

**VILLAGE BOARD MEETING**  
**Monday, September 16, 2013**  
**Earl McGovern Board Room, 6:30 P.M.**



**PLEASE TAKE NOTICE** that a meeting of the Brown Deer Village Board will be held at the Village Hall of the Village of Brown Deer, 4800 West Green Brook Drive, Brown Deer, Wisconsin at the above noted time and date, at which the following items of business will be discussed and possibly acted upon:

- I. Roll Call
- II. Pledge of Allegiance
- III. Persons Desiring to be Heard
- IV. Consideration of Minutes: August 19, 2013 – Regular Meeting
- V. Committee Reports
  - A) Building Board - Trustee Weddle-Henning
  - B) Beautification Committee – Trustee Oates
  - C) Park and Recreation Committee – Trustee Springman
  - D) 4th of July Committee – Village President Krueger
  - E) Traffic and Public Safety Committee – Trustee Boschert
    - 1) Resolution No. 13-17, “Resolution Amending No Parking Zones”
  - F) Library Board - Trustee Baker
  - G) Community Development Authority – Village President Krueger
  - H) Plan Commission – Village President Krueger
    - 1) Development Agreement for a Transportation Company with World Care Transit Service, 4685 West Bradley Road
    - 2) Conditional Use Permit for a Public Utility Tower at Badger Meter, 4545 West Brown Deer Road
  - I) Finance and Public Works Committee – Trustee Oates
    - 1) Emergency Circuit Modifications
    - 2) Village Auditing Services
    - 3) Consideration of Vouchers
  - J) Personnel Committee – Trustee Baker
- VI. Unfinished Business
- VII. New Business
  - A) “Class A” Beer and Liquor License Application for Walmart, 6300 West Brown Deer Road
  - B) Ordinance No. 13-, “An Ordinance Creating Section 121-155 (c) of the Brown Deer Village Code Pertaining to Rummage Sales”
  - C) Ordinance No. 13-, “An Ordinance Amending and Recreating Sections 26.21 to Section 26.28 of the Brown Deer Village Code Pertaining to Fair Housing”
  - D) Water Utility Amended Agreement with City Water LLC
  - E) Resolution No. 13-, “A Resolution Approving a “Single or Multi-Year Capital” Budget to Purchase Two-Way Radios, an Ambulance and Firefighting Protective Equipment for 2014 and 2015”
- VIII. Village President’s Report
- IX. Village Manager’s Report
- X. Recess into Closed Session pursuant to §19.85(1) (f)(g) Wisconsin Statutes for the following reasons:

(f) Considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons except where, (b) applies which, if discussed in public, would be likely to have substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.

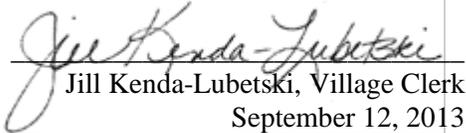
1. Consideration of Specific Personnel Problems

(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

1. Papa John's
2. Hwy K, LLC

XI. Reconvene into Open Session for Possible Action on Closed Session Deliberations

XII. Adjournment

  
Jill Kenda-Lubetski, Village Clerk  
September 12, 2013

**PERSONS REQUIRING SPECIAL ACCOMMODATIONS FOR ATTENDANCE AT THE MEETING SHOULD CONTACT THE VILLAGE CLERK AT LEAST ONE BUSINESS DAY PRIOR TO THE MEETING.**

**BROWN DEER VILLAGE BOARD  
AUGUST 19, 2013 MEETING MINUTES  
HELD AT THE BROWN DEER VILLAGE HALL  
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order by President Krueger at 6:30 P.M.

**I. Roll Call**

Present: Village President Krueger; Trustees: Baker, Boschert, Schilz, Springman, Weddle-Henning

Excused: Trustee Oates

Also Present: Michael Hall, Village Manager; Matthew Janecke, Assistant Village Manager; John Fuchs, Village Attorney; Nathan Piotrowski, Community Development Director; Steven Rinzel, Police Chief; Susan Hudson, Treasurer/Comptroller; Brian Williams-Van Klooster, Library Director; Matthew Maederer, Director of Public Works/Village Engineer; John Graeber, Police Captain; Alan Marcuvitz, Community Development Authority Counsel

**II. Pledge of Allegiance**

**III. Persons Desiring to be Heard**

None.

**IV. Consideration of Minutes: August 5, 2013 – Regular Meeting**

*It was moved by Trustee Boschert and seconded by Trustee Springman to approve the minutes for the August 5, 2013 - Regular Meeting. The motion carried unanimously.*

**V. Committee Reports**

**A) Building Board – Trustee Weddle-Henning**

Trustee Weddle-Henning reported on the approvals from the first meeting of the month. She stated that she was excused from the meeting that was held earlier in the day; however, she believed that Mr. Piotrowski may be able to provide an update to the Board with what took place at the meeting. Mr. Piotrowski reported on the approval of a remodel proposal from Applebee's, Badger Meter renovations including a new entryway feature, and a garage addition.

**B) Beautification Committee – Trustee Oates**

No report.

**C) Park and Recreation Committee – Trustee Springman**

Trustee Springman commented on the two dog swims that are taking place this year, as opposed to years past when there was only one. He also reported on the attendance for most of the summer programs and pond.

**D) 4th of July Committee – Village President Krueger**

No report.

**E) Traffic and Public Safety – Trustee Boschert**

Trustee Boschert briefly touched on the Dance Academy of Arts parking concerns on Green Brook Drive and 51st Street and that Staff is in the process of conducting an analysis on the possibility of creating a crosswalk. President Krueger recalled the conversations that took place at the Plan Commission when the Academy of Dance Arts was proposed, remembering Mr. Stammer had eluded that parking would not be a problem. Trustee Baker echoed President Krueger's comments. Mr. Maederer commented that he reviewed the Conditional Use Permit for the Academy of Dance Arts and it clearly states that if the Village identifies any shortfalls in parking, the responsibility will fall to the owner. It was announced that this issue will be reviewed again at the September Traffic & Public Safety Committee meeting.

**1) Parking Restrictions on West Dean Road at North 54th Street to North 60th Street**

Trustee Boschert reviewed the item for consideration regarding the parking restrictions on Dean Road to prevent children from crossing Dean Road creating a hazard. Chief Rinzel detailed the parking situation at the school campus with the buses having the ability to park in front of the school and allows for extra overflow parking where parents can drop their children off. The added parking basically eliminates the need for parents to park on the north side of Dean Road.

**2) Turning Restrictions from Brown Deer Elementary School Parking Lots onto West Dean Road and North 60th Street**

Chief Rinzel announced turning restrictions will be limited to right hand turns out of the parking lot to prevent traffic congestion from trying to turn left on Dean Road and 60th Street. Trustee Springman clarified that the no parking will apply to all times of the day.

*It was moved by Trustee Boschert and seconded by Trustee Springman to approve imposing right turns only from the Brown Deer Elementary School parking lot west of Dean Road and parking restrictions on West Dean Road from North 54th Street to North 60th Street and to authorize the Village President to execute the amending resolution kept on file at Village Hall. The motion carried unanimously.*

**F) Library Board – Trustee Baker**

Trustee Baker reported that a brief conversation took place regarding a trouble patron who has been reinstated from restrictions, and if that patron causes trouble they will once again have those restrictions place on them. Other discussions took place regarding a maintenance contract for the HVAC system, and historical statistics on usage.

**G) Community Development Authority – Village President Krueger**

**1) JFS Housing Inc., Bradley Crossing Phase Two, TID Redevelopment Agreement**

Mr. Hall commented that JFS Housing Inc. is requesting additional Tax Incremental Financing funds to help offset in the amount of \$150,000 and in return they will provide a guaranteed value of \$2,700,000 for the duration of the TIF to pay back the additional financing. Attorney Marcuvitz went into further detail of the health of the TIF district and with this additional loan and guaranteed value it will bring the TIF-end in the positive as opposed to being negative. Attorney Fuchs wanted to make it clear to the Village Board that even though JFS Housing, Inc. is proposing this current phase to Bradley Crossing, that it should be considered completely separate from the proposed project at Beaver Creek.

Trustee Boschert asked Mr. Piotrowski how many units will be affordable housing, and he responded that all the units will be affordable. Trustee Springman asked Sylvan Leabman of JFS Services how these units will be filled. Mr. Leabman responded nine of them will be referred by Milwaukee County and the remainder of the 45 units will be filled by JFS.

*It was moved by President Krueger and seconded by Trustee Weddle-Henning to approve the JFS Housing, Inc., Bradley Crossing Phase Two, TID Redevelopment Agreement. The motion carried unanimously.*

## **2) Option to Purchase - 8806 North Deerwood Drive**

Mr. Hall explained that the Village is interested in purchasing the property located at 8806 North Deerwood Drive. The village would like to enter into an Option to Purchase agreement with the property owners. The Village will give \$5,000 to the owners while the Village tries to find developers interested in the property. The Village will have two years to market the property. If someone is interested in the property, the asking price will be set at \$390,000. Trustee Schilz asked how the asking price amount was determined. Mr. Piotrowski responded this was the offering price from the Kaiser's a few years back. A brief conversation took place clarifying the details of the "Option to Purchase".

*It was moved by President Krueger and seconded by Trustee Boschert to approve the Option to Purchase 8806 North Deerwood Drive. The motion carried unanimously.*

## **H) Plan Commission – Village President Krueger**

No meeting.

## **I) Finance and Public Works Committee – Trustee Oates**

### **1) Police Firearms Range - Action Target Inc.**

Captain Graeber reviewed his memorandum and explained the range in its current state is at the end of its useful life and is showing signs of wear which has reduced the efficiency of the range and from time to time causes ammunition kickback. Secondly, the range is antiquated; a newer, cleaner range would be more versatile and compatible with newer tactical training techniques. The cost of the project is \$62,775 and is a shared cost between the seven North Shore communities with an actual expenditure from the Village for \$23,925. This is a Capital Improvement Program budgeted item with an additional \$8,500 for lead abatement.

*It was moved by President Krueger and seconded by Trustee Boschert to approve the contracts for Best Technology Systems for the amount of \$4,774 and Action Target in the amount of \$58,000. The motion carried unanimously.*

### **2) Air Handler #4 - J&H Heating**

Mr. Janecke stated this request is to replace the Air Handler that services one-third of the Police Department which was not replaced when the HVAC system was upgraded in 2008. Due to the age and inefficiency of the unit, it cannot keep up the demands to cool the area of the building it services to an acceptable temperature level on typical hot summer days. The unit has recently been serviced and Staff was advised that maintenance issues would continue to rise if not replaced. Staff is recommending J&H Heating be awarded the contract to replace Village Hall Air Handler #4 in the amount of \$19,808.

*It was moved by President Krueger and seconded by Trustee Boschert to approve with J&H Heating to replace Air Handler Unit #4 in the amount of \$19,808. The motion carried unanimously.*

### **3) Consideration of Vouchers**

Trustee Springman inquired into whether or not a bill was included in the vouchers as discussed at the Finance & Public Works Committee meeting.

*It was moved by President Krueger and seconded by Trustee Weddle-Henning to approve the vouchers from June 28, 2013 through July 26, 2013 in the amount of \$1,292,962.58. The motion carried unanimously.*

**J) Personnel Committee – Trustee Baker**

No Report.

**VI. Unfinished Business**

**A) 2014-2018 Capital Improvement Plan Discussion and Possible Action on Budget**

Mr. Hall summarized the discussion from the last meeting and asked if anyone had any questions regarding the Capital Improvement Program he would like to act on that evening.

Trustee Weddle-Henning had a question regarding the County Line Road reconstruction project in the amount of \$257,000 for 2014, and not for more as previously presented. Mr. Piotrowski replied that after further calculations, \$257,000 is the estimated amount for the project.

Trustee Weddle-Henning asked if the audience chairs will be included in the Village Board Room Remodel project. Mr. Hall responded that they would be replaced and the project is a part of a larger plan to try and make government more transparent by videotaping meetings and at the very least post audio recordings of meetings to the website.

Trustee Weddle-Henning inquired into whether or not progress is being made on the sidewalk plan.

*It was moved by President Krueger and seconded by Trustee Springman to approve the 2014-2018 Capital Improvement Plan. The motion carried unanimously.*

**VII. New Business**

**A) Strategic Planning/Goal Setting for 2014 Budget**

Mr. Hall gave a presentation on Strategic Planning/Goal Setting for the 2014 Budget. At the end of the presentation, he announced that the department heads will prepare a SWOT analysis to be included in the annual budget presentation. He then asked the Village Board for the goals they have for 2014.

President Krueger responded that he would like more focus on economic development and marketing the Village.

Trustee Baker would like Staff to capitalize on the recent CNN award for Brown Deer being one of the best and most affordable places to live in the United States. With that comment said, he would like more effort to be placed on maintaining properties and reducing foreclosures. Trustee Boschert agreed that Trustee Baker's comments should take top priority.

**B) Possible Action on Creating a Rummage/Yard Sale Ordinance**

Trustee Boschert reported that it has been brought to his attention that a rummage sale was taking place near the intersection of 51st Street and Brown Deer Road for a church organization to help with donations for a school in the City of Milwaukee. It was his concern that this could take place anywhere because it is not regulated by the Village's Code of Ordinances

Attorney Fuchs stated that he has drafted a number of Garage Sale Ordinances for other communities and an ordinance that may work best for Brown Deer is one that defines a rummage sale and requires the benefactors of the sale to be associated with Brown Deer. The intent of drafting an ordinance like this is to have a regulatory authority over rummage sales but not have the hassle of spending Staff time to collect fees and issue permits. The Village Board agreed an ordinance should be drafted in this manner.

### **VIII. Committee Appointments**

*It was moved by Trustee Weddle-Henning and seconded by Trustee Boschert to appoint Betty Bennett to the Building Board. The motion carried unanimously.*

### **IX. Village President's Report**

Village President Krueger reported on the following:

ICC meeting on County communication system

The North Shore Manger's have come to an agreement on a future funding formula for the NSFD

OPEB funding for the NSFD

### **X. Village Manager's Report**

Mr. Hall reported on the following:

NSFD OPEB Change is scheduled to come before the Board in late October/early November

Farmers Market discussions on venue change

Current job advertisement for the position of Deputy Clerk/Treasurer

### **XI. Recess into Closed Session pursuant to §19.85 (1) (g) Wisconsin Statutes for the following reasons:**

- (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

1. Apostolic Church

*It was moved by Trustee Springman and seconded by Trustee Weddle-Henning to recess into Closed Session at 8:36 p.m. The motion carried unanimously.*

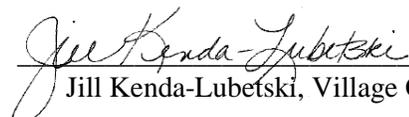
*It was moved by Trustee Springman and seconded by Trustee Weddle-Henning to reconvene into Open Session at 8:49 p.m. The motion carried unanimously.*

### **XII. Reconvene into Open Session for Possible Action on Closed Session Deliberations**

No action was taken.

### **XIII. Adjournment**

*It was moved by Trustee Springman and seconded by Trustee Weddle-Henning to adjourn at 8:50 p.m. The motion carried unanimously.*

  
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Jill Kenda-Lubetski, Village Clerk

**MINUTES OF THE MEETING OF THE  
BROWN DEER BUILDING BOARD  
HELD AT THE VILLAGE HALL –  
4800 WEST GREEN BROOK DRIVE  
ON MONDAY, AUGUST 19, 2013**



The meeting was called to order at 4:05 p.m.

**I ROLL CALL**

Present: Lavern Nall, Chairperson; Tony Snow; Tony Enea

Excused: Andrea Weddle-Henning

Also Present: Nathaniel Piotrowski, Community Development Director; Brian Rogers, Badger Meter; Jeremy Cynkar, Destree Design Architects; Jerry Kiefer, JD Griffiths Co.; Martin Choren, Plunkett Raysich Architects

**II PERSONS DESIRING TO BE HEARD**

None.

**III CONSIDERATION OF MINUTES**

*It was moved by Mr. Enea and seconded by Mr. Snow to approve the August 5, 2013 minutes. Chairman Nall noted a spelling correction on page 2 of the word "there". The motion carried unanimously.*

**IV OLD BUSINESS**

None

**V PLANS SUBMITTED FOR CONSIDERATION**

The following items were on the Agenda for review:

- A) Applebee's Exterior Remodel & Sign Package – 9080 N. Green Bay Road
- B) Badger Meter Front Entrance Remodel – 4545 W. Brown Deer Road
- C) Feaster Accessory Garage – 4833 W. Willow Road

**CONSIDERATION OF APPLEBEE'S EXTERIOR & SIGN PACKAGE, 9080 N. GREEN BAY ROAD**

Mr. Cynkar presented the proposal and discussed the changes from the existing façade. Mr. Enea asked if the awnings would be steel. Mr. Cynkar stated that the awnings would be steel with a PMS 124C gold color. He added that it would internally illuminate. Mr. Snow asked if the stone on the base of the building would remain. Mr. Cynkar replied that the "water table" masonry was to remain and the rendering was incorrect. Mr. Snow asked if the new entryway stone was to wrap around the corners. Mr. Cynkar replied that the stone would wrap slightly but that it was limited by windows. He added that the stone was to be canyon stone classic in a prairie sun color. Mr. Enea asked if the green awnings would remain on the rest of the building. Mr. Cynkar replied that they would. Mr. Snow asked if the angle of the awnings was adjustable. Mr. Cynkar replied that they are fixed. The discussion then transitioned to the signage. Mr. Cynkar explained the new signage and discussed the three wall signs and two smaller canopy signs. Mr. Snow asked if the lettering was white and if the old sign locations would be repaired after removal. Mr. Cynkar replied that the new lettering was white and that the old sign locations would be filled and color matched. The exterior remodel and sign package was approved as submitted with a note that the "water table" stone was to remain.

**BADGER METER FRONT ENTRANCE REMODEL – 4545 W. BROWN DEER ROAD**

Mr. Rogers introduced the proposal and indicated that the entrance was meant to be a more welcoming gateway for public entry. Chairman Nall questioned what material made up the existing façade and what material was proposed for the new columns. Mr. Choren replied that the existing building was brick with painted steel. He then noted that

the new addition for the front entrance canopy would be painted steel and that the column material and design was not specifically known but the intention was to have it feature some type of digital display using LED. Mr. Snow asked how the columns would appear if the LED was not activated. Mr. Choren could not provide such detail. Chairman Nall stated that full color and material submittals would be necessary for the Board to grant full approval. The front entrance remodel was conditionally approved pending further information on the lighted columns, color and materials and state approval.

**FEASTER ACCESSORY GARAGE – 4833 W. WILLOW ROAD**

Mr. Kiefer presented the garage and stated that it was designed to match the house in terms of color, roof pitch and siding type and siding exposure. He added that the siding would be vinyl D4 in sandstone, the shingles would be Oakridge Pro 30 in Brownwood dimensional, the trim would be linen color and the door would be almond. Chairman Nall asked about what appeared to be openings on the garage door. Mr. Kiefer replied that these were glass panel windows. Chairman Nall asked if there was an overhead door on the rear of the structure. Mr. Kiefer replied that there was a second overhead door to provide for better access to the rear yard. The garage plan was approved as submitted.

**VII ADJOURNMENT**

The meeting was adjourned at 4:40 p.m. The next regularly scheduled meeting is September 16, 2013.

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Nathaniel Piotrowski, Community Development Director  
Village of Brown Deer

**BROWN DEER BEAUTIFICATION COMMITTEE  
SEPTEMBER 10, 2013 MEETING MINUTES  
HELD AT THE BROWN DEER VILLAGE HALL  
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order by Chairperson Quirk at 6:32 p.m.

**I. Roll Call**

Present: Julie Quirk, Beverly Lieven, Elizabeth Smith, Trustee Bob Oates, Kathleen Schilz

Also Present: Michael Hall, Village Manager, Matthew Maederer, Director of Public Works, Erika Petras,  
Department of Public Works

**II. Persons Desiring to be Heard**

None.

**III. Consideration of Minutes: August 13, 2013 - Regular Meeting**

*It was moved by Trustee Oates, and seconded by Ms. Lieven to approve the August 13, 2013 regular meeting minutes. The motion carried unanimously with Ms. Schilz abstaining.*

**IV. Review of Submitted Landscape Plans**

**A) Walmart , 6300 W. Brown Deer Road**

Deborah Tomczyk, Attorney with Reinhart Boerner Van Deuren and Glenn Christensen, Senior Planner with Manhard Consulting Ltd. appeared before the committee to present the landscape plans as agents for Walmart, 6300 W. Brown Deer Road (formerly Lowe's).

Mr. Christensen detailed the utilization of existing plants as well as the addition of parking islands, trees and plants to provide interest for all seasons. In addition, trees and plants that were approved in the Lowe's landscape plan will be maintained and replaced as needed.

Ms. Lieven inquired if the permeable pavement would be maintained in the parking lot. Ms. Tomczyk explained that the previous occupants had seal coated over the permeable pavement, so it would be replaced with a different permeable pavement.

Ms. Schilz asked if the Goldfinger Potentilla could be replaced with pink shrub roses, as they are the official Brown Deer flower. Mr. Christensen indicated that he would replace the potentilla with pink knockout shrub roses. Ms. Lieven inquired when the landscaping would begin, Mr. Christensen stated that planting would most likely be in the Spring of 2014. Trustee Oates inquired if a plan was in place to address dead or dying trees and plants. Mr. Christensen indicated that Walmart had a two year guarantee with their contractor; Ms. Tomczyk added that Walmart also had an agreement with the Village for site maintenance.

Mr. Maederer reminded the committee that an approved landscape plan was on file for this location, and that what was being presented was an addition to that plan.

*It was moved by Ms. Schilz, and seconded by Ms. Cook-Quirk to approve the Landscape Plans for Walmart at 6300 W. Brown Deer Road as amended. The motion carried unanimously.*

## V. Report of Staff/Committee Members

Mr. Maederer provided an update on Department of Public Works operations, including progress in the Original Village, landscaping at the Brown Deer Library and cutting of the hardwood savannah.

## VI. Unfinished Business

### A) Landscape Awards

Ms. Cook-Quirk distributed a sign-up sheet for treats, drinks etc. for the September 17<sup>th</sup> recognition event. Discussion ensued and committee members chose commitments. Ms. Lieven has begun work on the slide show that will be shown during the event; Ms. Schilz recommended a font change to improve visibility. Ms. Cook-Quirk will prepare the certificates.

Ms. Cook-Quirk proposed a “vote for the best” component to the event where attendees would vote for one winner who would be awarded a best of show ribbon and the use of the Landscape Award sign until the end of Autumn. Ms. Lieven questioned how voting would work. Ms. Cook-Quirk also proposed that the committee try to secure additional signs so that Landscape Award recipients could keep them for the entire season instead of for four weeks, Ms. Lieven opined that it would be difficult to manage. Ms. Cook-Quirk stated that if award winners were allowed to keep the signs for the entire growing season it would motivate them to keep their yards up to the level that earned them the award.

Ms. Cook-Quirk will arrive at 6:00 p.m. to set up for the event, Ms. Petras will assist. Ms. Lieven asked that committee appointment forms be available. Ms. Cook-Quirk suggested that the event was a great opportunity for committee member recruitment.

## VII. New Business

### A) Recognition for Structural Improvements to Properties

Ms. Schilz informed the committee that she had sought direction and clarification from Village President, Carl Krueger, and shared his idea for recognizing property owners who had elevated the curb appeal of their home in ways other than landscaping, such as a new sidewalk, driveway, porch, roof or even exterior painting. This award would be separate from the Landscape Award. Ms. Schilz shared two ideas she had brainstormed: The HAPI (Home and Property Improvement) Award or the NICE (New Improvement for Community Enhancement) Award.

Ms. Lieven stated that she felt this task was better suited to the Building Board. Village Manager, Michael Hall, stated that the Building Inspector, Kirk Radtke, would be able to make recommendations and provide photos for committee review. A discussion ensued among committee members with Ms. Cook-Quirk requesting this be kept on the agenda for further discussion at the October meeting.

## VIII. Adjournment

*It was moved by Ms. Cook-Quirk and seconded by Trustee Oates to adjourn. The motion carried unanimously at 7:40p.m.*

**BROWN DEER PARK AND RECREATION COMMITTEE  
SEPTEMBER 10, 2013 MEETING MINUTES  
HELD AT THE BROWN DEER VILLAGE HALL  
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order at 6:58 p.m.

**I. Roll Call**

Present: Richard Goehre, Mike Hawes, Gary Springman

Absent: Marie Lieber

Also Present: Chad Hoier, Park and Recreation Director  
Mark Thompson, Recreation Supervisor

**II. Persons Desiring to be Heard**

**III. Consideration of Minutes: August 13, 2013**

*It was moved by Mr. Goehre and seconded by Mr. Hawes to approve the minutes of the August 13, 2013 meeting as presented. The motion carried.*

**IV. Unfinished Business**

**V. New Business**

**A) 2013 Pond Report**

Mr. Hoier distributed 2013 Pond Membership Report and Daily Attendance and Admissions Report.

Mr. Hoier reviewed the following information from the reports; 40 memberships were sold for revenues of \$3,382.25, Daily Attendance for the year totaled 5,873 with daily admissions total of \$14,914.19, and Concessions.3

Mr. Hoier and Mr. Thompson stated that the Pond recorded ten day of zero attendance for the swimming season and on those days the Pond stayed open until 2:00 p.m. on weekdays and 3:00 p.m. on weekends. Unseasonably cold weather attributed the day with no attendance.

Committee discussion followed. Committee discussed reviewing the non-resident membership fees for the 2014 swimming season. No non-resident memberships were purchased in 2013.

**VI. Administrative Report**

**A) Department Update**

Mr. Hoier and Mr. Thompson reviewed the projects and programs they had been working on during the month of August. Questions and comments followed from the Committee.

**VII. Committee Reports.**

Mr. Goehre reported on the Senior Citizens Club and Senior Meal Program upcoming events.

Mr. Springman reported on the ongoing projects going on in the Village highlighting the construction in the old village and Wal-Mart .

**VIII. Scheduling of Next Meeting**

A) October 1, 2013

Committee agreed to schedule its next meeting for Tuesday, October 1.

**VIII. Adjournment**

Upon proper motion, the meeting was adjourned at 8:20 p.m.

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Chad Hoier, Park and Recreation Director

**BROWN DEER 4TH OF JULY COMMITTEE  
AUGUST 21, 2013 MEETING MINUTES  
HELD AT THE BROWN DEER VILLAGE HALL  
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order at 5:05 p.m.

**I. Roll Call**

Present: Chris Dibb, Matthew Patrick, Otto Bunge, Adrienne Ridgeway, John Buckley, Shirley McFarlane

Absent: Ann Griffin, Paul Fine, Ann Griffin, Carl Krueger

Also Present: Chad Hoier, Park and Recreation Director  
Mark Thompson, Recreation Supervisor

**II. Persons Desiring to be Heard**

Mr. Hoier introduced Shirley McFarlane who was recently appointed to the Committee by the Village Board and asked Committee Members to introduce themselves and state their current duties performed on the Committee.

**III. Consideration of Minutes**

A) May 15, 2013

*It was moved by Mr. Bunge and seconded by Ms. Ridgeway to approve the minutes of the May 15, 2013 meeting. Motion passed.*

**IV. Unfinished Business.**

**V. New Business**

**A) 2013 Revenue and Expenditure Report**

Mr. Hoier distributed the 2013 Revenue and Expenditure Report stating the celebration had revenues of \$38,186.39 and expenditures of \$35,420.15 netting a positive balance of \$2,766.24. Discussion followed.

**B) 2014 Budget**

Mr. Hoier distributed the recommended budget for the 2014 4<sup>th</sup> of July Celebration for the Committee's review. Budget shows estimated expenditures of \$38,275.00 and revenue of \$40,650.00 with potential net balance of \$2,375.00. Discussion followed.

*It was moved by Mr. Bunge and seconded by Ms. McFarlane to approve the recommended budget for the 2014 Celebration for review by the Village Manager and the Village Board. Motion passed.*

**VI. Committee Reports**

**A) Fundraising**

**B) Publicity**

**C) Entertainment**

**D) Parade**

**E) Beer Tent**

**F) Food Tent**

**G) Volunteers**

**VII. Scheduling of Next Meeting**

**A) September 18, 2013**

Committee agreed to meet of September 18, 2013

**VIII. Adjournment**

Upon proper motion, the meeting was adjourned at 5:55 p.m.

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Chad Hoier, Park and Recreation Director

BROWN DEER TRAFFIC AND PUBLIC SAFETY COMMITTEE

SEPTEMBER 5, 2013 MEETING MINUTES

HELD AT THE BROWN DEER VILLAGE HALL

4800 WEST GREEN BROOK DRIVE

BROWN DEER, WISCONSIN

The meeting was called to order by Trustee Boschert at 6:32 PM.

I. ROLL CALL

Present: Trustee Boschert, Trustee Weddle-Henning, Roger Gordon, Mike Kass, Alicia Lemke, Neil Wood

Not Present: Bob Wazniak

Also Present: Michael Hall, Village Manager; Steven Rinzel, Chief of Police; Matthew Maederer, Department of Public Works Supervisor; Nate Piotrowski, Community Development Director; Nancy Hoppe, Executive Secretary to Chief of Police

II. PERSONS DESIRING TO BE HEARD

*Mr. Jason Stammer, 6130 West Lily Road, Mequon, Wisconsin, co-owner of Academy of Dance Arts was in attendance to be heard on agenda item V (A).*

III. CONSIDERATION OF MINUTES: August 8, 2013 Meeting

*It was moved by Mrs. Lemke, and seconded by Mr. Kass to approve the August 8, 2013 meeting minutes. The motion carried unanimously.*

IV. REPORT OF STAFF/COMMITTEE MEMBERS

Chief Rinzel reported that school has started and parking restrictions had been put in place. He further stated that and some confusion was taking place; but as each day passed, it has improved. Chief Rinzel advised that a phone disruption occurred in the Village for a period of about three hours due to a construction incident. Matthew Maederer advised that a line was marked incorrectly and it was subsequently taken out during construction and it is going to be relocated permanently. He further advised that some of the roadways in the original Village will be closed periodically. Trustee Boschert inquired how the Fire Department was getting in and out of their station and Mr. Maederer advised they were exiting through the Department of Public Works lot and going onto Green Bay Road or directly onto Brown Deer Road via River Lane and Deerwood Drive.

## V. OLD BUSINESS

### A. Third Review of Parking Restrictions at North 51<sup>st</sup> Street and West Green Brook Drive

Chief Rinzel provided an overview of the issue that had been discussed by the Traffic and Public Safety Committee during the past few meetings. He further advised of the proposal suggested by the Department of Public Works to buy special equipment to plow the western end of the Village parking lot. Mr. Maederer stated that the way the area has been reviewed was somewhat equivalent to a review of a school area and the main objective was to ensure safety for the children. Mr. Piotrowski stated the part of the approval process for the Academy of Dance Arts was to change the conditional use permit of the area and parking was a concern. It was stated in the conditional use permit that... *“If off street parking shortfalls are identified the owner shall provide additional parking spaces at the Village’s discretion to meet parking demand.”* And it was agreed to by the owners of the Academy of Dance Arts and the Village at that point.

Discussion of utilizing gravel for a parking lot took place; and it was reiterated that the studio had rubber floors and it could damage the studio floors. Mr. Stammer stated during the original Village meetings regarding their original use permit, they had parking spots on the street and they had been taken away. Mr. Stammer stated they have loyalty to the Village and they have a five year plan for the growth of their facility. Mr. Stammer further stated he has been an Architectural Designer for 20 years and he does understand codes and statutes. He further went on to describe that some of the manufacturers in the area do have large semi-truck deliveries, but that did not apply to his business and the no parking should be lifted. Mr. Stammer did not think comparing his location to a school area was a valid comparison. He reiterated his request for a crosswalk at North 51<sup>st</sup> Street and West Green Brook Drive and he further stated some signage would improve driver awareness in the area. He again presented his proposed driveway and parking lot proposal. Discussion took place regarding the proposal.

Trustee Boschert stated that the placement of street parking is part of the municipality’s right. Further discussion on the original reason this issue came to the Traffic and Public Safety Committee. It was reiterated that the reasoning was safety for the children and the customers of the Academy of Dance Arts. Trustee Boschert inquired why the mid-block crosswalk would not be considered. Mr. Maederer advised there were no sidewalks to support it. Trustee Weddle-Henning stated there was a sidewalk from the Village parking lot to the Academy of Dance Arts and that was the safest alternative. Mr. Stammer asked if the parking could be replaced on West Green Brook Drive and it was stated that it would not be a feasible alternative.

Trustee Boschert inquired if there were any other areas that could be reviewed. Chief Rinzel reiterated all the parking alternatives that were presented to the Academy and that some options were provided and that no further options were available. Chief Rinzel stated ordinances were not changed based on a business in the area, but what the area is as a whole. Further discussion took place on a previously suggested driveway/parking lot proposal for the traffic to enter from

West Green Brook Drive and exiting on North 51<sup>st</sup> Street. Mr. Piotrowski stated that throughout the Village driveway ingress and egress were being changed as building in the Village has been updated.

Trustee Boschert inquiring what distance would be required for a driveway on North 51<sup>st</sup> Street. Mr. Maederer was suggested 100 feet would be possible suggested requirement. Mr. Piotrowski advised the Traffic and Public Safety Committee that their objective right now was to discuss the street parking issue; not to review the plans for a parking lot.

Trustee Boschert stated the street parking would remain as is and he would refer it back to staff and the Planning Commission for possible review of any other site plans.

VI. NEW BUSINESS

None.

VI. ADJOURNMENT

*It was moved by Mr. Gordon and seconded by Trustee Weddle-Henning to adjourn at 7:36 PM. The motion carried unanimously.*



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Steven C. Rinzel, Chief of Police

Resolution Amending  
No Parking Zones

Resolution No. 13-\_\_\_\_\_

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**WHEREAS**, The Village of Brown Deer Police Department has advised the Village Board that it is in the interest of public safety that parking be prohibited on the south side of West Dean Road between 60<sup>th</sup> Street and 55<sup>th</sup> Street, in which area parking is currently prohibited only during school days between 7:45 a.m. and 4:00 p.m., and

**WHEREAS**, under authority of Section 62-51(c)(2) of the Village of Brown Deer Code, the Village maintains by way of resolution the designation of no parking zones within the Village of Brown Deer, and

**WHEREAS**, the Village Board has determined that it is in the interest of public safety to accept the recommendation of the Village of Brown Deer Police Department as to the aforescribed restriction of parking on W. Dean Road.

**NOW, THEREFORE, BE IT RESOLVED**, as follows:

1. The Village Board does hereby prohibit parking on the south side of West Dean Road between 60<sup>th</sup> Street and 55<sup>th</sup> Street.
2. The Village Staff shall maintain this prohibition in conjunction with the resolution designating no parking zones, and shall amend the list of designations in accordance with this resolution.

**PASSED AND ADOPTED** by the Village Board of the Village of Brown Deer, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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Carl Krueger  
Village President

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Jill Kenda-Lubetski  
Village Clerk

**BROWN DEER LIBRARY BOARD**  
**September 9<sup>th</sup>, 2013 MEETING MINUTES**  
**HELD AT THE BROWN DEER PUBLIC LIBRARY**  
**5600 WEST BRADLEY ROAD**  
(Unapproved)

The meeting was called to order by Board President Lutz at 5:00 P.M.

**I. Roll Call**

Present: Board President Lutz and Board members: J. Baker, W. Jabas, K. Lewis-Williams, E. Bennett  
Also Present: Brian Williams-Van Klooster, Library Director, Michael Hall, Village Manager

**II. Persons Desiring to be Heard**

None

**III. Consideration of Minutes:**

a. August 12, 2013 – Regular Meeting

*It was moved by J. Baker and seconded by W. Jabas to approve the minutes of the August 12th, 2013 regular meeting as corrected. The motion carried unanimously.*

b. July 8, 2013 – Regular Meeting

*It was moved by J. Baker and seconded by W. Jabas to approve the minutes of the May 13th, 2013 regular meeting as corrected. The motion carried unanimously.*

**IV. Unfinished Business**

None

**V. Report of Library Director**

a. Director's Report

One correction was made to the Director's report: substitution of '54' for 'x' on packet page 5, *Children's/Young Adult Services*, section *Materials*.

In addition to the Director's written report, the following items were discussed:

- b. Usage Report
- c. Revenue/Expense Report

**VI. Report of Friends of the Library**

Next Friends of the Library meeting is scheduled for Thursday September 12<sup>th</sup> at 7:00PM, at the Brown Deer Public Library. The Friends' 26<sup>th</sup> Annual Auction is scheduled for Thursday November 14<sup>th</sup> at 6:30PM, at the Brown Deer Public Library. The August Annual Book Sale raised slightly more than 2013.

**VII. New Business**

a. Consideration of Vouchers: July/August 2013

*It was moved by E. Bennett and seconded by K. Lewis-Williams to approve the payment of the July/August 2013 vouchers. The motion carried unanimously.*

b. 2014 Library Budget discussion

Board Members reviewed copies of the 2014 Library Fund to be submitted to Village Hall. Also provided were copies of a budget history review showing detailed line items for the period 2000-2013, and a copy of the Director's 2013/2014 budget summary.

The Library's projected deficit for 2013 was reviewed for clarity, and discussion ensued about options for cost reduction. W. Jabas inquired about what ideas staff had provided. Brian briefly shared several items from the summary. W. Jabas inquired about the current level of expenditure for books, and what

the effects of freezing further expenditures from this line in 2013 would be. Brian noted that the book budget has slightly under \$10,000 unspent as of 8/31. Members inquired about savings from the 3 month Director vacancy in the first half of the year. Brian responded that the 2014 Library Fund's 2013 Projected expenditures for wages and benefits already reflects this calculation, that wages are actually projected to be lower than approved, but any savings from wages is lost to substantial increases to FICA and insurance. The negative impact of further reductions to public service hours or staffing on reciprocal borrowing revenue was discussed briefly by all Members. The impact of increasing hours was also discussed, including how restored hours could be allocated throughout the week.

Opportunities for revenue increases were discussed, including appeals to the resident and business community, pursuit of corporate grant-makers like Target and WalMart, a public-information campaign similar to 'Pay your bill and round up', an appeal to the Brown Deer Foundation for a one-time grant, circulating a donation box to local community activities like school games, and appeals to Brown Deer resident celebrities. J. Baker introduced the topic of appealing to the Village Trustees to increase the Library's percentage of the property tax levy, noting that other Village departments' budgets would be impacted accordingly. W. Jabas offered to draft an appeal letter to local business.

### **VIII. Adjournment**

**Next meeting: October 14<sup>th</sup>, 2013.** *A motion to adjourn was not taken. The meeting ended at 6:20PM.*



Brian Williams-Van Klooster, Library Director

9/10/13

**BROWN DEER PLAN COMMISSION  
SEPTEMBER 9, 2013 MEETING MINUTES  
HELD AT THE BROWN DEER VILLAGE HALL  
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order by President Krueger at 7:00 P.M.

**I. ROLL CALL**

Present: President Carl Krueger; Trustees: Tim Schilz, Jeff Baker; Commissioners: Ryan Schmitz, Susan Bellehumeur, Dan Bednar, Jeff Jaroczynski, Bill Hoffmann, Al Walters

Also Present: Nate Piotrowski, Community Development Director; Rebecca Boyle, Village Attorney

**II. PERSONS DESIRING TO BE HEARD**

None

**III. CONSIDERATION OF MINUTES: July 8, 2013 – Regular Meeting**

*It was moved by Commissioner Schmitz and seconded by Commissioner Hoffmann to approve the regular meeting minutes of July 8, 2013. The motion carried unanimously.*

**IV. REPORT OF STAFF/COMMISSION MEMBERS**

Mr. Piotrowski provided an update as to site plan discussions with Walmart based upon Village Board approval conditions. He noted that all conditions were being adhered to by Walmart however the upgraded cart corrals were proving difficult for Walmart to provide due to cost and space constraints. Mr. Hoffmann asked about the design and height of the sound barrier. Mr. Piotrowski explained the length of the barrier but stated that he was unsure of final height and design characteristics. He added that this information would be reviewed by Village engineering consultants to make sure the barrier is an appropriate design. Mr. Piotrowski also describe the status of the Original Village construction project and stated that major roadway work was scheduled to be complete by the middle of October with landscaping lasting longer and perhaps into the spring.

**V. UNFINISHED BUSINESS**

None.

**VI. NEW BUSINESS**

- A) Development Agreement for a transportation company with World Transit Service, 4685 W. Bradley Road**

Mr. Piotrowski reviewed the proposal and introduced the applicant Siwan Tiwari.

Commissioner Jaroczynski asked about the hours of operation and if there should be a smaller restriction on the number of vehicles. Mr. Tiwari explained that most vehicles are returned by 6 or 7pm and parked and that they may leave the site as early as 5am. Mr. Piotrowski added that a variation of one or two vehicles would not alter the aesthetics or the functionality of the proposal significantly.

Commissioner Bellehumeur asked how many vehicles are typically parked on site. Mr. Tiwari replied that there were typically 10 transit vans.

President Krueger noted that the transit service was only identified by the police department and wondered when the company began operating. Mr. Tiwari stated that the company began last October.

Commissioner Hoffmann asked if Staff had received any complaints about the land use. Mr. Piotrowski replied that there were none.

Trustee Baker stated that he did not want the transit vehicles to overflow into customer parking on the north or west side of the building, because sometimes parking opportunities are limited. Mr. Piotrowski explained that the language of the development agreement clearly restricted such overflow parking.

*It was moved by Commissioner Bednar and seconded by Commissioner Hoffmann to recommend approval to the Village Board of the development agreement for a transportation company with World Transit Service, 4685 W. Bradley Road. The motion carried unanimously.*

**B) Review and Recommendation of a permanent Conditional Use Permit for a public utility tower at Badger Meter, 4545 W. Brown Deer Road**

Mr. Piotrowski reviewed the proposal and noted that the use was in place without complaint.

*It was moved by Commissioner Hoffmann and seconded by Commissioner Schmitz to recommend approval of making the conditional use permit permanent for an public utility tower at Badger Meter, 4545 W. Brown Deer Road to the Village Board. The motion carried unanimously.*

**VII. ADJOURNMENT**

*It was moved by Commissioner Schmitz and seconded by Commissioner Bellehumeur to adjourn at 7:25P.M. The motion carried unanimously.*



\_\_\_\_\_  
Nate Piotrowski, Community Development Director



# REQUEST FOR CONSIDERATION

<b>COMMITTEE:</b>	Village Board
<b>ITEM DESCRIPTION:</b>	September 9, 2013 Plan Commission Agenda Item
<b>PREPARED BY:</b>	Nathaniel Piotrowski, Community Development Director <i>Nate Piotrowski</i>
<b>REPORT DATE:</b>	September 12, 2013
<b>RECOMMENDATION:</b>	See Items Below
<b>EXPLANATION:</b>	A summary of the Plan Commission's agenda items and recommendations are listed below. There are 2 items that require Village Board action. Please note that the initial staff reports and supporting documentation were in the previously distributed Plan Commission packet. Attached for your review is the draft Plan Commission meeting minutes of September 9, 2013.
<b>Plan Commission Agenda items requiring action:</b>	
A) <b>Development Agreement for a transportation company with World Care Transit Service, 4685 W. Bradley Road</b>	
<b>Recommendation:</b> Recommend approval of the development agreement <b>Requested Action:</b> A motion to approve the agreement with World Care Transit Service	
B) <b>Review and recommendation of a permanent conditional use permit for a public utility tower at Badger Meter, 4545 W. Brown Deer Road</b>	
<b>Recommendation:</b> Recommend approval of the permanent conditional use <b>Requested Action:</b> A motion to approve the permanent conditional use with Badger Meter	

**BROWN DEER FINANCE AND PUBLIC WORKS COMMITTEE  
SEPTEMBER 4, 2013 REGULAR MEETING MINUTES  
HELD AT THE BROWN DEER VILLAGE HALL  
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order by Trustee Oates at 6:34 P.M.

**I. ROLL CALL**

Present: Trustees: Oates & Boschert; Citizen Members: Galyn Bennett & Ray Erbe

Also Present: Susan Hudson, Treasurer/Comptroller, Matt Janecke, Assistant Village Manager, Michael Hall, Village Manager

Excused: Trustee Springman; Citizen Member Tom Lieven & Susan Glowinska

**II. PERSONS DESIRING TO BE HEARD**

None.

**III. CONSIDERATION OF MINUTES: August 7, 2013 – Regular Meeting**

*It was moved by Trustee Boschert and seconded by Galyn Bennett to approve the minutes of the August 7, 2013 meeting. The motion carried unanimously.*

**IV. REPORT OF STAFF/COMMITTEE MEMBERS**

Susan Hudson, Treasurer/Comptroller and Michael Hall, Village Manager is working on the 2014 budget.

**V. OLD BUSINESS**

A) Emergency Circuit Modifications – Lemberg Electric

At the last Finance Committee meeting Staff was asked two things: one to provide and estimated cost of each of the five expansion goals; and secondly to provide an explanation as to why four of the five expansion goals are needed. Initially in 2005 when the generator was replaced it was not added because at the time it was not as critical to the baseline operation of the Village servers. The growing IT environment has resulted in the use of electronic documents more now than in 2005 and access to the Village Hall file server is critical for record keeping and tracking. More importantly the ability to look up information such as building plans, maps, resident information, etc. is an essential component of managing a disaster or emergency situations; as was the case during the July 2010 flood event.

*It was moved by Galyn Bennett and seconded by Trustee Boschert to recommend to the Village Board to approve the contract with Lemberg Electric in the amount of \$16,557.55 for the emergency circuit modification. The motion carried 3-1, with Ray Erbe voting in opposition.*

**VI. NEW BUSINESS**

A) Village Auditing Services

The Village sent out a Request for Proposal (RFP) for auditing services for years 2013-2015 with the option to renew up to an additional three years. The Village received nine proposals in responses to the RFP. Staff

narrowed the auditing firms down based on fees and staff time to Baker Tilly (current auditor) and Clifton Larson Allen. Both are recognized auditing firms. It was a hard decision based on the fact that the Village has worked with Baker Tilly for the last 15 years.

Staff is recommending firm Clifton Larson Allen as a cost saving measure due to their lower fees.

*It was moved by Trustee Boschert and seconded by Gayln Bennett to recommend to the Village Board to approve the auditing services contract with Clifton Larson Allen for the next three years. The motion carried unanimously.*

**B) July 2013 Financial Report**

Susan Hudson, Treasurer/Comptroller presented the July 2013 Financial report covering the top five financial highlights and that the Village collected 97.65% of the tax levy before turning over to Milwaukee County.

*No action was taken on this item.*

**E) Consideration of Vouchers**

*It was moved by Trustee Boschert and seconded by Ray Erbe to recommend that the Village Board approve the vouchers from August 2, 2013 to August 23, 2013 in the amount of \$1,180,145.58. The motion carried unanimously.*

**VII. ADJOURNMENT**

*It was moved by Trustee Boschert and seconded by Gayln Bennett to adjourn at 7:15 p.m. The motion carried unanimously.*

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Susan L Hudson, Treasurer/Comptroller



# REQUEST FOR CONSIDERATION

<b>COMMITTEE:</b>	Village Board
<b>ITEM DESCRIPTION:</b>	Finance & Public Works Committee Packet
<b>PREPARED BY:</b>	Susan Hudson, Treasurer/Comptroller 
<b>REPORT DATE:</b>	September 12, 2013
<b>MANAGER'S REVIEW/COMMENTS:</b>	<p><input type="checkbox"/> No additional comments to this report.</p> <p><input type="checkbox"/> See additional comments attached.</p>
<b>RECOMMENDATION:</b>	Bringing forward the recommendations from FPW
<b>EXPLANATION:</b>	<p>On September 4, 2013, the Finance &amp; Public Works Committee met and discussed the agenda. These agenda items received a positive recommendation and are as follows.</p> <ul style="list-style-type: none"><li>- <b>Emergency Circuit Modifications:</b> <i>recommend to the Village Board to approve the contract with Lemberg Electric (\$16,557.55) for adding essential emergency to the emergency generator for such items as lighting and essential equipment for baseline operation of Village Hall and to use B26 as an Emergency Operating Center in the event there was a natural disaster.</i></li><li>- <b>Village Auditing Services:</b> <i>recommend to the Village Board to approve the auditing services contract with Clifton Larson Allen (CLL) for the next three years. For the last 15 years the Village has had Baker Tilly as their auditing firm. As a cost saving measure staff recommended CLL for the next three years.</i></li><li>- <b>Consideration of Vouchers:</b> <i>recommend Village Board approval of the vouchers from August 2, 2013 to August 23, 2013 in the amount of \$1,180,145.58.</i></li></ul>



# REQUEST FOR CONSIDERATION

<b>COMMITTEE CONSIDERATION:</b> Village Board
<b>ITEM DESCRIPTION:</b> “Class A” Intoxicating Liquor License – Wal-Mart Stores East, LP for a business to be located at 6300 West Brown Deer Road
<b>PREPARED BY:</b> Jill Kenda-Lubetski, Village Clerk
<b>REPORT DATE:</b> September 11, 2013
<b>MANAGER’S REVIEW/COMMENTS:</b> 9 No additional comments to this report. 9 See additional comments attached.
<b>RECOMMENDATION:</b> To approve the application for a “Class A” Intoxicating Liquor and Beer License for Wal-Mart Stores East, LP to operate a business named Walmart #6394 located at 6300 West Brown Deer Road for 2013-2014.
<b>EXPLANATION:</b> The Village has received an application for a “Class A” Intoxicating Liquor and Beer License from Wal-Mart Stores East, LP to operate Walmart #6394 at 6300 West Brown Deer Road for remainder of the 2013-2014 license period. Christopher J. Meidt is being recommended as the appointed agent for the business. Mr. Meidt has provided documentation that he has successfully completed a Responsible Beverage Server Training Course. A background check of Christopher J. Meidt was completed by the Police Department, with the recommendation that Mr. Meidt be considered as Agent.  A notice of this pending liquor license application was published in the legal section of the September 5, 2013 edition of the <i>North Shore NOW</i> . The publication fee of \$15 has been paid. The required fees for the liquor license to operate for the 2013-2014 license period have been paid to the Village.  Pursuant to State Statutes and the Village Code, all intoxicating liquor license applications must be presented for consideration and approved by the Village Board.

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JOHN F. FUCHS

*COURT COMMISSIONER*

REBECCA D. BOYLE

*COURT COMMISSIONER*

## **MEMORANDUM**

**TO: Village of Brown Deer Board**

**FROM: John F. Fuchs, Village Attorney**

**RE: Rummage Sales/Secondhand Sales**

**DATE: August 20, 2013**

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Under Section 121.10 of our Village Zoning Code, the use of property shall only be for a use which is specified as a permitted or conditional permitted use under the regulations applicable in the district in which the property is located. Our zoning districts, other than residential, commence in Article V. As to the B-1 District, and going through the B-3, B-4, Manufacturing District, Plan Development District, and the Original Village Plan Development District, temporary secondhand resale is neither a permitted nor conditional permitted use. The rummage operation brought to our attention by Trustee Boschert was not allowed regardless of any amendment to the code. But I am now proposing an amendment to our Home Occupation Ordinance, Section 121.155(c) which would allow occasional rummage sales in only the residential districts.

**ORDINANCE NO. \_\_\_\_\_**

An Ordinance creating Section 121-155 (c) of the Brown Deer Village Code Pertaining to  
Rummage Sales

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The Village Manager and the Board of the Village of Brown Deer, Milwaukee County, Wisconsin, do herewith ordain as follows, to-wit:

**SECTION I**

Section 121-155 (c) of the Brown Deer Village Code is hereby created to provide as follows:

**Article RUMMAGE SALES**

**121.155 (c) Rummage Sales**

- (1) **Definitions.** As used in this section, the following terms shall have the meanings indicated:
  - (a) Personal Property – Property which is owned, utilized and maintained and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.
  - (b) Rummage Sale – Includes all general sales, open to the public, conducted from or on a residential premises, including but not limited to all sales titled “rummage,” “lawn,” “yard,” “estate,” “porch,” “room,” “backyard,” “patio,” or “garage” sale.
- (2) **Property Permitted to be Sold.** It shall be unlawful for any person to sell or offer for sale at a rummage sale property other than personal property. Unless otherwise permitted specifically in the regulations for the zoning district, rummage sales are permitted only in residential zoning districts.
- (3) **Permit.** A person offering property for sale at a rummage sale, and conducting such sale at or upon a residential property, shall notify the Village Clerk, and shall conduct such sale subject to subsections (4), (5), (6), and (7) as hereinafter set forth.
- (4) **Hours and Place of Operation.** Rummage sales shall be conducted only between the hours of 8:00 a.m. and 7:00 p.m. No more than three rummage sales in one calendar year may be conducted from any premises. Each sale may last no longer than three consecutive days and must be conducted on the seller’s property.
- (5) **Signs.** Signs for “Rummage Sale,” “Garage Sale” or similar signs shall not be more than one such sign per lot, except that on a corner lot two signs are

allowed, one facing each street. A sign shall not exceed 9 square feet in area and shall be located not less than eight feet from the nearest lot line. Said signs may be placed only upon the property of the residence where the sale is being held or upon other residential property with permission of the owner or other person in charge of such, at the time of sale. No signs shall be placed within the area of any public lands or right-of-way. Any sign must contain the following information:

- (a) The name and address of the person holding the rummage sale.
  - (b) The dates of the sale.
  - (c) The location of the sale.
- (6) **Removal of Signs.** All signs, no matter where placed, must be removed within 24 hours of the close of the rummage sale.
- (7) **Penalty.** Any person who violates or fails to comply with any provision of this section shall be subject to the provisions of Section 1.7 of the Brown Deer Code.

## SECTION II

All ordinances or parts of ordinances contravening the terms and provisions of this ordinance are hereby to that extent repealed.

## SECTION III

This Ordinance shall take effect upon passage and publication as provided by law, and the Village Clerk shall so amend the Brown Deer Code, and shall indicate the date and number of this amending ordinance therein.

**PASSED AND ADOPTED** by the Village Board of the Village of Brown Deer, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2013.

\_\_\_\_\_  
Carl Krueger, Village President

Countersigned:

\_\_\_\_\_  
Jill Kenda-Lubetski, Village Clerk

**MEMORANDUM**

**TO: Village of Brown Deer Board**

**RE: Fair Housing Ordinance**

**FROM: John F. Fuchs**

**DATE: August 20, 2013**

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As you are aware, the County of Milwaukee is now focusing on the Village of Brown Deer in terms of fair housing practices. I even received one email in which a County employee indicated to me that she “looked forward to working in Brown Deer.” I also received another email critical of our fair housing ordinance. I do not agree necessarily with the critique. But I think the easiest thing to do, is to adopt a fair housing ordinance that exactly parallels that of the County. In order to then complain about our ordinance, the County would then be complaining about its own ordinance. I have drafted a new fair housing ordinance that is identical to that of the County ordinance with one exception. The exception is that the County ordinance references statutes which have been renumbered. So many of the statutory references in the County ordinance are in error. I have employed the correct statutory references. Other than that, our ordinance if adopted would match the County.

**ORDINANCE NO. \_\_\_\_\_**

**An Ordinance Amending and Recreating Sections 26.21 to Section 26.28 of the Brown Deer Village Code Pertaining to Fair Housing**

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The Village President and the Board of the Village of Brown Deer, Milwaukee County, Wisconsin, does herewith ordain as follows: Section 26.21 through Section 26.28 pertaining to Fair Housing are hereby amended and recreated to provide as follows, to-wit:

**SECTION I**

**Article II Fair Housing**

**Table of Contents**

26.21 Declaration of Policy  
26.22 Definitions  
26.23 Discrimination prohibited  
26.24 Exceptions  
26.25 Representations designed to induce panic sales  
26.26 Interference, coercion and intimidation  
26.27 Enforcement  
26.28 Penalty

**26.21. Declaration of Policy**

It is the intent of this chapter to render unlawful discrimination in housing and to enact this chapter pursuant to the authority granted by s. 66.1011(2), Wis. Stats. It is the declared policy of the Village of Brown Deer that all persons shall have an equal opportunity for housing regardless of sex, race, color, handicap, religion, national origin, or marital status of the person maintaining a household, lawful source of income, age, ancestry or sexual orientation as defined in s. 111.32 (13m), Wis. Stats.

**26.22. Definitions**

In this chapter unless the context requires otherwise:

- (a) "Housing" means any improved property, including any mobile home as defined in s. 66.0435, Wis. Stats., which is used or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence.
- (b) "Discriminate" and "discrimination" mean to segregate, separate, exclude or treat any person or class of persons unequally because of sex, race, color, handicap, religion, national origin, or marital status of the person maintaining a household, lawful source of income, age, ancestry, or sexual orientation as defined in s.

111.32(13m), Wis. Stats. It is intended that the factors set forth herein shall be the sole basis for prohibiting discrimination.

- (c) "Handicap" means any physical disability or any developmental disability as defined under s. 51.01(5)(a), Wis. Stats.
- (d) "Unimproved residential lot" means any residential lot upon which no permanent building or structure containing living quarters has been constructed.
- (e) "Condominium" means property subject to a condominium declaration under ch. 703, Wis. Stats.
- (f) "Condominium association" means an association as defined in s. 703.02(1m), Wis. Stats.

### **26.23. Discrimination prohibited.**

It is unlawful for any person to discriminate:

- (a) By refusing to sell, lease, finance or contract to construct housing or by refusing to discuss the terms thereof.
- (b) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, [ease, financing or rental of housing.
- (c) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.
- (d) By publishing, circulating, issuing or displaying, or causing to be published, circulated, issued or displayed, any communication, notice, advertisement or sign in connection with the sale, financing, lease or rental of housing, which states or indicates any discrimination in connection with housing.
- (e) For a person in the business of insuring against hazards, by refusing to enter into, or by exacting different terms, conditions or privileges with respect to, a contract of insurance against hazards to a dwelling.
- (f) By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant.

### **26.24. Exceptions.**

- (a) Nothing in this chapter shall prohibit discrimination on the basis of age in relation to housing designed to meet the needs of elderly individuals.
- (b) Nothing in this section shall prohibit a person from exacting different or more stringent terms or conditions for financing housing based on the age of the individual applicant for financing if the terms or conditions are reasonably related to the individual applicant.
- (c) Nothing in this section shall prohibit the development of housing designed specifically for persons with a handicap and discrimination on the basis of handicap in relation to such housing.

### **26.25. Representations designed to induce panic sales.**

- (a) No person may induce or attempt to induce any person to sell, rent or lease any dwelling by representations regarding the present or prospective entry into the neighborhood of a person(s) of a particular race, color, religion, national origin, sexual orientation or economic status, or by representations to the effect that such present or prospective entry will or may result in:
  - (1) The lowering of real estate values in the area concerned;
  - (2) A deterioration in the character of the area concerned;
  - (3) An increase in criminal or antisocial behavior in the area concerned; or
  - (4) A decline in the quality of the schools or other public facilities serving the area.

### **26.26. Interference, coercion and intimidation.**

No person may coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted or protected by this chapter, or with any person who has aided or encouraged another person in the exercise or enjoyment of any right granted or protected by this chapter.

### **26.27. Enforcement.**

- (a) The provisions of this chapter shall be enforced by the corporation counsel.
- (b) The corporation counsel may receive and investigate a complaint charging a violation of this section if the complaint is filed no more than three hundred (300) days after the alleged discrimination occurred. A complaint shall be a written statement of the essential facts constituting the discrimination charged, and shall be verified.
- (c) If the corporation counsel finds probable cause to believe that any discrimination has been or is being committed in violation of this chapter, he/she may endeavor to eliminate such discrimination by conference, conciliation and persuasion.
- (d) If the corporation counsel determines that conference, conciliation and persuasion have not eliminated the alleged discrimination, he/she may commence a forfeiture ordinance action in the circuit court of the Village of Brown Deer for the enforcement of this chapter and penalty provided.
- (f) At any time after a complaint is filed with the office of the corporation counsel, the corporation counsel may also file a complaint in the circuit court of the Village of Brown Deer seeking appropriate temporary relief against the respondent, including an application for a temporary injunction, restraining order, or other order against the person(s) responsible for the denial of the rights granted by this chapter as the corporation counsel deems necessary in order to ensure the full enjoyment of these rights. The court may grant such temporary relief or restraining order as it deems just and proper.

**26.28. Penalty.**

- (a) Any person who has willfully violated any provision of this chapter or any lawful order issued under this chapter shall, for the first violation, forfeit not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00).
- (b) Any person adjudged to have violated any provision of this chapter within five (5) years after having been adjudged to have violated subsection (1) for every violation committed within the five (5) years, shall forfeit not less than one thousand dollars (\$1,000.00) nor more than ten thousand dollars (\$10,000.00).

**SECTION II**

All ordinances or parts of ordinances contravening the terms and provisions of this ordinance are hereby to that extent repealed.

**SECTION III**

This Ordinance shall take effect upon passage and publication as provided by law, and the Village Clerk shall so amend the Brown Deer Code, and shall indicate the date and number of this amending ordinance therein.

**PASSED AND ADOPTED** by the Village Board of the Village of Brown Deer, this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2013.

\_\_\_\_\_  
Carl Krueger, Village President

Countersigned:

\_\_\_\_\_  
Michael Hall, Village Manager

**MEMORANDUM**

**TO:** Village President, Village Board, Village Manager  
**FROM:** John F. Fuchs  
**RE:** Water Utility Amended Agreement  
**DATE:** September 3, 2013

To All Concerned:

The attached Amended Agreement for Management Services for the Village Water Utility has been reviewed by the Brown Deer Water Commission. The essential changes are that references are always to City Water by Michael Rau as the Manager, that being the title contemplated by State Statute. It is still an independent contractor relationship. In addition, it is specified that Manager shall also, on a day-to-day basis, be responsible to the Village Manager. Though the Manager answers to the Commission, the Commission is not working throughout all business days, let alone on an emergency basis.

Finally, the payments provision has been amended to reflect that we are paying \$5,700 per month for the manager services, and \$6,900 per month also for staffing services. We have been doing this for some time now, since the assumption of a retired employee's duties by City Water.

**AMENDED  
AGREEMENT FOR  
MANAGEMENT SERVICES**

THIS IS AN AMENDED AGREEMENT, made effective \_\_\_\_\_, 2013, between the Village of Brown Deer, a Wisconsin municipal corporation, (VILLAGE) and City Water LLC, and Michael Rau, (MANGER).

The purpose of this Agreement is for the VILLAGE to retain the MANGER to provide management services for the Village Water Utility as described in Attachment A. pursuant to the terms and conditions of this Agreement.

VILLAGE and MANGER agree to performance of management services by MANGER and payment for those services by VILLAGE as set forth below.

The following Attachments are attached to and made a part of this Agreement.

- Attachment A – Scope of Services, consisting of 5 pages.
- Attachment B – Terms and Conditions consisting of 5 pages.
- Attachment C – Insurance, consisting of 3 pages.
- Attachment D – Certificate of Corporation, consisting of 1 page.
- Attachment E – Rates for Additional Services, consisting of 1 page.

This Agreement (consisting of 1 page), together with the Attachments identified above, constitute the entire agreement between VILLAGE and MANGER and supersede all prior written or oral understandings. This Agreement and said Attachments may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

MANAGER shall at all times be accountable to and subordinate to the Brown Deer Water Commission, and shall further report to and be subject to day-to-day operational directives of the Village Manager. MANAGER shall be deemed the duly designated official contemplated under Section 66.0805(3) of the Wisconsin Statutes.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first written above.

Village of Brown Deer by: \_\_\_\_\_

City Water LLC by: \_\_\_\_\_

\_\_\_\_\_  
Village President

\_\_\_\_\_  
Village Clerk

\_\_\_\_\_  
Michael Rau, Individually

Attachment A

SCOPE OF SERVICE

1. GENERAL

The Village owns and operates a public water utility that operates under the jurisdiction of the Water Commission, Village Board, and Village Manager.

By this agreement it is intended that the MANAGER will provide services that are substantially equivalent to that of a water utility manager, along with his staff, in performing the duties and responsibilities under this contract. MANAGER shall be responsible to the Village Manager for daily operations but also respond to requests of the Water Commission and Village Board as appropriate.

MANAGER shall provide an experienced manager who shall be the principal representative of the MANAGER and who shall be responsible to the Village for the supervision and operation of the employees performing work under this contract. The MANAGER shall be expected to exercise its independent judgment in carrying out the duties under this agreement, but the MANAGER agrees that its duties shall include complying with all lawful directives and orders from the Water Commission, the Village Board, and Village Manager.

In addition, the MANAGER acknowledges that it is familiar with all state and federal laws and regulations regulating public water utilities, as well as the Village of Brown Deer ordinances relative to the rules and regulations of the Water Utility. MANAGER shall at all times comply with all applicable federal, state and local laws governing the Water Utility as the same may be in force and effect from time-to-time during the term of this Agreement as part of the services under this contract.

The scope of service to be provided by the MANAGER under this Agreement shall be to supervise and furnish all of the labor necessary for the complete operation, management, maintenance, and repair of the Village's water system, facilities and equipment to the extent specifically set forth in this Agreement. The scope may also include time and material items of work in the scope of services which will be provided on a per hour basis as quoted in the Agreement. Each party hereto agrees that it will cooperate in good faith with the other, its agents and subcontractors, to facilitate the performance of the mutual obligations set forth in this Agreement.

In addition to the above general scope of services, the MANAGER agrees to furnish the following service:

1. Attendance at all Water Commission Meetings and presentation of operation and utility reports or any other items of Commission interest that have been requested or that the MANAGER feels are pertinent to the Commission's review.

The Village agrees to provide the following under the general scope of services:

1. An operations office for the Water Utility conveniently located in Brown Deer with necessary access to the Village computer network, a phone system adequate for call center activity and all the related costs and reasonable office supplies and equipment for a functional office area. Office space will accommodate two people.
2. An operational storage area for any Utility owned vehicles and a storage area for water system maintenance components, repair equipment and any other miscellaneous items shall be as currently provided at the time of execution of this agreement.
3. The Village will furnish two (2) Utility-owned vehicles for the MANAGER's use when working under this agreement. The Village shall provide equipment maintenance, insurance, fuel and repair for the vehicle. Any additional required vehicles will be provided by MANAGER including equipment maintenance, insurance, fuel and repair.
4. The Village shall provide a compatible SCADA alarm system, with all related software and maintenance costs, accessible by remote computer for the 24 hour monitoring of the water system.
5. The Village agrees to provide all financial management and accounting services in accordance with the PSC regulations as required in support of all utility operations.
6. The Village shall provide all legal support for all issues related to the Water Utility except those that are a direct result of negligent actions of the employees of the MANAGER.
7. The Village shall provide administrative support for all correspondence, schedule, reports, staffing of the call center, customer brochures or notices, etc. in support of daily operations of the utility.
8. The Village will provide capital investment in the water system, resources described in other sections of this agreement, payment of supplier invoices, maintenance of the water system.
9. The Village will provide IT resources.
10. The Village will provide for major maintenance items such as main break repair contractors.

## 2. SCHEDULES AND MAINTENANCE

The MANAGER shall be responsible for the day-to-day maintenance of the water distribution system to include:

- A. Monitoring of the distribution system for pressure, flow and water quality.
- B. Distribution maintenance to include monitoring of any leak repair issues; hydrants, valve boxes, plumbing permit coordination and inspection of new taps to the system; annual flushing of the system and hydrant maintenance, repair and painting; valve operation and valve box adjustments; electrical and instrumentation monitoring and maintenance; maintenance on meter pit operations; booster pump, standpipe and booster disinfection station operation and maintenance.
- C. Water quality monitoring to include regulatory required samples per regulations in effect at the time or monitoring, chloramines testing, and special testing for customers as requested by customers or otherwise required.
- D. Field customer service operations to include observation for leaks in the system or on private property if requested, water quality issues, curb box investigation and locations, and investigation of billing issues.
- E. Diggers Hotline locating as required with the Village paying all Diggers Hotline agency fees and costs for the locating equipment.
- F. All monitoring involving the SCADA operations including identifying necessary maintenance, changes or improvements to the SCADA system the Village may need to pursue.
- G. MANAGER shall provide a 14/7 emergency response capable of resolving any emergency situation to the point of completion as required by each individual situation. The Village via police dispatch shall provide 14/7 monitoring of the SCADA system and shall alert the MANAGER of any reported emergencies or alarms. The Village will also pay for the underground contractor who performs emergency repairs of water system.
- H. MANAGER shall provide the labor to investigate water meters that have questionable accuracy and change out water meters as necessary and to arrange for any required testing and repair. The Village will provide replacement meters, meter reading equipment, and plumbing contractor, if necessary.
- I. MANAGER shall coordinate and attend any annual inspections, sanitary surveys or other regulatory required or requested inspections.
- J. MANAGER shall prepare the annual Consumer Confidence Report as required by the State and submit same for review and mailing by the Village.
- K. MANAGER shall assist the Village Manager with media communications regarding water system issues.

3. STAFFING

The MANAGER will provide adequate staffing to carry out all of the duties required for consistent and high quality attention to the operation, management and maintenance requirements of the Water Utility as described in the Agreement herein. The current level of service assumes the equivalent of one full-time equivalent.

The Village will provide the full-time and on-call services of the incumbent water service worker who will serve at the direction of the MANAGER. Compensation and benefits will be maintained for the incumbent in accordance with Village personnel practices.

4. REPORTS AND RECORD KEEPING

The MANAGER shall maintain records of operation, maintenance, repair and improvement activities of the Water Utility and shall prepare and submit to the Water Commission and the Village such reports including a summary of operations and other matters which the MANAGER feels should be included in the report, including significant unusual events, if any, and all data required for reporting to local, state, and federal agencies as well as staffing, operational concerns, emergency response situations, safety and training programs, corrective maintenance and repairs, equipment replacements, etc. A representative of the MANAGER shall be available to attend the Water Commission meetings if requested and to review the reports or discuss any pertinent issues.

5. ANNUAL OPERATING BUDGET AND CAPITAL IMPROVEMENTS PROGRAM.

The MANAGER shall prepare an Annual Water Utility Operating Budget in a format acceptable to the Water Commission and Village Treasurer. The MANAGER shall prepare and maintain a 5-year Capital Improvement Plan for the utility to be compiled and to be submitted annually to the Water Commission for their review and approval. The MANAGER shall report on the status of capital improvement projects related to the improvement plan as directed by the Water Commission.

The MANAGER shall review and assist in the selection and purchase of major equipment and/or maintenance contracts which may affect the operations of the Water Utility.

6. WATER SOURCE AND SUPPLY MANAGEMENT

The MANAGER shall be the primary contact with regard to the administration of the water supply as it relates to the Milwaukee Waterworks contract. The MANAGER shall ensure that Brown Deer Water Utility complies with all provisions of that agreement and shall bring any issues of concern with regard to that agreement to the attention of the Water commission Village Manager as necessary.

7. METER READS AND BILLING

The MANAGER shall be responsible for all meter reads using the automated system equipment provided by the Village. The MANAGER shall assist in downloading and correction of the meter data to the point of being ready for preparation of the bills.

The Village will be responsible for preparing the bills, mailing and collection of all funds related to the utility. The MANAGER shall assist in resolution of disputes with regard to meter reads as necessary to resolve those issues.

8. THIRD PARTY CONTRACTING

By agreement between the MANAGER and the CITY, a list of emergency contractors and routine maintenance contractors shall be prepared and available for use as necessary. Where required pursuant to Section 66.0901, Wisconsin Statutes, or other provision of law, non-emergency construction work shall be accomplished using the prescribed statutory bidding process. To the degree practicable, all other non-emergency purchases of labor or material shall be based upon competitive quotations.

The cost of all outside contracting, whether consulting services, design and construction administration/inspection services, emergency or routine repairs related to the mains, hydrants, valves, booster stations, electrical, instruments, SCADA, water tower, buildings, etc. shall be the responsibility of the Village. The MANAGER shall supply all labor as necessary for direct supervision and inspection of emergency and routine maintenance work by outside contractors as part of his contract.

9. PERMITS, FEES, UTILITY COSTS

The Village shall be responsible for obtaining and maintaining all necessary permits, licenses, PSC annual fees and other governmental or private property approvals and for payment of all fees required for ownership and operation of the Water Utility facilities and the equipment owned by the Village and used in conjunction with the Water Utility facilities. The Village shall pay all required testing and laboratory fees required for the operation of the Water Utility to include any regulatory testing and fees as necessary.

10. TIME AND MATERIAL WORK

The MANAGER shall assist the Village with design of main replacement preparation of plans and specifications for bid documents and construction contract management services up to one project per year. Above that amount would be additional service.

If necessary, the MANAGER shall furnish construction inspection services for water main projects on a time and material basis in accordance with Attachment E.

The Village and MANAGER shall agree, prior to and in writing, on the scope of any other additional services to be provided on a time and material basis under this contract.

## ATTACHMENT B

### Terms and Conditions

#### 1. Term of Service

Services by MANAGER under this Agreement shall commence on September 1, 2013 and continue until terminated as provided herein in Section 5.

#### 2. Compensation

From September 1, 2013, the Village shall pay the MANAGER as compensation ("Compensation") for the services performed pursuant to this Agreement, the following sums per month or part thereof:

\$5,700 per month – Manager Services

\$6,900 per month – Staffing Services

#### 3. Appropriation of Funds

Continuation of the contract and payment of services for any period beyond December 31<sup>st</sup> of any year is contingent upon the appropriation of sufficient funds by the Water Commission and Village Board of the VILLAGE.

#### 4. Conditions of Performance and Compensation

The MANAGER agrees that the performance of MANAGER's work, services and the results therefrom, pursuant to the terms, conditions and agreements of the Contract, shall be in substantial conformity with the intention of the parties as set forth in the Scope of Services.

The Village agrees to pay, subject to the contingencies herein, and the MANAGER agrees to accept for the satisfactory performance of the services under this Agreement the amount of compensation set forth in No. 2 above, inclusive of all expenses.

The MANAGER shall not subcontract for the performance of any services required by this Agreement without prior written approval obtained from the Village.

#### 5. Termination

If, through any cause, any party shall fail to fulfill in timely and proper manner their obligations under this Contract, or if any party shall violate any of the covenants, agreements or stipulations of this Agreement the non defaulting party shall thereupon have the right to terminate this Agreement by giving written notice to the other party of such termination and specifying the effective date thereof, at least ninety (90) days before the effective date of such termination. In such event, all finished and unfinished documents, data, studies, reports or other materials related to the services prepared by the MANAGER under this Agreement shall, at the option of the Village, become the property of the VILLAGE.

Notwithstanding the above, the MANAGER shall not be relieved of liability to the Village for damages sustained by the Village by virtue of any breach of the Agreement by the MANAGER, and the Village may withhold any payments to the MANAGER for the purpose of set off until such time as the exact amount of damages due to the Village from the MANAGER is determined.

Either party may terminate this Agreement at any time for any reason by giving at least ninety (90) days notice in writing to the other party. If the MANAGER is terminated by the Village as provided herein, the MANAGER will be paid for all services actually performed pursuant to this Agreement.

6. Personnel and Subcontracting

The MANAGER represents that they have or will secure at their own expense all personnel required in performing the service under this Contract. Such personnel shall be employees of MANAGER and are not employees of the Village for any purpose whatsoever.

None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the Village. If any work or services is subcontracted, it shall be specified by written agreement and shall be subject to all provision of this Agreement. The MANAGER shall be as fully responsible to the Village for the acts and omissions of their subcontractor and of persons either directly or indirectly employed by them, as they are for the acts and omissions of persons directly employed by them.

7. Indemnification

MANAGER hereby indemnify and shall defend and hold harmless the Village, its elected and appointed officials, officers, employees or authorized representatives or volunteers, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, costs and expenses of whatsoever kind or character whether arising before, during or after completion of the work hereunder and in any manner directly or indirectly caused or contributed to in whole or in part (or claimed to be caused or contributed to in whole or in part), by reason of any act, omission, fault, or negligence, whether active or passive of the MANAGER, or of anyone acting under their direction or control or on their behalf in connection with the performance of this Agreement, regardless if liability without fault is sought to be imposed on the Village. MANAGER's indemnity and hold harmless agreement does not apply to any liability caused by the sole negligence or willful misconduct of the Village, its elected and appointed officials, officers, employees or authorized representatives or volunteers. This indemnity provision shall survive the termination or expiration of this Agreement.

MANAGER shall reimburse the Village, its elected and appointed officials, officers, employees or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. MANAGER's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Village, its elected and appointed officials, officers, employees or authorized representatives or volunteers.

8. Relationship

The relationship of the MANAGER to the Village is that of independent contractor and not one of employment. None of the employees or agents of the MANAGER shall be considered employees of the Village. However, the Village retains the overall and final operational, management and financial decision-making authority over the Water Utility.

9. Liability and Governmental Immunity

It is the intention of the parties that the MANAGER shall be an agent of the Village while performing services within the scope of this Agreement for the purposes of liability to persons not parties to this agreement pursuant to the doctrine of governmental immunity under the common law and Section 893.80 of the Wisconsin Statutes. It is the intent of the parties that those provisions of governmental immunity law shall be applicable to MANAGER with respect to any claims, actions or suits, and the parties agree that nothing contained herein shall waive the rights and defenses to which each party may otherwise be entitled, including all of the immunities, limitations and defenses under Section 893.80 of the Wisconsin Statutes (2001-2002) or any amendments thereof.

10. Nondiscrimination

The MANAGER shall not engage in unlawful discrimination in employment.

11. Force Majeure

A Party's performance of any obligation under this Agreement, other than an obligation to pay money, shall be excused if, and to the extent that, the party is unable to perform because of events of force majeure, which shall include but shall not be limited to, storms, floods, and other Acts of God, the acts of civil or military authority, quarantine restrictions, riots, strikes, lockouts or other labor disputes, commercial impossibility, epidemics, fires, explosions and bombings, the inability to obtain or delays in obtaining permits or other private or governmental approvals, or because of any other cause or causes beyond the reasonable control of the party seeking to be excused from performance, so long as the condition giving rise to the excuse to performance was not caused by the failure to act with due diligence by the party unable to perform shall be required to resume performance of its obligations under this Agreement upon the termination of the event or cause which excused performance hereunder.

12. Entire Agreement: Amendments

This Agreement contains the entire agreement between the Village and the MANAGER and supersedes all prior or contemporaneous communications, representations, understandings, or agreements. This Agreement may be modified only by a written amendment signed by both parties.

13. Headings, Attachments and Exhibits

The headings contained in this Agreement are for reference only and shall not in any way affect the meaning or interpretation of this Agreement. The Attachments and Exhibits to this Agreement shall be construed as an integral part of this Agreement.

14. Waiver

The failure on the part of any party to enforce their rights as to any provision of this Agreement shall not be construed as a waiver of their rights to enforce such provisions in the future.

15. Assignment

This Agreement shall not be assigned by either party without the prior written consent of the other unless such assignment shall be to a wholly owned subsidiary or successor of either party.

16. Authority to Contract

Each party warrants and represents that it has power and authority to enter into this Agreement.

17. Governing Law

The Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

18. Notices

All notices will be in writing and will be delivered in person or transmitted by certified mail, return receipt requested. Notice required to be given to the MANAGER will be addressed to:

Michael P. Rau  
City Water LLC  
PO Box 1726  
Milwaukee, WI 53201-1726

Notices required to be given to the Village will be addressed to:

Village Manager  
Village of Brown Deer  
4800 W. Green Brook Drive  
Brown Deer, WI 53223

Changes in addresses shall be transmitted to the other party by like notice. Addresses must include a street address.

19. Severability

Should any part of this Agreement for any reason be declared invalid or void, such declaration will not affect the remaining portion, which will remain in full force and effect as if this Agreement had been executed with the invalid portion eliminated.

## ATTACHMENT C

### Insurance Requirements

#### 1. General

Unless otherwise specified in this Agreement, the MANAGER shall, at their sole expense, maintain in effect at all times during the term of the Agreement, insurance coverage with limits not less than those set forth below with insurers and under forms of policies set forth below.

#### 2. Worker's Compensation and Employers Liability Insurance

The MANAGER shall cover or insure under the applicable labor laws relating to worker's compensation insurance, all of their employees in accordance with the law in the State of Wisconsin. The MANAGER shall provide statutory coverage for work related injuries and employer's liability insurance with limits or \$1,000,000 each accident, \$1,000,000 disease policy limit, and \$1,000,000 disease each employee.

#### 3. Commercial General Liability and Automobile Liability Insurance

The MANAGER shall provide and maintain the following commercial general liability and automobile liability insurance:

**Coverage** – Coverage for commercial general liability and automobile liability insurance shall be at least as broad as the following:

1. Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG0001)
2. Insurance Services Office (ISO) Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle)

**Limits** – The MANAGER shall maintain limits no less than the following:

1. General Liability – One million dollars (\$1,000,000) per occurrence (\$1,000,000 general aggregate if applicable) for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project/location (with the ISO CG 2503, or ISO CG 2504, or insurer's equivalent endorsement provided to the VILLAGE or the general aggregate including product – completed operations aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability – One million dollars (\$2,000,000) for bodily injury and property damage per occurrence limit covering all vehicles to be used in relationship to the Agreement.
3. Professional Liability – One million dollars (\$1,000,000) per claim and annual aggregate.

**Required Provisions** – The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The Village of Brown Deer, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status (via ISO endorsement CG 2010, CO 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of the MANAGER; products and completed operations of the MANAGER; premises occupied or used by the MANAGER; and vehicles owned, leased, hired or borrowed by the MANAGER. The coverage shall contain no special limitations on the scope of protection afforded to the Village, its elected and appointed officials, officers, employees or authorized representatives or volunteers.
2. For any claims related to this Agreement, the MANAGER's insurance shall be primary insurance as respects the Village, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by the Village, its elected and appointed officials, officers, employees, or authorized representatives or volunteers shall not contribute to it.
3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Village, its elected and appointed officials, officers, employees or authorized representatives or volunteers.
4. The MANAGER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this agreement shall state, or be endorsed to state, that coverage shall not be canceled by the insurance carrier or the MANAGER, except after sixty (60) days (10 days for non-payment of premium) prior written notice by U.S. mail has been given to the Village.
6. Such liability insurance shall indemnify the Village against loss from liability imposed by law upon, or assumed under contract by, the MANAGER for damages on account of such bodily injury (including death), property damage, personal injury, completed operations, and products liability.
7. The general liability policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations liability, explosion, collapse, underground excavation, and removal of lateral support, and shall not contain an exclusion for what is commonly referred to by the insurers as the "XCU" hazards. The automobile liability policy shall cover all owned, non-owned, and hired vehicles. All of the insurance shall be provided on policy forms and through companies satisfactory to the Village and shall have a minimum A.M. Best's rating of A- VII.

4. Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the Village. At the option of the Village the insurer shall either reduce or eliminate such deductibles or self-insured retentions.

5. Evidences of Insurance

Prior to execution of the agreement, the MANAGER shall file with the Village a certificate of insurance (Acord Form 25-S or equivalent) signed by the insurer's representative evidencing coverage that is satisfactory to the Village and its insurance carrier. Such evidence shall include an additional insured endorsement signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include all **required provisions** listed in paragraph 3 above unless waived by the Village.

The MANAGER shall, upon demand of the Village, deliver to the Village such policy or policies of insurance and the receipts for payment of premiums thereon.

6. Sub-Contractors

In the event that the MANAGER employs other contractors (sub-contractors) as part of the work covered by this agreement, it shall be the MANAGER's responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.

**ATTACHMENT D**

**Certificate of Corporation**

\_\_\_\_\_  
(type or print name of Corporation)

I, \_\_\_\_\_ certify that I am the \_\_\_\_\_ of the above  
(print name) (print title)

Corporation named herein; that \_\_\_\_\_, who has executed  
(print signator of contract)

This Agreement on behalf of the MANAGER was then \_\_\_\_\_  
(Official Capacity of Signator)  
of said corporation, and in said capacity, duly signed said Contract for and on behalf of  
said corporation, being duly authorized so to do under its bylaws or is authorized so to do  
by action of its duly constituted board, all within the scope of its corporate powers.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
(Signature)

**Attachment E**

**Rates for Additional Services**

**2013 Hourly Rate Schedule**

**CLASSIFICATION HOURLY RATE**

Principal	\$155.00
Principal Engineer	\$105.00
Construction Manager	\$95.00
Operations Supervisor	\$90.00
Registered Land Surveyor	\$75.00
Project Engineer/Scientist	\$75.00
Graduate Engineer/Scientist	\$65.00
Technician/Inspector	\$65.00
Water Operator	\$50.00

*Direct Project Expenses*

Out-of-Pocket expenses such as stakes, field supplies, etc.  
Mileage

Note: This schedule is subject to annual adjustment

STATE OF WISCONSIN: NORTH SHORE FIRE DEPARTMENT: MILWAUKEE COUNTY

**RESOLUTION NO. – 13-02**  
**A Resolution Approving a “Single or Multi-Year**  
**Capital” Budget To Purchase Two-Way Radios,**  
**an Ambulance and Firefighting Protective**  
**Equipment for 2014 and 2015**

---

**WHEREAS**, the Board of Directors of the North Shore Fire Department (“NSFD”) as recommended by the Finance Committee has identified a need to purchase a two-way radios, an ambulance and firefighting protective equipment to maintain ongoing operations of the Department; and

**WHEREAS**, the Board of Directors of the NSFD hereby finds the purchase of a two-way radios, an ambulance and firefighting turnout gear cannot be accomplished under the caps placed on the NSFD’s annual budget increase by the Amended and Restated North Shore Fire Department Agreement (“the Agreement”); and

**WHEREAS**, as authorized under paragraph 5.10 of the Agreement, the Board of Directors may adopt a “Single and Multi-Year Capital” Budget for purchase of capital items that is not subject to the annual budget cap imposed by the Agreement; and

**WHEREAS**, the Agreement as amended requires unanimous approval of the “Single and Multi-Year Capital” Budget by of all members of the Board of Directors and by all member communities; and

**WHEREAS**, the Board of Directors of the NSFD hereby determines that purchase of two-way radios, an ambulance and firefighting protective equipment will require payments by all member communities toward that purchase in 2014 and 2015; and

**WHEREAS**, in accordance with the Agreement, each member community will contribute their estimated portion of the cost of the two-way radios, an ambulance and firefighting protective equipment not to exceed the total budgeted amount as follows:

		<u>2014</u>	<u>2015</u>
6.20%	Bayside	26,040	27,590
17.69%	Brown Deer	74,298	78,720
10.31%	Fox Point	43,302	45,879
28.16%	Glendale	118,272	125,312
2.94%	River Hills	12,348	13,085
17.45%	Shorewood	73,290	77,652
17.25%	Whitefish Bay	<u>72,450</u>	<u>76,762</u>
100.00%	Total	\$ 420,000	\$ 445,000

**WHEREAS**, in accordance with the Agreement, payment by each community shall be made within 30 days of the date of the statement to the community by the NSFD with the anticipated due date(s) and estimated amount(s) set forth on Attachment 1; and

**WHEREAS**, if a community fails to pay the NSFD by the date identified on the statement sent to the community, it shall be obligated to the NSFD and the other participating municipalities as outlined in paragraph 17.5 of the Agreement; and

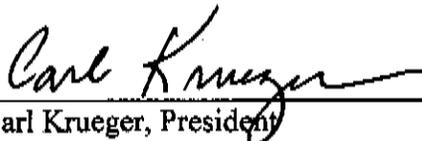
**WHEREAS**, a community that has approved a "Single or Multi-Year Capital" Budget and withdraws, is expelled or otherwise ceases to be a member of the NSFD during the period for which the Single or Multi-Year Capital Budget was approved must make full payment of its share to the NSFD for the term of the authorized budget and if applicable will have their distribution of assets in accordance with the Agreement, reduced by any amount that is owed to the NSFD for its share of the "Single or Multi-Year Capital" Budget.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Directors unanimously adopts the "Single or Multi-Year Capital" Budget for 2014 and 2015 for the purchase of two-way radios, an ambulance and firefighting protective equipment in the total budgeted amount set forth above and further unanimously recommends this "Single or Multi-Year Capital" Budget for approval by each of the member municipalities by adoption of a Resolution in the form attached to this Resolution.

**PASSED AND ADOPTED** this 10<sup>th</sup> day of September, 2013.

Countersigned:

Michael West, Secretary

  
\_\_\_\_\_  
Carl Krueger, President

**Attachment 1**  
**RESOLUTION NO. – 13-02**

**A Resolution Approving a “Single or Multi-Year  
Capital” Budget for 2014 and 2015.  
Anticipated Payment Due Dates**

Anticipated Due Date to NSFD: April 1 of each year.

		<u>2014</u>	<u>2015</u>
<b>6.20%</b>	<b>Bayside</b>	26,040	27,590
<b>17.69%</b>	<b>Brown Deer</b>	74,298	78,720
<b>10.31%</b>	<b>Fox Point</b>	43,302	45,879
<b>28.16%</b>	<b>Glendale</b>	118,272	125,312
<b>2.94%</b>	<b>River Hills</b>	12,348	13,085
<b>17.45%</b>	<b>Shorewood</b>	73,290	77,652
<b>17.25%</b>	<b>Whitefish Bay</b>	<u>72,450</u>	<u>76,762</u>
<b>100.00%</b>	<b>Total</b>	<b>\$ 420,000</b>	<b>\$ 445,000</b>

STATE OF WISCONSIN: [CITY/VILLAGE] OF \_\_\_\_\_ :MILWAUKEE COUNTY

RESOLUTION NO. - \_\_\_\_\_

**A Resolution Approving a “Single or Multi-Year Capital” Budget To Purchase Two-Way Radios, an Ambulance and Firefighting Protective Equipment for 2014 and 2015**

**WHEREAS**, the Board of Directors of the North Shore Fire Department unanimously adopted Resolution No. 13-02, on September 10, 2013 (the “NSFD Budget Resolution”). The NSFD Budget Resolution (a copy is attached hereto and made part of this Resolution), adopts the “Single or Multi-Year Capital” Budget for 2014 and 2015 (the “capital contribution budget”) for the purchase of two-way radios, an ambulance and firefighting protective equipment and further unanimously recommends the capital contribution budget for approval by each of the member municipalities by adoption of this Resolution; and

**WHEREAS**, a “Single or Multi-Year Capital” Budget must be submitted to the governing bodies of the Villages of Bayside, Brown Deer, Fox Point, River Hills, Shorewood and Whitefish Bay and the City of Glendale for approval by each of the seven (7) municipalities; and

**NOW, THEREFORE, BE IT RESOLVED**, by the [Village Board/City Council] of the [Village/City] of \_\_\_\_\_ that the [Village/City] of \_\_\_\_\_ hereby approves the “Single or Multi-Year Capital Budget” for the purchase of two-way radios, an ambulance and firefighting protective equipment and agrees to payments to the NSFD in accordance with the provisions of the Financing Formula of the Agreement (with the estimated payments and due dates as outlined in the NSFD Budget Resolution) within 30 days of receipt of a statement from the NSFD and further directs the [Village/City] Clerk to provide a certified copy of this Resolution to the NSFD.

**PASSED AND ADOPTED** by the [Village Board/City Council] of the [Village/City] of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

[VILLAGE/CITY] OF \_\_\_\_\_

\_\_\_\_\_  
[Village President/Mayor]

Countersigned:

\_\_\_\_\_  
[Village/City] Clerk