

**CITY OF STURGEON BAY**  
**FINANCE/PURCHASING & BUILDING COMMITTEE**  
**Tuesday, December 11, 2018**  
**Council Chambers, City Hall - 421 Michigan Street**  
**4:30pm**

1. Roll call.
2. Adoption of agenda.
3. Public comment on agenda items and other issues related to finance & purchasing.
4. Consideration of: Changing dock pass fees.
5. Consideration of: Acquisition of right-of-way extending Grant Avenue to Sawyer Drive.
6. Consideration of: Pre-Annexation agreement for Duquaine Development-W. Oak St (Sawyer Drive)
7. Review bills.
8. Adjourn.

NOTE: DEVIATION FROM THE AGENDA ORDER SHOWN MAY OCCUR.

Notice is hereby given that a majority of the Common Council may be present at this meeting to gather information about a subject over which they have decision-making responsibility. If a quorum of the Common Council does attend, this may constitute a meeting of the Common Council and is noticed as such, although the Common Council will not take any formal action at this meeting.

Posted:  
Date: 12/7/18  
Time: 11:10am  
By: TM

Finance/Purchasing & Building Committee Members:  
David Ward, Chair  
Barbara Allmann, Vice Chair  
Seth Wiederanders

## Executive Summary

**Date:** December 4, 2018

**Title:** Changing of Annual Dock Pass Fees

**Background:** The current fee for a resident annual dock pass is \$42.00, after taxes it is \$44.31. Non-resident fee is \$70.00, after taxes it is \$73.85. I would like to change the fees to come out to an even number. By changing this it would save an estimated eight hours per month that personnel could be doing something more worthwhile than counting change. Every day the cash box is counted by both the seasonal employee at the dock and by the Parks and Recreation Assistant every time the box changes hands. I would like to raise the resident fee to \$42.65, after taxes it would be \$45.00. For non-residents I would like to increase to \$70.14, after taxes it would be \$74.00. It is an increase of \$.65 for residents and \$.14 for non-residents. This would be an ideal time to do this since we need to order new envelopes for the docks.

**Fiscal Impacts:** A gain of \$733.18. This comes from 4 hours per month for one seasonal dock worker and the Parks and Recreation Assistant and additional revenue generated from the increase of fees (figured at 2018 pass sales).

**Recommendation:** Staff recommends increasing the annual dock pass fees to decrease the amount of time required to count the cash box on a daily basis.

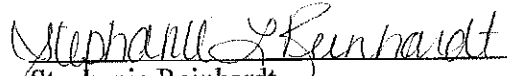
**Prepared By:**



Mike Barker  
Municipal Services Director

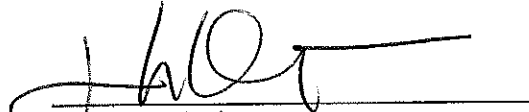
**Date:** 06 DEC 2018

**Reviewed By:**

  
Stephanie Reinhardt  
City Clerk

**Date:** 12/7/18

**Reviewed By:**

  
Josh VanLieshout  
City Administrator

**Date:** 12/7/18

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**R E C O M M E N D A T I O N**

**TO THE FINANCE/PURCHASING & BUILDING COMMITTEE :**

We, the Parking & Traffic Committee, hereby recommend to the Finance/Purchasing & Building Committee to review the cost to purchase the right-of-way, and construct a secondary access road connecting Grant Avenue to Sawyer Drive.

Respectfully submitted,

PARKING & TRAFFIC COMMITTEE

By: Kelly Catarozoli, Chr.

RESOLVED, that the foregoing recommendation be adopted.

Dated: November 19, 2018

\* \* \* \* \*

Moved by Alderperson \_\_\_\_\_, seconded by Alderperson

\_\_\_\_\_ that the said recommendation be adopted.

Passed by the Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**PARKING & TRAFFIC COMMITTEE****November 19, 2018**

A meeting of the Parking & Traffic Committee was called to order at 4:31 p.m. by Chairperson Catarozoli in Council Chambers, City Hall, 421 Michigan Street.

Members Kelly Catarozoli, Kelly Avenson and David Hayes were present. Also present: City Engineer Chad Shefchik, Community Development Director Marty Olejniczak and Municipal Services Assistant Colleen DeGrave.

Moved by Ald. Avenson, seconded by Ald. Hayes to adopt the following agenda:

1. Roll call.
2. Adoption of agenda.
3. Approval of minutes from 10/15/2018.
4. Public comment on Agenda items and other issues related to parking & traffic in the City of Sturgeon Bay.
5. Update and Consideration of: Contract & memorandum of agreement between the DOT and the City of Sturgeon Bay dated October 24, 2008.
6. Adjourn.

All in favor. Carried.

Moved by Ald. Avenson, seconded by Ald. Hayes, to approve the minutes from 10/15/18. Carried.

**Public comment on Agenda items and other issues related to parking & traffic in the City of Sturgeon Bay.**  
Paul Anschutz, 221 N. 6<sup>th</sup> Ave. spoke.

**\* Update and Consideration of: Contract & memorandum of agreement between the DOT and the City of Sturgeon Bay dated October 24, 2008.**

Ald. Catarozoli asked Mr. Olejniczak to give an update on the obligations the City of Sturgeon Bay would have in regards to fulfilling an agreement with the DOT regarding a development plan that has not been completed. Mr. Olejniczak explained that the subject site was annexed into the City in 2006. The property owner was HS Realty Partnership (William Hopf). Hopf had a development plan for the front 25 acres to be developed into a commercial complex known as Maritime Plaza, and the rear 40 acres into a residential subdivision known as Maritime Landing. The front commercial lots were created via certified survey map, but never sold or had been developed by Hopf. The first phase of the rear residential area was platted, which included five multiple-family residential lots. The five lots were sold and developed into forty apartments, but the balance of the rear area only had a preliminary plat approved, and remained as one big parcel owned by Hopf. The street access for the new lots was a new street called Grant Avenue that extended north from Highway 42-57. The City required that the street be planned to connect to the end of Sawyer Drive, which is a dead-end town road at the northeast corner of the Hopf property. The City agreed via a memorandum of agreement to let the street be phased in. The agreement, signed by the City in October 2008, and by Hopf in January 2009, required Hopf to obtain the necessary right-of-way that was outside of his property, get town approval for the connection, and construct a 16-foot wide driveway along the route of the future street for temporary emergency access. All of the above were accomplished by Hopf. The MOA further required that the actual construction of the road was to be completed based upon various triggers. These were the development of the large commercial lot that was part of Maritime Plaza, construction of 15 homes in the rear residential part, or five years. The development never occurred to trigger the road, but the five year time period has long passed. The City applied for a DOT access permit for Grant Avenue on behalf of Hopf. The permit was granted on October 15, 2009 and was conditioned on a MOA between the DOT and the City. That MOA had the same language as the MOA between the City and Hopf. The road was built and the initial DOT requirements were complied with, but the five year time period had passed. Mr. Hopf's overall development never materialized. He went bankrupt and the property was foreclosed upon. The smaller commercial lots in the front were sold to private individuals. A small insurance office and a seasonal garden center were established on two of the lots. A 14-unit multiple-family building was approved on another lot and is under construction. The large commercial lot was acquired by the City. A portion of this was sold for development of 56 apartment units which are under construction.



The rear land that was intended for the residential subdivision (and includes the planned extension of Grant Avenue) was acquired by Tim Ruenger, a neighboring property owner. That owner has no intention of developing anything and is opposed to Grant Avenue connecting to Sawyer Drive. Mr. Olejniczak said at the time the two apartment projects (56 units and 14 units) were under consideration, he had discussed with the DOT the impact of additional traffic. Dave Nielson of the DOT (who issued the access permit) informed Mr. Oleniczak that the additional traffic from those units would not generate enough traffic to require improvements to the highway intersection. The DOT has not pushed the City to connect Grant Avenue to Sawyer Drive at this point, but he said that it could require the connection at any time based on the MOA. Olejniczak stated he has had a few conversations with Mr. Ruenger about acquiring the necessary right-of-way, but there has been no agreement yet.

Ald. Hayes stated he would rather be proactive than reactive in regards to the safety in this location, and Ald. Avenson stated not only would it improve the safety, but it would improve the quality of life for the people living in that location. Mr. Shefchik was asked what the cost of a secondary access road from Grant Avenue to Sawyer Drive would cost. Mr. Shefchik stated, with a 22' paved road with a gravel shoulder, it would cost roughly \$175,000 - \$200,000. He stated the cost of a gravel road at this location would roughly be \$95,000 - \$120,000. Mr. Olejniczak explained the first step would be to acquire the right-of-way.

Moved by Ald. Catarozoli, seconded by Ald. Avenson to recommend to the Finance & Purchasing Committee to review the cost to purchase the right-of-way, and construct a secondary access road connecting Grant Avenue to Sawyer Drive. All in favor. Carried.

**Items to be placed on January 21, 2018 agenda:** Update & Consideration of: Contract & memorandum of agreement between the DOT and the City of Sturgeon Bay dated October 24, 2008, and Consideration of the 3<sup>rd</sup> Avenue Delivery Truck Ordinance.

Motion to adjourn by Ald. Catarozoli, seconded by Ald. Avenson. All in favor. Carried.

Meeting adjourned at 5:24 p.m.

Respectfully Submitted,



Colleen DeGrave  
Municipal Services Assistant

# MEMO

To: Finance/Purchasing & Building Committee  
From: Chad Shefchik, City Engineer & Marty Olejniczak, Community Development Director  
Date: December 6, 2018  
Subject: Grant Avenue Connection to Sawyer Drive

At the November 19<sup>th</sup> Parking & Traffic Committee Meeting there was a lengthy discussion regarding the addition of a roadway to connect Grant Ave to Sawyer Drive. This roadway is identified on the City's Official Map and was originally required to be installed by the developer of the existing lots along Grant Avenue. But that developer went bankrupt and the road never was installed. The current owner of the property through which the roadway is proposed to run has no interest in developing the land or selling the necessary right-of-way. This issue is further complicated by a memorandum of agreement that the City entered into with the Wisconsin DOT that the roadway connection to Sawyer Drive would be installed as a condition of the permit for the highway access for Grant Avenue. The Committee recommended that the Finance/Purchasing & Building Committee review the costs of constructing the road and pursue its installation.

During this discussion it was requested by the Committee that a rough preliminary layout and budget be prepared to investigate the feasibility of adding the connecting roadway. Assuming the right of way issues can be resolved it is recommended that at this time a simple 22' wide gravel roadway with 2' wide gravel shoulders be installed that follows the existing contours of the site. This approach is recommended because the future fate of the site has yet to be determined. Therefore, while immediate connectivity may be desired, the City's initial investment of this connecting roadway may not be conducive (both in terms of location or height) to a future desired development plan for the site. In addition, future uses of the site may desire sewer and / or water facilities which further complicate this initial coordination. This approach would allow for the immediate connectivity with a minimal initial investment by the City.

Currently the site does have a rough gravel driveway that was installed to connect Grant Ave to Sawyer Drive. This gravel driveway was placed to coincide with the location of a future roadway shown on the previous developer's future site development plan dated 6-3-2008. The previous developer of the property was required to install this driveway as an alternate access to the site for emergency services access. The attached plan shows the proposed connecting roadway following this existing gravel driveway. Based upon this rough preliminary layout the attached estimate was prepared. To add a simple 22' wide gravel roadway with 2' wide gravel shoulders the estimated cost (for the roadway only) would be approximately \$85,172.50. If 22' of pavement would be desired that would add an additional \$80,770.50.

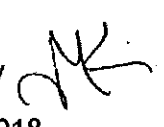
City staff had requested that Attorney Kalny review the situation. His analysis of the liability issue and condemnation proceedings is included in the agenda materials, along with maps and other documents to aid in your understanding of the issue.

The Finance Committee, after reviewing the materials, will need to determine its strategy for the completion of the roadway connection. This could range from doing nothing and wait out the current owner to attempting to amicably work out a deal with the owner to proceeding with eminent domain (condemnation) of the necessary street right-of-way.

## MEMORANDUM

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**To:** Finance Committee - c/o Marty Olejniczak, Director of Community Development

**From:** James M. Kalny 

**Date:** December 6, 2018

**Subject:** Grant Avenue Opinion

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You have informed me that Alder Avenson and some members of the Traffic and Parking Committee have voiced some concerns about the lack of an alternative street connection for the apartments located along Grant Avenue. As will be explained in more detail below, the Alders' concerns relate to a developer's agreement and an agreement with the DOT which provide for such access and include concerns regarding City liability for neglect of citizen safety concerns. For the reasons explained below, while I believe it would be hard for a 3<sup>rd</sup> party to establish substantial legal liability of the City, there are some safety and planning concerns that mitigate toward addressing the access issue. I caution, however, that the cost of obtaining the access, both in terms of finances and staff time, will be significant and the Council may wish to also weigh those costs against proceeding to obtain the alternative street connection at this time.

### BACKGROUND

You explained that the subject site was annexed into the City in 2006. The property owner was HS Realty Partnership (William Hopf). Hopf had a development plan for the front 25 acres to be developed into a commercial complex known as Maritime Plaza and the rear 40 acres into a residential subdivision known as Maritime Landing. The front commercial lots were created via certified survey map, but never sold or developed by Hopf. The first phase of the rear residential area was platted, which included 5 multiple-family residential lots. The five lots were sold and developed into 40 apartments units but the balance of the rear area only had a preliminary plat approved and remained as one big parcel owned by Hopf.



The street access for the new lots was a new street called Grant Avenue that extended north from Highway 42-57. The City required that Grant Street be planned to connect to the end of Sawyer Drive (the "Connection"), which is a dead-end town road at the northeast corner of the Hopf property. The City agreed via a memorandum of agreement to let the street be phased in (the Hopf MOA). The Hopf MOA further required

The public street connecting to STH 42/57 shall be connected to Sawyer Drive within 5 years of the connection to STH 42, or when 15 homes are constructed, or when the large commercial lot located immediately south of the residential subdivision is developed, whichever comes first. Until such time that the street connecting to Sawyer Drive is fully improved, a minimum 16-foot wide driveway shall be constructed and maintained between Sawyer Drive and improved streets within the subdivision prior to occupancy of any building constructed on the lots within the development.

Pursuant to the Hopf MOA (signed by the city in October 2008 and by Hopf in January 2009), Hopf obtained the necessary right-of-way that was outside of his property, got town approval for the Connection, and constructed a 16-foot wide driveway along the route of the future street for temporary emergency access.

The development never occurred to trigger the road but the 5-year time period has long passed.

The City applied for a DOT access permit for Grant Avenue on behalf of Hopf. The permit was granted on October 15, 2009 and was conditioned on a MOA between the DOT and City (the "MOA"). The MOA had the same language as the Hopf MOA as quoted above.

Grant Avenue access serving the Hopf development was built but the Connection was not completed and the 5-year time period has passed.

Mr. Hopf's overall development never materialized. Hopf went bankrupt and the property was foreclosed upon. The smaller commercial lots in the front were sold to private individuals. A small insurance office and a seasonal garden center were established on two of the lots. A 14-unit multiple-family building was approved on another lot and is under construction.

The large commercial lot was acquired by the City. A portion of the City owned lot was sold for development of 56 apartment units which are under construction.

The rear land that was intended for the residential subdivision (and includes the planned extension of Grant Avenue) was acquired by Tim Ruenger, a neighboring property owner. Mr. Ruenger is opposed to Grant Avenue connecting to Sawyer Drive.

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At the time that the two apartment projects (56 units and 14 units) were under consideration, you discussed with DOT the impact of additional traffic with Dave Nielson of the DOT (who issued the access permit). Mr. Nielson informed you that the additional traffic from those units would not generate enough traffic to require improvements to the highway intersection. To date, they have not pushed the City to connect Grant Avenue to Sawyer Drive.

The Council also considered the Connection issue at the time of approval for the 70 new apartment units. Ultimately, the Council approved the apartments without requiring the road connection.

The City has had a few conversations with Mr. Ruenger about acquiring the right-of-way necessary for the extension, but did not reach an agreement.

#### Issues:

1. Does the City's failure to have constructed the Connection create or enhance liability for the City in the case of an accident or fire in the Maritime Plaza subdivision or that portion of Hwy 57 accessing the subdivision?
2. Can the DOT force the City to acquire the ROW needed for the Connection?
3. What is the process to be followed to acquire the necessary ROW?

### DISCUSSION

#### Liability

While the failure to construct the Connection was in violation of both MOUs, I do not think they would form the basis of significant liability for the City. There are several reasons for this conclusion:

1. The Hopf MOU has been foreclosed with regard to the access to the property necessary to create the Connection.
2. The DOT, after being informed of the City's intent has acquiesced to the decision that new apartment developments could go forward without the Connection and has not taken any action to enforce the MOU.
3. Based on your discussion with Mr. Nielson, even with the new apartment developments that have been approved, the level of development does not reach the level where the DOT traffic warrants require the upgrade of the highway intersection.

4. If a suit was brought on a negligence theory, the plaintiff would have to show the City breached a duty to the individual injured. Even if a duty could be established, it would be very unlikely that the comparative negligence of the City would be greater than that of the parties to the accident.

The liability for the City from the standpoint of a 3<sup>rd</sup> party suit for an injury due to the road configuration is, in my opinion, remote. Whether safety is actually enhanced from a traffic standpoint by adding the Connection is not immediately apparent.

While there is little potential liability for the City with regard to an accident on Grant Avenue, the lack of a dual access to the developments is concerning. Again making the duty and causal connections necessary to establish City liability would be a very hard row to hoe, however that does not diminish the fact that the Connection serves the public interest of emergency access and improved traffic flow.

In short, the potential of legal liability against the City is not significant enough to be a significant factor in the City's consideration of extending the Connection. However, the sound planning considerations of dual emergency access and better traffic flow are relevant substantial factors that should be weighed.

#### **Can the DOT force the Connection?**

It is clear we are in breach of the MOU. The breach took place 5 years after execution of the agreement (the contractual deadline for completing the Connection). The agreement was executed on March 12, 2009, hence the date of breach: March 12, 2014. The statute of limitations for enforcement of a contract is 6 years. So there is a contractual cause of action on behalf of the DOT to compel the City to acquire the ROW until March 12, 2020. The remedy for the contractual violation would be to compel the City to acquire and construct the Connection. There are no damages for this breach under our scenario as there is no consequential damages to the DOT as the other party to the contract.

Regardless of the contractual cause of action, the DOT could use the permit to strong arm the Connection if they wished. This would be an unusual move and not consistent with their position to date. They could issue orders to comply with the conditions of the permit, however those orders would give time for compliance.

It should be emphasized that any action by the DOT would be an action in contract, not tort. The action would be to force the strict performance of the contract, not for personal injury recovery or other costlier type of damages. As such, the DOT would likely first tell the City it expected compliance before resorting to legal action. Also there is no exposure to a significant financial impact of any action by the DOT.

The bottom line is there is not much legal concern with the failure to extend the Connection at this time, frankly for the practical reason that the DOT is not requiring it. The determination of whether to acquire and construct the Connection is much more one of determining policy with regard to the sound planning and safety issues addressed by the Connection and the cost of providing the Connection.

### Connection Acquisition

The fact that the current owner of a portion of the land needed for the ROW is not in favor of extending the Connection is troubling. Often times roads are developed as part of a development where the property owners favor and promote the creation of the road often times leading to voluntary dedication or dedication in exchange for some relief on the assessment for the creation of the road. It appears that voluntary dedication is not likely in this case and, if the Council determines to pursue the Connection it is likely the City will have to resort to eminent domain.

The eminent domain process emanates from the 5<sup>th</sup> Amendment of the United States Constitution which provides that government cannot take private property for public use without just compensation. While the law has long recognized that taking private property for public roads is a public use that generally justifies a taking, the process for determining just compensation is fairly complex and costly in terms of procedural costs and acquisition costs.

The eminent domain process for taking property for road purposes in Wisconsin can be synopsized as follows:

1. The process starts by obtaining a metes and bounds legal description of the property and a scale map of the property to be acquired. The engineering maps needed for building a road should suffice for the map but the particular description to be drafted as well.
2. Preliminary title work should be completed to make sure we are aware of all owners of record to make sure we are aware of any other encumbrances we may have to deal with to have a clear right of way.
3. We will want to look into whether there are any special state or federal programs that apply to the property as those programs can interfere with the acquisition process (in this case I do not think we will have a problem).
4. It is necessary to refer this matter to the Plan Commission before the council acts on it. This is required by § 62.23 (5) which requires prior authorization of any acquisition of land for street purposes. Similarly, the Plan Commission normally would be considering an amendment of

the City map that will be necessary to reflect the new road. I would also advise that a document called a relocation order be drafted and submitted to the Plan Commission for consideration. This document declares the necessity to take the property, sets forth the legal description, and includes a map.

5. If this project affects a farm operation we will either have to notify the Wisconsin Department of Agriculture, Trade and Consumer Protection or, have an agricultural impact statement undertaken by the Department. Normally, the State only does a formal review when over five (5) acres of farm property is taken, or if the condemnation will have significant effect on any farm operation as a whole.
6. At this point, if any farms or businesses are being displaced we would have to file a relocation payment plan with the Wisconsin Department of Administration. This document addresses issues such as relocation and business disruption costs. I do not think there would be any displacement or business disruption in this case.
7. Consideration of the relocation order will need to be properly noticed and passed by the Common Council in open session.
8. Once the relocation order is passed it must be properly posted in the same manner as all other resolutions.
9. The relocation order also must be filed with the County Clerk (within 20 days of passage).
10. Although this can be done earlier, at this point a real estate appraiser is hired to do a full narrative appraisal of the property. A narrative appraisal is a very detailed type of appraisal that is required by condemnation law (these are costly appraisals). Most qualified appraisers understand what needs to be followed. If you have any more questions concerning the requirements for the appraisal, I would be happy to explain further.
11. Staff should review the appraisal report closely to assure that it is a qualifying full narrative appraisal. Staff should then report to the Council on the appraisal.
12. Provide the property owner with a full copy of the full narrative appraisal. Also provide the condemnee with a formal notice of the right to an appraisal at the City's cost (a formal notice spelling out the condemnee's rights will also be prepared), and a copy of the Department of Administration required pamphlet (I have attached a copy



of that pamphlet with this memo).

- a. The condemnee has 60 days to get an appraisal at our cost if they so choose.
  - b. Any waiver of that right is best to have in writing.
  - c. Assuming an appraisal is required, the process stalls until the appraisal is provided.
13. Meet in closed session with the Council to inform them of staff progress and to discuss the negotiation strategy in regard to this property.
14. Negotiate with the owner by having a face-to-face meeting with the person who has the authority to sell the property. I recommend that at least two people representing the City attend those meetings.
15. If negotiations with the owner are successful, do the following:
  - a. Create a written purchase contract setting forth the terms reached.
  - b. Prepare for a standard real estate closing.
  - c. Attend the closing and execute all the necessary documents.
  - d. Record all documents from the closing, including a certificate of compensation.
  - e. By certified mail, mail a copy of the recorded Certificate of Compensation to anyone having an interest in the property that has been acquired.
16. If negotiations with the owners are unsuccessful, the City must create and then serve a copy of the jurisdictional offer (JO) upon the owner of record any mortgagee of record in person if possible.
  - a. Generally, a jurisdictional offer must identify itself as an offer under 32.05(3), contain an explanation of the property to be taken, the purpose of the taking, a map and description, set out the compensation specifically and contain certain required statutory notices
  - b. The Condemnee will have 20 days to accept the JO.
  - c. The JO must be personally served on any mortgagee as well.

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17. If the jurisdictional offer is accepted by the property owner, the closing must be completed within sixty (60) days after acceptance.
  18. If the jurisdictional offer is rejected, we would update the title search and prepare and file a lis pendens for the condemnation proceedings. Note that a rejection can happen in any of three ways:
    - a. Jurisdictional offer has not been responded to by the owner at the end of twenty (20) days.
    - b. Owner expressly rejects jurisdictional offer in writing.
    - c. Owner has accepted the jurisdictional offer in writing, but has refused to convey the property.
  19. If the JO is not accepted the City may file an award of damages:
    - a. The award of damages essentially is an announcement of the taking of the property. It references the relocation order, addresses the holders of any interest in the property, describes the property taken and the interest taken, sets the amount of the compensation and the date of the taking.
    - b. As is the case with the JO, it is personally served on all holders of an interest in the property.
  20. The award of damages should include a check naming all holders of an interest to the property in an amount at least equal to that stated in the JO. It should be served with the award of damages.
  21. The award of damages must be recorded in the register of deeds.
  22. The City would then have the right to occupy the property on the date stated in the award. If the owner refuses to allow access the City may apply to the circuit court for a writ of assistance.
  23. The filing of the award does not mean it is all over (in fact it often does not). Any person with an interest in the property may, within 2 years of the date of taking, apply to the circuit court for an order appointing a condemnation commission to review the value of the property. In general terms, the condemnation commission holds an administrative hearing on the valuation and determines the value, which can be in excess of the award of damages.

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24. The award of the condemnation commission is subject to appeal to the circuit court.

25. Note the City would be in possession of the property during any appeals.

The foregoing is a general explanation of the steps involved in an eminent domain condemnation process in Wisconsin. As you can see, it is complicated and lengthy and in some ways seems designed to promote a lengthy process. Also, condemnation evaluation is a specialty requiring a specific type of appraisal that considered unusual issues specific to condemnations and strategies related to anticipating arguments during negotiations and the possibility of appeal. In light of the specialized nature of this type of acquisition and the time the process requires, some municipalities hire outside experts to handle the acquisition.

The eminent domain process is lengthy and costly. It presents opportunity and economic costs that are often significant and should be considered in prioritizing projects and staff time.

I would be happy to address any questions about this opinion or the eminent domain process.

cc: Traffic and Parking Committee

# The Rights of Landowners Under Wisconsin Eminent Domain Law



This pamphlet is published by the Wisconsin Department of Administration in cooperation with the Attorney General pursuant to Wis. Stat. § 32.26(6). It provides information on how the Wisconsin condemnation process works, but is not to be construed as legal advice. An acquiring authority must make this pamphlet available to potentially impacted property owners prior to initiating negotiations for property that may be acquired for a public project.

## Procedures Under Wis. Stat. § 32.05: Highways, Streets, Storm & Sanitary Sewers, Watercourses, Alleys, Airports and Mass Transit

This brochure provides information on how the condemnation process works in Wisconsin, including the rights of property owners impacted by the process. More detailed information is available in Wis. Stat. Ch. 32.

Email: [Tracy.M.Smith@wisconsin.gov](mailto:Tracy.M.Smith@wisconsin.gov)  
Phone: (608) 266-2887  
<http://www.dca.state.wi.us/>

Last Updated September 2017

## INTRODUCTION

The Wisconsin Constitution, Article. 1, section 13 establishes eminent domain authority, which is the power to take private property for a public purpose with payment of just compensation. The Eminent Domain Statute, Wis. Stat. Ch. 32, vests several public and private entities with eminent domain power. Condemnation is the legal process by which the acquiring authority exercises its eminent domain power.

The following are jurisdictional requirements that the acquiring authority must obey in order to condemn property. An acquiring authority must respect these stipulations regardless of whether it intends to exercise its eminent domain power to condemn property.

## RELOCATION ORDER

The Eminent Domain Statute requires specific entities to make a relocation order that provides for the laying out, relocation and improvement of a transportation-related facility prior to initiating negotiations. The order must include a map or plat showing the old and new facility locations, as well as the land and interests required for the project. Within 20 days of its issue, a copy of the order must be filed with the county clerk where the lands are located.

## APPRAISAL

The acquiring authority must obtain at least one appraisal for each property it will acquire prior to initiating negotiations. When obtaining and drafting the appraisal, the appraiser must consult with the property owner. Once completed, the appraiser must provide the property owner with a full narrative appraisal. Also, the acquiring authority must notify the property owner that he may obtain his own appraisal at the (reasonable) expense of the acquiring authority, which must be submitted to the acquiring authority within 60 days of obtaining the acquiring authority's appraisal.

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## NEGOTIATIONS

The acquiring authority must negotiate with the property owner for the property purchase and must consider the full narrative appraisal to establish the property's fair market value during negotiations. It must provide a map showing all property the project impacts and the names of at least 10 neighbors who are receiving offers. If the project affects fewer than 10 owners, the acquiring authority must give the names of all offerors. Property owners may inspect and make copies of any maps the acquiring authority holds. The acquiring authority may consider relocation benefits during negotiations.

In partial acquisitions, fair market value is the greater of either the fair market value of the part acquired or the difference between the entire property value before acquisition and its value after. If only part of the property is acquired and an uneconomic remnant remains, the acquiring authority must also offer to acquire the uneconomic remnant. An uneconomic remnant is the property remaining after a partial taking, if the property remaining is of such size, shape or condition to be of little value or of substantially impaired economic viability.

Compensation for an easement is either the difference between the property value immediately before and immediately after the date of evaluation. The date of evaluation is the date the conveyance is recorded in the register of deeds in the county holding the property.

If the property owner agrees to a negotiated sale, the acquiring authority must record the conveyance with the county register of deeds. After recording, the acquiring authority must provide notice of the conveyance to all owners of record, by certified mail or personal service, as well as of their right to appeal the compensation award within 6 months of the recording date.

2

### JURISDICTIONAL OFFER

If negotiations fail, the acquiring authority must provide the property owner with a jurisdictional offer. The offer must be delivered either by certified mail or personal service and include: (1) a description of the nature of the project; (2) a description of the property to be acquired; (3) the proposed date of occupancy; (4) the compensation offer; (5) notice that any additional items payable may be claimed for relocation assistance; (6) a statement that the appraisal on which the offer is based is available for viewing; and (6) notice that the owner has 2 years from the date the acquiring authority takes the property by award to appeal for greater compensation, even if the owner has already accepted and used the award.

A *lis pendens* gives notice to interested parties that the property may be acquired for public use. One must be filed with the register of deeds for the county in which the property is located within 14 days of when the offer is personally served or mailed. An owner must accept or reject the offer within 20 days of the offer's service or mailing date. If accepted, title transfers to the acquiring authority and the owner must be paid within 60 days. If rejected in writing by all owners of record, the acquiring authority may make an award of compensation.

### CONTESTING THE RIGHT OF CONDEMNATION

Within 40 days from the date of service or the mailing date of the jurisdictional offer, an owner who wants to contest the right of condemnation for any reason other than the inadequacy of the amount of compensation, must commence an action in the circuit court of the county where the property is located, naming the condemnor as the defendant. However, if the owner has already accepted and retained any of the compensation, such an appeal may not be filed.

3

### AWARD OF COMPENSATION

If the owner fails to accept the jurisdictional offer within 20 days of personal service or the mailing date, or if all owners of record reject the offer in writing, the acquiring authority may deliver a written award of damages by certified mail or personal service. This is called the award of compensation and must include: (1) a property description; (2) a description of the interest to be acquired; (3) the date of occupancy; (4) the amount of compensation (at least equal to the jurisdictional offer); and (5) a statement that the acquiring authority has complied with all jurisdictional requirements.

After the acquiring authority has served the award and provided payment, it shall record the award with the register of deeds for the county in which the property is located. At the time of recording, title vests in the acquiring authority. This date is called the date of evaluation.

### OCCUPANCY & WRIT OF ASSISTANCE

The acquiring authority must provide at least 90 days written notice to the property owner of the required move date. If title vests with the acquiring authority before that 90-day period ends, the occupant will be able to live in the property rent-free for the first 30 days beginning on the 1<sup>st</sup> or 15<sup>th</sup> day of the month after title vests with the acquiring authority. If the occupant denies the condemnor the right of possession of the property at the end of the 90-day period, the acquiring authority may apply to the court for the county in which the property is located for a writ of assistance to be put in possession of the property upon 48-hour notice to the occupant. The court shall grant the writ of assistance if all jurisdictional requirements to condemn have been complied with, the award has been paid and comparable property has been made available.

4

### CONTESTING THE COMPENSATION AWARD

Any party having ownership interest in the acquired property has 2 years from the date of evaluation to challenge the compensation award. To challenge the award, any party of interest must appeal to the judge for the circuit court holding the property for assignment to the condemnation commission. When one party of interest appeals the award, no other party may file a separate appeal, but instead must join the existing appeal by serving notice on the condemnation commission and appellant within 10 days of receiving notice of the appeal. The jurisdictional offer or basic award may not be disclosed to the condemnation commission. Whether the commission decides that the fair market value is greater or less than the compensation award, payments should be made within 70 days after the date of the filing of the award unless it is appealed to the circuit court.

Any party to the condemnation commission proceeding may appeal the award to the circuit court of the county holding the property. The sole issues to be tried are the question of title, if any, and the amount of just compensation the condemnor must pay. A jury must try this appeal unless waived by both parties. The jurisdictional offer, the basic award, or the condemnations commission's award may not be disclosed during the trial. Awarded money must be paid within 60 days of the judgement entry.

Parties with ownership interest in the acquired property may waive the appeal to the condemnation commission, appealing directly to the circuit court of the county holding the property within 2 years of the evaluation date. This appeal takes priority over all other actions not then on trial. The sole issues to be examined are the question of title, if any, and the compensation amount the condemnor must pay.

5

The appeal must be tried by a jury unless waived by both parties. The jurisdictional offer or basic award amounts may not be disclosed during trial. No other party of interest can file a separate appeal, but may join the existing appeal by providing notice to the condemnor and the appellant by certified mail or personal service within 10 days of receipt of notice of the appeal.

### LITIGATION EXPENSES/COSTS

Litigation expenses shall be awarded to the displaced person if: (1) the acquiring authority abandons the proceeding; (2) the court decides the condemnor does not have the right to condemn the property or there is no need for its taking; (3) the judgment is for the plaintiff in an action under Wis. Stat. s. 32.10; (4) the condemnation commission award exceeds the jurisdictional offer or the highest written offer prior to it by \$700 and 15% or more and neither party appeals the award to the circuit court; (5) the court-approved jury verdict under Wis. Stat. s. 32.05(1) exceeds the jurisdictional offer or the highest written offer prior to it by \$700 and 15% or more; (6) the condemnor appeals a condemnation commission award that exceeds the jurisdictional offer or the highest written offer prior to it by \$700 and 15% or more, if the court-approved jury verdict under s. 32.05(10) exceeds the award of the condemnation commission by \$700 and 15% or more; (7) the condemnor appeals the condemnation commission award, if the court-approved jury verdict exceeds the jurisdictional offer or the highest written offer prior to it by \$700 and 15% or more; or (8) the condemnor appeals an award of the condemnation commission that does not exceed the jurisdictional offer or the highest written offer prior to it by 15% if the court-approved jury verdict under s. 32.05(1) exceeds the jurisdictional offer, or the highest written offer prior to it by \$700 or 15%.

6



**Maritime Plaza/Maritime Landing  
Current Status - Oct, 2018**

Tim Ruenger  
homestead

Sawyer Dr

Tim Ruenger Parcel

Gravel driveway  
(future Grant Ave)

Original 40 apartments  
completed in 2009

Sycamore St

14 townhomes units under  
construction on this parcel

56 apartment units under  
construction on this parcel

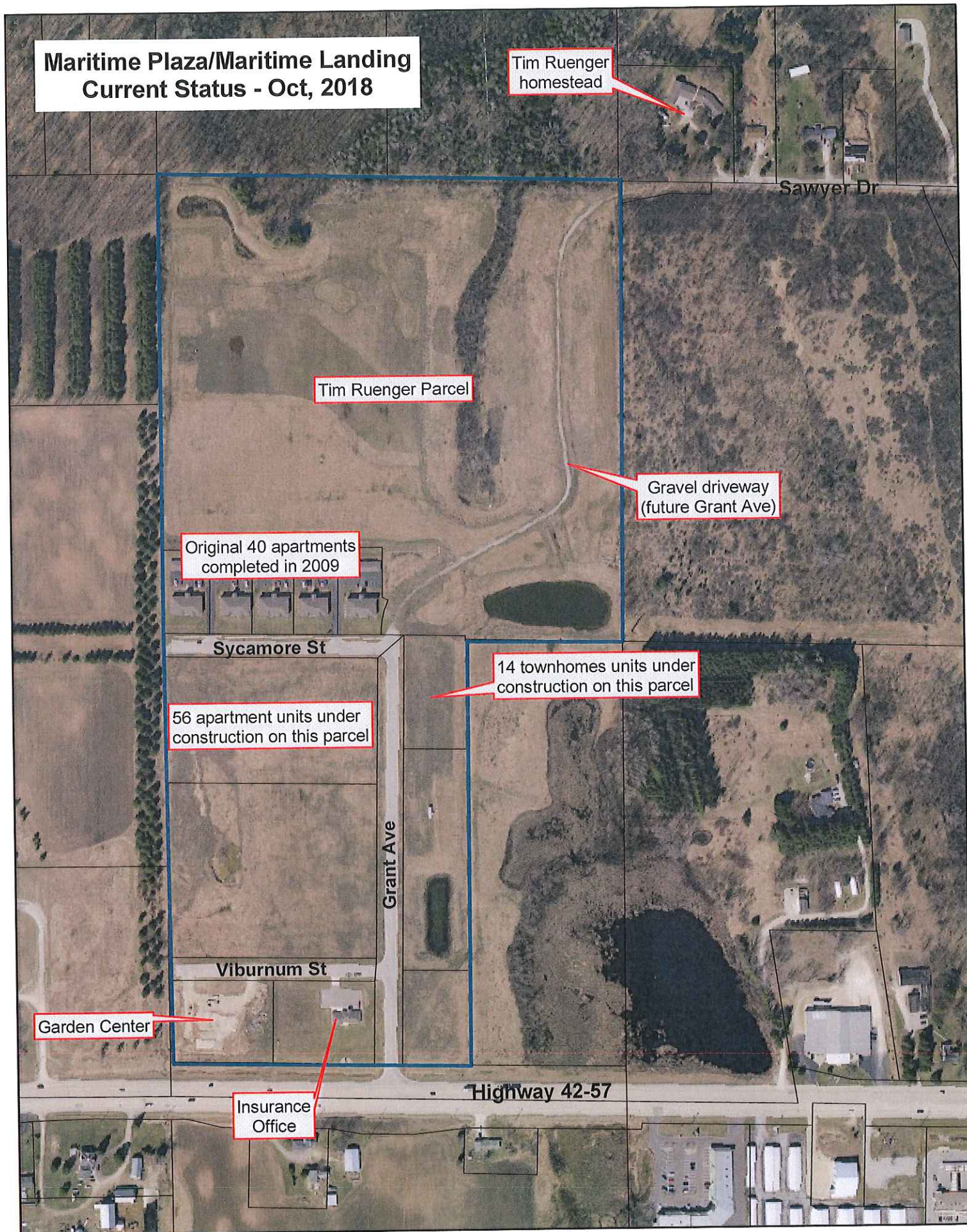
Grant Ave

Viburnum St

Garden Center

Insurance  
Office

Highway 42-57





# MEMORANDUM OF AGREEMENT

BETWEEN

CITY OF STURGEON BAY

AND

WISCONSIN DEPARTMENT OF TRANSPORTATION

The Memorandum of Agreement (MOA) between the City of Sturgeon Bay (City) and the Northeast Region Office of the Wisconsin Department of Transportation (DOT) is being executed to provide for the improvements needed at the STH 42/57 & Grant Avenue due to the Maritime Plaza Development (Development).

The traffic generated by the proposed development and the increase in the background traffic in the area will have a direct impact on the traffic flow of STH 42/57. Improvements will be required now and possibly in the future in order to maintain a satisfactory level of service.


The terms of this memorandum have been developed by representatives from the City and the DOT. By signing this document, authorized officials from the City and the DOT agree to the terms listed herein. The terms will be binding unless representatives of both signing parties agree to the modifications.

## TERM OF THE MEMORANDUM OF UNDERSTANDING

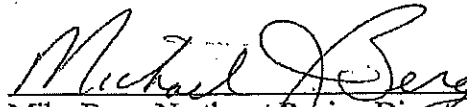
### Initial Improvements:

1. Modify TWLTL markings to provide for a Northbound STH 42/57 left turn lane (350' turn lane with 150' taper). Southbound STH 42/57 200' painted median.
2. Southbound STH 42/57 200' right turn lane with 150' taper. The turn lane shall be 12' wide. The existing shoulder shall be removed and replaced with 4' asphalt over 16' of base course.
3. If there becomes safety issues associated with the intersection not having a raised median the City will be responsible for raising the existing median to the same dimensions as what is to be painted.

4. If the intersection warrants traffic control in the future outside of a DOT programmed improvement project the City will be responsible for the warrant analysis and DOT ordered improvements (roundabout or traffic signals).
5. The appropriate vision corners shall be dedicated.
6. The nearest driveway or public street connection to the new road (Grant Avenue) shall be no closer than 225' from the STH 42/57 right of way on the west side and no closer than 200' from the STH 42/57 right of way on the east side.
7. The City shall provide proof of ownership of the roadway.
8. The public street connecting to STH 42/57 shall be connected to Sawyer Drive within 5 years of the connection to STH 42, or when 15 homes are constructed, or when the large commercial lot located immediately south of the residential subdivision is developed, whichever comes first. Until such time that the street connecting to Sawyer Drive is fully improved, a minimum 16-foot wide driveway shall be constructed and maintained between Sawyer Drive and improved streets within the subdivision prior to occupancy of any building constructed on the lots within the development.

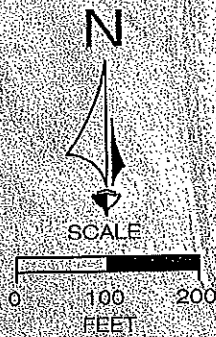
  
Thomas Voegele, Mayor  
City of Sturgeon Bay

10/24/08  
Date

  
Mike Berg, Northeast Region Director  
Wisconsin Department of Transportation

3/12/09  
Date

DEC, 2018



SAWYER DR

1865'

SYCAMORE ST

GRANT AVE

LOCATED IN:  
THE NW 1/4 AND THE SW 1/4 OF THE SW 1/4 OF SECTION 12,  
TOWNSHIP 27 NORTH, RANGE 25 EAST, CITY OF  
STURGEON BAY, DOOR COUNTY, WISCONSIN.



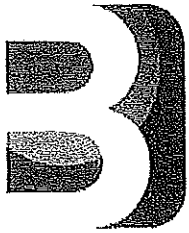
100 / NOV/NOV/2008-PRIZ  
SHEET 1 OF 1  
JOB NO. 19568  
6-3-0

(11)



Item #	Grant Ave - Roadway Ext. to Sawyer Drive (22' Gravel Road + 2' Gravel Shoulders) - Item Descriptions	Unit	Estimated Quantity	Unit Price	Line Item Total
1	Mobilization	LS	1	\$ 3,000.00	\$ 3,000.00
2	Traffic Control	LS	1	\$ 1,500.00	\$ 1,500.00
3	Culvert Crossing with Bell Ends on Each Side	EA	2	\$ 3,000.00	\$ 6,000.00
4	Unclassified Excavation - 12" Ave Depth - Stockpile topsoil and rough fill on site (Paved Width + 4')	CY	1796	\$ 10.00	\$ 17,960.00
5	Rough Fill - Spread Reclaimed Rough Fill & Compact - 6" Ave Depth (Paved Width + 4')	CY	898	\$ 10.00	\$ 8,980.00
6	Base Aggregate - Crushed Stone No. 1&2 (measured in place 12" thickness) (Paved Width + 4')	CY	1796	\$ 22.50	\$ 40,410.00
10	Base Aggregate - Crushed Stone No. 1&2 (measured in place 3-1/2" thickness) (Shouldering - Width = 4')	CY	81	\$ 22.50	\$ 1,822.50
10	Consultant Fees for Roadway Design & Staking	LS	1	\$ 5,500.00	\$ 5,500.00
				<b>Totals:</b>	<b>\$ 85,172.50</b>

Item #	Grant Ave - Roadway Ext. to Sawyer Drive (22' Wide Pavement Addition) - Item Descriptions	Unit	Estimated Quantity	Unit Price	Line Item Total
1	Mobilization	LS	1	\$ 1,000.00	\$ 1,000.00
7	Base Aggregate Fine Grading	LS	1	\$ 7,000.00	\$ 7,000.00
8	Asphaltic Binder Course - 2" Asphalt	TON	524	\$ 77.00	\$ 40,348.00
9	Asphaltic Surface Course - 1-1/2" Asphalt	TON	393	\$ 82.50	\$ 32,422.50
				<b>Totals:</b>	<b>\$ 80,770.50</b>



# BAUDHUIN

## SURVEYING & ENGINEERING

November 30, 2018

Chad Shefchik  
City of Sturgeon Bay  
421 Michigan Street  
Sturgeon Bay, WI 54235

Chad,

Baudhuin Surveying & Engineering (Baudhuin) is pleased to provide this proposal for services based on our initial discussion and cursory review of the old plans for the extension of Grant Avenue to Sawyer Drive. This proposal is based on a proposed 22-foot-wide gravel road to be constructed at this time. The road would be offset in the proposed right-of-way to allow future sewer and water installation with hopes of not damaging the road. Proposed services:

1. Right-of-way mapping: Baudhuin will establish the proposed right-of-way limits through legal description for use in the dedication. The legal description and map would be provided to the City attorney for recording.
2. Field Work: Baudhuin will survey grades in the area designated for the road as well as detail proposed connection points. The grades will be placed on the map with one one-foot contour lines suitable for final design.
3. Road Design: A 22-foot-wide gravel road will be designed in the proposed right-of-way. The road will avoid and previously mapped wetlands. A construction plan suitable for bidding will be prepared including a plan and profile indicating proposed centerline grade as compared to the existing grades.
4. Short Form Bid: A list of proposed bid items and quantities will be prepared. A short form specification will be created suitable for bidding. It is understood that the City will advertise, review bids and negotiate a contract with the selected bidder.
5. Road Staking: The road subgrade will be set-up and field staked out one time for construction with a benchmark set for contractor/city use.
6. Construction Administration: Baudhuin will supply plans to contractors and answer questions during construction as needed.

***TOTAL PROPOSED COST (ITEMS 1-6): \$5,500***

This proposal is based on the following:

1. Total land disturbance associated with the road to remain under one acre therefore not requiring DNR review or approval.
2. No wetlands, endangered species, floodplain or other environmental issues on this site.
3. Field work when snow conditions are not prohibitive.
4. City to perform inspection and project coordination services, pay requests, etc.
5. Meetings requested at the council level would be invoiced as an extra on a time and material basis.

Please review this proposal and contact with any questions. If this proposal is acceptable, please sign below and return by email.

Thank you for considering Baudhuin Surveying & Engineering for all your surveying and design needs.

Regards,



Pete Hurth, P.E., LEED AP

President

Baudhuin Surveying & Engineering

\_\_\_\_\_  
Proposal Accepted By

\_\_\_\_\_  
Date

August 9, 2017

Timothy Ruenger  
6604 Sawyer Drive  
Sturgeon Bay, WI 54235

Dear Mr. Ruenger:

We have discussed previously how a planned street on the City of Sturgeon Bay's Official Map affects your 36-acre parcel at the north end of Grant Avenue. The proposed extension of Grant Avenue runs northerly through your property and connects with Sawyer Drive. The Sturgeon Bay Common Council has expressed its desire to acquire the right-of-way for this road connection.

Based upon the planned route of the street, the proposed purchase is a swath of land 66 feet in width by approximately 1,610 feet in length. An exact surveyed dimension will eventually be needed. The estimated land area is 106,260 square feet (2.44 acres).

Our property transaction records show that you acquired the parcel in 2013 for a price of \$105,000, or \$2,916 per acre. Based upon this sale and the assessed values of similar parcels, the city staff believes a price of \$4,000 per acre, or \$9,760 for the approximately 2.44 acres is justified. Keep in mind that the balance of your property will benefit from the new street. Please contact me to discuss this offer or potentially explore other options or factors to allow the proposed road to best fit your financial expectations and plans for your property.

I sincerely hope that the City and you are able to arrive at a cooperative price for the needed right-of-way.

Sincerely,

Josh Van Lieshout  
City Administrator  
City of Sturgeon Bay

6

6

## EXECUTIVE SUMMARY

**Title:** Pre-Annexation Agreement with Duquaine Development, Inc.

**Background:** Mau & Associates, on behalf of Duquaine Development, Inc., is requesting that the City enter into a pre-annexation agreement for two lots located on the south side Oak Street (Sawyer Drive). The lots are currently in the Town of Nasewaupee – parcels 020-01-12272541B & C1. Duquaine Development, which has an option to purchase the subject lots, desires to get city water and sanitary sewer services for a proposed multiple-family residential development, which usually requires annexing the land to the City. But they want to negotiate the terms and timing of the annexation. Annexing the parcels at this time is problematic because doing so would cut off some town acreage from the rest of the town, thereby creating a “town island” which is illegal under Wisconsin annexation law.

The City has often used pre-annexation agreements in the past for a variety of factors, such as:

1. The subject property is ineligible to be annexed by itself due to not being contiguous or creating a town “island” if annexed.
2. The City desires to not individually annex the subject parcel in order to generate enough parcels to accomplish annexation of a larger area (including parcels that do not want to be annexed).
3. There are financial issues such as potential special assessments that the property owner or the City wants to negotiate to get clarity or serve as an inducement to annex.
4. There are reasons relating to the property to hold off on the annexation for a specific period of time, such as allowing the parcel to legally establish a use under town zoning before being subject to the Sturgeon Bay Zoning Code.

Each pre-annexation agreement that the City has approved is different and depends upon the circumstances. For this proposed pre-annexation, factors 1, 2, and 4 all could apply. The Finance Committee and Council need to determine if the City should enter into a pre-annexation agreement and, if yes, what the terms of the agreement should be. The agreement would then be drafted for formal approval by the city and property owner.

The subject parcels are 14.3 acres and one acre in size. The concept plan submitted by Mau & Associates for the development shows eight 20-unit apartment buildings (160 units total) to be constructed in three phases. In addition, four separate lots are proposed along Oak Street (Sawyer Drive) that would be suitable for single-family or two-family homes. The parcels border the City along both the north and south property lines. The municipal water and sewer lines already run along the south edge of the property in conjunction with the back access road for Target. The mains are public and can be extended into the proposed development, but the access road is private. A driveway or street connection to that access road will require approval of that property owner (Wallace Enterprises Inc.).

Cliff White, operations manager at Sturgeon Bay Utilities, has reviewed the concept and supports the proposed development hooking up to the utilities. The most likely scenario is for the utilities to be extended from the south. Those mains were paid for by the developer of the Target store. Hence, per the City’s annexation policies, a pro rata charge for the prior cost of installing that main would not be charged.

From a growth and development standpoint it makes sense for these properties to eventually be annexed into the city. Under the City’s Comprehensive Plan the one-acre lot is planned for higher density single-family residential development. The 14.3-acre parcel is planned for a combination of mixed residential (north half) and commercial or mixed residential (south half). Such future use would involve municipal sewer and water services. The concept development plan is therefore consistent with the Comprehensive Plan.



In addition, much of the surrounding infrastructure is already city-owned or maintained, including roads and storm sewers. If the property develops in the town, which has few development regulations, it would still impact municipal facilities without the control of city ordinances or the tax base to support maintenance. Even emergency services would likely come from the city due to mutual aid agreements and quicker response time. So staff believes the subject parcels, if developed, belong in the City.

The developer previously petitioned for approval of an apartment complex at the corner of Tacoma Beach Road/Clay Banks Road. That proposal generated significant opposition from the surrounding area and was not approved. Nonconformance with the Comprehensive Plan and potential traffic impacts at the highway intersection with Clay Banks Road were the primary reasons cited. Neither of those issues should be a concern with the current proposal. But there could be other objections from the surrounding region. Thus, the developer (and presumably the current property owner) wants a degree of assurance that the intended development will get approval before committing to annexation. Since Nasewaupsee has no zoning ordinance and few impediments to obtaining a building permit, there is incentive to remain in the Town versus annexing to the City.

The other problem is the creation of a "town island" if all of the property is annexed. There are three ways to potentially address this. The first would be to try to craft a larger annexation petition that includes all of the town parcels that would be cut off. This could be difficult since many of those parcels have no need for municipal sewer and water or do not intend to develop/redevelop at this time. So remaining in the town is advantageous to those parcels. The other problem with a large-scale annexation is that property owners opposed to the annexation can petition for a referendum. If the annexation should fail in the referendum, it cannot occur.

The second option to address the town island issue is divide the subject property so that a portion can remain in the town as a "bridge" to those other parcels thereby preventing them from becoming an "island." This is somewhat tricky but likely can be accomplished.

The third option to address the town island issue is to allow the eventual annexation to occur further into the future when more of the town parcels want to annex. A valid annexation petition requires property owners' signatures of at least 50% of the area of the subject land or 50% of the property value of the subject land. There is no telling when that would occur if ever. In addition, under Wisconsin annexation law the municipality is required to pay to the town for 5 years the amount of property taxes collected on the annexed parcels in the year of annexation. Obviously, the City would prefer to pay Nasewaupsee the amount of taxes on the vacant land rather than the amount after the apartments are built. Hence, this option of waiting to annex until sometime into the future is not attractive.

**Fiscal Impact:** The sanitary sewer and water mains are already in place along the south edge of the subject property. The Developer would be responsible for extending them into the development. SBU will receive income from the new development. For the City, no other services will be offered to the property until it is formally annexed. At that time, a report including the estimated fiscal impact will be drafted. Because it involves only two parcels that are already surrounded by the City, and because the project is fairly dense with no public streets proposed, it is anticipated that the property tax revenue from the development will exceed the cost of providing fire, police, and other services to the site.

**Options:** The City can:

1. Determine not to enter into a pre-annexation agreement. If this happens Duquaine Developer would need the property owner to petition to annex without the agreement, which is unlikely. Duquaine could also decide to remain in the town and develop the property without municipal sewer and water or could abandon the development plan altogether.

2. Agree to enter into a pre-annexation agreement and negotiate the terms. Such terms could include the timing of the annexation, the process for reviewing/approving the proposed development or other factors.

**Recommendation:** Staff believes the subject land should be developed with sanitary sewer and municipal water, should generally meet the City's development standards, and should become part of the City. But staff also appreciates the developer's reluctance to annex without development approval and the current property owner's reluctance to annex without an assured sale. The annexation agreement is a good mechanism to ensure that 1) the development standards of the City are met; 2) the property tax revenue from the development goes to the City; 3) the development is properly serviced with utilities; and 4) the developer receives assurances that the construction can actually occur. Thus, the recommendation is for the Finance Committee to craft a pre-annexation agreement for the two parcels that accomplishes these four positive outcomes.

Prepared by: Martin Olejniczak 12-7-18  
Martin Olejniczak Date  
Community Development Director

Reviewed by: Chad Shefchik 12-7-18  
Chad Shefchik Date  
City Engineer

Reviewed by: Josh Van Lieshout 12/7/18  
Josh Van Lieshout Date  
City Administrator

**MAU & ASSOCIATES-LLP**

**LAND SURVEYING & PLANNING ♦ CIVIL & WATER RESOURCE ENGINEERING**

**400 SECURITY BOULEVARD ♦ GREEN BAY, WI 54313 ♦ PHONE (920) 434-9670 ♦ FAX (920) 434-9672**

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November 11, 2018

City of Sturgeon Bay  
City Council  
421 Michigan Ave.  
Sturgeon Bay, WI

RE: Request for sanitary and water services and future  
annexation into the City of Sturgeon Bay.  
Tax Parcel No.'s: 020 0112272541C1 & 020 0112272541B  
Brief description: Part of the northeast 1/4-southeast 1/4, Section 12, T27N-  
R25E, Town of Nasewaupée, Door County, Wisconsin.

Dear City Council,

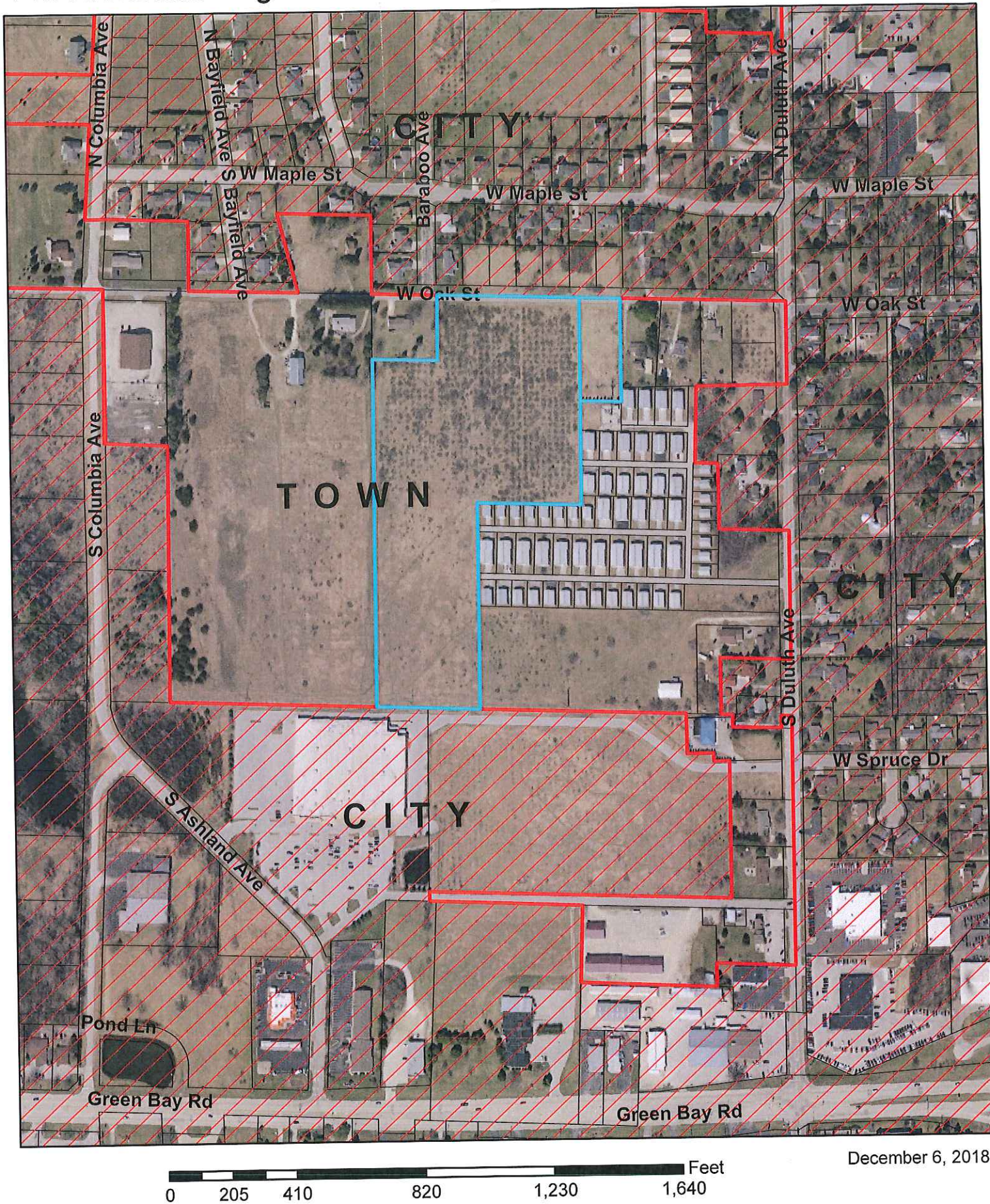
I would like to request on behalf of Duquaine Development, Inc. services for sanitary sewer and watermain. In exchange for these services, we would be willing to execute a pre annexation agreement for the above described parcels, into the City of Sturgeon Bay.

Sincerely,

Steven M. Bieda

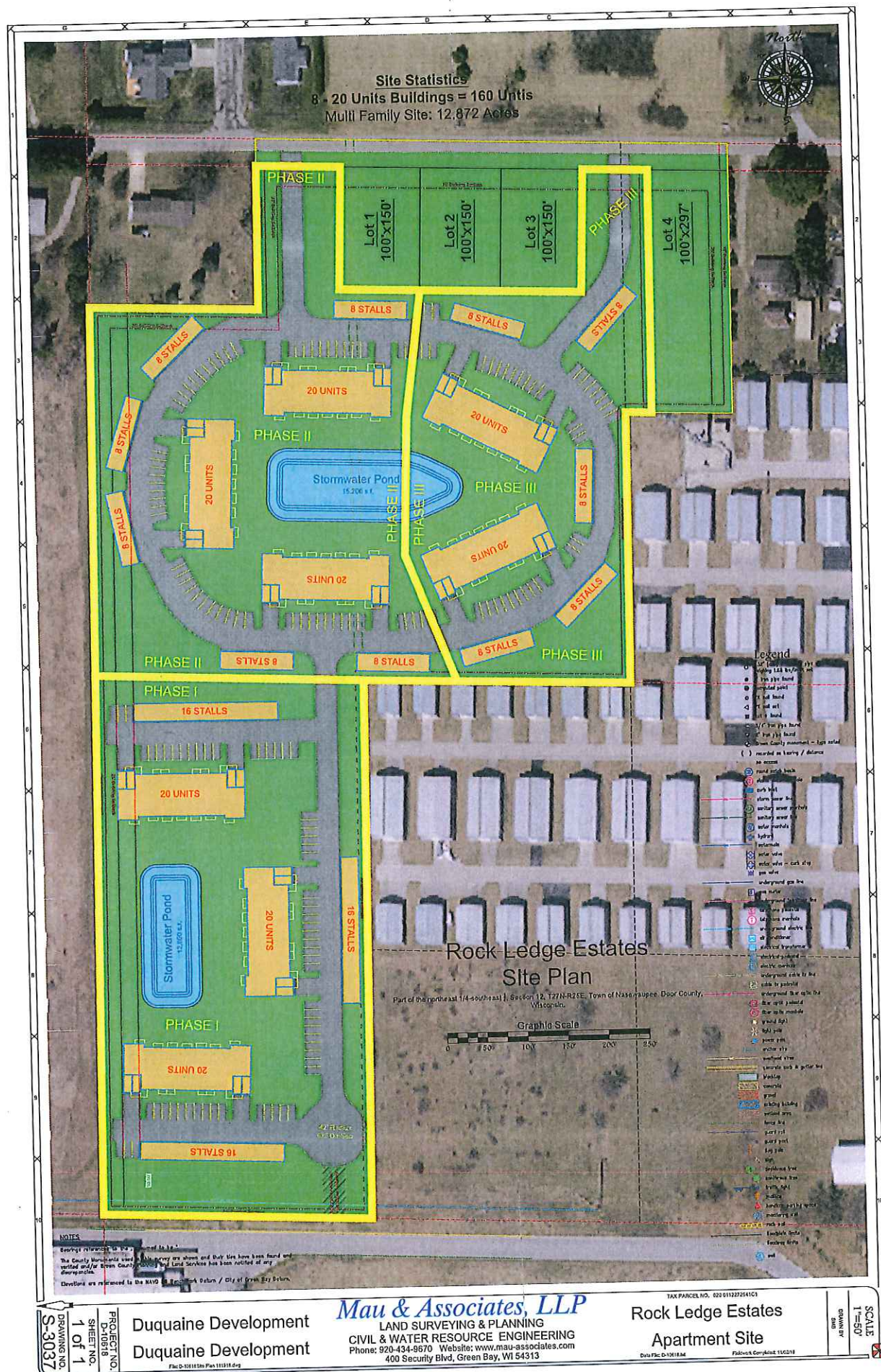


# Pre-Annexation Agreement for Duquaine Development - Subject Lots



December 6, 2018





7  
DATE: 12/07/2018  
TIME: 10:43:44  
ID: AP443000.CST

CITY OF STURGEON BAY  
DEPARTMENT SUMMARY REPORT

PAGE: 1 7

INVOICES DUE ON/BEFORE 12/18/2018

VENDOR #	NAME	ITEM DESCRIPTION	ACCOUNT #	AMOUNT DUE
-----				
GENERAL FUND				
GENERAL FUND				
BALLFIELD LIGHTING				
WPPI ENG	WPPI ENERGY	12/18 ATHLETIC LIGHT PRJCT	01-000-981-70000	1,365.39
TOTAL BALLFIELD LIGHTING				1,365.39
TOTAL GENERAL FUND				1,365.39
CITY CLERK-TREASURER				
04650	DOOR COUNTY REGISTER OF DEEDS	OCTOBER FILING FEES	01-115-000-56350	90.00
17700	QUILL CORPORATION	SOLID COLOR END TAB LABELS	01-115-000-51950	19.48
BUBRICKS	BUBRICK'S COMPLETE OFFICE, INC	CALENDNR,LABELS,HIGHLTR,POSTITS	01-115-000-51950	50.99
TOTAL				160.47
TOTAL CITY CLERK-TREASURER				160.47
COMPUTER				
04696	DOOR COUNTY TREASURER	11/18 INTERNET	01-125-000-55550	100.00
04696		11/18 TECH SUPPORT	01-125-000-55550	2,575.00
04696		11/18 2G INTERNET	01-125-000-55550	375.00
TOTAL				3,050.00
TOTAL COMPUTER				3,050.00
CITY ASSESSOR				
ASSO APP	ASSOCIATED APPRAISAL	12.18.18 CONTRACT	01-130-000-55010	1,333.33
TOTAL				1,333.33
TOTAL CITY ASSESSOR				1,333.33
MUNICIPAL SERVICES ADMIN.				
DLT	DLT SOLUTIONS INC.	AUTO CAD ANNL RENEWAL	01-145-000-55550	1,022.35
TOTAL				1,022.35
TOTAL MUNICIPAL SERVICES ADMIN.				1,022.35
CITY HALL				
03159	CHARTER COMMUNICATIONS	11/18 FIRE CABLE SVC	01-160-000-58999	119.98
TOTAL				119.98
TOTAL CITY HALL				119.98

DATE: 12/07/2018  
TIME: 10:43:44  
ID: AP443000.CST

CITY OF STURGEON BAY  
DEPARTMENT SUMMARY REPORT

PAGE: 2

INVOICES DUE ON/BEFORE 12/18/2018

VENDOR #	NAME	ITEM DESCRIPTION	ACCOUNT #	AMOUNT DUE
GENERAL FUND				
GENERAL EXPENDITURES				
04696	DOOR COUNTY TREASURER	11/18 CITY HALL PHONE SVC	01-199-000-58200	89.30
04696		11/18 FIRE PHONE SVC	01-199-000-58200	71.51
04696		11/18 MUNICIPAL PHONE SVC	01-199-000-58200	28.55
04696		11/18 POLICE PHONE SVC	01-199-000-58200	40.47
MEUW	MUNICIPAL ELECTRIC UTILITIES	4TH QTR SAFETY PROGRAM	01-199-000-55605	3,413.50
WISHOARD	TSA CLEAN, LLC	CLEANUP-SUPERIOR ST	01-199-000-51525	10,577.50
TOTAL				14,220.83
TOTAL GENERAL EXPENDITURES				14,220.83
POLICE DEPARTMENT				
SIRSPED	SIR SPEEDY	500 COND RELEASE/NO CONTACT	01-200-000-51600	160.03
SIRSPED		500 VICTM NOTIFICATION/NO CONTACT	01-200-000-51600	160.03
SIRSPED		DISCOUNT	01-200-000-51600	-32.01
STAPLES	WISCONSIN DOCUMENT IMAGING LLC	4100 BLACK COPIES	01-200-000-51600	49.61
STAPLES		1054 COLOR COPIES	01-200-000-51600	38.26
US BANK	US BANK EQUIPMENT FINANCE	RICOH COPIER 34 OF 48	01-200-000-55650	167.00
US BANK		PROPERTY DAMAGE SURCHARGE	01-200-000-55650	27.02
TOTAL				569.94
TOTAL POLICE DEPARTMENT				569.94
PATROL BOAT				
PATROL BOAT				
02206	BAY MARINE	OIL CHANGE/PATROL BOAT	01-205-000-58600	330.14
PORT	WEST MARINE PRO	PATROL BOAT PARTS	01-205-000-58600	39.96
TOTAL PATROL BOAT				370.10
TOTAL PATROL BOAT				370.10
POLICE DEPARTMENT/PATROL				
04150	DE JARDIN CLEANERS LLC	UNIFORM MAINT/BRINKMAN	01-215-000-56800	7.97
04150		UNIFORM MAINTENANCE/ALBERTSON	01-215-000-56800	28.00
04150		UNIFORM MAINTENANCE/CRABB	01-215-000-56800	22.87
06592	FOX VALLEY TECHNICAL COLLEGE	P.I. T REG/JNNRJOHN, MOGEN	01-215-000-55600	150.00
21450	THE UNIFORM SHOPPE	UNIFORM SHIRT/GANDER	01-215-000-52900	61.95
HAACK	TREVOR HAACK	UNIFORM BOOT REIMB/HAACK	01-215-000-52900	100.00
HOTSY	HOTSY CLEANING SYSTEMS, INC	POWER WASHER REPAIR	01-215-000-58600	458.77
JIM FORD	JIM OLSON FORD-LINCOLN, LLC	IMPALA REPAIR	01-215-000-58600	150.90
MOGEN	SHAWN MOGEN	TRAINING MEAL EXPENSE/MOGEN	01-215-000-55600	12.17
TOTAL				992.63
TOTAL POLICE DEPARTMENT/PATROL				992.63

POLICE DEPT. / INVESTIGATIONS



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VENDOR #	NAME	ITEM DESCRIPTION	ACCOUNT #	AMOUNT DUE
GENERAL FUND				
ACCURINT	LEXISNEXIS RISK SOLUTIONS	11/18 CONTRACT FEE	01-225-000-57950	105.00
ACCURINT		NEWS SEARCH	01-225-000-57950	5.00
CANINE	CANINE SEARCH SOLUTIONS,LLC	CADAVER SEACH/CJP INVESTIGATN	01-225-000-57950	858.58
ROBIADEK	ROBIADEK & SONS EXCAVATING, INC	DEMO & EXCAVATING/CJP INVEST	01-225-000-57950	14,839.19
TOTAL				15,807.77
TOTAL POLICE DEPT. / INVESTIGATIONS				15,807.77
FIRE DEPARTMENT				
04575	DOOR COUNTY HARDWARE	ASSORTED SUPPLIES	01-250-000-54999	27.37
04575		FILTER/BROOM	01-250-000-54999	27.97
04575		CREDIT RETURN	01-250-000-54999	-10.31
04575		FREIGHT	01-250-000-54999	20.66
04575		ASSORTED SUPPLIES	01-250-000-54999	60.72
04575		MOUNTING TAPE/GORILLA TAPE	01-250-000-54999	22.98
04575		FASTENERS/CHAIN	01-250-000-54999	4.35
04575		30"SNOWPUSHER BLADE/BROOM	01-250-000-54999	109.17
11700	KALIN MONTEVIDEO	NFA BAG CHECK REIMB/MONTEVIDEO	01-250-000-55600	30.00
O'REILLY	O'REILLY AUTO PARTS-FIRST CALL	VPOWER PLUG	01-250-000-53000	29.94
O'REILLY		WIPER FLD	01-250-000-53000	5.58
O'REILLY		BATTERY/CORE CHARGE	01-250-000-53000	219.42
O'REILLY		CORE RETURN	01-250-000-53000	-20.00
PORT	WEST MARINE PRO	MARINE 2 ALT ADDITIVE	01-250-000-53000	16.76
TOTAL				544.61
TOTAL FIRE DEPARTMENT				544.61
COMPOST/SOLID WASTE SITE				
03025	CAPTAIN COMMODES INC	COMPST SITE PORT A POTTY RENT	01-320-000-51400	81.00
TOTAL				81.00
TOTAL COMPOST/SOLID WASTE SITE				81.00
ROADWAYS/STREETS				
06012	FASTENAL COMPANY	GRADE 8 HARDWARE	01-400-000-54999	87.47
19070	SCHARTNER IMPLEMENT INC	4 PINS @4.50AE	01-400-000-54999	18.00
19070		6 PINS @ 2.25EA	01-400-000-54999	13.50
19070		SHIPPING	01-400-000-54999	15.00
TOTAL				133.97
TOTAL ROADWAYS/STREETS				133.97
STREET MACHINERY				
01720	ARING EQUIPMENT COMPANY INC	4 CABLE TERMINALS	01-450-000-54999	4.88

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VENDOR #	NAME	ITEM DESCRIPTION	ACCOUNT #	AMOUNT DUE
GENERAL FUND				
01720		PLUG	01-450-000-54999	32.49
06005	JFTCO, INC	2 WING POST MIRRORS @ 166.91EA	01-450-000-53000	333.82
13655	MONROE TRUCK EQUIPMENT, INC	HYDRAULIC CYLINDER	01-450-000-53000	976.14
13655		CYLINDER EXCHANGE	01-450-000-53000	-792.54
O'REILLY	O'REILLY AUTO PARTS-FIRST CALL	HEADLIGHT	01-450-000-53000	2.99
TOTAL				557.78
TOTAL STREET MACHINERY				557.78
CITY GARAGE				
04575	DOOR COUNTY HARDWARE	REPLACEMENT FAUCET	01-460-000-54999	79.99
04575		REPAIR PARTS	01-460-000-54999	15.18
AMERWELD	AMERICAN WELDING & GAS, INC	GAS CYLINDER RENTAL	01-460-000-56250	114.65
TOTAL				209.82
TOTAL CITY GARAGE				209.82
PARKS AND PLAYGROUNDS				
JIMSIMON	JIM SIMONAR	SAFETY BOOT REIMB/SIMONAR	01-510-000-56800	140.79
JIMSIMON		SAFTEY CLOTHING REIM/SIMONAR	01-510-000-56800	46.71
TOTAL				187.50
TOTAL PARKS AND PLAYGROUNDS				187.50
WATER WEED MANAGEMENT				
R0000655	TRANSMOTION, LLC	HYDRAULIC MOTOR	01-560-000-51400	816.49
R0000655		HYDRAULIC FITTINGS	01-560-000-51400	188.94
TOTAL				1,005.43
TOTAL WATER WEED MANAGEMENT				1,005.43
WATERFRONT PARKS & WALKWAYS				
19880	STURGEON BAY UTILITIES	SONNYS PRKING LOT LIGHT REPAIR	01-570-000-58999	30.92
TOTAL				30.92
TOTAL WATERFRONT PARKS & WALKWAYS				30.92
COMMUNITY & ECONOMIC DEVI,PMT				
17700	QUILL CORPORATION	1 BLACK TONER	01-900-000-51950	166.99
17700		1 CYAN TONER	01-900-000-51950	207.99
17700		1 YELLOW TONER	01-900-000-51950	207.99

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INVOICES DUE ON/BEFORE 12/18/2018

VENDOR #	NAME	ITEM DESCRIPTION	ACCOUNT #	AMOUNT DUE
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GENERAL FUND				
17700		1 MAGENTA TONER	01-900-000-51950	207.99
17700		ENVELOPES	01-900-000-51950	19.29
17700		FILE FOLDERS	01-900-000-51950	16.99
17700		2 PEN REFILLS @ 4.69EA	01-900-000-51950	9.38
17700		2 PEN REFILLS @ 4.69EA	01-900-000-51950	9.38
17700		SHARPIES	01-900-000-51950	10.99
TOTAL				856.99
TOTAL COMMUNITY & ECONOMIC DEVLPMT				856.99
TOTAL GENERAL FUND				42,620.81
CAPITAL FUND				
COMPUTER				
04696	DOOR COUNTY TREASURER	CISCO PHONE UPGRADE	10-125-000-59000	5,000.00
HEARTBUS	HEARTLAND BUSINESS SYSTEMS,LLC	PHONE UPGRADE	10-125-000-59040	847.89
TOTAL				5,847.89
TOTAL COMPUTER				5,847.89
SOLID WASTE MGMT/SPRING/FALL				
18500	R N O W INC	DINKMAR LEAF VACUUM	10-311-000-59065	49,045.00
18500		FREIGHT	10-311-000-59065	950.00
TOTAL				49,995.00
TOTAL SOLID WASTE MGMT/SPRING/FALL				49,995.00
CITY GARAGE				
BLUE TRP	BLUE TARP FINANCIAL	TOOLS TO OUTFIT MECHANICS TRCK	10-460-000-59060	787.73
TOTAL				787.73
TOTAL CITY GARAGE				787.73
TOTAL CAPITAL FUND				56,630.62
CABLE TV				
CABLE TV / GENERAL				
CABLE TV / GENERAL				
02975	CAMERA CORNER	AUDIO RECEIVER	21-000-000-59070	449.00
03159	CHARTER COMMUNICATIONS	11/18 CB MUSIC SVC	21-000-000-58999	62.71
TOTAL CABLE TV / GENERAL				511.71
TOTAL CABLE TV / GENERAL				511.71
TOTAL CABLE TV				511.71
TOTAL ALL FUNDS				99,763.14

**MANUAL CHECKS**

SECURIAN FINANCIAL GROUP	\$2,103.79
11/29/18	
Check # 84176	
12/18 Life Insurance	
01-600-000-50552	
 DELTA DENTAL	 \$6,079.88
12/03/18	
Check #84364	
12/18 Dental Insurance	
Various Departmental Accounts	
 NETWORK HEALTH	 \$73,789.53
12/03/18	
Check #84364	
12/18 Health Insurance	
Various Departmental Accounts	
 <b>TOTAL MANUAL CHECKS</b>	 <b>\$ 81,973.20</b>

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INVOICES DUE ON/BEFORE 12/18/2018

VENDOR #	NAME	ITEM DESCRIPTION	ACCOUNT #	AMOUNT DUE
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SUMMARY OF FUNDS:

GENERAL FUND

~~42,620.81~~

124,594.01

CAPITAL FUND

~~56,630.62~~

CABLE TV

511.71

TOTAL --- ALL FUNDS

~~99,763.14~~

181,736.34