



# CITY OF MANITOWOC

WISCONSIN, USA

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TO: Personnel Committee  
FROM: Eric G. Nycz, Assistant City Attorney  
RE: City Attorney's Office Update – May 2023  
DATE: April 28, 2023

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In addition to drafting legislation and reviewing contracts as requested by City departments, the City Attorney's Office has worked on the following projects and initiatives since my last update dated March 31<sup>st</sup>, 2023:

## **Environmental Remediation**

- Lemberger Landfill: Work continues as planned. I have taken the lead going forward.
- Gravel Pit: Godfrey Kahn continues as legal counsel. Watermain project continues. Meetings with environmental expert Dave Henderson to discuss projects and budget requests for the year, including installing new wells
- Mirro Plant No. 9: Godfrey Kahn is legal counsel for cost recovery efforts.
- WPS Superfund Site: No update.

## **Open Records Requests**

- Numerous routine open record requests – Building Inspection records; settlement records; salaries of employees; traffic citation meta-data.
- Human Resources open records request completed.

## **Litigation, Prosecution, and Neighborhood Improvement**

- MAVCB/Hearty Olive suit: Smitha Chintamaneni, along with Attys. Douglas Raines and Amy Ambro. of Husch Blackwell, LLP handling for City. A Hearing has been set for September 15, 2023 regarding the City's motion to Stay Enforcement of the Court's Order and Remedies (these are two separate issues that will be briefed).
- Howell suit: Spoke with Brian Beisenstein of Menn (handling for City) and he believes the case is completely dismissed with no avenue of appeal. He will double check and get back to the office on this.
- Lewandowski suit: no update, Rich Bolton of Boardman Clark handling for City. Dispositive motions are due April 3, 2023, while the discovery deadline is today. Mr. Lewandowski remains unrepresented.
- Lowe's suits: Ryan Braithwaite of Stafford Rosenbaum handling for City.  
*Lowe's v. Delavan*: On February 16, 2023, the Wisconsin Supreme Court ruled in favor of Delavan in an overall excellent decision for municipalities. Lowe's may initiate settlement discussions at any time.

## **Economic Development**

- CD Department's upcoming projects
  - Metal Ware – waiting on developer
  - Old Heresite property – ongoing
  - AMMO Option to Purchase

- O'TP for River Point Land Purchase / Development: Ongoing amendments
- River Point - Lease termination discussions with Braun Building to facilitate sale to developer.
- Schaus Roofing & Mechanical new warehouse building over City's 24" sanitary sewer – new revisions.
- Briess Malting – HAP Award to dredge the river and meetings on vault damage on South 7<sup>th</sup> Street. Briess is holding up the agreement due to some issues with the state's language.
- Negotiations with Attorney Tim Burkart regarding Briess Vault issue.
- 4221 Calumet Avenue – sale proceeding towards a closing date after work on title objections. Condition removal by the D.O.T. is complete as is a Memorandum of Understanding regarding the division of proceeds for the sale.
- Received permission from CVS, landowner, and lender to finish construction on Bayshore Trail. This project has been waiting years for legal permission to proceed.
- Work on Blight-related issues has increased dramatically.

### **Insurance/Risk Management**

- Reviewed claims filed against the City, reported to and consulted with insurance (CVMIC) and Finance as appropriate.
- ADA Title II work in progress, bimonthly meetings scheduled. City needs to appoint a new ADA coordinator and issue new policies as appropriate.
- Secondlook/National General Insurance Subro Claim re Josh McMullen – near finalization.
- Denied Claim on water lateral repairs following investigation.

### **Labor Matters**

- Assist unionized departments with personnel matters, as needed. Minimal this month.

### **Office Matters/Additional Information**

- vonBriesen Attorney Steven Sorenson, is on-call, as needed, but was once again not needed over this period.
  - WEDC Grant (SAG Funds) Contract for River Point District
- Review of new State law on binding authority language for all LLCs and partnerships to ensure all City permits and contracts are signed by a person who may bind the entity to a contract; revision of existing permits, license applications, and contracts to comport with this law – on hold pending Mayor direction or approval.
- Cell tower lease negotiations at 736 Revere Drive to increase use of the tower and revenue to the City – letter of intent signed; review and negotiation of contracts underway. Ongoing negotiations.
- Resolution regarding EpiPens – work completed on legal's end. Now in the hands of HR and Public Safety to implement.
- We are prepared and ready for our intern to begin his summer internship on May 22, 2023.
- Successful training of our new paralegal continues.

### **Monthly Reporting on Workload**

- Numerous Requests for Legal Services received, and have been handled completely in-house – this is the vast majority of Attorney's workload. There has been such an increase in requests for contract drafting and review that they have taken entire work days.
- PKS, LLC, d/b/a Bridgeview Bar Notice of Circumstances of Claim - 2 Maritime Drive – have been informed an expert plumbing report from the claimant is forthcoming.
- Traffic / ordinance prosecution continues to be pre-trialed and scheduled for trial, if requested.
- Increase in defendant requests to reopen defaulted citations continues. These appear to be universally granted by the Court.
- Trials scheduled into June 2023.
- Jury trials scheduled into October 2023.