	1	EA	\$2,500.00	\$2,500.00	
			SUBTOTAL	\$978,950.00	
SITE AMMENTIES					
PICNIC TABLES	20	EA	\$1,000.00	\$20,000.00	
BIKE RACK	4	EA	\$1,500.00	\$6,000.00	
BENCH	15	EA	\$1,000.00	\$15,000.00	
TRASH / RECYCLING RECEPTACLES	12	EA	\$500.00	\$6,000.00	
FLAG POLES	2	EA	\$5,000.00	\$10,000.00	
PLAYER BENCHES	10	EA	\$3,000.00	\$30,000.00	
BLEACHERS	7	EA	\$6,000.00	\$42,000.00	
GRAND STANDS	1	EA	\$12,000.00	\$12,000.00	RELOCATED FROM RIVER BARN PARK
DUMPSTER ENCLOSURE	1	EA	\$25,000.00	\$25,000.00	
SHETER	1	EA	\$50,000.00	\$50,000.00	
CONCESSION / RESTROOM BUILDING	1	EA	\$550,000.00	\$550,000.00	
STORAGE / RESTROOM BUILDING	1	EA	\$350,000.00	\$350,000.00	
FOOTBALL STORGE SHED	1	EA	\$10,000.00	\$10,000.00	
RELOCATED FOOTBALL SCOREBOARD	1	EA	\$7,500.00	\$7,500.00	RELOCATED FROM RIVER BARN PARK
RIVER RESTORATION AND STORMWATER MANAGEMENT	1	LS	\$200,000.00	\$200,000.00	
PARKING LOT LIGHTING	20	EA	\$5,000.00	\$100,000.00	
PEDESTRIAN LIGHTING	10	EA	\$3,000.00	\$30,000.00	
SPORTS FACILITY LIGHTING	10	EA	\$20,000.00	\$200,000.00	
			SUBTOTAL	\$1,663,500.00	
SIGNAGE					
REGULATORY SIGNS	13	EA	\$300.00	\$3,900.00	
ADA SIGNAGE	10	EA			
CROSSWALK SIGNS	2	EA			
STOP SIGN	1	EA			
WAYFINDING SIGN	10	EA	\$400.00	\$4,000.00	DIRECTIONAL
RULE SIGNS	5	EA	\$500.00	\$2,500.00	
PARK SIGN	1	EA	\$12,000.00	\$12,000.00	ENTRANCE
			SUBTOTAL	\$22,400.00	

Attachment: Master Plan Final Report - LEMKE PARK (RESOLUTION 3868 : Lemke RFP Award of Consultant to Kueny Architects)

SPORT FACILITIES						
	BASKETBALL COURT	1	EA	\$20,000.00	\$20,000.00	FURNISH / INSTALL
	12 AND UNDER BASEBALL FIELD	1	EA	\$85,000.00	\$85,000.00	
	BASEBALL FIELD IMPROVEMENTS	1	LS	\$10,000.00	\$10,000.00	GRASS INFIELD AND RASIED PITCHERS MOUND
	BATTING CAGES	2	EA	\$15,000.00	\$30,000.00	
	FOOTBALL FIELD	2	EA	\$30,000.00	\$60,000.00	
	RELOCATED ARCHERY RANGE	1	LS	\$10,000.00	\$10,000.00	
	RELOCATED HORSESHOE PIT	1	LS	\$5,000.00	\$5,000.00	
	RELOCATED VOLLEYBALL COURT	1	LS	\$3,000.00	\$3,000.00	CONCEPT 4 ONLY
				SUBTOTAL	\$223,000.00	
UTILITIES						
	WATER CONNECTION	1	LS	\$50,000.00	\$50,000.00	
	CONNECT TO EXISITNG	1	EA	\$2,000.00	\$2,000.00	
	WATER SERVICE, 2"	1,200	LF	\$40.00	\$48,000.00	
	SANITARY	1	LS	\$92,000.00	\$92,000.00	
	CONNECT TO EXISITNG	1	EA	\$2,000.00	\$2,000.00	
	SANITARY SERVICE, 6"	1,500	LF	\$50.00	\$75,000.00	
	CLEANOUTS	15	EA	\$1,000.00	\$15,000.00	
	SITE ELECTRICAL	1	LS	\$125,000.00	\$125,000.00	
	STORM SEWER	1	LS	\$127,500.00	\$127,500.00	
	STRUCTURES	10	EA	\$2,000.00	\$20,000.00	LARGE PARKING LOT
	PIPE	1,150	LF	\$50.00	\$57,500.00	LARGE PARKING LOT
	STORMWATER MANAGEMENT	1	LS	\$50,000.00	\$50,000.00	
				SUBTOTAL	\$394,500.00	
LANDSCAPING						
	TREES	150	EA	\$500.00	\$75,000.00	
	SHRUBS	40	EA	\$50.00	\$2,000.00	
	LAWN RESTORATION	1	LS	\$40,000.00	\$40,000.00	
				SUBTOTAL	\$117,000.00	
				Total	\$3,599,350.00	
				7% Contingency	\$251,954.50	
					\$3,851,304.50	



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Office of Public Works

TO: Common Council
FROM: Tim Weyker, Deputy Director of Public Works
DATE: August 2, 2021
SUBJECT: RESOLUTION 3873 A Resolution Approving the Following Items: A) The Purchase of a John Deere 624P Loader from Brooks Tractor, Milwaukee, Wisconsin in the Amount of \$232,043; B) The Purchase of Associated Plow & Wing Attachments from Universal Truck Equipment, Inc., Galesville, Wisconsin in the Amount of \$35,947; and C) The Transfer of \$228,715 from Various Department of Public Works Operating Accounts to the Department's Equipment Replacement Account

Background

In April of this year, Resolution 3835 was passed authorizing staff to exceed the 2021 Public Works Equipment Replacement Capital Account balance by \$225,000 for the purchase of a new loader with snowplow & wing attachments. The loader purchase is justified to provide greater efficiency for snow removal operations, but it will be a beneficial unit for the Department throughout the rest of the year as well. The loader will provide greater efficiency at the City's brush site during brush grinding operations (where spoils are loaded for a private contractor charging by the hour), as well as for other, larger tree removal operations. Staff seeks the approval for the purchase of this loader with snowplow & wing attachments with the goal of reducing the time needed for snow removal and cleanup from approximately 8 hours to 6 hours (see attached April memo and memo from the City's Highway Superintendent for more detailed analysis and justification).

Analysis

Staff solicited and received 3 bids for new loaders. The low bid was from Brooks Tractor for a John Deere 624P Loader for \$232,043. According to Brooks Tractor, the price increase of new loaders has been steady at 2% per year over the last several years and is projected to increase at the same rate next year (see attached Bid Summary).

Staff also solicited and received 4 quotes for snowplow & wing attachments for the loader. The lowest two quotes for snowplow & wing attachments did not meet required specifications. Staff recommends the lowest quote meeting specifications from Universal Truck Equipment, Inc. for \$35,947. Staff consulted with other communities that had installed the lower priced snowplow & wing attachments on their loaders and verified that they were not happy with the performance and maintenance issues. As with this year's plow truck purchase, the plow and wing portion of the purchase has increased more drastically (approximately 20%), mainly due to the rise in steel prices (see attached Quote Summary).

The combined total cost for the new loader and snowplow & wing attachments is \$267,990.

Fiscal Impact

Resolution 3835 authorized staff to exceed the 2021 Public Works Equipment Replacement Capital Account balance by \$225,000 for the purchase of a new loader with snowplow & wing attachments. The current unencumbered Equipment Replacement Account balance is \$39,275.

Staff is requesting that a total of \$228,715 for the purchase of a new loader with snowplow & wing attachments be transferred from various departmental salary and benefits accounts (from realized savings due to staff vacancies throughout the year) to the DPW Equipment Replacement Account.

Recommendation

It is staff's recommendation that the Public Works Committee favorably endorse, and the Common Council approve the attached resolution approving the funds transfer of \$228,715, and the purchase of a John Deere 624P loader and Universal snowplow & wing attachments to the respective low bidders shown above for a total cost of \$267,990.

Attachments:

April 2021 Public Works Memo Loader with Snowplow & Wing (PDF)

Memo from Highway Superintendent (DOC)

Quote Summary - 2021 Plow & Wing for Loader (PDF)

Bid Summary - 2021 Loader (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3873

A Resolution Approving the Following Items: A) The Purchase of a John Deere 624P Loader from Brooks Tractor, Milwaukee, Wisconsin in the Amount of \$232,043; B) The Purchase of Associated Plow & Wing Attachments from Universal Truck Equipment, Inc., Galesville, Wisconsin in the Amount of \$35,947; and C) The Transfer of \$228,715 from Various Department of Public Works Operating Accounts to the Department's Equipment Replacement Account

RECITALS

A. Resolution 3835 passed on April 13, 2021, authorized staff to exceed the public works equipment replacement capital account balance by \$225,000 for the purchase of a new loader with snowplow & wing attachments, in addition to the replacement of existing equipment in the DPW fleet during fiscal year 2021.

B. The Department of Public Works' Fleet Division solicited bids and/or quotes for the new loader and for the snowplow & wing.

C. All of the bid proposals and quotes were reviewed by staff for compliance with requirements specified.

D. Staff recommends the purchase of a John Deere 624P loader from Brooks Tractor, Milwaukee, Wisconsin for \$232,043 and for a Universal Snowplow & Wing Attachments from Universal Truck Equipment, Inc., Galesville, Wisconsin for \$35,947. The total purchase price for the loader and the snowplow & wing attachments as recommended is \$267,990.

E. Adequate funds are currently not available for the purchase of this loader in the Department of Public Works equipment replacement fund, Account # 410787-725012-10359.

F. There are excess funds available in various Department of Public Works salary and benefits accounts resulting from staff vacancies throughout the year in 2021.

G. The Public Works Committee favorably recommended the resolution at its meeting on August 10, 2021.

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

1. Salary and benefit savings totaling \$228,715 from divisional salary and benefit accounts in Buildings Maintenance #110326, Forestry #110363, Engineering #110358 and Highway #110359 shall be transferred to the DPW Equipment Replacement Account # 410787-725012-10359.

2. The Agreement for the Purchase of a John Deere 624P loader as bid, is approved and awarded to Brooks Tractor, Milwaukee, Wisconsin in an amount not-to-exceed \$232,043, subject to any clerical, technical and/or legal changes deemed necessary and appropriate by the City Attorney.

3. The Agreement for the Purchase of a Universal Plow & Wing as quoted, is approved, and awarded to Universal Truck Equipment, Inc., of Galesville, Wisconsin in an amount not-to-exceed \$35,947, subject to any clerical, technical and/or legal changes deemed necessary and appropriate by the City Attorney.

4. The Mayor and City Clerk are authorized and directed to execute and deliver the same.

Approved by: John Wirth, Mayor

Date Approved: August 10, 2021

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-236-2913
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www.ci.mequon.wi.us

Office of Public Works

TO: Common Council
FROM: Tim Weyker, Deputy Director of Public Works
DATE: April 13, 2021
SUBJECT: RESOLUTION 3835 A Resolution Authorizing City Staff to Exceed the Public Works Equipment Replacement Capital Account Balance by \$225,000 During 2021 for the Purchase of a New Loader Vehicle with Snowplow and Wing Attachments

Background

The Department of Public Works (DPW) Equipment Replacement Program provides for the replacement of vehicles and equipment for all divisions within the Department. The Wastewater Division and the Water Utility have separate budgets that support the replacement of their respective equipment. The DPW's equipment replacement program provides funding for smaller items such as lawn mowers and chain saws to larger vehicles such as snowplow trucks, loaders, and excavators.

In order to provide more efficiency during winter snow removal operations, staff is requesting authorization for a one-time expenditure for the purchase of a new loader with the appropriate snowplow and wing attachments to aid in citywide snow removal efforts. Please see the attached memo from Highway Division Superintendent, Rich Haczynski, which explains and justifies the efficiencies that could be realized by adding a new loader to the fleet. In addition to the points made in the memo by Supt. Haczynski, there were several times during this last winter that DPW had every available snowplow on the road clearing snow, including the grader and the current loader. There are currently two vacancies in the Highway Division. Once at full staff, there will be two more plow drivers available that could be utilized during any given snow event.

Analysis

In 2018, the City contracted with Mercury Associates, Inc. for a Fleet Rightsizing and Replacement Study. The rightsizing aspect of the study's report was realized shortly after the Mercury study and recommended units in the fleet were eliminated. The fleet replacement aspect of the study gave recommended replacement cycles and annual budget expenditure recommendations. The current DPW equipment replacement budget is less, and the current equipment replacement cycle is greater, than the recommendations of the study. In light of this, staff does not recommend adding a new piece of equipment at the sacrifice of replacing the existing equipment listed below.

2021 Equipment Replacement Staff Recommendation (in priority order)

<u>Unit #</u>	<u>Year</u>	<u>Description</u>	<u>Estimate</u>	<u>Comments</u>
318	2001	Plow Truck	\$195,000	Frame of dump box rusted beyond repair.

339	1961	Rubber Tire Roller	\$39,000	60 years old, unreliable, and unsafe
203	1999	1 Ton Pickup Truck	\$30,000	Pickup bed and lift gate rusted out.
403*	2009	1 Ton Dump Truck	\$9,000	*Replacing dump box only - rusted out.
456	2012	Zero Turn Mower	\$14,000	Used daily in summer and needs replacing.
359	1997	Culvert Steamer	\$9,000	Vital to clear frozen culverts
354	1996	Asphalt Heater	\$8,000	Trailer and frame rusted out.
516*	2011	Buildings Vehicle	<u>\$9,000</u>	*Replace with used Sewer Utility truck
			\$313,000	

Fiscal Impact

The DPW Equipment Replacement account balance is currently \$408,000. Sale of the above listed equipment at auction is estimated to total approximately \$20,150. Unit 409 was approved and ordered for \$70,500 last year, but to date has not been delivered. The 2021 lease payment for the four Chevy Malibu City Hall pool vehicles is \$19,650. Considering the sale of equipment and these two current obligations, the remaining account balance available for equipment replacement in 2021 is **\$338,000**. The estimated cost of a new loader with snowplow and wing is \$250,000.

According to the Fleet Rightsizing and Replacement Study, cost savings realized from the rightsizing of the fleet were projected to be \$71,000 in 2019 and \$174,000 in 2020 for a total of \$245,000. The savings from rightsizing was projected to be \$121,000 in 2021.

Each equipment purchase that requires Public Works Committee and Common Council approval will come before the bodies with associated resolutions authorizing the purchase. For any purchase(s) that exceed the allocated budget for 2021, staff will provide a source for the funds. Based upon seven (7) current vacancies within the Department, it is anticipated that the majority of funding needed to finance this supplemental purchase can be fulfilled with anticipated salary and benefit savings that have been, or that will continue to be, realized into mid-2021. Accordingly, and pending the Common Council's concurrence with staff's recommendation as proposed, a forthcoming resolution memorializing the necessary transfer of funds to account for this additional, one-time expenditure will be presented once final vehicle and equipment purchase prices have been obtained.

Recommendation

A recommendation is forthcoming from the Public Works Committee on April 13, 2021.

Attachments:

Memo from Highway Superintendent (DOC)



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Public Works Department

Date: March 19, 2021
To: Tim Weyker, Deputy Director of Public Works
From: Rich Haczynski, Highway Superintendent
Subject: Need for a Second Pay Loader with Plow & Wing

Reasons the Department of Public Works needs another loader for snow plowing:

In the last 10 years the City of Mequon has given 3.69 miles of straight easy to plow roads to Ozaukee County to maintain. In the same 10 years we have acquired 5.26 miles of road which is subdivisions, including many courts and dead-end stubs. In 2004, the Public Works Department had 299 cul-de-sacs and dead ends. Today the department has 321 cul-de-sacs and dead ends to maintain which are very hard and time consuming to plow with a big plow truck. These trucks do not turn the greatest when pushing snow. In all courts we try and push most of the snow to the inside of the court, so we do not fill all the driveways with a wall of snow. The loader pivots in center and can wrap around a court very easy. Right now, we have one loader with plow and wing set up for plowing (first got the loader to help in courts in 1985). The route we have for the loader has been in place since 2004 and consists of 45 courts to plow. This route takes about 5.5 hours at which point the loader jumps over to help in other sections with courts to try to get routes done faster. Now a complete clean up with 15 trucks and loader is taking close to 8 hours as compared to 10 years ago when it took 5.5 to 6 hours.

My plow drivers struggle to get through all these new courts, so we decided to do a time test in one of our newest subdivisions, the Enclave. During a large heavy snow event we had a truck and loader do the exact same courts, just opposite sides of the street. What we observed was the loader had no problem doing the court completely in seven minutes. The truck on the other hand had problems getting around the court and took him twenty-three minutes to finish. In that time, the loader did two other courts. This determined that the loader does three courts in the same time as a truck can do one. If we could add another loader to our fleet, I hope to get our complete plow clean up time back to the 5.5 to 6 hours instead of the 8 hours it is taking us now with all the new roads we have acquired.

In 1985 the City of Mequon had one loader with plow and wing set up to help with courts. Since 1985 many courts and dead ends have been added to the City of Mequon. Plow routes have gotten bigger and in turn are taking more time. I feel if we can add another loader with plow and wing to our routes, we could improve our time on getting the roads cleared to that 5-6 hour mark instead of 8 hours.

**CITY OF MEQUON
WISCONSIN**

QUOTES RECEIVED FOR: 2021 Plow & Wing for Loader

BIDDER	Wausau Equipment Company	Henke Manufacturing Corporation	Universal Truck Equipment	Henke Manufacturing Corporation
MAKE	Wausau	Henke	Universal	Henke
MODEL	HHS 4211-PW11	41R12 – PPW10	UTA-12-43H AHW/UTF 10	REL12 – PPW10
COMMENTS	<u>DOES NOT MEET SPECS</u> - Plow does not have dual trip or individual trip spring replacement specified.	<u>DOES NOT MEET SPECS</u> - Plow does not have the Husting hitch we specified.	<u>POSITIVE</u> – Plows on our trucks are Universal, so we stock replacement parts.	
BID	\$31,907	\$35,234	\$35,947	\$45,894

**CITY OF MEQUON
WISCONSIN**

BIDS RECEIVED FOR: 2021 Loader

BID NUMBER #1896

BID OPENING: 07-06-2021

TIME: 10:00AM

BIDDER	Brooks Tractor	Miller & Bradford & Risberg, Inc	Fabick Cat
MAKE	John Deere	Case	Caterpillar
MODEL	624 P	721 G	938 M
BID	\$232,043	\$241,156	\$243,365



11333 N. Cedarburg Road
Mequon, WI 53092
Phone: 262-242-3500
Fax: 262-242-9655

www.ci.mequon.wi.us

Office of Public Safety Committee

TO: Common Council
FROM: Patrick Pryor, Chief of Police
DATE: July 28, 2021
SUBJECT: RESOLUTION 3874 A Resolution Approving the Receipt of a Donation from the Mequon Community Foundation for the Purchase of Police Bicycles and Associated Equipment in the Estimated Amount of \$7,069

Background

The Mequon Community Foundation, a nonprofit organization that provides grants to the City's various institutions, facilities, and services, has approached the City with an offer to fund the equipment needed for the Police Department Bicycle Patrol Program. The current amount of funds to be donated will allow the Police Department the ability to purchase two pedal assist bicycles and all of the necessary safety equipment needed to support the program.

Analysis

The proposed donation will cover the entire cost of the two pedal assist bicycles, lighting equipment, and the safety equipment needed to completely setup the two bicycles as police bicycles. The total cost for this project is \$7,069.37.

The Police Department has had a Bicycle Patrol Unit since about 2004. At that time, there were five officers assigned to it. The unit was active until about 2012. By then, the unit had essentially lost all assigned officers due to retirement or promotions. The unit has been dormant since then due to staffing challenges that the Department faced over the past decade. As the Department now has improved staffing, it is working to reinstitute the Bicycle Patrol Unit.

Previously, the bicycle patrol area had primarily been assigned to the Interurban Trail and park/nature preserve areas. It had also historically been deployed in neighborhoods or subdivisions that were experiencing an uptick in problems (such as damage to property or thefts). As the Department redeploys this unit, a new patrol area design has been established. In addition to the Interurban Trail, the Port Washington Road corridor and various park areas, bicycle officers will also patrol the Spur 16 and Town Center developments, parking areas, and surrounding Mequon neighborhoods located within the center of the City. The goal is to deploy bicycle officers in high pedestrian and cyclist traffic areas in order to increase visibility and positive contacts.

If this donation is accepted the Department will move forward with the revitalization of the Bicycle Patrol Program. The Department has been working with the new Bicycle shop, *Trailside Recreation*, located on Weston Drive. The owner of this new business has provided the Department with a very competitive price for the two bicycles and to completely outfit these two bicycles with all the necessary equipment. The bid information is attached to this resolution.

Fiscal Impact

All funds for this equipment purchase will be provided by the Mequon Community Foundation.

Recommendation

A recommendation is forthcoming from the Public Safety Committee on August 10, 2021.

Attachments:

Trailside Recreation Invoice (PDF)

COMMON COUNCIL
OF THE
CITY OF MEQUON

RESOLUTION 3874

A Resolution Approving the Receipt of a Donation from the Mequon Community Foundation for the Purchase of Police Bicycles and Associated Equipment in the Estimated Amount of \$7,069

RECITALS

A. The City of Mequon Police Department provides 24-hour police services 365 days per year.

B. The Mequon Community Foundation, a non-profit organization located in Mequon that provides grants to the City's various institutions, facilities and services has offered to sponsor the purchase of two bicycles and associated equipment.

C. The total cost to purchase the bicycles and equipment is \$7,069.37 from *Trailside Recreation*, 11090 N. Weston Drive, Suite 3, Mequon, Wisconsin 53092.

D. The total value of this donation will exceed \$5,000 and therefore requires approval by the Common Council.

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

1. The Police Department is authorized and directed to accept the donation for the cost of two bicycles and associated equipment for the Bicycle Patrol Program from the Mequon Community Foundation.

2. Staff is further authorized to purchase the bicycles from Trailside Recreation utilizing funds from the donation.

Approved by: John Wirth, Mayor

Date Approved: August 10, 2021

I certify that the foregoing Resolution was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on August 10, 2021.

Caroline Fochs, City Clerk

Invoice

Invoice **Issue Date**
 Invoice 1 July 14, 2021

Supplier

Trailside Recreation
 11090 N Weston Dr STE 3
 Suite 3
 Mequon
 53092

✉ Swolf@trailsiderecreation.com
 ☎ 262-236-9719

Payment Terms

Net 30

Item	Unit Price	Qty.	Total
BULLS STURMVOGEL EVO STREET - 51CM (LG) / PLATINUM SKU: 787-407	USD 2,499.00	2	USD 4,998.00
Giro Register MIPS Helmet - Universal / Black SKU: 7089185	USD 59.95	6	USD 359.70
Hollywood Sport Rider for Electric Bikes - Default Title SKU: 399127	USD 499.95	1	USD 499.95
Ergon GP3-S STANDARD MTB/HYBRID HANDLEBAR GRIPS - Default Title SKU: 326310	USD 30.99	2	USD 61.98
Mirrycle Mountain Handlebar Mirror - Def- ault Title SKU: MI3002	USD 16.99	2	USD 33.98
Delta XL Smartphone Phone Holder - Default Title SKU: EC9024	USD 27.99	2	USD 55.98
TA2029B EXPLORER REAR RACK W/S- PRING BLACK × 2 SKU: NA	USD 39.99	2	USD 79.98
TT9616B-POL MTX EXP-TRUNKBAG W- /POLICE LOGO BLACK × 2 SKU: NA	USD 79.99	2	USD 159.98
Custom Decals- Bike SKU:	USD 19.99	4	USD 79.96

Attachment: Trailside Recreation Invoice (RESOLUTION 3874 : Acceptance of Donation for Bicycle Patrol)

Custom decals- Helmet	USD 9.99	12	USD 119.88
SKU:			
MaxPatrol 600 Light Set	USD 309.99	2	USD 619.98
SKU:			

SUBTOTAL	USD 7,069.37
SHIPPING	USD 0.00
TAX	USD 0.00
TOTAL	USD 7,069.37

Total Paid	USD 0.00	Amount Due	USD 7,069.37
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Created with Invoice Falcor

Attachment: Trailside Recreation Invoice (RESOLUTION 3874 : Acceptance of Donation for Bicycle Patrol)



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Mequon, WI 53092-1930
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Fax: 262-242-9655

www.ci.mequon.wi.us

Office of City Attorney

TO: Common Council
FROM: Brian Sajdak, City Attorney
DATE: August 4, 2021
SUBJECT: Acquisition of a Stormwater Drainage Easement Across the Property at 9731 N. Courtland Drive

Background

The Common Council may convene into closed session pursuant to Wis. Stat. §19.85(1)(e) for the purpose of deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, and then may reconvene into open session to take such action as deemed appropriate. In this case, it is anticipated that the Council would go into closed session for the purposes of discussing the recent appraisal of the land and to provide guidance on any negotiating strategy that may be necessary as a result of said appraisal.

Common Council Action Required

Motion to enter closed session pursuant to Wis. Stat. § 19.85(1)(e) for the purpose of discussing strategy for negotiations for acquisition of a stormwater drainage easement across the property located at 9731 N. Courtland Drive.