



CITY OF MANITOWOC

WISCONSIN, USA

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TO: Personnel Committee
FROM: Eric G. Nycz, Interim Attorney
RE: City Attorney's Office Update – September 2023
DATE: August 25, 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 July 24, 2023:

Environmental Remediation

- Lemberger Landfill: Work continues as planned. PFAS now a developing issue.
- Gravel Pit: Godfrey Kahn continues as legal counsel. Watermain project continues. Newell's contributions to 2022 expenditures is currently being negotiated.
- 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 and zoning records. Slight increase this month.

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 was held on August 23, 2023. Judge Rohrer denied MAVCB's request for damages as well as our motion to stay his ruling (from March) pending appeal. He further ordered that the proper remedy here is to contract for future services within the next 60 days. The value of current contracts and obligations of the City's tourism efforts are not "on the table" for the purposes of negotiations. If an agreement is not reached by the end of October, he will order binding arbitration.
- Lewandowski suit: Mr. Lewandowski remains unrepresented. A Court trial set for November 1, 2023.
- Behnke (ShopKo) suit: an oral ruling on the motion for declaratory judgment is set for August 30, 2023. The City joined this case to show support for further development in the former Shopko lot.
- Work continues with the civil suit against EconoLodge for failure to pay room tax. Discussions with the Department of Revenue confirmed that there is a significant gap in the law. We may recommend a new license requirement for hotels subject to the room tax; this will require an ordinance revision.

Economic Development

- CD Department's upcoming projects
 - Old Heresite property: 8 acres still available, the City has moved debris piles from the Gravel Pit to this site to accommodate the solar farm
 - AMMO Option to Purchase: Approximately 2 years on this option
 - OTP for River Point Land Purchase / Development: closing has been pushed to October 31

- River Point - Lease termination discussions and relocation with Braun Building to facilitate sale to developer; Braun noted they can be out by January 2025 – the City has noticed they must be out by January 2024; the developer is ready when the City has the property ready.
- 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; Craig Briess reports he will sign the agreement but it has not yet been submitted.
- Briess Vault – Briess has determined that MPU is responsible for the damages, they will now battle on this issue.

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 —received 1 of 2 final proof of payments by subrogation carrier.
- Several new claims due to the damage from the August 3, 2023 storm.

Labor Matters

- Assist unionized departments with personnel matters, as needed. Current negotiations for contract with Transit and MPSD.

Office Matters/Additional Information

- 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.
- Considerable effort/time spent on WWTF to MPU code updates.

Monthly Reporting on Workload

- Numerous Requests for Legal Services received, and have been handled completely in-house – this is the majority of Attorney’s workload.
- Long-term projects are requiring more daily attention.
- Traffic / ordinance prosecution continues to be pre-trialed and scheduled for trial, if requested.
- Minimal requests to reopen this month.
- Trials scheduled into December 2023.
- Jury trials scheduled into October 2023.