



CITY OF MANITOWOC

WISCONSIN, USA

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TO: Personnel Committee
FROM: Eric G. Nycz, Interim Attorney
RE: City Attorney's Office Update – June 2023
DATE: June 2, 2023

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 April 28th, 2023:

Environmental Remediation

- Lemberger Landfill: Work continues as planned.
- Gravel Pit: Godfrey Kahn continues as legal counsel. Watermain project continues.
- 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; zoning records; rental registration records; finance records; legal settlement records.

Litigation, Prosecution, and Neighborhood Improvement

- MAVCB/Hearty Olive suit: Smitha Chintamaneni, Douglas Raines and Amy Ambro of Husch Blackwell, LLP and Chris Smith of von Briesen handling for City. A Hearing has been set for August 23, 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). It is expected that Judge Rohrer will issue an oral ruling on these issues at that time.
- Howell suit: dismissed.
- Lewandowski suit: no update, Rich Bolton of Boardman Clark handling for City. Pretrial Conference was held on May 5, 2023. Dispositive motions are due July 5, 2023. Mr. Lewandowski remains unrepresented.
- Lowe's suits: Ryan Braithwaite of Stafford Rosenbaum handling for City. Lowe's has presented the City with favorable terms for settling this issue. Once the final details are formalized, this Office will recommend accepting the terms negotiated by Stafford Rosenbaum and counsel for Lowe's.
- Behnke (ShopKo) suit: we have joined and an oral ruling on the motion for declaratory judgment is expected on August 30, 2023.

Economic Development

- CD Department's upcoming projects
 - Metal Ware – waiting on developer
 - Old Heresite property – ongoing
 - AMMO Option to Purchase
 - OTP for River Point Land Purchase / Development: Ongoing amendments

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- River Point - Lease termination discussions and relocation with Braun Building to facilitate sale to developer; Braun has submitted a TIF Proposal and the City has countered the Proposal.
- Briess Malting – HAP Award to dredge the river and meetings on vault damage on South 7th 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; nearing an end, we hope.
- 4221 Calumet Avenue – sale proceeding towards a closing date currently expected to be on or around June 30.
- Received permission from CVS, landowner, and lender to finish construction on Bayshore Trail. This project has been waiting years for legal permission to proceed. Construction is nearly complete.
- 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 – awaiting proof of payment by subrogation carrier.
- Claims for water damage in basement and trip and fall pending for Finance Committee.
- Denied claim for “inconvenience” following tree branch striking a citizen’s vehicle.

Labor Matters

- Assist unionized departments with personnel matters, as needed. Solved contractual issue with Transit as well as an issue with problematic teens riding the bus.

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 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. We are nearly complete – simply searching for a cleaner copy of an easement map.
- Our summer intern began his internship on May 23, 2023. Notably, he has worked on a contract for tourism and a significant ORR.
- Prosecution Services Agreement with Attorney Joseph Thuermer pending Council approval.

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.
- PKS, LLC, d/b/a Bridgeview Bar Notice of Circumstances of Claim - 2 Maritime Drive – reminded Attorney representing claimant that the claim was denied more than a year ago and we consider the matter closed.
- Traffic / ordinance prosecution continues to be pre-trialed and scheduled for trial, if requested.
- Minimal requests to reopen this month.
- Trials scheduled into June 2023.
- Jury trials scheduled into October 2023.