



CITY OF MANITOWOC

WISCONSIN, USA

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TO: Personnel Committee
FROM: Eric G. Nycz, City Attorney
RE: City Attorney's Office Update – November 2023
DATE: October 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 September 25, 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 has countered the City's offer for 2022 costs and negotiations continue.
- 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, Fire Rescue, and Mid-Cities/Lakeshore Mall.

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. The City prepared a Motion for Reconsideration after newly discovered evidence showed the MAVCB was not in good standing (it was not filing state paperwork nor was it following its Bylaws). A Status Conference is scheduled November 10, 2023 – we hope the judge will rule on our motion at that time.
- Lewandowski suit: this case has been dismissed (the City has “won”) and there will be no further updates unless Mr. Lewandowski appeals.
- Behnke (ShopKo) suit: Status Conference scheduled for October 31, 2023. The City joined this case to show support for further development in the former Shopko lot. At this point it looks unlikely that the development will succeed.
- Work continues with the civil suit against EconoLodge for failure to pay room tax. We may recommend a new license requirement for hotels subject to the room tax; this would require an ordinance revision.
- 770 Albert Drive - Working with Chief Blaser and Fire & Rescue/Inspection. A nuisance suit is forthcoming.
- A request for Writ of Certiorari has been filed regarding the CDA and CC's decision to blight the former mall properties but the City has not yet been served with the lawsuit. Outside counsel will be retained to handle.

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 March 12, 2025

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- 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; met with Craig Briess and their counsel to iron out the language.

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.
- One new claim from Lakeshore Mall LLC/Lakeside Improvement LLC.

Labor Matters

- Assist unionized departments with personnel matters, as needed. Current negotiations for contract with police union.

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.
- An Alcohol License Policy has been drafted and is circulating with the Police Department and Clerk’s Office for comment before it is presented to the Common Council.

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.
- 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 November 2023.