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PUBLIC NOTICE OF MEETING
BOARD OF PUBLIC WORKS

Pursuant to Section 19.84, Wisconsin Statutes, notice is hereby given to the public that a regular meeting of the Board of Public Works of the City of De Pere will be held on Monday, August 10, 2009, 7:30 p.m. in the **Council Chambers of the City Hall.**

Notice is hereby given that a majority of the members of the Common Council of the City of De Pere may attend this meeting to gather information about a subject(s) over which they have decision-making responsibility.

AGENDA FOR SAID MEETING:

1. Roll Call
2. Approve minutes of the regular meeting held on July 13, 2009, which were previously forwarded to Board Members
3. Discuss September BOPW Meeting
4. Approve Quote for Project 09-12, Traffic Signal Analysis
5. Approve Bid for Project 09-13 Crackfilling
6. Approve Purchase of Snow Pusher Plows
7. Approve Request for Payment Plan for Special Assessments – Glory Rd Sanitary and Watermain
8. Discuss Upcoming 2010 Board of Public Works Budget
9. Discuss Brush and Rubbish Collection Violation Notice Policy
10. Discuss Energy Efficient Street Lighting
11. Discuss EPA Request for Restrictive Covenant on 519 Lande St and 315 S 6th St
12. Public Comment
13. Future Agenda Items
14. Adjournment

Scott J. Thoresen, P.E.
Public Works Director

AGENDA SENT TO:

Alderspersons
Mayor
Administrator
Clerk's Office
Bulletin Boards
Lee Schley
Karen Heyrman

De Pere Journal
Green Bay Press Gazette
TV and Radio Stations
De Pere Area Business Alliance
North American Communications
WI Public Service Corporation
Ms. Diane Hockers, 429 S. Ninth St, De Pere 54115

Any person wishing to attend whom, because of disability, requires special accommodations should contact the office of the Clerk-Treasurer at 339-4050 by noon on the day of the meeting so that arrangements can be made.

A regular meeting of the Board of Public Works was held on Monday, July 13, 2009 at 7:30 p.m. in the Council Chambers at City Hall.

1. Roll Call.

Members present on roll call: Mayor Walsh, Alderpersons Boyd, Wilmet, Donovan and Heuvelmans.

Members absent on roll call: None

Others present: Scott Thoresen - Director of Public Works, Lee Schley – City Engineer, Sue Selissen - Public Works Secretary, recording secretary & Alderperson Robinson. Randy Asman, WI Dept of Transportation & De Pere property owners Grant Winslow, 840 W St Francis, De Pere and Randy Christensen, 841 W St Francis, De Pere.

2. Approve minutes of the regular meeting held on June 8, 2009; which were previously forwarded to Board Members

Minutes of the June 8, 2009 regular meeting previously forwarded to members of the Board were presented. A motion to approve the minutes was made by Alderperson Wilmet, seconded by Alderperson Boyd. Upon vote, motion was carried unanimously.

3. Introduce PW Street Superintendent to Board Members, Al Luberda

Scott Thoresen, Public Works Director, introduced the new Street Superintendent to the Board Members. The members extended congratulations and a welcome aboard to Al.

12. Public Comment

Mayor Walsh acknowledge two residents present who had requested to speak at public comment time. The Mayor opted to move up "12 Public Comment" so that the residents did not have to stay until the end of the meeting to speak about their concern. Grant Winslow stated that the city needed to implement some guidelines regarding brush violations and what actually constitutes a violation. He feels that there are no clear boundaries or guidelines defining "brush" as a violation. He stated he had placed a Christmas tree and a household plant out for pick up in January, that it was not picked up and that he then received a violation letter in February for it. He informed the Board that his neighbor (present at this meeting) also received violation notices for two sticks that were in front of the curb on their street. He noted that they were Birch tree branches and that his neighbor does not have an Birch tree in his yard. He added that when the City trimmed his terrace trees, they left the brush and he got violation letters for that also. Given the neighborhood and trees being more mature, he wanted to know why homeowners could not trim their own trees. Right now, he gets violation letters for branches from trees that don't belong to him. He was sent a letter when a small pile of branches were found on his terrace area and stated that the City determined it to be a "brush" pile, but instead found out that his young child and other kids in the neighborhood were playing and gathered sticks and made a small pile of them on his front lawn. Mr. Winslow stated he understands the need for violation letters, however, asked if street crews could be provided a better definition of a true violation and be able to use their judgment when making that call. Randy Christensen spoke next and reiterated the need for a definition for brush violation. He stated that he could not even see the two sticks by the curb from his bay window and that they were not even from his yard. The Board thanked them for their comments.

4. Wisconsin Department of Transportation (WDOT) presentation on Claude Allouez Bridge Roundabout

Randy Asman from the WDOT, gave a presentation of the current stats on the Claude Allouez Bridge roundabout. He talked about what is working, what is not and HWY 172 closure impacts on traffic volume. The bottom line is that the roundabout is functioning better than expected. Accidents have increased, however, the severity of vehicle accidents had decreased, no pedestrians have been hit and only 1 accident that involved a bicyclist was reported. Randy stated that this increased flux is accredited to higher volume on the roundabout from the closure of HWY 172. Accidents are expected to decrease once HWY 172 reopens.

Signage was discussed and the Board requested that it be placed further back from the roundabout so that drivers have time to get into the proper lane prior to finding themselves in the traffic back ups at peak hours. It was felt that this might help since most of the accidents were reported to be from entering the roundabout in the wrong lane and then performing improper lane changes to try to exit it. Randy said he would make this request on behalf of the Board, but added that a decision may be made to wait until HWY 172 reopens and traffic calms and they are able to monitor the situation for a while. Mayor Walsh requested that signage be adjusted sooner than later since HWY 172 is expected to be closed again in the near future.

Aldersperson Heuvelmans opened discussions on possibly looking at a right turn only lane on the roundabout and stated that he has seen back ups as far back as 8th St. Randy said their findings did not indicate back ups to 8th Street, however, after more discussion he reported that there could be a study done using barrels or cones. The end result would require reconstruction, signage and marking changes. Mayor Walsh pointed out that it could be very confusing to only have this mandatory right turn lane in the roundabout coming from one direction. Randy concluded that he could probably report back to the Mayor in two weeks regarding the signage concern. He added that a flyer will be sent out to everyone about how to use roundabouts and prompted the City to come up with ways to continue to educate the community.

Aldersperson Heuvelmans stated that he has seen people being pulled over on the roundabout by police and felt that the officers should have the vehicles pull off so not to create more confusion with the driving public. He felt this was a safety issue. Aldersperson Donovan stated he supported more education vs. citation. Scott Thoresen requested a copy of the presentation and Randy said he would get one to him.

5. Discuss U-Turn issue on Scheuring Rd west of Roundabout at Ninth – presented by Aldersperson Wilmet

Aldersperson Wilmet stated that Aldersperson Donovan initially presented this concern. Aldersperson Donovan stated he read the Traffic Committee's recommendation in the packet, however, still felt that the roundabout should be used for making the turn vs. making a U-Turn in that area and unnecessarily stopping traffic.

Aldersperson Donovan also asked why there are left turn lanes existing that turn into an empty field. Lee Schley, City Engineer stated that they are designed that way.

A motion was made by Aldersperson Donovan to disallow a U-Turn in that area, seconded by Aldersperson Heuvelmans. Upon vote, motion was carried unanimously. Mayor Walsh stated that a resolution would need to be drafted and presented to the Common Council.

6. Discuss Bike and Pedestrian flow interfering with traffic on Lost Dauphin Rd – Presented by Alderperson Boyd

Scott Thoresen, Public Works Director, reported to the Board that this item was referred to the Brown County Planning Commission. Alderperson Heuvelmans opened discussion on a bike lane. Lee Schley, City Engineer, stated that the road was not constructed to accommodate a bike lane, however, it may be able to be designated as a bike route, which allows the lane to be shared by vehicles and bicyclists. Lee will address this item to the County.

7. Discuss establishing a Special Assessment Policy for replacing Sanitary Lateral

Scott Thoresen, Public Works Director, updated the Board on this item. Lee Schley, City Engineer, reiterated the plan that was provided in the packet, adding that there is not a consistent means of assessing per other municipalities that he spoke to. Other municipalities are doing assessments from the property line, the main line and center of the road. Further discussion was held about how the City should assess. Lee noted that Ashwaubenon only assesses to the property line. The Board requested that they be presented data at the next Board meeting as to where Ashwaubenon gets the funds to pay for these laterals and what other municipalities are doing as well. Scott cautioned the Board on changing the code and discussed the need for replacing old laterals and added that Slip Lining is now being done and is an effective way to help resolve the problem. Lee stated that it could cost approximately \$3,000 for a homeowner to Slip Line from home to lateral.

Lee stated that at this time, for the Wisconsin reconstruction project, that the property owner that wants their lateral replaced pays from main line to terrace. An I&I consultant was also discussed.

8. Discuss the Policy for Notifying Property Owners of all Street Projects

Scott Thoresen, Public Works Director, updated the Board on the Policy drafted by Lee Schley, City Engineer, for street project notification to residents, which was included in their packet. A discussion was held regarding a recent Informational Meeting where worst-case scenarios were presented to the public. Alderperson Donovan stated it appeared to be a "scare tactic". Scott and Lee both supported giving all information, as well as projected costs of future concrete repairs to the residents so that they could make a well-informed decision. A motion was made by Alderperson Donovan to approve the policy for notification of property owners of all street projects, seconded by Alderperson Heuvelmans. Upon vote, motion was carried unanimously.

9. Approve Final Design for Bumpouts on Chicago St

Scott Thoresen, Public Works Director, updated the Board on this item. He added that there will be no Bumpouts on Erie Street and Webster Ave. Erie Street Bumpouts would not accommodate truck traffic as well staff felt that installation of Bumpouts would impede westbound traffic turning right. It was also felt that this intersection is an All-way Stop intersection allowing pedestrians an easier access to cross the street. Webster Ave is a County Trunk Road and bumpout installation wouldn't accommodate for truck traffic as well. Construction is scheduled to begin in three weeks. A motion was made by Alderperson Donovan to approve the final design, seconded by Alderperson Boyd. Upon vote, motion was carried unanimously.

10. Review hiring a Consultant for Design Services for Jordan Rd

Scott Thoresen, Public Works Director, updated the Board on this item. \$178,000 of Federal Stimulus funding is available for this project but the design needs to be submitted to the state by Oct 1st. Due to time constraints, Scott is recommending that Robert E. Lee be hired to assist so that we can make the state mandated deadline and receive these funds. The Board was informed that if the opportunity

to get funding arises, they should proceed if time constraints prevent going thru the normal process of Common Council approval. Lee Schley added that the cost of the design would be \$24,000 and would need to be paid by the City up front, prior to receiving approval for the funding. A motion was made by Alderperson Donovan to approve hiring Robert E. Lee for design services for Jordan Rd, seconded by Alderperson Heuvelmans. Upon vote, motion was carried unanimously.

11. Review of Bid received for Project 09-02 Brick Paver Maintenance

A motion was made by Mayor Walsh to accept the bid from Martell Construction in the amount of \$32,510.00, seconded by Alderperson Boyd. Upon vote, motion was carried unanimously.

12. Future Agenda Items

1. Brush pick-up Policy and Violation letters

13. Adjournment.

A motion was made by Mayor Walsh at 9:46 pm to adjourn, seconded by Alderperson Wilmet. Upon vote, motion was carried unanimously.

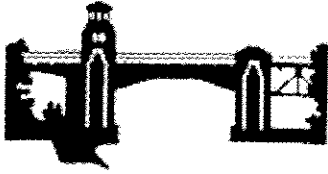
SCOTT J. THORESEN, P.E.
DIRECTOR OF PUBLIC WORKS

City of De Pere Public Works Department

Memo

To: Honorable Mayor Walsh
Members of the Board of Public Works
From: Scott J. Thoresen, Director of Public Works S.J.T.
Date: August 5, 2009
Subject: Discussion of September BOPW Meeting

Labor Day this year is when our next BOPW meeting should occur. As a result we need to schedule a meeting for the week of September 7th. On September 8th is the Finance Committee meeting. I would suggest scheduling a meeting for Wednesday September 9th.



Memorandum

To: Honorable Mayor Walsh
Members of the Board of Public Works

From: Karen Heyrman, P.E.
Assistant City Engineer

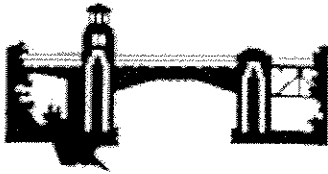
Re: Approve Quote for Project 09-12, Traffic Signal Analysis

Date: July 30, 2009

Discussion: The following quotes were received for the Traffic Signal Analysis:

<u>Consultant</u>	<u>Amount</u>
Traffic Analysis & Design	\$32,540
McMahon	\$39,275
SEH	\$45,486

\$42,700 was budgeted for this work. The recommendation is to accept the quote of Traffic Analysis and Design in the amount of \$32,540.



Memorandum

To: Honorable Mayor Walsh
Members of the Board of Public Works

From: Karen Heyrman, P.E.
Assistant City Engineer

Re: Approve Bid for Project 09-13, Crackfilling

Date: Aug 4, 2009

Discussion: The following bids were received for Crackfilling:

<u>Consultant</u>	<u>Amount</u>
Asphalt Seal & Repair Inc	\$46,875.00
Allied Blacktop Corp	\$60,000.00
Fahrner Asphalt Sealers	\$77,000.00

\$60,000.00 was budgeted for this work. The recommendation is to accept the bid of \$46,875.00 from Asphalt Seal & Repair Inc.

PROJECT 09-13 CRACKFILLING

BID TAB

DESCRIPTION	UNIT QTY	BIDDER NO. 1	AMOUNT BID	BIDDER NO. 2	AMOUNT BID	BIDDER NO. 3	AMOUNT BID
Asphalt Crackfilling	LB 50,000	Asphalt Seal & Repair, INC	\$0.9375	Allied Blacktop Corp	\$1.2000	Fahrner Asphalt Sealers, LLC	\$1.5400
			\$46,875.00		\$60,000.00		\$77,000.00

City of De Pere

Public Works Department

Memo

To: Honorable Mayor Walsh
Members of the Board of Public Works
From: Scott J. Thoresen, Director of Public Works S. J. T.
Date: August 5, 2009
Subject: Purchase of Snow Pusher

Attached is a memo from the street superintendent Al Lubberda regarding the purchasing of two-(2) snow pusher plows for the street department. The intent is to trade attachments the City owns for the skid steer, which was purchased in 2004. The skid steer attachments have never been used and are not needed. There will be no costs for acquiring the snow pusher plows with the trades that are being proposed. The snow pusher plows will be used on the skid steer and holder, which are used for snow removal in the parking lots. The use of this equipment will make the snow removal process more efficient in the parking lots by not having to keep chasing snow windrows and the fact it will allow for pushing more snow. It is recommended that the City trade the skid steer attachment for the snow pusher plows.

City of De Pere

Public Works Department

Memo

To: Honorable Mayor Walsh
Members of the Board of Public Works
From: Al Lubberda, Public Works Street Superintendent
Date: Aug 4, 2009
Subject: Snow Pushers

The needs for snow removing in the City are changing all the time. There are accessories that were not used on the bobcat when purchased five years ago. The grapple bucket, combination bucket and snow bucket. We would like to trade these for two new snow pushers at no additional cost to the city. To make parking lot snow removal more efficient. The amount paid in 2004 for these accessories was \$6295.00 and the cost of the new snow pushers is \$4810.00. The amount that is lost due to deprecation of the accessories is \$1485.00.



Product Quotation

Quotation Number: 2472E02787

Date: 2009-07-22 12:57:16

Ship to	Bobcat Dealer	Bill To
City of De Pere Attn: Al Luberda 925 South Sixth St. De Pere, WI 54115 Phone: (920) 339-4060 Fax: (920) 339-4071	Bobcat Plus, Inc., DePere, Wisconsin 1372 MID VALLEY ROAD DePERE WI 54115 Phone: 920-983-2100 Fax: 920-983-9137 Contact: Brian Weber Phone: (920) 983-2100 Fax: (920) 983-9137 Cellular: 920-660-9356 E Mail: brianw@new.rr.com	City of De Pere Attn: Al Luberda 925 South Sixth St. De Pere, WI 54115 Phone: (920) 339-4060 Fax: (920) 339-4071

Description	Part No	Qty	Price Ea.	Total
Snow Pusher, 8 ft (94 in).	7113767	1	\$2,405.00	\$2,405.00
		Total for these items		\$2,405.00
Description	Part No	Qty	Price Ea.	Total
Snow Pusher, 8 ft (94 in).	7113767	1	\$2,405.00	\$2,405.00
		Total for these items		\$2,405.00

Total of Items Quoted	\$4,810.00
Dealer Assembly Charges	\$0.00
Trade-in 100" snow bucket, 78" Ind. Fork Grapple, 84" Combination Bucket	(\$4,810.00)
Quote Total - US dollars	\$0.00

Notes:

All prices subject to change without prior notice or obligation. This price quote supercedes all preceeding price quotes.
Customer must exercise his purchase option within 30 days from quote date.

Customer Acceptance:

Purchase Order: _____

Authorized Signature:

Print: _____ Sign: _____ Date: _____

PUBLIC WORKS STAFF REPORT

August 5, 2009

By Thomas J. Schmitt

SUBJECT: Consider bids for an All Wheel Steer Skid-steer

ISSUE: Tractor #100 is scheduled for replacement

BACKGROUND: Tractor #100 is used for snow removal, leaf removal and loading of light material.

DISCUSSION: Tractor #100 is scheduled for replacement. A more maneuverable and versatile piece of equipment has been requested by the Street Department Employees. The options bid would make the unit practical for year round application.

Description of Options

1. (1) one hydraulically adjustable V-Plow with high carbon and rubber cutting edges.
- ✚ 2. (1) one Industrial grapple, largest size available.]
3. (1) one Pallet Fork with hydraulic fork positioning
- ✚ 4. (1) one combination utility bucket]
- ✚ 5. (1) one largest size snow bucket available]
6. (4) four largest turf tires available with rims. Can be after market.
7. (1) one compatible attachment bracket
8. (1) Reversible, straight, steel bladed 7' plow
9. (1) Reversible, straight, rubber bladed 7' plow

Bid Tab

E 04 03

One (1) 2004 or current production year skid-steer with attachments

	Bobcat of Green Bay Opt. #1	Bobcat of Green Bay Opt. #2	Griesbach Equipment	Wis Lift Truck Corp
Model	S300	A300	New Holland LS190	760 Gehl
Price	\$23,096.00	\$31,032.00	\$27,748.00	\$26,803.00
Options				
1	\$2,528.00	\$2,528.00	\$0.00	\$2,496.71
2	\$2,915.00	\$2,915.00	\$3,385.00	\$3,372.27
3	\$1,519.00	\$1,519.00	\$1,718.00	\$1,452.00
4	\$2,573.00	\$2,573.00	\$695.00	\$2,907.63
5	\$807.00	\$807.00	\$739.00	\$1,222.58
6	\$1,465.00	\$1,465.00	\$1,495.00	\$0.00
7	\$75.00	\$75.00	\$247.00	\$111.64
8	\$1,317.00	\$1,317.00	\$2,524.00	\$0.00
9	\$1,545.00	\$1,545.00	\$2,724.00	\$244.66
	\$14,744.00	\$14,744.00	\$13,527.00	\$11,807.49
Total w/ options	\$37,840.00	\$45,776.00	\$41,275.00	\$38,610.49
Trade	\$11,000.00	\$11,000.00	\$12,000.00	\$0.00
Net with Trade	\$26,840.00	\$34,776.00	\$29,275.00	\$38,610.49

FISCAL IMPACT: \$34,776 from the General Fund. \$40,000 has been budgeted in 2004.

RECOMMENDATIONS: Purchase the A300 All Wheel Steer Skid-steer from Bobcat of Green Bay for \$34,776.00 with trade.



SNOW PUSHER ATTACHMENT



One Tough Animal





Memorandum

Date: August 3, 2009

To: Honorable Mayor Walsh
Members of the Board of Public Works

From: Lee Schley, P.E.
City Engineer

Subject: Request for payment plan for special assessments- Glory Road
sanitary and watermain.

Discussion: The property owner has requested a five year payment plan be granted for parcel WD74-3 on 880 Ashwaubenon Rd. This is for their assessment for the sanitary sewer and watermain which is to be installed with the reconstruction of Glory Road in 2010. They have agreed to sign a waiver of special assessments.

Fiscal Impact: None.

Recommendation: To grant the five year payment plan.

City of De Pere Public Works Department

Memo

To: Honorable Mayor Walsh
Members of the Board of Public Works
From: Scott J. Thoresen, Director of Public Works S.J.T.
Date: August 5, 2009
Subject: Discussion of Upcoming 2010 Public Works Budget

I wanted to discuss the upcoming 2010 public works budget. Currently, I am in the process of developing the 2010 budget, which is due to the Finance Director on August 14th. I have attached the budget calendar and guidelines received from the City Administrator regarding how each department head is to put their 2010 budget together. I have also attached an earlier memo sent to the City Administrator regarding potential expenditure reductions and revenue increases. This memo will be incorporated into the public works budget process.

My intent with this discussion is to get possible input from the Board regarding the budget, which would allow me to incorporate ideas from the Board into the budget prior to me submitting it. I hope to possibly have a draft public works budget to hand out Monday night during the Board meeting for discussion.

2010 BUDGET CALENDER

TO: Department Heads
FROM: City Administrator
Finance Director

RE: 2010 Budget Calendar & Request Forms
DATE: June 29, 2009

The following is the schedule for the 2010 Budget preparation and approval process:

Jul 14	2010 Budget preparation discussion with Finance & Personnel Committee
Jul 17	Distribution of Budget preparation materials to Department Heads.
Jul 17 – Aug 14	Department Head preparation of Proposed Budgets.
Aug 11	2010 Budget status discussion with Finance & Personnel Committee
Aug 14 (4:30 PM)	Proposed Budgets due to Finance Director.
Aug 21 (4:30 PM)	Proposed Budgets due to City Administrator.
Aug 31 – Sep 11	Administrator Budget review sessions with Department Heads. (A specific meeting calendar will be distributed by August 3rd.)
Sep 14	2010 Budget status discussion with Finance & Personnel Committee
Sep 14 – Sep 25	Preparation of Executive Budget by Mayor & City Administrator.
Sep 25	Executive Budget sent to Council
Wednesday, Oct 7 & Thursday, Oct 8	Finance & Personnel Committee budget review meetings. (ALL DEPARTMENT HEADS ARE REQUIRED TO ATTEND)
Oct 29 & Nov 5	Publication of budget hearing notice in De Pere Journal.
November 16	Budget hearing at 7:30 p.m. before Common Council meeting. Council action on the budget during the Council 7:30 PM meeting. (ALL DEPARTMENT HEADS ARE REQUIRED TO ATTEND)

ALTERNATIVE EXPENDITURE REDUCTIONS / REVENUE INCREASES WORKSHEET

You will need to complete the attached worksheet for every program budget you are responsible for to address budget issues created by the State Budget Deficit.

REVENUE: You will need to identify additional revenue sources to fund an additional 5% of each program budget. If a program budget does not have any existing revenue sources other than the property tax levy, attempt to identify an alternate revenue source, other than property tax levy, that will fund at least 5% of the program budget.

EXPENDITURES: You will need to identify a 5% expenditure reduction for each program budget.

2010 BUDGET PREPARATION GUIDELINES

The 2010 budget will be developed using the same format as was used to create the adopted 2009 Budget. You will receive an electronic copy of the following pages on or before *Friday, July 17, 2009* to complete and revise for 2010:

- 1) Program Budget – Line Item sheet. This sheet includes 2002, 2003, 2004, 2005, 2006, 2007 and 2008 year end actual and 2003, 2004, 2005, 2006, 2007, 2008 & 2009 six month actual expenditures (you will need to UNHIDE columns to see years prior to 2008 to identify expenditure and revenue trends). You will need to complete the 2009 year end estimated and 2010 proposed expenditure amounts. (Please do not revise salary, wage and employee benefit accounts. They have already been revised for 2010 by the Finance Department to reflect collective bargaining agreement requirements and Administrative guidelines.)
- 2) Program Budget – Text sheet. **YOU MUST FOLLOW THE SAME FORMAT AS LISTED IN THE FINAL ADOPTED BUDGET** (I will not accept any other format to include different bullets, text size, separate comment sheets, etc.). This sheet includes full time equivalents, mission statement, 2009 accomplishments, 2010 objectives, and significant expenditure changes. You will need to revise all sections of the text sheet to include a brief detailed explanation (in section: Significant Expenditure Changes) for any proposed 2010 line items that increase or decrease by 5% or more from what was budgeted in 2009. **ALSO**, you need to include a brief detailed (cost itemized) description for 2010 proposed expenditures listed in the *Training (Acct 190), Seminars and Conferences (Acct 212), Consulting (Acct 215), Memberships & Subscriptions (Acct 320)* and for all expenditures listed under the *Capital Outlay (800 Accounts)* section.

- 3) Capital Projects Worksheet. This sheet needs to be completed for major capital project expenditures not listed in your General Fund Program Budget – Line Item Sheet. These include items that cost \$5,000 or more, have an expected life of more than three years and/or are part of the City's seven year capital improvements program budget.
- 4) Additional Employee Request Sheet. This sheet should ONLY be used to provide supporting documentation and analysis for requests to increase FTE's or add additional hours of employment for part-time or seasonal positions. **ALL additional FTE's need to be fully funded from sources other than the tax levy.** (Fully funded means you need to include all wages, benefit costs, workers comp costs, any additional equipment, utilities, etc. associated with the position and duties. If the position requires research, contract development or negotiations with the union as part of its implementation, those costs also need to be fully funded).

BUDGET PREPARATION GUIDELINES: Please focus on the following areas when developing your proposed budgets:

- A. Reduce or eliminate overtime for all work activities that are not absolutely required to be completed outside of normal work hours.
- B. Implement technology whenever possible to reduce overtime and increase overall efficiency of operations.
- C. Combining or coordinating activities between Departments or programs to achieve lower operational costs by eliminating duplication and sharing resources.
- D. Evaluate intergovernmental and private cooperation with other municipalities, government agencies, businesses or other private entities or groups to reduce costs or provide alternate or increased revenues.
- E. Promote sustainable practices (utilizing recycled materials, energy efficiency, alternate energy sources, etc.).
- F. Downsize vehicles & pursue fuel efficiency.

MISCELLANEOUS

When submitting your budgets, please note the following:

- Utilities, Telephone & Postage cost projections for 2010: **Natural Gas – 5% increase; electricity – 3% increase; postal rates** are anticipated to remain the same; **telephone rates** are anticipated to remain the same; **and vehicle fuel should be budgeted at \$3.50 per gallon for gasoline and \$3.50 per gallon for diesel.**
- Use the forms provided.

- All forms and sheets should be submitted to Joe Zegers via e-mail in the same format in which they were sent to you. Do not change fonts or make any other formatting changes. Your submitted documents will not be accepted if the formats have been altered.

Please contact either Joe or myself if you have questions during your budget preparation process. Thank you.

cc: Mayor Walsh

City of De Pere

Public Works Department

Memo

To: Larry Delo, City Administrator
From: Scott J. Thoresen, Director of Public Works
Date: June 29, 2009
Subject: 2010 Public Works Budget Reduction Proposals

As requested at the June 17, 2009 department head staff meeting, the following outlines possible public works budget expenditure reductions or revenue increases that could be looked at for the 2010 budget.

EXPENDITURE REDUCTIONS

Eliminate one position in the street department.

Currently there is one vacancy in the street department that has not been filled as of this date. This position could be eliminated and the City would see a savings of approximately \$75,000.

I would only recommend this proposal if the proposals of reducing rubbish and brush are implemented that will be mentioned below.

The result of eliminating this position will delay snowplowing operations during winter months. This winter the street department was down one employee due to a vacant position. We utilized other employees from other departments to fill all the snow removal equipment but as a result it also impacted such things as delaying sidewalk snow removal. I have looked at putting out one less piece of equipment and I estimate it would delay snow removal operations for all streets a minimum of one hour and more depending on the storm event.

Reduce brush pick up

Brush pick up could be reduced from six times per year to once per year. I would recommend that brush be picked up once per year and could be done in the month of May. I would not recommend April because we are doing spring leaf pick up operations. The estimated cost savings would be approximately \$18,000 and would be mostly from fuel savings. There would be no labor savings other than eliminating the position mentioned above.

If the brush pick up was reduced, the following are options that could be looked at and given to the residents:

- Charge for curbside pick up. I would recommend charging actual labor and equipment costs. Another option could be to establish a minimum fee such as \$25 and would increase depending on the volume.
- Haul to the compost facility, which is currently an option.

Residents do have the option of hauling all brush to the compost facility for disposal.

Reduce rubbish pick up

Rubbish pick up could be eliminated. Currently the City provides curbside pick up six times per year. The estimated cost savings would be approximately \$20,000, which would be mostly from fuel savings. There would be no labor savings other than eliminating the position mentioned above.

If the rubbish pick up was eliminated, the following are options that could be looked at and given to the residents:

- Charge for curbside pick up. I would recommend charging actual labor and equipment costs. Another option could be to establish a minimum fee such as \$25 and would increase depending on the volume.
- Haul rubbish to Veolia, which charges a \$13 minimum.
- Haul to the County, which charges a \$10 minimum.
- Haul to the Municipal Service Center (MSC), which is currently being done. I would recommend that a minimum of a \$10 be charged. The reason I recommend charging for drop off is due to the fact that by allowing residents to drop off at the MSC, it has increased the customer contacts and workload for the front office staff. If we do not charge for this service then the volume of drops offs would most likely increase therefore causing a greater workload on the front office staff.

Street lighting reductions

The utility line item for the 2009 street lighting budget is \$427,450, which is mostly for the electricity costs. Street lighting could be reduced a certain percentage depending what the Council feels comfortable with. An example of a 10% reduction would be an approximate savings of \$42,745. The impact that would be seen would be residential areas would be darker such as the Town of Ledgeview. It can be noticed when driving in Ledgeview's residential areas the street lighting is less than the City.

Eliminate or reduce the transit system

The current 2009 budget for the transit system is \$436,788

When evaluating service cuts mentioned above I only identified areas that I felt the majority of the City did not benefit or utilize the service provided by the public works department.

REVENUE INCREASES

Engineering department

In the 2009 budget 80% of the budget is from the general fund and 20% of the budget is from the storm water utility. The engineering department does work with the water utility and sewer utility. In my opinion 10% could be charged to the water department and 10% to the sewer utility. This could decrease the general fund budget an estimated \$109,979 that would be shifted to the utilities. The downfall to this is the fact that the utilities would need to most likely adjust their rates accordingly.

Increase storm water utility

Last July at the BOPW, staff brought to the Board the issue of discussing the storm water utility regarding the need for increasing the storm water utility in 2009 as part of the 2009 City budget process. In summary the following was discussed at the BOPW:

It was decided at the June 17th Council meeting that the City would pick up the assessments for the storm sewer on Lawrence Drive for the DOT's right of way. It was brought to the Council's attention during the discussions of the storm sewer assessments that if the City funded the DOT's portion of the storm sewer assessments through the storm water utility that it would require the City to increase the storm water utility fees. Placing the costs of the storm sewer for the Lawrence Drive street project will require that the storm water utility be obligated to an annual payment of \$44,735.58 for 15 years. This would require that the utility rates be increased by additional \$ 2.68 to cover the costs.

Staff has also evaluated the storm water utility projects over the next seven (7) years including this project to determine if the existing storm water utility rates are sufficient. Staff also determined that for every \$100,000 of additional revenue needed for the utility that the existing rates would have to be increased by \$6.00. Over the next seven (7) years the City will be required to spend \$2,415,000 to meet the Wisconsin Department of Natural Resource (DNR) storm water requirements. The City would have to fund the storm water capital at a rate of \$345,000 a year to cover this. Based on the revenues the utility collects, the capital account currently only allows for \$194,030 to be used towards capital projects. The utility needs to increase its revenue by \$150,970 in order to budget for projects required to meet DNR requirements. This funding does not include costs for special storm sewer projects such as back yard drainage problems or costs for replacing the street sweeper. The rate for the utility would need to increase by approximately \$9.06 to cover the above-mentioned costs.

The storm water utility rate should be increased by \$11.74 per year to cover the costs of Lawrence Drive storm sewer and other capital projects required to meet the DNR storm water requirements.

The Council chose to only raise the storm water utility to cover the Lawrence Drive project, which I believe was \$3.00. The rate should be increased an additional \$9.00 to cover the costs mentioned above.

Charge annual sticker fees for compost facility

This is only a suggestion. Many places such as State parks charge an annual fee to use the facility. The City could look at charging each resident an annual fee of \$10 per sticker per vehicle. I would estimate this would create revenue of approximately \$6500 per year. This estimate is based off the total number of visits (1300) by residents to the facility in June 2009. I figured that a resident using the facility normally uses it twice a week so I took $(1300/2) * \$10$ to come up with \$6,500

Charge for brush or rubbish pick up

As mentioned above a charge could be applied to rubbish or brush pick up. Our neighboring community Ashwaubenon charges a minimum of \$25 for rubbish pick up and it goes up from there per their ordinance.

Charge for rubbish drop offs at the MSC

In December 2006 staff recommended charging residents \$10 for dropping off items at the MSC as an alternative since the weekly rubbish collection had been eliminated beginning in 2007. The procedure established was for the residents to check in at the front office, fill out a form, and then be directed to the location to where the rubbish and metals can be dropped off. This has been done only during the business hours between 7:30 AM and 2:30 PM. At this time the BOPW rejected charging for residents to drop off items at the MSC.

Staff has tracked the amount of times rubbish was dropped off at the MSC February thru May of this year. On 277 separate occasions residents have dropped off items at the MSC for an average of 17.31 times per week. At times the items being dropped off are on collection weeks the City picks up. If a fee of \$10 is charged for every visit an estimated total of \$9,000 could be collected on the 17.31 times per week average. Most likely though, if a fee were charged, I would estimate the drop offs would likely be reduced 50% creating revenue of approximately \$4,500.

Establish a solid waste utility

The Council really needs to look at establishing a solid waste utility. The main reason for this proposal is the fact the State keeps raising the tipping fees and passing them onto all the municipalities. This is a cost the City has no control over therefore if the fees are increased they can be passed onto the residents via a solid waste utility. I have looked at three options on what costs the utility could cover.

Landfill Fees

The landfill budget for 2009 is \$195,000. It is expected our landfill fees for 2010 will increase upward to \$275,000 because the State is recommending the tipping fees to be increased to balance their budget. A solid waste utility could be established to cover these expenses. It is estimated we provide service for approximately 6,728 properties (number based off recent recycle cart deliveries) for garbage pick up. If we want these 6,728 properties to cover the expenses for the landfill then a utility of \$40.87 per year would need to be charged $(\$275,000/6,728)$ When the landfill fees increased the charge per year would

increase. The result of this proposal would remove the existing \$195,000 from the general taxes and the potential increase of \$80,000.

Garbage Fees

The garbage and refuse collection budget for 2009 is \$498,982. A solid waste utility could be established to cover these expenses. It is estimated we provide service for approximately 6,728 properties (number based off recent recycle cart deliveries) for garbage pick up. If we want these 6,728 properties to cover the expenses for the garbage collection operations then a utility of \$74.16 per year would need to be charged ($\$498,982/6,728$) The result of this proposal would remove the existing \$498,982 from the general taxes.

Recycling Fees

The recycling collection budget for 2009 is \$149,408. A solid waste utility could be established to cover these expenses. It is estimated we provide service for approximately 6,728 properties (number based off recent recycle cart deliveries) for recycling pick up. If we want these 6,728 properties to cover the expenses for the recycling collection operations then a utility of \$22.21 per year would need to be charged ($\$149,408/6,728$) The result of this proposal would remove the existing \$149,408 from the general taxes.

The total of all the fees mentioned above would be \$137.24

If I had to make a recommendation of the solid waste utility I would only do this for the landfill fees since this fee the City has no control of and is forced to pay whatever the State or County charge the City for our garbage.

If you have any questions on this matter please feel free to contact me.

City of De Pere

Public Works Department

Memo

To: Honorable Mayor Walsh
Members of the Board of Public Works
From: Scott J. Thoresen, Director of Public Works S.J.T.
Date: August 6, 2009
Subject: Discussion of Brush and Rubbish Collection Violation Notice Policy

It was requested at the last BOPW meeting that staff bring back a report regarding brush and rubbish violation notice policy.

I would like to start by giving a little bit of history as to how we arrived with our current brush and rubbish collection program.

Prior to 2007, brush and rubbish collection was done weekly and the service was provided to property owners that called in to request their items to be picked up at the curb. A list was made as to who called in any given week and then staff would pick up these items. In 2006 a referendum went to the voters asking to increase property taxes in order to continue providing the services that the City did such as weekly brush and rubbish collection. The referendum failed and as a result positions were eliminated in the public works department and brush and rubbish collection was reduced from weekly pick up to only six times per year.

In 2007, this was the start of switching from a weekly pick up of brush and rubbish to only six times per year. This revised service was to be during the months of April through September. (See attached calendar). As this service was revised, staff noticed that many residents left their brush or rubbish at the curb thinking the City was going to pick it up. It was decided that we somehow had to educate the community as to what the new brush and rubbish collection policy was. It was determined the best way to approach this was to have the garbage crews note any property that had brush or rubbish at the curb during non pick up weeks. The garbage crews were the only staff that physically drove every street and were able to note violations consistently each week. At the end of each workday, staff would turn in these noted violation sheets (See attached sheet) to the front office and then a warning letter was sent to the property owner. (See attached) The following week if the garbage crews noted the same property with the same violation then a second letter (see attached) was sent out. Finally if after two notices being sent out if the property owner still was in violation a crew was scheduled to pick up the brush or rubbish and then an invoice was sent to the property owner. A property owner is given two warnings and after this any time they are in violation then staff would pick up and the property owner was invoiced.

The biggest share of complaints with rubbish and brush violations has been with brush. We do not receive many complaints with rubbish violation notices. The issue at hand is what is being considered for a brush violation. In the past when the City provided weekly brush pick up services, residents would call in for pick up of a stick they would place at the curb. When we switched to the six times per year for brush pick up it was decided that a violation would be noted if a stick was at the curb or within the street right of way. The biggest complaint we

receive after sending a violation notice would be that they couldn't believe they received a notice because of a stick.

I recently sat down with staff to discuss the brush and rubbish policies and asked staff what they felt we could do to improve the current policies. The following ideas were discussed:

- Allow placement of brush or rubbish at the curb the weekend prior to pick up week instead of 6 PM the night before scheduled garbage pick up. **Staff recommends implementing this.**
- Possibly soften the warning letter and only give out one notice prior to picking up rubbish and brush and invoicing for pick up. The violation letters have taken quite a bit of front office staff time causing an increase in the workload. By only sending one letter would help reduce the workload.
- Possibly not sending out any warning letters and if someone calls and complains that a property owner is violating the policy for brush or rubbish then the City would pick it up and charge resident. This procedure is similar on how weeds and snow on sidewalks are handled. The advantage to this policy is it will decrease our postage costs, which has nearly tripled over the past couple of years going from approximately \$2,000 per year to approximately \$6,000 per year. It will also free up some front office staff time to do other necessary administrative work as well as allow the garbage operations to become more efficient. The disadvantage will be that there will be more rubbish and brush sitting at the curb then is currently being seen now because property owners will not be notified they cannot have these items at the curb except for designated pick up weeks. **Staff recommends implementing this.**
- Establish a policy for what determines a brush pile. As mentioned earlier, the biggest complaint given is getting a notice for a stick. Where does one begin to determine what constitutes a violation? How many sticks does it take to make a pile? Is a pile base on volume? It could be very tough in establishing a policy for this. It was discussed that a potential policy could be if you could drive by a residential street doing the speed limit and a definitive pile was noticed then it would be in violation. Staff did not really have any clear recommendations to give to the Board on this and felt this would be best discussed at the BOPW meeting. Staff did feel if the policy was changed as mentioned above based on complaint basis then no policy on what constitutes a brush pile needs to be established.
- Eliminating the Christmas tree pick up policy. Every year we receive complaints from residents why their tree was not picked up or they had it at the curb during the pick up weeks. After a lot of discussion, staff felt Christmas tree pick up should be eliminated. The biggest reason for this is during January the public works department's primary focus is keeping the streets clear from snow and ice. When the pick up is scheduled many times it is snowing and we cannot get to the pick up. As a result the trees get buried

in the snow and often do not get picked up until spring. Staff felt if residents could get a tree and have it hauled to their home then why can't they haul it to a designated site such as the compost site when they want to dispose of it. **Staff recommends eliminating Christmas tree pick up and allow the property owners to haul to compost site when they want to dispose of it.**

- There have been many occasions that residents have called and stated they have no way to get rid of their brush or rubbish. They do not want to wait until the designated pick up weeks so want to know if they can pay the City to do this. In the past we have done this on a time and material basis and invoiced the property owner. Staff felt we should establish a set fee such as \$50 to pick up these special requests. **Staff recommends implementing this.**
- Eliminating rubbish drop off at the MSC. When Council decided that residents should be allowed to drop off rubbish at the MSC it again has created additional workload for the front office staff. Residents dropping off rubbish need to check in at the front office prior to dropping off rubbish. The reason for this is to make sure nothing is being dropped of that we do not take such as electronics. We have found over the past couple of years the following issues are a major concern to staff and need to be addressed:
 - 1) More and more residents drop off their rubbish and are now abusing the policy. An example would be a resident dropping off rubbish on a curbside pick up week instead of leaving it at the curb.
 - 2) There is an issue with having enough space for dropping off materials. The area established for residential drop offs is conflicting with other operations and a new designated area needs to be looked at.
 - 3) There is an issue with safety of having residents trying to back up their vehicles to the current location. The current location for drop off is not user friendly.
 - 4) Residents are dropping off items we do not collect. They are not informing the front office staff of all the items they are dropping off knowing we do not take them.

Staff realizes we may need to give the residents a place to bring their rubbish items to. As a result we are recommending that rubbish and oil drop offs only be allowed on Fridays during business hours of 8 am to 2 pm. This would allow us to move the designated spot for drop offs. We would assign someone from staff to check people in the back of the MSC and assisting them if need be. The advantage to this it would free up front office staff to do other administrative tasks they need to get done. It would allow us to make sure nothing is being dropped off that we do not accept. It would be a user-friendlier drop off location as well as safer. There would be assigned staff to assist residents with large items. This is something we currently do not do now. The disadvantage would be residents

would only have one day a week to drop off. **Staff recommends implementing this.**

The next big topic of discussion on this will be possibly eliminating rubbish and brush pick up all together. I will be proposing as part of the 2010 public works budget that this service should be looked at be eliminated if the City is faced with tough choices for budget cuts.

In summary, the intent of this memo is to give the Board an update on the existing brush and rubbish pick up policy, make potential recommendations on how to improve the existing operations, and receive feedback as to what revisions if any should be done to the current policy.

BULKY ITEM, METAL & BRUSH PICK UP

CITY OF DE PERE BULKY ITEMS & METAL AND BRUSH PICK-UP SCHEDULE 2009

APRIL						
SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

JULY						
SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

MAY						
SUN	MON	TUE	WED	THU	FRI	SAT
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

AUGUST						
SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

JUNE						
SUN	MON	TUE	WED	THU	FRI	SAT
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

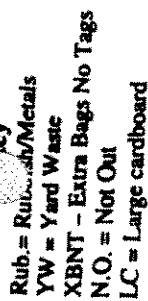
SEPTEMBER						
SUN	MON	TUE	WED	THU	FRI	SAT
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

Dates highlighted in yellow indicate bulky items & metals pick-up week.

Dates highlighted in green indicate brush pick-up week. Brush consists of brush and tree trimmings only. This does not include grass clippings, lawn rakings, garden waste & leaves.

Pick-up for both weeks will be on your regular scheduled trash pick-up day only

TO AVOID A CITATION, DO NOT PUT BULKY ITEMS & METALS OR BRUSH OUT TO THE CURB BEFORE 6:00 P.M. THE DAY BEFORE PICK-UP.



Date 5-14-09 Driver Name Pab

[illegible]



City of De Pere

925 South Sixth Street
De Pere, WI 54115-1199
Phone: 920-339-8095
Fax: 920-339-4071

Scott J. Thoresen
Director of Public Works
sthoresen@mail.de-pere.org
www.de-pere.org

May 14, 2009

Gerald & Sarah Cegelski
902 Ridgeway Blvd.
De Pere, WI 54115

Re: 902 Ridgeway Blvd.

Dear Property Owner:

The City of De Pere, under its current Solid Waste Ordinance, is sending you this letter as a reminder that brush will be collected on the third full week of April, May, June, July, August, and September. For 2009, those weeks are – 4/20, 5/18, 6/15, 7/20, 8/17, and 9/21. Brush may be placed out for collection no earlier than 6:00 pm the evening before and must be out by 7:00 a.m. the morning of your scheduled refuse collection day.

During non-collection weeks, residents will be responsible for disposal of their brush. Brush may be taken to the City of De Pere Compost Facility, which is located west of Mommaerts Auto Salvage on Rockland Road. A compost sticker is required.

If brush is placed at the curb outside the designated week of collection, the City will pick up the items and the property owner will be charged on an hourly rate based on the amount of labor used and the type of equipment. A minimum charge of 1 hour will be assessed for each collection. A citation in accordance with the City ordinance may also be assessed. In addition, camera monitors have been attached to each of the trucks and are being used by city crews to prevent rubbish, recycling, and/or yard waste particles from being inter-mixed with regular trash.

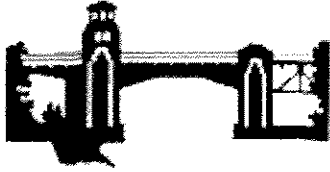
Please contact us with any questions you may have concerning this notice. Thank you for your cooperation regarding this matter.

Sincerely,

DEPARTMENT OF PUBLIC WORKS

Scott J. Thoresen, P.E.
Director of Public Works

SJT:kh
CC:



City of De Pere

925 South Sixth Street
De Pere, WI 54115-1199
Phone: 920-339-8095
Fax: 920-339-4071

Scott J. Thoresen
Director of Public Works
sthoresen@mail.de-pere.org
www.de-pere.org

May 14, 2009

2nd NOTICE

Michael & Susan Watson
436 Randall Ave.
De Pere, WI 54115

Re: 436 Randall Ave.

Dear Property Owner:

On April 9, 2009, a letter was sent to the above referenced property as it was observed to be in violation of the following provision of the De Pere Municipal Code:

	Recycling and/or garbage out on wrong collection day in violation of Section 82-4(6), De Pere Municipal Code.
	Recyclables mixed with garbage or otherwise improperly prepared in violation of Section 82-4(c), De Pere Municipal Code.
	Garbage not placed in disposable bag or City approved polycart in violation of Section 82-4(b), De Pere Municipal Code.
	Rubbish/metals placed out for collection on a non-collection week in violation of De Pere Municipal Code, 82-5. City pick up of rubbish/metals has ended for 2007.
X	Brush placed out for collection on a non-collection week in violation of De Pere Municipal Code, 82-5. See below*
	Yard waste at the curb in violation of Section 82-2(g), De Pere Municipal Code. Yard waste must be taken to the compost facility on Rockland Road.
	Polycarts too heavy with garbage or recycling.
	Duplex through 4-Family Residences must place waste and recyclables in one consolidated location in violation of Section 82-4(1), De Pere Municipal Code.
	Garbage placed on snow bank in violation of Section 82-4(3), De Pere Municipal Code.
	Recyclables not placed in City of De Pere recyclable bins in violation of Section 82-4(c)(1), De Pere Municipal Code.
	MISC:
	OTHER: The City does not collect tires.

Again on Thursday, May 14, 2009, the above referenced property was observed to be in violation of the same provision of the De Pere Municipal Code.

*If we pick up your normal garbage and recycling, brush will be picked up during the third full week of April, May, June, July, August, and September on your regular scheduled refuse collection day. Those weeks for 2009 are: April 20, May 18, June 15, July 20, August 11, and September 21. You do not have to call in for a special pick-up. Just put your items out on your scheduled refuse collection day and they will be picked up. Brush may be placed out for collection no earlier than 6:00 pm the evening before and must be out by 7:00 a.m. the morning of your scheduled refuse collection day.

Your brush items WILL be picked up next week; however, consider this your second violation. If brush items are left at the curb in the future, the City of De Pere will pick up the items and invoice the property owner accordingly. The property owner will be charged on an hourly rate based on the amount of labor used and the type of equipment. A minimum charge of 1 hour will be assessed for each collection. A citation in accordance with the City ordinance may also be assessed.

This letter is to serve as a warning of the above violation(s). If you do not understand what is required of you under our Code, please contact us at (920) 339-4062. We will be happy to explain to you the requirements of our Code in regard to the collection of solid waste and other responsibilities concerning the above referenced alleged violation(s). However, if the alleged violation(s) continues, the City may issue a Municipal Court Citation for such violation(s) – 1st Citation in the amount of \$172.00 (plus costs and penalty assessment for each violation), 2nd Citation in the amount of \$235.00 (plus costs and penalty assessment for each violation). The City does not desire to take enforcement action; however, violations such as those listed above directly violate the interests of other property owners.

Again, please contact us with any questions you may have concerning this notice.

Sincerely,

DEPARTMENT OF PUBLIC WORKS

Scott J. Thoresen, P.E.
Director of Public Works

SJT:kh

CC:

City of De Pere

Public Works Department

Memo

To: Honorable Mayor Walsh
Members of the Board of Public Works
From: Scott J. Thoresen, Director of Public Works S.J.T.
Date: August 5, 2009
Subject: Discussion of Energy Efficient Street Lighting

Staff has been looking into alternatives for more energy efficient street lighting. Recently staff met with a company called Orion Energy Systems to evaluate the City's existing streetlights that the City owns and maintains. This company provided staff with a summary as to what the City would save if the existing lights were switched to Orion lighting. (See attached) It is very apparent these lights will save the City money on energy costs up to \$22,000 per year but the issue at hand is the up front capital costs. If the City had to fund the up front capital costs then there would be no real savings. If the City could obtain a federal grant for more energy efficient street lighting then there would be the energy savings mentioned above. During our meeting Orion mentioned to staff there is a grant application process going on right now which all applications have to be in by the 1st part of September. One of the stipulations given to be by Orion regarding the grant is the City would have to purchase energy efficient street lighting locally (possibly Orion) and use local labor to install. As indicated in attached email, I have the following concerns:

- 1) City owned lights that we could replace are in our downtown areas and business parks. Going to different style lighting may be an issue when it comes to aesthetics. The Orion lights are not the prettiest.
- 2) Issue with getting grant and now possibly having to go with Orion. We would direct purchase lights so there would be no need to bid but may be an issue for Council when not be able to get other quotes.
- 3) One of the things explained to me was if the City applies that by applying it is our intent to go through with grant. Staff is concerned that Council may not approve grant if we get funded. I was told if City is unsure they would utilize grant then we should not apply.
- 4) There is a lot of new technology staff needs to research for more efficient street lighting. A concern I have is we may not have the time to research everything available in energy efficient street lighting if we have timelines to meet if the City were to obtain a grant.

As the City Administrator indicated in attached email, staff needs to verify whether there is really a grant application process going on right now. If there is, we wanted to start discussion with the Board to see whether or not they would like to have staff pursue it. If indeed there is a grant application deadline of the 1st of September to meet there would not be time to discuss this at the BOPW unless a special meeting was scheduled.

I also wanted to let the Board know I am having staff look into installing a couple of these lights in various locations so we can determine what they look like and see if this is the technology we want to pursue.



Street Light System Concept Study For:

City of De Pere

August 4, 2009

Note: This concept study is for discussion purposes only. Actual prices are subject to change. All fail rate and rated life data is per manufacturer specifications unless otherwise noted or changed per customer request. This is not an official quote or proposal.

Orion Energy Systems

Street Light System Analysis

City of De Pere

Existing Technology	Type	Inventory	Proposed Replacement
HPS	70W HID	140	✗
HPS	100W HID	6	✗
HPS	150W HID	129	✓
HPS	250W HID	161	✓
MH	250W HID	24	✓
HPS	400W HID	51	✗

Total # of Street Lights 565

System Analysis	25 Year Cost
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System Breakdown:	Current Plan*	Orion HIF	LED	Induction
Maintenance	197,200	131,351	211,710	183,960
Energy	740,010	427,044	509,982	469,140
Maintenance/Energy Tariff	0			
Interest	0	0	74,077	0
Buyout Cost		0	0	0
Grant Available		(193,200)	(193,200)	(193,200)
Fixture Purchase Cost		193,200	248,400	193,200
Maintenance Tariff-New		0	0	0
Total:	\$937,210	\$558,395	\$850,969	\$653,100

Total Savings/(Loss)		\$378,815	\$86,241	\$284,110
Average Savings/(Loss) per year		\$15,153	\$3,450	\$11,364
Annual ROI		N/A	N/A	N/A
Average System Cost per Year	\$37,488.40	\$22,335.80	\$34,038.76	\$26,124.00
Average System Cost per Month	\$3,124.03	\$1,861.32	\$2,836.56	\$2,177.00
% Cost Savings		40%	9%	30%

Orion Energy Systems

Street Light System Analysis

Assumptions Page

City of De Pere

Enter Data in Yellow and Blue Highlighted boxes.

Labor time to replace entire fixture	60 minutes
Recycling fee per removed fixture	25.00
Rebate per fixture	0.00
Buyout cost per fixture	0
Buyout cost of fixtures	0.00
Proposed HIF System cost before grant	192,200
Grant Money Available	193,200.00
Life of Asset:	25 years
Labor/Truck Rate per hour:	\$130.00 per hour
Cost of Capital	8%
Hours of Operation (Estimate):	4000
Blended Utility Rate (Estimate):	0.06
Financing Amount	100%

Existing Technology	Type	Inventory	Replace?
HPS	70W HID	140	No
HPS	100W HID	6	No
HPS	150W HID	129	Yes
HPS	250W HID	181	Yes
MH	150W HID	34	Yes
MH	250W HID	24	Yes
HPS	400W HID	51	No
		565	

Description	Rated Life (fail rate)	Fail Rate by end of Rated Life	Estimated Group Replace (including Fail Rate)	Group Replace after #X years	Lamp/Light Bar Cost	Fixture Cost	Disposal Fee per Lamp/Light Bar	Length of time to replace lamps (minutes)
HPS	24,000	0%	24,000	6	\$20.00	\$150.00	\$0.00	20
MH	10,000	0%	10,000	3	\$15.00	\$100.00	\$0.00	20
HIF	36,000	0%	36,000	8	\$5.00	\$350.00	\$1.50	20
LED	50,000	0%	50,000	13	\$150.00	\$300.00	\$0.00	20
Induction	60,000	10%	59,000	15	\$300.00	\$350.00	\$0.00	20
40 HIF-Replaces 400W HID	36,000	0%	36,000	8	\$5.00	\$450.00	\$1.50	20
4 bar LED-Replaces 400W HID	50,000	0%	50,000	13	\$150.00	\$700.00	\$0.00	20

Maintenance + Energy Tariff	Monthly	Yearly	Yearly
Proposed New Maint. Tariff	\$	\$	\$
	0	0	0

Be advised Orion accepts no responsibility and/or consequential damages for the accuracy of attached proposal as it relates to counts, voltages, power quality, branch circuit configuration or compliance with NEC. All field verification, comparing proposal to specific applications are the responsibility of contractor. This proposal/design is a customer courtesy, provided by Orion. Contractor accepts full responsibility for accuracy.

Orion Energy Systems
City of De Pere
Detailed System Costs-HIF

Street Lighting System Analysis													
Existing						Proposed							
Technology	Type	Wattage	Count	System kWh consumed	Proposed Technology	Lamps/Bars per fixture	Will Replace	Proposed Wattage	Count	System kWh consumed	Cost per new fixture	# of new fixtures	Total Fixture Investment
HPS	70W HID	95	140	13.3	HPS	1	70W HID	95	140	13.3	\$ 150.00	0	\$ -
HPS	100W HID	116	6	0.696	HPS	1	100W HID	116	6	0.696	\$ 150.00	0	\$ -
HPS	150W HID	175	129	22.575	HIF	3	150W HID	78	129	10.062	\$ 350.00	129	\$ 45,150.00
HPS	250W HID	290	161	46.69	HIF	4	250W HID	104	161	16.744	\$ 350.00	161	\$ 56,350.00
MH	150W HID	175	54	9.45	HIF	3	150W HID	78	54	4.212	\$ 350.00	54	\$ 18,900.00
MH	250W HID	290	24	6.96	HIF	4	250W HID	104	24	2.496	\$ 350.00	24	\$ 8,400.00
HPS	400W HID	464	51	23.664	HPS	1	400W HID	464	51	23.664	\$ 150.00	0	\$ -
				565	123.335					71.174	\$ 128,800.00	368	\$ 128,800.00

Orion Energy Systems
City of De Pere
Detailed System Costs-LED

Street Lighting System Analysis													
Existing					Proposed								
Technology	Type	Wattage	Count	System kWh consumed	Proposed Technology	Lamps/Bars per fixture	Will Replace	Proposed Wattage	Count	System kWh consumed	Cost per new fixture	# of new fixtures	Total Fixture Investment
HPS	70W HID	95	140	13.3	HPS	1 70W HID			95	140	13.3	0	\$
HPS	100W HID	116	6	0.696	HPS	1 100W HID			116	6	0.696	0	\$
HPS	150W HID	175	129	22.575	LED	2 150W HID			104	129	13.416	129	\$ 64,500.00
HPS	250W HID	290	161	46.69	LED	3 250W HID			153	161	24.633	161	\$ 80,500.00
MH	150W HID	175	54	9.45	LED	2 150W HID			104	54	5.616	54	\$ 27,000.00
MH	250W HID	290	24	6.96	LED	3 250W HID			153	24	3.672	24	\$ 12,000.00
HPS	400W HID	464	51	23.664	HPS	1 400W HID			464	51	23.664	0	\$
				565							84.997	368	\$ 184,000.00

Avg Price per new fixture	500.00
Installation per fixture (Parts & Labor)	150.00
Recycling fee per fixture	25.00
Rebate per fixture	0.00
# of New Fixtures	368
Net Cost per fixture	\$ 675
Total Cost for fixture purchase	\$ 248,400
Buyout cost of fixtures	0.00
Less: Grant Available	193,200.00
Total Proposed System Cost Installed:	\$ 55,200
Amount Borrowed	\$ 55,200
Amount Paid by Cash on Hand	\$ -
Cost of Capital	8%

Existing Total	937,210
Existing Maint	197,200
Existing Energy	740,010
Proposed Total	850,969
Proposed Maint	211,710
Proposed Energy	509,982
System Install C	55,200
Interest Costs	74,077
Total Savings	86,241
Avg. Savings per	3,450
Annual ROI	N/A

25 year cost

Orion Energy Systems
City of De Pere
Detailed System Costs-Induction

Street Lighting System Analysis

Existing					Proposed								
Technology	Type	Wattage	Count	kW	Proposed Technology	Lamps/ Bars per fixture	Will Replace	Proposed Wattage	Count	kW	Cost per new fixture	# of new fixtures	Extended
HPS	70W HID		95	140	13.3 HPS		1 70W HID		95	140	13.3 \$ 150.00	0	\$ -
HPS	100W HID		116	6	0.696 HPS		1 100W HID		116	6	0.696 \$ 150.00	0	\$ -
HPS	150W HID		175	129	22.575 Induction		1 150W HID		85	129	10.965 \$ 350.00	129	\$ 45,150.00
HPS	250W HID		290	161	46.69 Induction		1 250W HID		135	161	21.735 \$ 350.00	161	\$ 56,350.00
MH	150W HID		175	54	9.45 Induction		1 150W HID		85	54	4.59 \$ 350.00	54	\$ 18,900.00
MH	250W HID		290	24	6.96 Induction		1 250W HID		135	24	3.24 \$ 350.00	24	\$ 8,400.00
HPS	400W HID		464	51	23.664 HPS		1 400W HID		464	51	23.664 \$ 150.00	0	\$ -
				565	123.335			565			78.19	368	\$ 128,800.00

Avg Price per new fixture	350.00
Installation per fixture (Parts & Labor)	150.00
Recycling fee per fixture	25.00
Rebate per fixture	0.00
# of New Fixtures	368
Net Cost per fixture	\$ 525
Total Cost for fixture purchase	\$ 193,200
Buyout cost of fixtures	0.00
Less: Grant Available	193,200.00
Total Proposed System Cost Installed:	\$ -
Amount Borrowed	\$ -
Amount Paid by Cash on Hand	\$ -
Cost of Capital	8%

Existing Total	937,210	25 year cost
Existing Maint	197,200	
Existing Energy	740,010	
Proposed Total	653,100	
Proposed Maint	183,960	
Proposed Energy	469,140	
System Install C	0	
Interest Costs	0	
Total Savings	284,110	
Avg. Savings per	11,364	
Annual ROI	N/A	

Orion Energy Systems
City of De Pere
Detailed System Costs HID

Street Lighting System Analysis

Existing					Proposed								
Technology	Type	Wattage	Count	kW	Proposed Technology	Lamps/Bars per fixture	Will Replace	Proposed Wattage	Count	kW	Cost per new fixture	# of new fixtures	Extended
HPS	70W HID	95	140	13.3	HPS		1 70W HID		95	140	13.3	0	\$ -
HPS	100W HID	116	6	0.696	HPS		1 100W HID		116	6	0.696	0	\$ -
HPS	150W HID	175	129	22.575	HPS		1 150W HID		175	129	22.575	0	\$ -
HPS	250W HID	290	161	46.69	HPS		1 250W HID		290	161	46.69	0	\$ -
MH	150W HID	175	54	9.45	MH		1 150W HID		175	54	9.45	0	\$ -
MH	250W HID	290	24	6.96	MH		1 250W HID		290	24	6.96	0	\$ -
HPS	400W HID	464	51	23.664	HPS		1 400W HID		464	51	23.664	0	\$ -
			565	123.335					565	565	123.335	0	\$ -

Avg Price per new fixture	0.00
Installation per fixture (Parts & Labor)	0.00
Recycling fee per fixture	0.00
Rebate per fixture	0.00
Grant Money Available	193,200.00
# of New Fixtures	0
Buyout cost of fixtures	0.00
Grant per fixture	\$ -
Net Cost per fixture	\$ -
Total Proposed System Cost Installed:	\$ -
Amount Borrowed	\$ -
Amount Paid by Cash on Hand	\$ -
Cost of Capital	8%

Existing Total	937,210	25 year cost
Existing Maint	197,200	
Existing Energy	740,010	
Proposed Total	937,210	
Proposed Maint	197,200	
Proposed Energy	740,010	
System Install C	0	
Interest Costs	0	
Total Savings	0	
Avg. Savings pe	0	
Annual ROI	N/A	

Orion Energy Systems

City of De Pere

Maintenance Intervals-Lamp and/or Driver Replacement

Maintenance Intervals are derived from "assumptions" data. All data used is technology manufacture specifications, unless the client requests the use of different data. These intervals include anticipated failures and assume a group replacement system. Actual maintenance interval is subject to change.

- Maintenance Required
- No Maintenance Required

Period	Total Hours	HPS	MH	T5 Fluorescent	LED	Induction
1	4,000	●	●	●	●	●
2	8,000	●	●	●	●	●
3	12,000	●	●	●	●	●
4	16,000	●	●	●	●	●
5	20,000	●	●	●	●	●
6	24,000	●	●	●	●	●
7	28,000	●	●	●	●	●
8	32,000	●	●	●	●	●
9	36,000	●	●	●	●	●
10	40,000	●	●	●	●	●
11	44,000	●	●	●	●	●
12	48,000	●	●	●	●	●
13	52,000	●	●	●	●	●
14	56,000	●	●	●	●	●
15	60,000	●	●	●	●	●
16	64,000	●	●	●	●	●
17	68,000	●	●	●	●	●
18	72,000	●	●	●	●	●
19	76,000	●	●	●	●	●
20	80,000	●	●	●	●	●
21	84,000	●	●	●	●	●
22	88,000	●	●	●	●	●
23	92,000	●	●	●	●	●
24	96,000	●	●	●	●	●
25	100,000	●	●	●	●	●

Scott Thoresen

From: Larry Delo
Sent: Tuesday, August 04, 2009 4:01 PM
To: Scott Thoresen
Subject: RE: Street Lighting

We should take this request to the BOPW for discussion. Also, I have not received any information indicating the EECBG funding for non-entitlement communities has been approved for applications. I have an email into the State to check on the status of this funding.

Larry

From: Scott Thoresen
Sent: Tuesday, August 04, 2009 11:45 AM
To: Larry Delo
Cc: Mike Walsh; Lee Schley; Al Luberda
Subject: Street Lighting

Larry-

We (Al Luberda, Lee Schley, and myself) met with Orion to discuss their street lighting product to see what the City could save compared to what we have now for street lighting. Bottom line is if we buy all the lights ourselves there really is no savings because of the capital costs. There is definitely energy savings. Orion went on to explain there is a grant application going on now for street lighting and they could assist us with the application. Grant application is due 1st part of September. If we got the grant (\$225,000) this would fund the capital costs for the light replacements. Now we would definitely see the savings because we would be saving on energy costs which they estimate at \$22,000 per year. One of the stipulations explained to me in regards to the grant we would have to purchase lights locally (possibly Orion) and use local labor to install. There are several concerns I have and they are:

- 1) City owned lights that we could replace are in our downtown areas and business parks. Going to a different style lighting may be an issue when it comes to aesthetics. These lights Orion manufacturers are not the prettiest.
- 2) Issue with getting grant and now possibly having to go with Orion. We would direct purchase lights so there would be no need to bid but may be an issue for Council when not be able to get other quotes.
- 3) One of the things explained to me was if the City applies that by applying it is our intent to go through with grant. I am concerned Council may not approve grant if we get funded. I was told if City is unsure they would utilize grant then we should not apply.

I am looking for some direction on what we should do regarding the grant. Staff and I will continue to investigate to going with more energy efficient lighting in the future but the time line for the grant is an issue for me.

I am also having staff look into installing a couple of these lights in various locations so we can determine what they look like and see if this is the technology we want to pursue.

Please advise.

Thanks,

Scott

Scott J. Thoresen, P.E.
Director of Public Works
City of De Pere
925 South Sixth Street
De Pere, WI 54115

Office Phone (920) 339-8095

08/04/2009

Scott Thoresen

From: Larry Delo
Sent: Wednesday, August 05, 2009 3:18 PM
To: Scott Thoresen
Subject: FW: EECBG Application

FYI

From: Driscoll, Brian - OEI [mailto:Brian.Driscoll@Wisconsin.gov]
Sent: Wednesday, August 05, 2009 11:44 AM
To: Larry Delo
Subject: EECBG Application

Larry-
We have not gotten approval from US DOE yet. As soon as we do we will make an announcement. I hope that it will be very soon. There will be a press release, and if you are getting out EI Communities Newsletter we will announce it there as well.
-Brian

From: Larry Delo [mailto:ldelo@mail.de-pere.org]
Sent: Tuesday, August 04, 2009 3:57 PM
To: OEI Energy Independence
Subject: EECBG Application

TO: Brian Driscoll:

Is the application for EECBG funds for non-entitlement communities available at this time? Orion lighting in Manitowoc told our Director of Public Works applications for the \$225,000 grant was due the first part of September if we wanted to pursue funding for street lights. I have not seen any information indicating the grant application was available with a deadline to be completed for non-entitlement communities

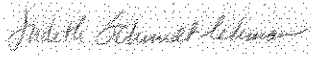
Larry Delo
City Administrator
City of De Pere
920-339-4044

08/05/2009

CITY OF DE PERE

MEMO

To: Michael J. Walsh, Mayor
Board of Public Works

From: Judith Schmidt-Lehman, City Attorney 

RE: EPA request for restrictive covenant on 519 Lande St. and 315 S. 6th St.

Date: August 3, 2009

As you may be aware, the city took tax delinquency sheriff deeds to the properties at 519 Lande St (WD-145) and 315 S. 6th St. (WD-103-1) in mid-2001. Both properties are federal superfund sites that were remediated and are now being monitored. The city took title to both properties under state law [Wis. Stats. §292.11(9)(e)1m.b] which provides exemption from state clean-up requirements for cities not responsible for the contamination that take title to contaminated property by tax delinquency proceedings. There is similar protection from federal hazardous spill clean-up requirements. When the city took title, the DNR required that the "cap" on the property not be disturbed by development until such time as all remediation activity is concluded to the satisfaction of the DNR and EPA. Currently, groundwater continues to be sampled and treated from the S. 6th St. property.

Two years ago, an EPA representative contacted me and informed me that as a part of federal institutional controls over superfund sites, the EPA was requiring that the city agree to putting a restrictive covenant on the Better Brite sites. The purpose of the restrictive covenant is to ensure that the site is adequately maintained and that the subsequent use of the property will not cause a further release of pollutants or allow human exposure to the residual contaminants.

The law department has been negotiating changes to the EPA "standard" restrictive covenant. The EPA accepted some of the requested changes and not others. The resulting negotiated restrictive covenant is one that is, in my opinion, acceptable from the city's standpoint and not much broader than the requirements in place when the city took title.

Briefly, the Restrictive Covenant does the following:

1. Recites the superfund history and remediation efforts;
2. Conveys to the EPA and DNR the right to monitor the site and continue the remediation;
3. Imposes the following restrictions on use:
 - a. prohibits use of groundwater unless approved by DNR
 - b. prohibits excavation of soils or disturbing the current caps
 - c. prohibits excavating the cap, filling in the cap area, plowing for ag purposes or constructing a building on the cap
4. Requires written consent of DNR to modify restrictions;
5. Allows DNR/EPA access to the site for monitoring purposes;

6. Requires a specific notice on instruments of future conveyances
7. Keeps restrictions on the property until released in writing by DNR and EPA

A copy of the negotiated restrictive covenant is attached.

Currently, the Lande St. property is vacant with a grass cap. The S. 6th St property has been leased for parking purposes and has an asphalt cap. The 6th St property also houses a groundwater extraction facility for monitoring. Although the city at one time performed the water sampling tasks at this location, it no longer does so.

I have provided a copy of the proposed restrictive covenant to the 6th St Lessee seeking comments and have not heard from them. If the restrictive covenant is approved, I will notify them and make certain they are aware of the restrictions on modifications to the current parking lot.

I recommend approval of the Restrictive Covenant by the Common Council.

If you have any questions, please feel free to call me at 339-4042.

cc: Lawrence Delo, City Administrator
Scott Thoresen, Director, Department of Public Works
Ken Pabich, Planning Director
Aldersperson Kegel
Aldersperson Robinson
Aldersperson Castelic
Aldersperson Van Vonderen

H:\jbiskner\memos\2009\BPW & Mayor re EPA restr cov-135-002-02.doc

**ENVIRONMENTAL PROTECTION EASEMENT
AND
DECLARATION OF RESTRICTIVE COVENANTS**

1. This Environmental Protection Easement and Declaration of Restrictive Covenants is made this ____ day of ____, 20__, by and between the City of DePere, Wisconsin, ("Grantor"), having an address of 335 S. Broadway Street, DePere, WI, and Wisconsin Department of Natural Resources ("Grantee"), having an address of WDNR, NE Regional Office, 2984 Shawno Avenue, Green Bay, WI. Grantee, Wisconsin Department of Natural Resources, is acquiring this interest pursuant to §292.31 Wis. Stat. The Grantor and Grantee intend that the provisions of this Environmental Protection Easement and Declaration of Restrictive Covenants also be for the benefit of the United States, a third party beneficiary.

WITNESSETH:

2. WHEREAS, Grantor is the owner of two parcels of land located in the County of Brown, State of Wisconsin, more particularly described on **Exhibit A** attached hereto and made a part hereof (the "Property"); and

3. WHEREAS, the Property comprises the Better Brite Superfund Site ("Site"), which the U.S. Environmental Protection Agency ("EPA"), pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9605, placed on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on August 30, 1990; and

4. WHEREAS, in a Record of Decision dated September 24, 1996 (the "ROD"), the EPA Region 5 Regional Administrator selected a "remedial action" for the Site, which provides, in part, for the following actions: Extraction of groundwater at Zinc Shop; Relocation of treatment plant from Chrome Shop to Zinc Shop; Stabilization of hexavalent chromium in soil; Construction of new external foundation drains at two (2) properties near the Zinc Shop with collected water pumped to the pretreatment facility at the Zinc Shop; and, continued groundwater monitoring at the Chrome Shop and the Zinc Shop (**Exhibit C**). With the exception of post-remedial groundwater monitoring, the remedial action has been implemented at the Site; and

5. WHEREAS, the parties to this document, wishing to achieve necessary post-remedial environmental institutional controls, agree that this document will provide for: 1) a

grant of a right of access over the Property to the Grantee for purposes of implementing, facilitating and monitoring the remedial action until such time as EPA/WDNR determine that no monitoring of any media within the Site is required; and 2) to impose on the Property use restrictions as covenants that will run with the land for purpose of protecting human health and the environment until such time as EPA/WDNR determine that no monitoring of any media within the Site is required; and

6. WHEREAS, Grantor has cooperated fully with the Grantee in the implementation of all response actions at the Site and wishes to continue to do so.

NOW, THEREFORE:

7. Grant: Grantor, on behalf of itself, its successors and assigns, in consideration of the remedial action performed pursuant to the September 1996 ROD and 2004 CERCLA Five-year Review Report (a copy of which is available in the DePere Branch of the Brown County Public Library), does hereby covenant and declare that the Property shall be subject to the restrictions on use set forth below for so long as continued monitoring is required, and does give, grant and convey to the Grantee, and its assigns, with general warranties of title, 1) the right to enforce said use restrictions, and 2) an environmental protection easement of the nature and character, and for the purposes hereinafter set forth, with respect to the Property, that will run with the land for the purpose of protecting human health and the environment until such time as EPA/WDNR determine that no monitoring of any media within the Site is required.

8. Purpose: It is the purpose of this instrument to convey to the Grantee real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to contaminants. It is also the purpose of this instrument that the EPA as Third Party Beneficiary shall have the right to enforce the terms of this instrument.

9. Third Party Beneficiary: Grantor on behalf of itself and its successors, transferees and assigns and the Grantee on behalf of itself and its successors, transferees, and assigns hereby agree that the United States and its successors and assigns shall be the Third Party Beneficiary under this instrument.

10. Restrictions on use: The following covenants, conditions, and restrictions apply to the use of the Property, run with the land for the benefit of the Grantee and the EPA as Third Party Beneficiary and are binding upon the Grantor including its successors, transferees, assigns or other person acquiring an interest in the Property and their authorized agents, employees, or persons acting under their direction and control, for the purpose of protecting human health and the environment until such time as EPA/WDNR determine that no monitoring of any media within the Site is required: a) To prohibit use of groundwater for consumptive or other uses without prior approval of WDNR and EPA on the Property; b) To prohibit excavation of soils or

disturbance of the cap in the Chrome and Zinc shop areas of the Site (**Exhibit D**); and, c) to prohibit the following activities on the cap or cover in **Exhibit E** (unless prior written approval has been obtained from the WDNR or its successor or assign): (i) excavating or grading of the land surface; (ii) filling on the capped area; (iii) plowing for agricultural cultivation; and (iv) construction or installation of a building or other structure with a foundation that would sit on or be placed within the cap or cover in the Chrome and Zinc shop areas.

11. Modification of restrictions: Any request for modification or rescission of this instrument shall be made to the Grantee and the EPA at the addresses provided in Section 22 of this instrument. This instrument may be modified or rescinded only with the written approval of the EPA Superfund Division Director and the Director of the WDNR. Grantor on behalf of its successors, transferees, assigns or other person acquiring an interest in the Property agrees to record any EPA approved and WDNR approved modification to or rescission of this instrument with the Brown County Register of Deeds and a recorded copy shall be returned to the EPA and the WDNR at the addresses provided in Section 22 of this instrument.

12. Environmental Protection Easement: Grantor hereby grants to the Grantee for its use a right of access at all reasonable times to the Property for purposes of protecting human health and the environment until such time as EPA/WDNR determine that no monitoring of any media within the Site is required:

- a) Implementing the response actions in the ROD;
- b) Verifying any data or information submitted to EPA concerning the property or Site;
- c) Verifying that no action is being taken on the Property in violation of the terms of this instrument or of any federal or state environmental laws or regulations;
- d) Monitoring response actions on the Site and conducting investigations relating to contamination on or near the Site, including, without limitation, sampling of air, water, sediments, soils, and specifically, without limitation, obtaining split or duplicate samples;
- e) Conducting periodic reviews of the remedial action, including but not limited to, reviews required by applicable statutes and/or regulations; and
- f) Implementing additional or new response actions that either the Grantee or the U.S. EPA determine i) are necessary to protect the public health or the environment because either the original remedial action has proven to be ineffective or because new technology has been developed which will accomplish the purposes of the remedial action in a significantly more efficient or cost effective manner; and ii) such additional or new response actions will not impose any significantly greater

burden on the Property or unduly interfere with the then existing uses of the Property.

13. Reserved rights of Grantor: Grantor hereby reserves unto itself, its successors, and assigns, all rights and privileges in and to the use of the Property which are not incompatible with the restrictions, rights and easements granted herein.

14. EPA Entry, Access and Response Authority: The Grantor and Grantee consent to officers, employees, contractors, and authorized representatives of the EPA entering and having continued access to this property for the purposes described in paragraph 12. Nothing in this document shall limit or otherwise affect EPA's rights of entry and access pursuant to any and all powers conveyed by applicable federal or state environmental laws and regulations or EPA's authority to take response actions under CERCLA, the NCP, or other federal law.

15. No Public Access and Use: No right of access or use by the general public to any portion of the Property is conveyed by this instrument.

16. Notice requirement: Grantor agrees to include in any instrument conveying any interest in any portion of the Property, executed after the date of this instrument, including but not limited to deeds, leases and mortgages, a notice which is in substantially the following form:

**NOTICE: THE INTEREST CONVEYED HEREBY IS
SUBJECT TO AN ENVIRONMENTAL PROTECTION
EASEMENT AND DECLARATION OF RESTRICTIVE
COVENANTS, DATED , 20__ , RECORDED IN THE
PUBLIC LAND RECORDS OF THE BROWN COUNTY
REGISTER OF DEEDS, ON _____, 20__ , IN BOOK
_____, PAGE _____, IN FAVOR OF, AND ENFORCEABLE
BY THE WISCONSIN DEPARTMENT OF NATURAL
RESOURCES AS GRANTEE AND THE UNITED STATES OF
AMERICA AS THIRD PARTY BENEFICIARY.**

Within thirty (30) days of the date any such instrument of conveyance is executed, Grantor must provide Grantee with a recorded copy of said instrument.

17. Administrative jurisdiction: The federal agency having administrative jurisdiction over the interests acquired by the United States by this instrument is the EPA. The WDNR has administrative jurisdiction over the interests acquired by this instrument.

18. Enforcement: The Grantee and the EPA, shall be entitled to enforce, individually or jointly, the terms of this instrument by all legal remedies available, including specific performance or other legal process. All remedies available hereunder shall be in addition to any and all other remedies at law or in equity, including CERCLA. Enforcement of the terms of this instrument shall be at the discretion of the Grantee or the EPA, and any forbearance, delay or omission to

exercise enforcement rights shall not be deemed to be a waiver by the Grantee or the EPA of the same or any other term, or of any other rights of the Grantee or the EPA, under this instrument.

19. Damages: Grantee and EPA shall be entitled to recover damages for violations of the terms of this instrument, or for any injury to the remedial action, to the public or to the environment protected by this instrument.

20. Covenants: Grantor hereby covenants to and with the Grantee and the United States and its assigns, that the Grantor is lawfully seized in fee simple of the Property, that the Grantor has a good and lawful right and power to sell and convey it or any interest therein, that the Property is free and clear of encumbrances, except those noted on **Exhibit B** attached hereto, and that the Grantor will warrant and defend the title thereto.

21. Notices: Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

City Clerk-Treasurer
335 S. Broadway Street
DePere, WI 54115

To Grantee:

Wisconsin Dept. of Natural Resources
101 South Webster Street
Madison, WI 53703

To Third Party Beneficiary:

U.S. Environmental Protection Agency
Region 5 Administrator
77 West Jackson Boulevard
Chicago, IL 60604

22. General provisions:

a) Controlling law: The interpretation and performance of this instrument shall be governed by the laws of the United States or, if there are no applicable federal laws, by the law of the state of Wisconsin.

b) Liberal construction: If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

c) Severability: If any provision of this instrument is found to be invalid, the remainder of the provisions of this instrument shall not be affected thereby.

d) Entire Agreement: This instrument sets forth the entire agreement of the parties with respect to rights and restrictions created hereby, and supersedes all prior discussions, negotiations, understandings, or agreements relating thereto, all of which are merged herein.

e) No Forfeiture: Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

f) Successors: The covenants, terms, conditions, and restrictions of this instrument shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running with the Property for purposes of protecting human health and the environment until such time as EPA/WDNR determine that no monitoring of any media within the Site is required. The term "Grantor", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantor" and their personal representatives, heirs, successors, and assigns. The term "Grantee", wherever used herein, and any pronouns used in place thereof, shall include the persons and/or entities named at the beginning of this document, identified as "Grantee" and their personal representatives, heirs, successors, and assigns. The rights of the Grantee and Grantor under this instrument are freely assignable, subject to the notice provisions hereof. However, the rights of the Grantee may be assigned only to a governmental entity with authority to assume the rights and obligations of that Grantee.

g) Termination of Rights and Obligations: A party's rights and obligations under this instrument terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

h) Captions: The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

i) Counterparts: The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

To Have And To Hold So Long As WDNR/EPA Determine That Monitoring Of Media Inside The Site Is Necessary For The Protection Of Human Health And The Environment.

IN WITNESS WHEREOF, Grantor has caused this Agreement to be signed in its name.

Executed this _____ day of _____, 20__.

CITY OF DE PERE

Michael J. Walsh, Mayor

Charlene M. Peterson, Clerk- Treasurer

STATE OF WISCONSIN)
_____)SS.

BROWN COUNTY

personally came before me this
_____ day of _____, 20__,
the abovenamed _____ known
as the person(s) who executed the foregoing instrument
and acknowledge the same.

Notary Public
My Commission Expires: _____

This Environmental Protection Easement and Declaration of Restrictive Covenants
is accepted this _____ day of _____, 20__.

STATE OF WISCONSIN
WISCONSIN DEPT. OF NATURAL
RESOURCES

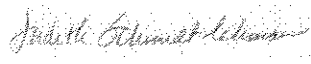
By: _____

- Attachments:
- Exhibit A - legal description(s) of the Property
 - Exhibit B - list of recorded title encumbrances (Title Search)
 - Exhibit C - Groundwater monitoring wells and ground water pump and treat system
 - Exhibit D - Zinc and Chrome Shop Areas - prohibit disturbance of Soils
 - Exhibit E - Survey of Cap Area

CITY OF DE PERE

MEMO

To: Michael J. Walsh, Mayor
Board of Public Works

From: Judith Schmidt-Lehman, City Attorney 

RE: EPA request for restrictive covenant on 519 Lande St. and 315 S. 6th St.

Date: August 3, 2009

As you may be aware, the city took tax delinquency sheriff deeds to the properties at 519 Lande St (WD-145) and 315 S. 6th St. (WD-103-1) in mid-2001. Both properties are federal superfund sites that were remediated and are now being monitored. The city took title to both properties under state law [Wis. Stats. §292.11(9)(e)1m.b] which provides exemption from state clean-up requirements for cities not responsible for the contamination that take title to contaminated property by tax delinquency proceedings. There is similar protection from federal hazardous spill clean-up requirements. When the city took title, the DNR required that the "cap" on the property not be disturbed by development until such time as all remediation activity is concluded to the satisfaction of the DNR and EPA. Currently, groundwater continues to be sampled and treated from the S. 6th St. property.

Two years ago, an EPA representative contacted me and informed me that as a part of federal institutional controls over superfund sites, the EPA was requiring that the city agree to putting a restrictive covenant on the Better Brite sites. The purpose of the restrictive covenant is to ensure that the site is adequately maintained and that the subsequent use of the property will not cause a further release of pollutants or allow human exposure to the residual contaminants.

The law department has been negotiating changes to the EPA "standard" restrictive covenant. The EPA accepted some of the requested changes and not others. The resulting negotiated restrictive covenant is one that is, in my opinion, acceptable from the city's standpoint and not much broader than the requirements in place when the city took title.

Briefly, the Restrictive Covenant does the following:

1. Recites the superfund history and remediation efforts;
2. Conveys to the EPA and DNR the right to monitor the site and continue the remediation;
3. Imposes the following restrictions on use:
 - a. prohibits use of groundwater unless approved by DNR
 - b. prohibits excavation of soils or disturbing the current caps
 - c. prohibits excavating the cap, filling in the cap area, plowing for ag purposes or constructing a building on the cap
4. Requires written consent of DNR to modify restrictions;
5. Allows DNR/EPA access to the site for monitoring purposes;

6. Requires a specific notice on instruments of future conveyances
7. Keeps restrictions on the property until released in writing by DNR and EPA

A copy of the negotiated restrictive covenant is attached.

Currently, the Lande St. property is vacant with a grass cap. The S. 6th St property has been leased for parking purposes and has an asphalt cap. The 6th St property also houses a groundwater extraction facility for monitoring. Although the city at one time performed the water sampling tasks at this location, it no longer does so.

I have provided a copy of the proposed restrictive covenant to the 6th St Lessee seeking comments and have not heard from them. If the restrictive covenant is approved, I will notify them and make certain they are aware of the restrictions on modifications to the current parking lot.

I recommend approval of the Restrictive Covenant by the Common Council.

If you have any questions, please feel free to call me at 339-4042.

cc: Lawrence Delo, City Administrator
Scott Thoresen, Director, Department of Public Works
Ken Pabich, Planning Director
Aldersperson Kegel
Aldersperson Robinson
Aldersperson Castelic
Aldersperson Van Vonderen

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