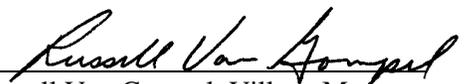


VILLAGE BOARD MEETING
Monday, April 2, 2012
Earl McGovern Board Room, 6:30 P.M.



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: March 19, 2012 – Regular Meeting
- V. Unfinished Business
- VI. New Business
 - A) Resolution No. 12 –, “A Resolution Authorizing the Issuance and Sale of \$905,00 General Obligation Refunding Bonds”
 - B) Set Information Meeting Date Regarding Traffic Concerns on North 60th Street between West Bradley Road and West Dean Road
 - C) Fire Prevention Code
 - D) Update on Original Village Streetscape Project
- VII. Village President’s Report
- VIII. Village Manager’s Report
- XI. Adjournment


Russell Van Gompel, Village Manager
March 29, 2012

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
MARCH 19, 2012 MEETING MINUTES
HELD AT THE BROWN DEER VILLAGE HALL
4800 WEST GREEN BROOK DRIVE**

The meeting was called to order by Trustee Schilz at 6:32 P.M.

I. Roll Call

Present: Trustees: Baker, Boschert, Oates, Schilz, Springman, Weddle-Henning

Excused: Village President Krueger

Also Present: Russell Van Gompel, Village Manager; Matt Janecke, Assistant Village Manager; Lieutenant Lisa Kumbier, Brown Deer Police Department; Bridget Souffrant, Treasurer/Comptroller; John Fuchs, Village Attorney; Nate Piotrowski, Community Development Director; Chad Hoier, Park and Recreation Director

II. Pledge of Allegiance

III. Persons Desiring to be Heard

None.

IV. Consideration of Minutes: March 5, 2012 – Regular Meeting

It was moved by Trustee Boschert and seconded by Trustee Oates to approve the minutes of the March 5, 2012 regular meeting. The motion carried unanimously.

V. Committee Reports

A) Building Board – Trustee Weddle-Henning

Trustee Weddle-Henning updated the Village Board of the action taken at the last meeting. Most notable were the approval of Barley's Pet Grooming Sign and the resubmittal of the Office/Retail Strip Building on 5506-30 West Brown Deer Road. It was the consensus of the board that the plans be resubmitted with a modified design that felt less commercial and more of a residential design that fits the neighboring buildings architecture.

B) Beautification Committee – Trustee Oates

1) Resolution No. 12-, "Resolution Proclaiming May 12, 2012 as Arbor Day."

It was moved by Trustee Oates and seconded by Trustee Springman to approve Resolution No. 12-, "Resolution Proclaiming May 12, 2012 as Arbor Day." The motion carried unanimously.

Trustee Oates updated the Village Board with the events taking place for Arbor Day/Earth Day/Keep Greater Milwaukee Beautiful Clean-Up on May 12, 2012. The focus for landscaping at this year's event will be the 1884 School House area. He also mentioned the committee is exploring other opportunities for fundraising, and said a plant sale is not an option because they did not want to compete with the Friends of the Brown Deer Library Plant Sale. He further stated the Brown Deer Foundation again will plant and maintain the flower beds located in front of Village Hall. TAPCO is being contacted to provide different options for signage in the Adopt-A-Flowerbed areas.

C) Park and Recreation Committee – Trustee Springman

Trustee Springman referred to Mr. Hoier for an update. Mr. Hoier updated the board on the hiring process for the Administrative Assistant position and stated that he has three interviews on Monday and three more on Wednesday. He also reported on the issue of trash and graffiti on the play structure at Fairy Chasm Park.

- 1) Ordinance No. 12-, “Amending Chapter 42 – Parks and Recreation, Article II – Park Rules, Division I, Section 42-11 (9) related to prohibiting dogs or cats upon village park grounds.”**

Attorney Fuchs noted the changes to the ordinance by stating the changes to subsection (a) and (e), and only allows for pets to pass through Village Park to the recreational trail and forbidding pets during any large community wide events.

It was moved by Trustee Springman and seconded by Trustee Weddle-Henning to approve Ordinance No. 12-, “Amending Chapter 42 – Parks and Recreation, Article II – Park Rules, Division I, Section 42-11 (9) related to prohibiting dogs or cats upon village park grounds.” The motion carried unanimously.

D) 4th of July Committee – Village President Krueger

No meeting.

E) Traffic and Public Safety Committee– Trustee Boschert

- 1) Traffic and Pedestrian Conditions along N. 60th Street between W. Dean Road and W. Bradley Road**

Trustee Boschert commended staff on their responsiveness in preparing a five year study on traffic accidents on North 60th Street between West Dean Road and West Bradley Road. The committee is recommending a step-approach with a number of options for a solution for pedestrian and traffic conditions. Trustee Schilz asked Lieutenant Kumbier if the two recent injuries took place in the crosswalk, she replied that both the incidents took place inside the crosswalk. Trustee Schilz noted that when people travel from Milwaukee to Brown Deer in the morning for work, 60th Street is a main thoroughfare and the 35 mph speed limit is often not followed. Mr. Neitzel noted that traffic speeds and signage are correct on 60th Street but are not being followed because most of the time people are not present. Mr. Neitzel suggested the implementation of hand activated LED lights. Trustee Baker asked where the Tower Avenue bus stop would be moved in option number two. Mr. Neitzel noted the bus stop on Bradley Road, and crosswalk signals would be installed to accommodate the foot traffic across the road. Trustee Baker noted that even though it was not mentioned in the study, he personally observes many people crossing 60th Street outside of the crosswalk area.

Trustee Oates suggested an informational hearing prior to implementation of any solution for the traffic and pedestrian conditions along N. 60th Street. A conversation ensued about the time frame of the informational meeting. Staff was directed to report back to the Village Board with dates for an informational public hearing.

It was moved by Trustee Boschert and seconded by Trustee Baker to establish a defined School Safety Zone bounding the School District Campus for a distance of 300 feet. The motion carried unanimously.

- 2) Ordinance No. 12-, “Amending Section 34-28 of the Brown Deer Village Code Relating to Firearms, Weapons, Missiles, and Fireworks.”**

Attorney Fuchs stated that this ordinance is merely clarifying the original ordinance passed and is consistent with state law.

It was moved by Trustee Boschert and seconded by Trustee Springman to approve Ordinance No. 12-, "Amending Section 34-28 of the Brown Deer Village Code Relating to Firearms, Weapons, Missiles, and Fireworks." The motion carried unanimously.

F) Library Board – Trustee Baker

Trustee Baker noted the conversations at the Library Board meeting included the fee for holding items without pick-up and the list of capital improvement items to use the remaining HVAC project monies.

G) Community Development Authority – Village President Krueger

No meeting.

H) Plan Commission – Village President Krueger

1) Brown Deer School District Plan

Mr. Piotrowski introduced the School District representatives including Adrian Langhus of Plunkett Raysich Architects, Mike Froelich of Kapur and Associates, David Buettner of Buettner and Associates, Finance Director Emily Koczela and Superintendent Deb Kerr. Trustee Springman asked if there will be additional lighting around the football field near 60th Street. Ms. Koczela indicated no additional lighting will be added to the area around the football field

It was moved by Trustee Schilz and seconded by Trustee Boschert to approve the Brown Deer School District Site Plan. The motion carried unanimously.

I) Finance and Public Works – Trustee Oates

1) Bids for 47th Street Storm Sewer Relay

Mr. Neitzel stated that he bid out the 47th Street Storm Sewer Relay project. The bids came in over budget; therefore, Staff will reduce the scope of the project and rebid the project in the spring

It was moved by Trustee Oates and seconded by Trustee Boschert to reject all bids for the 47th Street 24-inch Storm Sewer Relay project. The motion carried unanimously.

2) Refunding of 2001 General Obligation Capital Improvement Bonds

Mrs. Souffrant stated that there is currently an opportunity for the Village to realize an estimated present value net savings of \$43,385 if we refund the 2001 General Obligation Capital Improvement Bonds. This bond is currently at 4.5% and the refunding is proposed to be reduced to 1.1%. If refunding receives approval, there will be an April 2, 2012 award date.

Mr. Van Gompel stated the motion should include directing staff to proceed with refunding and have a closing date of April 2nd.

It was moved by Trustee Boschert and seconded by Trustee Schilz to approve a bond sale on April 2, 2012 to refund the 2001 General Obligation Capital Improvement Bonds. The motion carried unanimously.

3) Consideration of Vouchers

It was moved by Trustee Oates and seconded by Trustee Weddle-Henning to approve the vouchers from February 3, 2012 to February 24, 2012 in the amount of \$673,895.15. The motion carried unanimously.

J) Personnel Committee

1) Employee Wellness Program

Mr. Janecke stated the two main points of discussion that were brought forth from the February 20, 2012 Village Board meeting was whether to limit the Wellness Subsidy Program to workout facilities located in the Village and which employees will receive the subsidy. It was recommended by the Personnel Committee to allow employees to use a \$10.00 monthly subsidy for fitness memberships at a facility approved by the Village Manager. If the program is truly for the employees' wellness and well being, the subsidy should be to a facility that accommodates the employee. Also, recommended from the Personnel Committee was to allow all regular employees, excluding seasonal employees, to participate in the program. Allowing all regular employees to participate in the program helps realize the goal of the program, which is to provide a cost savings benefit on insurance premiums paid by the Village as an employer. Mr. Van Gompel added the program excludes any committee members and volunteers. Trustee Schilz asked if this was considered for Park and Recreational Programs. Mr. Van Gompel added that this was not considered, but is a good point, and will be looked at in the further.

It was moved by Trustee Boschert and seconded by Trustee Springman to approve an Employee Wellness Program for regular employees only, not including seasonal employees, only with a manageable number of fitness providers at a cost of \$10 per month. The motion carried unanimously.

VI. Unfinished Business

None.

VII. New Business

A) Liquor License Agent Change for Courtyard by Marriot, 5200 West Brown Deer Road

It was moved by Trustee Weddle-Henning and seconded by Trustee Boschert to appoint Gregory Joseph Fugate as Agent for the Class "B" Intoxicating Liquor License and Class "B" Beer License held by W2007 BRV Realty, L.P. d/b/a Courtyard by Marriott located at 5200 West Brown Deer Road. The motion carried unanimously.

VIII. Village President's Report

None.

IX. Village Manager's Report

Mr. Van Gompel reported on the following:

The new Wi-Fi signal in the board room

Elections being held on April 3rd, ballots were supposed to be received by March 19, 2012

Ditching project informational piece

Administrative hiring processes both in the Inspection and Park and Recreation Departments

X. Recess into Closed Session pursuant to §19.85(1) (c) and (e) 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.

It was moved by Trustee Springman and seconded by Trustee Weddle-Henning to recess into Closed Session at 8:26 p.m. The motion carried unanimously.

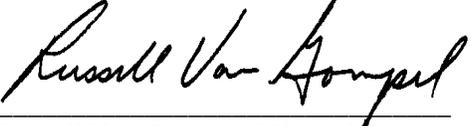
It was moved by Trustee Springman and seconded by Trustee Weddle-Henning to reconvene into Open Session at 9:00 p.m. The motion carried unanimously.

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

No action necessary.

XII. Adjournment

It was moved by Trustee Springman and seconded by Trustee Oates to adjourn at 9:02 p.m. The motion carried unanimously.



Russell Van Gompel, Village Manager



REQUEST FOR CONSIDERATION

COMMITTEE:	Village Board
ITEM DESCRIPTION:	A Resolution Authorizing the Issuance and Sale of \$905,00 General Obligation Refunding Bonds
PREPARED BY:	Russell Van Gompel, Village Manager 
REPORT DATE:	March 29, 2012
RECOMMENDATION:	To adopt Resolution No. 12-, "A Resolution Authorizing the Issuance and Sale of \$905,000 General Obligation Refunding Bonds".
EXPLANATION:	Attached is a Draft Resolution Authorizing the Issuance and Sale of \$905,000 General Obligation Refunding Bonds. The final resolution, with the terms and conditions from the competitive bid results, will be presented at the Village Board meeting.
If you have any additional questions, please contact me.	

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF
\$905,000 GENERAL OBLIGATION REFUNDING BONDS

WHEREAS, the Village Board of the Village of Brown Deer, Milwaukee County, Wisconsin (the "Village") hereby finds and determines that it is necessary, desirable and in the best interest of the Village to raise funds for the purpose of paying the cost of refinancing certain outstanding obligations of the Village, to wit: General Obligation Capital Improvement Bonds, dated December 1, 2001 (the "Refunded Obligations") (hereinafter the refinancing of the Refunded Obligations shall be referred to as the "Refunding"), and there are insufficient funds on hand to pay said cost;

WHEREAS, the Village Board deems it to be necessary, desirable and in the best interest of the Village to refund the Refunded Obligations for the purpose of achieving debt service cost savings;

WHEREAS, villages are authorized by the provisions of Section 67.04, Wisconsin Statutes, to borrow money and issue general obligation refunding bonds to refinance their outstanding obligations;

WHEREAS, the Village has directed Robert W. Baird & Co. Incorporated, Milwaukee, Wisconsin ("Baird") to take the steps necessary to sell general obligation refunding bonds (the "Bonds");

WHEREAS, Baird, in consultation with the officials of the Village, prepared an Official Notice of Sale (a copy of which is attached hereto as Exhibit A and incorporated herein by this reference) setting forth the details of and the bid requirements for the Bonds and indicating that the Bonds would be offered for public sale on April 2, 2012;

WHEREAS, the Village Clerk (in consultation with Baird) caused notice of the sale to be published and/or announced and caused the Official Notice of Sale to be distributed to potential bidders offering the Bonds for public sale on April 2, 2012;

WHEREAS, the Village has duly received bids for the Bonds as described on the Bid Tabulation attached hereto as Exhibit B and incorporated herein by this reference (the "Bid Tabulation"); and

WHEREAS, it has been determined that the bid proposal (the "Proposal") submitted by the financial institution listed first on the Bid Tabulation fully complies with the bid requirements set forth in the Official Notice of Sale and is deemed to be the most advantageous to the Village. Baird has recommended that the Village accept the Proposal. A copy of said Proposal submitted by such institution (the "Purchaser") is attached hereto as Exhibit C and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village that:

Section 1A. Ratification of the Official Notice of Sale and Offering Materials. The Village Board of the Village hereby ratifies and approves the details of the Bonds set forth in Exhibit A attached hereto as and for the details of the Bonds. The Official Notice of Sale and any other offering materials prepared and circulated by Baird are hereby ratified and approved in all respects. All actions taken by officers of the Village and Baird in connection with the preparation and distribution of the Official Notice of Sale, and any other offering materials are hereby ratified and approved in all respects.

Section 1B. Authorization of the Bonds. For the purpose of paying the cost of the Refunding, there shall be borrowed, pursuant to Section 67.04, Wisconsin Statutes, through the issuance of the Bonds, the sum of NINE HUNDRED FIVE THOUSAND DOLLARS (\$905,000).

Section 1C. Award of the Bonds. The Proposal of the Purchaser offering to purchase the Bonds for the sum set forth on the Proposal [(as modified on the Bid Tabulation and reflected in the Pricing Summary referenced below and incorporated herein)], plus accrued interest to the date of delivery, resulting in a net interest cost and true interest rate as set forth on the Proposal [(as modified on the Bid Tabulation)] is hereby accepted. The President and Village Clerk or other appropriate officers of the Village are authorized and directed to execute an acceptance of the Proposal on behalf of the Village. The good faith deposit of the Purchaser shall be retained by the Village Treasurer until the closing of the bond issue, and any good faith deposits submitted by unsuccessful bidders shall be promptly returned. The Bonds bear interest at the rates set forth on the Proposal.

Section 2. Terms of the Bonds. The Bonds shall be designated "General Obligation Refunding Bonds"; shall be issued in the aggregate principal amount of \$905,000; shall be dated April 23, 2012; shall be in the denomination of \$5,000 or any integral multiple thereof; shall be numbered R-1 and upward; and shall bear interest at the rates per annum; and mature on April 1 of each year, in the years and principal amounts as set forth on the Pricing Summary attached hereto as Exhibit D-1 and incorporated herein by this reference. Interest is payable semi-annually on April 1 and October 1 of each year commencing on October 1, 2012. Interest shall be computed upon the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board. The schedule of principal and interest payments due on the Bonds is set forth on the Debt Service Schedule attached hereto as Exhibit D-2 and incorporated herein by this reference (the "Schedule").

Section 3. Redemption Provisions. The Bonds shall not be subject to optional redemption. [If the Proposal specifies that any of the Bonds are subject to mandatory redemption, the terms of such mandatory redemption are set forth on an attachment hereto as Exhibit MRP and incorporated herein by this reference.]

Section 4. Form of the Bonds. The Bonds shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Exhibit E and incorporated herein by this reference.

Section 5. Tax Provisions.

(A) Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Bonds as the same becomes due, the full faith, credit and resources of the Village are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the Village a direct annual irrepealable tax in the years 2012 through 2015 for the payments due in the years 2013 through 2016 in the amounts set forth on the Schedule. The amount of tax levied in the year 2012 shall be the total amount of debt service due on the Bonds in the years 2012 and 2013; provided that the amount of such tax carried onto the tax rolls shall be abated by any amounts appropriated pursuant to subsection (D) below which are applied to payment of principal of or interest on the Bonds in the year 2012.

(B) Tax Collection. So long as any part of the principal of or interest on the Bonds remains unpaid, the Village shall be and continue without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Bonds, said tax shall be, from year to year, carried onto the tax roll of the Village and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the Village for said years are collected, except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus money in the Debt Service Fund Account created below.

(C) Additional Funds. If at any time there shall be on hand insufficient funds from the aforesaid tax levy to meet principal and/or interest payments on said Bonds when due, the requisite amounts shall be paid from other funds of the Village then available, which sums shall be replaced upon the collection of the taxes herein levied.

(D) Appropriation. The Village hereby appropriates from amounts levied to pay debt service on the Refunded Obligations or other funds of the Village on hand a sum sufficient to be irrevocably deposited in the segregated Debt Service Fund Account created below and used to pay the interest on the Bonds coming due on October 1, 2012 as set forth on the Schedule.

Section 6. Segregated Debt Service Fund Account.

(A) Creation and Deposits. There be and there hereby is established in the treasury of the Village, if one has not already been created, a debt service fund, separate and distinct from every other fund, which shall be maintained in accordance with generally accepted accounting principles. Debt service or sinking funds established for obligations previously issued by the Village may be considered as separate and distinct accounts within the debt service fund.

Within the debt service fund, there hereby is established a separate and distinct account designated as the "Debt Service Fund Account for \$905,000 General Obligation Refunding Bonds, dated April 23, 2012" (the "Debt Service Fund Account") and such account shall be maintained until the indebtedness evidenced by the Bonds is fully paid or otherwise extinguished. The Village Treasurer shall deposit in the Debt Service Fund Account (i) all accrued interest received by the Village at the time of delivery of and payment for the Bonds; (ii) any premium not used for the Refunding which may be received by the Village above the par

value of the Bonds and accrued interest thereon; (iii) all money raised by the taxes herein levied and any amounts appropriated for the specific purpose of meeting principal of and interest on the Bonds when due; (iv) such other sums as may be necessary at any time to pay principal of and interest on the Bonds when due; (v) surplus monies in the Borrowed Money Fund as specified below; and (vi) such further deposits as may be required by Section 67.11, Wisconsin Statutes.

(B) Use and Investment. No money shall be withdrawn from the Debt Service Fund Account and appropriated for any purpose other than the payment of principal of and interest on the Bonds until all such principal and interest has been paid in full and the Bonds canceled; provided (i) the funds to provide for each payment of principal of and interest on the Bonds prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due or in other investments permitted by law; and (ii) any funds over and above the amount of such principal and interest payments on the Bonds may be used to reduce the next succeeding tax levy, or may, at the option of the Village, be invested by purchasing the Bonds as permitted by and subject to Section 67.11(2)(a), Wisconsin Statutes, or in permitted municipal investments under the pertinent provisions of the Wisconsin Statutes ("Permitted Investments"), which investments shall continue to be a part of the Debt Service Fund Account. Any investment of the Debt Service Fund Account shall at all times conform with the provisions of the Internal Revenue Code of 1986, as amended (the "Code") and any applicable Treasury Regulations (the "Regulations").

(C) Remaining Monies. When all of the Bonds have been paid in full and canceled, and all Permitted Investments disposed of, any money remaining in the Debt Service Fund Account shall be transferred and deposited in the general fund of the Village, unless the Village Board directs otherwise.

Section 7. Proceeds of the Bonds; Segregated Borrowed Money Fund. The proceeds of the Bonds (the "Bond Proceeds") (other than any premium not used for the Refunding and accrued interest which must be paid at the time of the delivery of the Bonds into the Debt Service Fund Account created above) shall be deposited into a special fund separate and distinct from all other funds of the Village and disbursed solely for the purpose for which borrowed or for the payment of the principal of and the interest on the Bonds. Monies in the Borrowed Money Fund may be temporarily invested in Permitted Investments. Any monies, including any income from Permitted Investments, remaining in the Borrowed Money Fund after the purpose for which the Bonds have been issued has been accomplished, and, at any time, any monies as are not needed and which obviously thereafter cannot be needed for such purpose shall be deposited in the Debt Service Fund Account.

Section 8. No Arbitrage. All investments made pursuant to this Resolution shall be Permitted Investments, but no such investment shall be made in such a manner as would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or the Regulations and an officer of the Village, charged with the responsibility for issuing the Bonds, shall certify as to facts, estimates, circumstances and reasonable expectations in existence on the date of delivery of the Bonds to the Purchaser which will permit the conclusion that the Bonds are not "arbitrage bonds," within the meaning of the Code or Regulations.

Section 9. Compliance with Federal Tax Laws. (a) The Village represents and covenants that the projects financed by the Bonds and by the Refunded Obligations and the ownership, management and use of the projects will not cause the Bonds or the Refunded Obligations to be "private activity bonds" within the meaning of Section 141 of the Code. The Village further covenants that it shall comply with the provisions of the Code to the extent necessary to maintain the tax-exempt status of the interest on the Bonds including, if applicable, the rebate requirements of Section 148(f) of the Code. The Village further covenants that it will not take any action, omit to take any action or permit the taking or omission of any action within its control (including, without limitation, making or permitting any use of the proceeds of the Bonds) if taking, permitting or omitting to take such action would cause any of the Bonds to be an arbitrage bond or a private activity bond within the meaning of the Code or would otherwise cause interest on the Bonds to be included in the gross income of the recipients thereof for federal income tax purposes. The Village Clerk or other officer of the Village charged with the responsibility of issuing the Bonds shall provide an appropriate certificate of the Village certifying that the Village can and covenanting that it will comply with the provisions of the Code and Regulations.

(b) The Village also covenants to use its best efforts to meet the requirements and restrictions of any different or additional federal legislation which may be made applicable to the Bonds provided that in meeting such requirements the Village will do so only to the extent consistent with the proceedings authorizing the Bonds and the laws of the State of Wisconsin and to the extent that there is a reasonable period of time in which to comply.

Section 10. Designation as Qualified Tax-Exempt Obligations. The Bonds are hereby designated as "qualified tax-exempt obligations" for purposes of Section 265 of the Code, relating to the ability of financial institutions to deduct from income for federal income tax purposes, interest expense that is allocable to carrying and acquiring tax-exempt obligations.

Section 11. Execution of the Bonds; Closing; Professional Services. The Bonds shall be issued in printed form, executed on behalf of the Village by the manual or facsimile signatures of the President and Village Clerk, authenticated, if required, by the Fiscal Agent (defined below), sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the Purchaser upon payment to the Village of the purchase price thereof, plus accrued interest to the date of delivery (the "Closing"). The facsimile signature of either of the officers executing the Bonds may be imprinted on the Bonds in lieu of the manual signature of the officer but, unless the Village has contracted with a fiscal agent to authenticate the Bonds, at least one of the signatures appearing on each Bond shall be a manual signature. In the event that either of the officers whose signatures appear on the Bonds shall cease to be such officers before the Closing, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the Closing. The aforesaid officers are hereby authorized and directed to do all acts and execute and deliver the Bonds and all such documents, certificates and acknowledgements as may be necessary and convenient to effectuate the Closing. The Village hereby authorizes the officers and agents of the Village to enter into, on its behalf, agreements and contracts in conjunction with the Bonds, including but not limited to agreements and contracts for legal, trust, fiscal agency, disclosure and continuing disclosure, and rebate

calculation services. Any such contract heretofore entered into in conjunction with the issuance of the Bonds is hereby ratified and approved in all respects.

Section 12. Payment of the Bonds; Fiscal Agent. The principal of and interest on the Bonds shall be paid by the Village Clerk or Village Treasurer (the "Fiscal Agent").

Section 13. Persons Treated as Owners; Transfer of Bonds. The Village shall cause books for the registration and for the transfer of the Bonds to be kept by the Fiscal Agent. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on any Bond shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Any Bond may be transferred by the registered owner thereof by surrender of the Bond at the office of the Fiscal Agent, duly endorsed for the transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer, the President and Village Clerk shall execute and deliver in the name of the transferee or transferees a new Bond or Bonds of a like aggregate principal amount, series and maturity and the Fiscal Agent shall record the name of each transferee in the registration book. No registration shall be made to bearer. The Fiscal Agent shall cancel any Bond surrendered for transfer.

The Village shall cooperate in any such transfer, and the President and Village Clerk are authorized to execute any new Bond or Bonds necessary to effect any such transfer.

Section 14. Record Date. The fifteenth day of each calendar month next preceding each interest payment date shall be the record date for the Bonds (the "Record Date"). Payment of interest on the Bonds on any interest payment date shall be made to the registered owners of the Bonds as they appear on the registration book of the Village at the close of business on the Record Date.

Section 15. Utilization of The Depository Trust Company Book-Entry-Only System. In order to make the Bonds eligible for the services provided by The Depository Trust Company, New York, New York ("DTC"), the Village agrees to the applicable provisions set forth in the Blanket Issuer Letter of Representations previously executed on behalf of the Village and on file in the Village Clerk's office.

Section 16. Official Statement. The Village Board hereby approves the Preliminary Official Statement with respect to the Bonds and deems the Preliminary Official Statement as "final" as of its date for purposes of SEC Rule 15c2-12 promulgated by the Securities and Exchange Commission pursuant to the Securities and Exchange Act of 1934 (the "Rule"). All actions taken by officers of the Village in connection with the preparation of such Preliminary Official Statement and any addenda to it or Final Official Statement are hereby ratified and approved. In connection with the Closing, the appropriate Village official shall certify the Preliminary Official Statement and any addenda or Final Official Statement. The Village Clerk shall cause copies of the Preliminary Official Statement and any addenda or Final Official Statement to be distributed to the Purchaser.

Section 17. Continuing Disclosure. The continuing disclosure requirements of the Rule are not applicable to the Bonds because the Bonds are a primary offering of less than \$1,000,000.

Section 18. Redemption of the Refunded Obligations. The Refunded Obligations are hereby called for prior payment and redemption on May 3, 2012 at a price of par plus accrued interest to the date of redemption.

The Village hereby directs the Village Clerk to work with Baird to cause timely notice of redemption, in substantially the form attached hereto as Exhibit F and incorporated herein by this reference (the "Notice"), to be provided at the times, to the parties and in the manner set forth on the Notice. All actions heretofore taken by the officers and agents of the Village to effectuate the redemption of the Refunded Obligations are hereby ratified and approved.

Section 19. Record Book. The Village Clerk shall provide and keep the transcript of proceedings as a separate record book (the "Record Book") and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing the Bonds in the Record Book.

Section 20. Bond Insurance. If the Purchaser of the Bonds determines to obtain municipal bond insurance with respect to the Bonds, the officers of the Village are authorized to take all actions necessary to obtain such municipal bond insurance. The President and Village Clerk are authorized to agree to such additional provisions as the bond insurer may reasonably request and which are acceptable to the President and Village Clerk including provisions regarding restrictions on investment of Bond proceeds, the payment procedure under the municipal bond insurance policy, the rights of the bond insurer in the event of default and payment of the Bonds by the bond insurer and notices to be given to the bond insurer. In addition, any reference required by the bond insurer to the municipal bond insurance policy shall be made in the form of Bond provided herein.

Section 21. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Village Board or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Adopted, approved and recorded April 2, 2012.

Carl Krueger
President

ATTEST:

Russell Van Gompel
Village Clerk

(SEAL)

EXHIBIT A

Official Notice of Sale

To be provided by Robert W. Baird & Co. Incorporated and incorporated into the Resolution.

(See Attached)

DRAFT

EXHIBIT B

Bid Tabulation

To be provided by Robert W. Baird & Co. Incorporated and incorporated into the Resolution.

(See Attached)

DRAFT

EXHIBIT C

Winning Bid

To be provided by Robert W. Baird & Co. Incorporated and incorporated into the Resolution.

(See Attached)

DRAFT

EXHIBIT D-1

Pricing Summary

To be provided by Robert W. Baird & Co. Incorporated and incorporated into the Resolution.

(See Attached)

DRAFT

EXHIBIT D-2

Debt Service Schedule and Irrepealable Tax Levies

To be provided by Robert W. Baird & Co. Incorporated and incorporated into the Resolution.

(See Attached)

DRAFT

[EXHIBIT MRP

Mandatory Redemption Provision

The Bonds due on April 1, _____, _____, _____ and _____ (the "Term Bonds") are subject to mandatory redemption prior to maturity by lot (as selected by the Depository) at a redemption price equal to One Hundred Percent (100%) of the principal amount to be redeemed plus accrued interest to the date of redemption, from debt service fund deposits which are required to be made in amounts sufficient to redeem on April 1 of each year the respective amount of Term Bonds specified below:

For the Term Bonds Maturing on April 1, _____

<u>Redemption Date</u>	<u>Amount</u>
_____	\$ _____
_____	_____
_____	_____ (maturity)

For the Term Bonds Maturing on April 1, _____

<u>Redemption Date</u>	<u>Amount</u>
_____	\$ _____
_____	_____
_____	_____ (maturity)

For the Term Bonds Maturing on April 1, _____

<u>Redemption Date</u>	<u>Amount</u>
_____	\$ _____
_____	_____
_____	_____ (maturity)

For the Term Bonds Maturing on April 1, _____

<u>Redemption Date</u>	<u>Amount</u>
_____	\$ _____
_____	_____
_____	_____ (maturity)]

EXHIBIT E

(Form of Bond)

REGISTERED UNITED STATES OF AMERICA DOLLARS
STATE OF WISCONSIN
MILWAUKEE COUNTY
NO. R-___ VILLAGE OF BROWN DEER \$_____
GENERAL OBLIGATION REFUNDING BOND

MATURITY DATE: ORIGINAL DATE OF ISSUE: INTEREST RATE: CUSIP:
April 1, _____ April 23, 2012 _____% _____

DEPOSITORY OR ITS NOMINEE NAME: CEDE & CO.

PRINCIPAL AMOUNT: _____ THOUSAND DOLLARS
(\$_____)

FOR VALUE RECEIVED, the Village of Brown Deer, Milwaukee County, Wisconsin (the "Village"), hereby acknowledges itself to owe and promises to pay to the Depository or its Nominee Name (the "Depository") identified above (or to registered assigns), on the maturity date identified above, the principal amount identified above, and to pay interest thereon at the rate of interest per annum identified above, all subject to the provisions set forth herein regarding redemption prior to maturity. Interest is payable semi-annually on April 1 and October 1 of each year commencing on October 1, 2012 until the aforesaid principal amount is paid in full. Both the principal of and interest on this Bond are payable to the registered owner in lawful money of the United States. Interest payable on any interest payment date shall be paid by wire transfer to the Depository in whose name this Bond is registered on the Bond Register maintained by the Village Clerk or Village Treasurer (the "Fiscal Agent") or any successor thereto at the close of business on the 15th day of the calendar month next preceding the semi-annual interest payment date (the "Record Date"). This Bond is payable as to principal upon presentation and surrender hereof at the office of the Fiscal Agent.

For the prompt payment of this Bond together with interest hereon as aforesaid and for the levy of taxes sufficient for that purpose, the full faith, credit and resources of the Village are hereby irrevocably pledged.

This Bond is one of an issue of Bonds aggregating the principal amount of \$905,000, all of which are of like tenor, except as to denomination, interest rate and maturity date, issued by the Village pursuant to the provisions of Section 67.04, Wisconsin Statutes, for the purpose of paying the cost of refunding certain outstanding obligations of the Village, all as authorized by a resolution of the Village Board duly adopted by said governing body at a meeting held on April 2, 2012. Said resolution is recorded in the official minutes of the Village Board for said date.

This Bond is not subject to optional redemption.

[The Bonds maturing in the years _____, _____ and _____ are subject to mandatory redemption by lot as provided in the resolution authorizing the Bonds at the redemption price of par plus accrued interest to the date of redemption and without premium.]

It is hereby certified and recited that all conditions, things and acts required by law to exist or to be done prior to and in connection with the issuance of this Bond have been done, have existed and have been performed in due form and time; that the aggregate indebtedness of the Village, including this Bond and others issued simultaneously herewith, does not exceed any limitation imposed by law or the Constitution of the State of Wisconsin; and that a direct annual irrevocable tax has been levied sufficient to pay this Bond, together with the interest thereon, when and as payable.

This Bond has been designated by the Village Board as a "qualified tax-exempt obligation" pursuant to the provisions of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

This Bond is transferable only upon the books of the Village kept for that purpose at the office of the Fiscal Agent, only in the event that the Depository does not continue to act as depository for the Bonds, and the Village appoints another depository, upon surrender of the Bond to the Fiscal Agent, by the registered owner in person or his duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer (which may be endorsed hereon) satisfactory to the Fiscal Agent duly executed by the registered owner or his duly authorized attorney. Thereupon a new fully registered Bond in the same aggregate principal amount shall be issued to the new depository in exchange therefor and upon the payment of a charge sufficient to reimburse the Village for any tax, fee or other governmental charge required to be paid with respect to such registration. The Fiscal Agent shall not be obliged to make any transfer of the Bonds after the Record Date. The Fiscal Agent and Village may treat and consider the Depository in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes whatsoever. The Bonds are issuable solely as negotiable, fully-registered Bonds without coupons in the denomination of \$5,000 or any integral multiple thereof.

No delay or omission on the part of the owner hereof to exercise any right hereunder shall impair such right or be considered as a waiver thereof or as a waiver of or acquiescence in any default hereunder.

IN WITNESS WHEREOF, the Village of Brown Deer, Milwaukee County, Wisconsin, by its governing body, has caused this Bond to be executed for it and in its name by the manual or facsimile signatures of its duly qualified President and Village Clerk; and to be sealed with its official or corporate seal, if any, all as of the original date of issue specified above.

VILLAGE OF BROWN DEER,
MILWAUKEE COUNTY, WISCONSIN

By: _____
Carl Krueger
President

(SEAL)

By: _____
Russell Van Gompel
Village Clerk

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and Address of Assignee)

(Social Security or other Identifying Number of Assignee)

the within Bond and all rights thereunder and hereby irrevocably constitutes and appoints _____, Legal Representative, to transfer said Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

(e.g. Bank, Trust Company
or Securities Firm)

(Depository or Nominee Name)

NOTICE: This signature must correspond with the name of the Depository or Nominee Name as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

(Authorized Officer)

EXHIBIT F

NOTICE OF FULL CALL*

Regarding

VILLAGE OF BROWN DEER
MILWAUKEE COUNTY, WISCONSIN
GENERAL OBLIGATION CAPITAL IMPROVEMENT BONDS
DATED DECEMBER 1, 2001

NOTICE IS HEREBY GIVEN that the Bonds of the above-referenced issue which mature on the dates and in the amounts; bear interest at the rates; and have CUSIP Nos. as set forth below have been called by the Village for prior payment on May 3, 2012 at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the date of prepayment:

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP No.</u>
04/01/13	\$210,000	4.30%	115565FW8
04/01/14	220,000	4.40	115565FX6
04/01/15	230,000	4.50	115565FY4
04/01/16	245,000	4.55	115565FZ1

The Village shall deposit federal or other immediately available funds sufficient for such redemption at the office of The Depository Trust Company on or before May 3, 2012.

Said Bonds will cease to bear interest on May 3, 2012.

By Order of the
Village Board
Village of Brown Deer
Village Clerk

Dated _____

* To be provided by registered or certified mail to The Depository Trust Company, Attn: Supervisor, Call Notification Department, 55 Water Street, 50th Floor, New York, NY 10041-0099, not less than thirty (30) days nor more than sixty (60) days prior to May 3, 2012 and to the MSRB. Notice shall also be provided to MBIA Insurance Corporation, or any successor, the bond insurer of the Bonds.

In addition, if the Bonds are subject to the continuing disclosure requirements of SEC Rule 15c2-12 effective July 3, 1995, this Notice should be filed electronically with the MSRB through the Electronic Municipal Market Access (EMMA) System website at www.emma.msrb.org.



REQUEST FOR CONSIDERATION

COMMITTEE:	Village Board
ITEM DESCRIPTION:	Informational Meeting regarding Pedestrian and Vehicle Traffic on North 60th Between West Bradley Road and West Dean Road
PREPARED BY:	Russell Van Gompel, Village Manager 
REPORT DATE:	March 29, 2012
MANAGER'S REVIEW/COMMENTS:	<input type="checkbox"/> No additional comments to this report. <input type="checkbox"/> See additional comments attached.
RECOMMENDATION:	To set an informational meeting date regarding the Pedestrian and Vehicle Traffic on North 60th Street Between West Bradley Road and West Dean Road.
EXPLANATION:	<p>The Village Board discussed alternatives presented by the Traffic and Public Safety Committee on dealing with pedestrian and vehicle traffic issues along North 60th Street at the March 19, 2012 Village Board meeting. The consensus of the Board was to establish an informational meeting to present the alternatives and to solicit input from area residents.</p> <p>I have contacted the Brown Deer School District for possible dates and would suggest that an informational meeting be scheduled for April 17th in the Brown Deer Middle School cafeteria.</p>



REQUEST FOR CONSIDERATION

COMMITTEE CONSIDERATION:	Village Board
ITEM DESCRIPTION:	Adoption of new Brown Deer Fire Code
PREPARED BY:	Nathaniel Piotrowski, Community Development Director
REPORT DATE:	March 28, 2012
MANAGER'S REVIEW/COMMENTS:	<input checked="" type="checkbox"/> No additional comments to this report. <input type="checkbox"/> See additional comments attached.

R V. Goyzal

BACKGROUND INFORMATION:

Staff has worked with the North Shore Fire Department to update the Village's Fire Code. The Fire Code is adopted by reference in the Village Code as Section 20-1. The current Fire Code is outdated and was last revised in the mid 1990's. The proposed code will update language to match current state and national standards. It also clarifies the authorities having jurisdiction over the code enforcement (either NSFD or Village of Brown Deer. Lastly the code has been updated to provide much clearer language regarding open/outdoor burning, making it allowable under certain controlled situations. Dave Lind, Fire Marshall will be in attendance to answer any additional questions that may arise.

RECOMMENDATION:

Staff recommends that the Village Board adopt the new Fire Code

Please contact Nate Piotrowski with any questions or comments at 371-3061.

FIRE PREVENTION CODE

Section 1	Definitions
Section 2	Adoption of Wisconsin State Codes, Administrative Rules and National Fire Protection Association Codes and Standards
Section 3	Application to New and Existing Structures
Section 4	Hazardous Conditions and Structures
Section 5	Duties and Rights of the Fire Chief
Section 6	Correction Order Process
Section 7	Appeals
Section 8	Occupant Load Signage
Section 9	Permits and Fees
Section 10	Investigation of Fires
Section 11	Fire Hydrant Requirements on Private Property
Section 12	Automatic Sprinkler Systems
Section 13	Automatic Alarm and Detection Systems
Section 14	False Alarms
Section 15	Open Burning, Outdoor Burning and Open Flame Devices
Section 16	Tents Over 400 Sq. Ft.
Section 17	Hazardous Materials
Section 18	Cost Recovery
Section 19	Penalties
Section 20	Injunctive Relief

Section 1 Definitions

Unless otherwise expressly stated, the following terms shall, for the purpose of this code, have the meanings in this chapter.

(A) **Address Numbers**: Address numbers shall be placed on all buildings and structures.

(B) **Appeals**: Appeals to any of the provisions contained herein or referenced in this Ordinance or the enforcement of any provision contained herein shall be directed to the Chief of the North Shore Fire Department or his/her designee and shall follow the Village of Brown Deer process established for appeals.

(C) **Approved**: Acceptable to the Chief of the Fire Department or his/her designee as a result of his/her investigation and experience, or by reason of testing, listing or approval by nationally recognized testing authorities.

(D) **Authority Having Jurisdiction (AHJ)**: For purposes of this ordinance AHJ shall mean the Chief of the North Shore Fire Department or his/her designee(s).

(E) **Automatic Fire Alarm System**: A system designed to automatically detect a fire or smoke condition through automatic or manual means and initiates audible/visual fire alarm notification devices. The fire alarm signal is monitored by a listed third party who will without delay notify North Shore Dispatch sending with the Fire Department.

(F) **Automatic Fire Sprinkler Equipment**: A system of integrated piping designed in accordance with NFPA Standards (13, 13R, 13D) which may include underground and above ground piping. The system includes a suitable water supply, such as a gravity tank, fire pump, reservoir or pressure tank and/or connection of underground piping to a municipal water main. The portion of the sprinkler system above ground is a network of specially sized or hydraulically designed piping installed in a building structure or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes suitable control valves, a double detector check valve and a device for actuating an alarm when the system is initiated.

(G) **Bonfire**: means a small outdoor fire that may or may not be associated with cooking that is kindled and maintained in an approved container that is not more than 33 inches in diameter or 6 square feet and not greater than 12 inches high.

(H) **Ceremonial fire**: means a small outdoor fire intended for recreation not associated with cooking that is not greater than 5 feet in diameter and wood being burned is not greater than 3 feet high. This does not include a fire intended for disposal of waste wood or refuse.

- (I) Clean Wood: means natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives and does not contain resins or glues as in plywood or other composite wood products.
- (J) Confidential Papers: means printed material containing personal identification or financial information that the owner wishes to destroy.
- (K) Defective or Dilapidated Building: Any building, structure or portion thereof which for want of repairs, lack of sufficient Fire escapes, automatic or other fire alarm apparatus, or fire extinguishing equipment, or by reason of age or dilapidated conditions, or from any other cause, is especially liable to fire and which is so situated as to endanger other property or the occupants thereof, and whenever the AHJ or his/her designee shall find in any building combustible waste material, explosive matter or flammable conditions dangerous to the safety of such building or the occupants.
- (L) Dwelling: means a building or space within a building as part of a mixed use occupied exclusively for residential purposes and having not more than two apartments, or as a boarding or rooming house serving not more than five persons with meals or sleeping accommodations or both.
- (M) False Alarm: An emergency response by the Fire Department when no emergency exists because of the intentional activation of any alarm notification appliance or detection device. Any alarm or detection equipment that has been identified by the fire department or by the alarm inspection company as part of the annual fire alarm inspection as defective, improperly located, improperly maintained that generates an emergency response shall be deemed a false alarm if corrective measures are not taken immediately to prevent a second activation of the same device.
- (N) Fire Department: As used throughout this document it is understood to mean the North Shore Fire Department (NSFD).
- (O) Fire Department Connection (FDC): The FDC shall be in a location acceptable to the AHJ and shall have an exterior strobe or horn/strobe located above. The FDC shall include not less than a 2 ½ inch Siamese connection. The AHJ reserves the right to request a single 5 inch connection based on use and water supply or both.
- (P) Fire District: The seven (7) communities that are served by the North Shore Fire Department, Bayside, Brown Deer, Fox Point, Glendale, River Hills, Shorewood and Whitefish Bay.
- (Q) Fire Lane(s): The AHJ may order "Fire Lane" signs to be erected and may designate the placement thereof to insure adequate ingress and egress for responding emergency vehicles and equipment.
- (R) Governing Authority: The Village of Brown Deer shall operate as the Governing Authority exercising final decision making authority over the Authority Having Jurisdiction.
- (S) Hazardous Materials: means any materials of a solid, liquid, gaseous or semi-solid form which, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or pose a substantial present or potential hazard to human health or the environment. Such material includes, but is not limited to, material, which is toxic, carcinogenic, or flammable or other material set forth in Sec. 144.01(4m), Wis. Stats. as amended from time to time. Such material also includes irritants and strong oxidizers or materials, which generate pressure because of decomposition or heat. Toxic material includes containers and receptacles previously used in transportation, storage, use or application or material described herein as hazardous material.
- (T) ICC Container: means any container approved by the Interstate Commerce Commission for shipping any liquid, gaseous or solid material of a flammable toxic or other hazardous nature.
- (U) KNOX Box: A security key box system, specified by the North Shore Fire Department.
- (V) Multi-Family Dwelling: means a building or portion thereof, containing three or more dwelling units.
- (W) Municipality: As used throughout this document, municipality shall mean the Village of Brown Deer.
- (X) Obstruction(s): Whenever the Fire Department shall find in any building or upon any premises dangerous accumulations of rubbish, accumulations of waste paper, boxes, shavings or any materials which are so situated as to endanger life or property, or shall find obstructions to or on any fire escapes, stairs, passageways, corridors, halls, loading platforms, doors or windows liable to interfere with operations, emergency equipment, egress of occupants in case of emergency, the inspector or person(s) on site shall order the correction of or immediate removal of said items. If the entrance(s), exit walkway(s), driveway(s), or sidewalk(s) are found to be obstructed by snow, debris, construction material, vehicles, or in a condition liable to interfere with the ingress/egress or the operation

of fire apparatus, other emergency vehicles, emergency personnel or cause a delay or pose a negative impact to the occupants of the building's ability to safely evacuate; the AHJ or his/her designee on site shall order the immediate correction.

(Y) Open Burning: means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

(Z) Outdoor Burning: means open burning or burning in an outdoor wood-fired furnace.

(AA) Person: means and includes person, persons, firm, corporation(s), limited liability corporation(s) or partnership(s).

(BB) Public Buildings and Places of Employment: "Public building" means any structure, including exterior parts of such building, such as a porch, exterior platform, or steps providing means of ingress or egress, used in whole or in part as a place of resort, assemblage, lodging, trade, traffic, occupancy, or use by the public or by 3 or more tenants. When used in relation to building codes, "public building" does not include a previously constructed building used as a community-based residential facility as defined in WI State Statutes s. 50.01 (1g) which serves 20 or fewer residents who are not related to the operator or administrator or an adult family home, as defined in s. 50.01 Place of employment" includes every place, whether indoors or out or underground and the premises appurtenant thereto where either temporarily or permanently any industry, trade, or business is carried on, or where any process or operation, directly or indirectly related to any industry, trade, or business, is carried on, and where any person is, directly or indirectly, employed by another for direct or indirect gain or profit, but does not include any place where persons are employed in private domestic service which does not involve the use of mechanical power or in farming. When used with relation to building codes, "place of employment" does not include an adult family home, as defined in WI State Statutes s. 50.01 (1), or, except for the purposes of s. 101.11, a previously constructed building used as a community-based residential facility, as defined in s. 50.01 (1g), which serves 20 or fewer residents who are not related to the operator or administrator.

(CC) Refuse: means any waste material except clean wood.

(DD) Roof Access: In every commercial or multi-family building and structure there shall be provided a permanent means of access to the attic or roof. All attics and roofs of commercial and multi-family buildings and structures shall be accessible by means of a stairway or scuttle. If the scuttle opening in the attic floor is provided in lieu of a stairway, the same shall be located in a public hallway situated below the attic floor and shall be provided with an approved fixed ladder or balanced stairway to such opening, securely anchored in place. Roof and ceiling scuttles of commercial and multi-family buildings and structures shall be at least two feet by three feet, and roof scuttles shall be located immediately above the attic stairway or ceiling scuttle or in a location approved by the Fire Department or the Building Inspector. The roof scuttle access cover shall be of a non-combustible material with a rating not less than the ceiling assembly it is installed in and shall be secured in place by means acceptable to the Building Inspector and/or the NSFD.

Section 2 Adoption of Wisconsin and NFPA Codes and Standards

All Orders, Rules and Regulations established and propagated by the Department of Safety and Professional Services, or its successor Administrative Agency, as are set forth in the Wisconsin Administrative Code as from time to time amended, are hereby adopted. The most current legislatively enacted versions of those documents are adopted and will be enforced.

NFPA 1 Fire Code® and NFPA 101 The Life Safety Code® are hereby adopted in their entirety as part of this Chapter and serve as the fire prevention and construction codes for the Village of Brown Deer. The most current available printed edition of the NFPA Codes and Standards are adopted and will be enforced. All codes and standards referenced in any of the code documents adopted herein shall be deemed adopted herein and are codified and have the strength of code.

****Note:** In the event of a conflict between any of the provisions of this Code with State Codes and/or NFPA Codes and Standards and the more restrictive shall control and govern.

(A) Scope:

This Code applies to all of the following but is not limited to:

1. Inspection of permanent and temporary buildings, structures, tents, processes, equipment, systems, and any situations related life safety.
2. Investigation of fires, explosions, hazardous materials incidents, and other related emergency incidents including hazards from outside fires in vegetation, trash, building debris, and other materials.
3. Review of construction plans, drawings, and specifications for life safety systems, fire protection systems, access, water supplies, processes, hazardous materials, and other fire and life safety issues. This applies to existing occupancies and conditions, the design and construction of new buildings, remodeling of existing buildings, and additions to existing buildings.

4. Fire and life safety education provided for department personnel, business owners, public employees, responsible parties, and the general public.
5. Establish and maintain access requirements for fire department operations and control of emergency operations and scenes and conditions affecting fire fighter safety.
6. Regulation and control of special events including, but not limited to, assemblage of people, exhibits, trade shows, amusement parks, haunted houses, outdoor events, and other similar special temporary and permanent occupancies.
7. Interior finish, decorations, furnishings, and other combustibles that contribute to fire spread, fire load, and smoke production.
8. Storage, use, processing, handling, and on-site transportation of flammable and combustible gases, liquids, solids and hazardous material.
9. Establish a permit and fee process which may be changed from time to time as is necessary.

(B) Intent of Code:

The intent of this code is to establish and prescribe regulations consistent with recognized life safety practices for the purpose of safeguarding, to a responsible degree, the life safety of occupants /employees, the general public, emergency personnel and general property protection of commercial buildings or premises from the hazards of fire, explosion, storage handling and use of hazardous substances, materials processing and faulty/ poorly maintained devices or systems and from any other conditions identified as hazardous by the Authority Having Jurisdiction to life safety. This Code shall take effect and be in force from and after approval by the Village Board, and shall not have retroactive or retrospective effect or application. Specifically, the Code does not apply to buildings in the process of construction and buildings for which applications for building permits were made prior to the effective date of this Code; however, it shall apply to additions to existing buildings. This Code shall not be construed to affect the responsibility of any person owning, operating or installing any equipment for damage to persons or property caused by any defect therein, nor shall the Village of Brown Deer be held as assuming any such liability by reason of the inspection or re-inspection authorized herein or the permit as herein provided or by reason of the approval or disapproval of any equipment authorized herein.

Section 3 Applications to New and Existing Conditions:

The provisions of this document and all adopted and referenced documents shall not be applied retroactively to any building or any project that was found in conformity to the codes and regulations in effect at the time of the issuance of the original building permit and occupancy.

The provisions of this document shall apply to all new, remodeled, altered and existing commercial buildings or premises except those existing conditions not in strict compliance with the terms of this code or referenced documents shall be permitted to continue where any of the exceptions identified below are met and approved by the Authority Having Jurisdiction.

Exceptions:

1. There is a change of the occupancy classification within the building, space or premise.
2. There is a demonstrated history of noncompliance by the same occupant/owner (more than 2 years) correcting items identified during annual fire inspections.
3. The building has had a fire event regardless of size.
4. The building is or has been modified (altered or added on to) without permits and/or inspections from the Fire Department from its original condition.

NOTE: This code shall not be construed as applying to the transportation of any article or item shipped in conformity with the regulations prescribed by the Interstate Commerce Commission, Department of Transportation or as applying to any state owned or federal facilities owned in-part of whole by the federal government.

Section 4 Hazardous Conditions and Structures

(A) Obstructions:

Whenever the Fire Department shall find any obstruction the AHJ or his/her designee shall order the same to be removed immediately.

(B) Fire Lane Designations:

To insure adequate ingress and egress for responding emergency vehicles and equipment the AHJ may order "No Parking, "Fire Lane" signs be erected and may designate the placement thereof and may order that curbs or pavement be painted in a distinctive color to designate such. The parking, stopping or standing of any vehicle in a designated fire lane shall constitute a violation of this section. Vehicles parked, stopped or standing in clearly identified fire lanes will be referred to the Brown Deer Police Department and the vehicle may be ticketed, towed or impounded and held until the towing and storage charges incurred are paid.

(C) Defective Buildings:

Whenever the Fire Department shall find a defective building, the AHJ or his/her designee shall order such dangerous conditions or materials to be removed or remedied. Exits necessary for proper evacuation or where repairs to any structural part of such building are required, the Fire Department shall notify the Building Inspector who may re-inspect such building or structure, thereafter adding additional requirements or identifying the proper remedies as may be required.

(D) Application:

This section shall apply to all buildings except: private residences and accessory buildings in connection therewith; and temporary buildings or sheds used for construction purposes only. Provided, if any building or structure, whether above exempted or not, is especially liable to catch or cause fire, and is so situated as to endanger other buildings or property, or contains any combustible or explosive material dangerous to the safety of any building or premises or the occupants thereof, or endangering or hindering firemen in case of fire, such building or structure shall be subject to these orders so far as may be necessary to protect adjoining or other buildings and their occupants and firemen.

Section 5 Duties and Rights of the Fire Chief**(A) Administration:**

The following are the duties and powers given to the Fire Chief of the North Shore Fire Department or his/her designee(s) in addition to those specified in State Statutes, State Fire Code (COMM 14) and as specified in the administrative section of NFPA 1.

1. The Chief [or his/her designee(s)] of the North Shore Fire Department shall serve as the Authority Having Jurisdiction (AHJ) and be charged with the enforcement and authority to enforce any and all provisions of this Code and the provisions contained herein.
2. It shall be the duty of the Chief (or his/her designee) of the North Shore Fire Department to investigate and to recommend to the Building Inspection Department and the Village Manager as often as may be necessary such additional ordinances, or amendments to existing ordinances, as he/she may deem necessary for safeguarding life and property against fire and the dangers associated with fire.
3. It shall be the duty of the North Shore Fire Department to enforce all statutory laws and ordinances of the State and those of the Village of Brown Deer. The primary way the safeguarding of commercial properties and those that work in, reside in or frequent such will be accomplished through annual fire inspections. Focus areas of those inspections include but are not limited to:
 - a. The proper storage and use of explosives, flammables, combustibles and hazardous materials whether in a solid, liquid or gaseous form.
 - b. The permitted installation and proper maintenance of automatic fire alarm/detection and extinguishing systems of all types and their related equipment.
 - c. The identification of deficiencies in, on or around any commercial property in the Village that pose a danger and to render suggestions to remedy such items.
 - d. Provide educational programs and training for the business community, public and private sectors that are impacted by fire inspection. The purpose of this designed training shall be to enlighten the audience to recognize and self correct items prior to the inspection process. The goal being to help reduce fires and the injuries, property damage and business interruption associated with fire.

(B) Code Authority:

The North Shore Fire Department shall have concurrent authority and jurisdiction with the Building Inspection Department to enforce those provisions of the Building Code typically understood to be enforced by the Building Inspector. The Building Inspector shall have concurrent authority to enforce those provisions of the Fire Code and this ordinance typically understood to be enforced by the Fire Inspector.

(C) Right of Entry:

It shall be the duty of the Chief of the Fire Department as a Deputy of the State to inspect, or cause to be inspected by the Fire Department officers or members as may be designated by the Chief, all buildings and premises, except the interiors of private apartments, condominiums and one and two family dwellings, as frequently as may be necessary but at least once every year for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or any violations of the provisions or intent of Code and from any other hazard likely to affect the life safety of the occupants, public or emergency personnel.

(D) Complaints:

The Chief of the Fire Department or his/her designee thereof upon receiving a complaint from a citizen, occupant or owner of a business within the Village of Brown Deer, he or they may cause to be inspected any building or premise as is deemed necessary.

Section 6 Correction Order Process:**(A) Documentation:**

Fire inspection corrective order documentation, which identified specific deficiencies in writing to the owner or occupant of any building, space or premise, shall be understood to be an order to correct such deficiencies. All corrections to fire inspection orders shall be made prior to the next scheduled fire inspection rotation. Those items deemed to pose a heightened risk to the life safety of the owner, occupants or emergency responders may be given a specific timeline for correction by the inspection personnel at the time of inspection or by members of the Fire Prevention Bureau and must be adhered to.

(B) Owner or Occupant Responsibility:

If the owner or occupant of the building, space or premise cannot be found, such written order of correction shall be affixed in a conspicuous place on the entrance door to such building or structure or on the premises. Thereafter a copy of the deficiencies shall be mailed to the owner and the occupant addressed to their last known post office address. No person shall remove such affixed notice without the written consent of the Fire Chief. Any such order shall forthwith be complied with by the owner and occupant of such building, structure or premises. The owner or occupant may within 24 hours appeal to the Fire Chief for a review of such order, who shall thereafter as soon as possible file his decision. Unless such order is revoked or modified by the Fire Chief, it shall remain in full force and be complied within the timeline established in said order.

(C) Enforcement and Citations:

The Fire Chief or his/her designee(s) are authorized to enforce all the provisions of this Code. The NSFD shall follow all municipal procedures including requesting citations are issued to the owner or occupant of any building, space or premise for each day an identified violation(s) exists after proper written orders were served. Citations will be issued by the Chief of the Fire Department or his/her designee and be represented in court by the NSFD. The NSFD may request the Village issue a summons and complaint for municipal prosecution. A violation of this ordinance or any condition in violation of this ordinance shall constitute a public nuisance which may be abated, restrained and enjoined by court action. This procedure may be used for any and all matters of demonstrated non-compliance.

The penalty for violation of any portion of this ordinance is covered in the fee section of the Village of Brown Deer Code of Ordinances. Penalties maybe doubled for second and higher for any subsequent offenses.

Section 7 Appeals:

The Village of Brown Deer through its own designation, Governing Authority, shall exercise final authority over the AHJ in all matters related to code interpretation and code enforcement and render final determination in matters requiring resolution or appeal. Any orders written under this Code shall be served in writing. All orders shall be complied with by the owner forthwith of such building, structure or premises. The owner or occupant may within 24 hours of receipt of any such orders appeal to the Fire Chief for a review of such order. The Fire Chief shall thereafter as soon as possible file a written decision. Unless such order is revoked or modified by the Fire Chief, it shall remain in full force and be complied within the time fixed in said order. The owner may then appeal to the Governing Authority (Village) using all processes and procedures necessary. All decisions by the Governing Authority are deemed final.

Section 8 Occupant Load Signage:

As part of the fire inspection of identified assembly use occupancies an occupant load sign will be verified for compliance to mitigate issues related to overcrowding. Facilities or spaces found not to have posted occupant loads will be issued an occupant load number on department forms by Fire Prevention Bureau personnel. Those factors related to life safety i.e., exit doors, corridor or stair width will be taken into account as well as the use of decorative materials, maintenance of exit ways, and maintenance of fire alarm, fire detection and fire extinguishing (sprinkler) systems.

Section 9 Permits and Fees:

The North Shore Fire Department shall have the ability and authority to establish, charge and collect fees for items such as plan review and the inspections associated with them and other items as directed by the Chief of the North Shore Fire Department (See Annex A for permit form and fees). Plans and permits shall be secured from the North Shore Fire Department prior to the start of any new, alteration, addition or remodeling work. Plans shall be submitted electronically or provided in a PDF format. Paper plan submittals will not be returned. Formal conditional plan approval comments will be e-mailed to the submitter in 14 working days.

Section 10 Investigation of Fires:

The NSFD shall investigate the origin and cause of fires by which property has been destroyed or damaged and shall help determine whether the fire is a result of carelessness, faulty design materials or workmanship. If it appears that the fire is of suspicious origin, the Fire Chief or scene commander shall be notified of these facts as soon as possible. He/she or his/her representative shall immediately notify the police department for further investigation and the collection of any physical evidence. The investigation of

such suspicious matters shall be the sole jurisdiction of the Village of Brown Deer police department and any other agency or personnel they choose to be involved in the collection of evidence and in the prosecution of the case. A fire incident report should be filed within 24 hours of every fire. The report shall contain a statement of all facts known relating to the origin, cause and circumstances of such fire and other information as may be required.

Section 11 Fire Hydrant Requirements on Private Property

(A) **Intent:**

The intent of this section is to insure adequate water supply for fire fighting purposes to existing or new structures, buildings, tank farms, lumber yards, commercial or industrial complexes located at extended distances from water hydrants on private property.

(B) **Where Required:**

Any commercial complex or structure hereafter erected, or structurally altered, the Brown Deer Water Utility shall specify and may provide at the owners expense an approved water hydrant system when such building is set back 250 feet or more from any street, roadway or highway or is located more than 300 feet from that communities closest municipal hydrant. Required hydrants shall be free standing and shall be located not closer than 50 feet from the building. One hydrant shall be located not more than 150 feet from the FDC. Additional hydrants shall be provided around the perimeter of the building so that no water hydrant is more than 300 feet from any other approved hydrant by normal access routes. The bonnet of all hydrants shall be properly colored (meeting the NFPA standard) to indicate its flow rate in gallons per minute.

(C) **Fire Equipment on Private Property:**

A Fire Department authorized representative will assist in the approval of all fire hydrants for commercial, industrial or institutional buildings or properties. A permit issued by the Water Utility and/or Building Inspection Department must be sought before such equipment may be installed. Hydrants to be used on such properties shall be of the type approved by the Brown Deer Water Utility. Hydrant placement and specifications for cover shall be specified by the Water Utility. Connection points on all hydrants shall be of sufficient height above the finished property grade to allow for connection in all climate conditions.

Section 12 Automatic Sprinkler Systems

(A) **Intent:**

The intent of this section is to provide a means for the automatic extinguishment of fires in buildings which, because of their size, construction or occupancy classification or lack of suitable protective equipment, constitute a special fire hazard to life or property and may pose an excessive burden upon the firefighting resources of the North Shore Fire Department.

(B) **Where Installed:**

Every building hereinafter constructed or structurally altered shall have an approved automatic sprinkler system installed and maintained when occupied in whole or in part for the following purposes:

1. Throughout all buildings used for the manufacture, storage or sale of combustible goods or merchandise.
2. Throughout all garages used for commercial purposes or a passenger of freight terminals.
3. Basements: Throughout the entire basement.
4. Multi-Family Residences: Throughout the entire building.
5. Hospitals, Nursing, Convalescent, Old Age, and Other Institutional Buildings, Offices, Hotels, Motels, Restaurants and Places of Detention: Throughout the entire building.
6. Theaters, Assembly and Recreational Buildings: Throughout the entire building.
7. Schools, Colleges and Universities: Throughout the entire building.
8. Especially Hazardous Occupancies (See the most current NFPA Hazard Categories for a complete list. A copy of which is on file with the North Shore Fire Department)

(a) Prior to issuance of any building permit or occupancy permit, the Building Inspector and the Fire Chief or his/her designee, shall jointly review the plans, processes and materials involved. When upon review, it is determined that highly combustible processes or occupancy conditions exist, it shall be required that an adequate and approved fire extinguishment system be installed in buildings and/or designated hazardous areas in buildings.

(b) Examples of occupancies considered highly combustible:

Chemical Works, Explosive and Pyrotechnics Manufacturing, Linseed Oil Mills, Linoleum and Oil Cloth Manufacturing, Paint Shops, Phroxylin Manufacturing and Processing, Solvent Extract Extracting, Varnish Works, Combustible Dusts, Occupancies Involving Processing, Mixing, Storage and Dispensing of Volatile Flammable Liquids, Commercial or Institutional Kitchen Hoods, Vents and Ducts.

(C) How Installed:

Approved fire extinguishing systems shall be installed in accordance with current editions of N.F.P.A. Standards (13, 13R, 13D) or other standards which substantially meet or exceed N.F.P.A. standards as approved by the North Shore Fire Department.

(D) Maintenance of Equipment:

Sprinkler systems, standpipe systems, and any other fire protective or extinguishing systems or appliances which have been installed in compliance with any permit or order, or because of any law or ordinance, it shall be unlawful for any owner or occupant to reduce the effectiveness of the protection so required; except this shall not prohibit the owner or occupant from temporarily reducing or discontinuing the protection where necessary to make tests, repairs alterations or additions. The Fire Department shall be notified before such tests, repairs, alterations or additions are started. Written certification/documentation that every life safety system has been tested annually will be maintained on site for and produced during the annual fire inspection. All annual tests shall comply with the appropriate NFPA standard and meet any and all credential requirements as so directed by the State of Wisconsin or North Shore Fire Department.

Where any fire suppression systems are taken out of service for 4 or more hours, a Fire watch shall be put in place. The fire watch shall consist of one or more qualified persons to serve as watchers and shall familiarize themselves with all fire protection facilities and fire prevention features and with the condition of exits and shall patrol the entire building until such fire/life safety systems are put back in service. Fire watch procedures shall be submitted in writing to the AHJ and are subject to approval.

(E) Exemption and Substitution of Other Fire Protection Equipment and Alarm Systems:

Nothing herein shall be construed as requiring the installation of sprinklers where the application of water may cause or increase fire or may increase the hazard. Nothing in this section shall be construed in any way to interfere with the substitution of other automatic protective equipment or substitutions approved by the North Shore Fire Department.

Section 13 **Automatic Alarm and Detection Systems**

(A) Intent:

The intent of this section is to insure adequate detection, early warning and notification exists in new and existing commercial structures located within the Village of Brown Deer.

(B) Where Installed:

Every building hereinafter constructed or structurally altered shall have an approved fire alarm system installed and maintained for the following purposes:

1. Alarm and detection equipment shall be as specified by the occupancy use group in the Building or Fire Code (most restrictive).
2. Notification shall be installed in all sprinkler or partially sprinkler protected buildings.
3. All alarm and detection systems shall be monitored by a listed 3rd party central station.
4. In buildings or spaces that require alarm and/or detection, the system shall be provided throughout unless the balance of the building or space is separated by not less than 2 hr. fire rated construction. The balance of the building or space cannot share common area with that portion requiring the alarm system.

(C) How Installed:

Approved fire alarm and detection systems shall be installed in accordance with current editions of the N.F.P.A. Fire Alarm Code or other standards which substantially meet or exceed N.F.P.A. standards as approved by the North Shore Fire Department.

(D) Maintenance of Equipment:

Fire alarm systems which have been installed in compliance with any permit or order, or because of any law or ordinance, it shall be unlawful for any owner or occupant to reduce the effectiveness of the protection so required; except this shall not prohibit the owner or occupant from temporarily reducing or discontinuing the protection where necessary to make tests, repairs alterations or additions. The Fire Department shall be notified before such tests, repairs, alterations or additions are started. Written certification and/or documentation that every alarm and/or detection system has been tested annually will be maintained on site for and produced during the annual fire inspection. All annual tests shall comply with the appropriate NFPA standard and meet any and all credential requirements as so directed by the State of Wisconsin or North Shore Fire Department.

Where fire alarm and/or detection systems are taken out of service for 4 or more hours, a Fire watch shall be put in place. The fire watch shall consist of one or more qualified persons to serve as watchers and shall familiarize themselves with all fire protection facilities and fire prevention features and with the condition of exits and shall patrol the entire building until such fire/life safety systems are put back in service. Fire watch procedures shall be submitted in writing to the AHJ and are subject to approval.

(E) Carbon Monoxide Detection:

A building or a portion of a building to be used for residential purposes as defined under WI State Statutes s.101.149 (1) (b) shall be provided with carbon monoxide alarms or detectors in accordance with WI State Statutes SPS 321.097.

Section 14 False Alarm:

An emergency response by the Fire Department when no emergency exists because of the intentional activation of any alarm notification appliance or detection device is a false alarm. Any alarm or detection equipment that has been identified by the Fire Department or by the alarm inspection company as part of the annual fire alarm inspection as defective, improperly located, improperly maintained that generates an emergency response shall be deemed a false alarm if corrective measures are not taken immediately to prevent a second activation of the same device. The fee for false alarms is in the fee schedule established by the Village Board.

Section 15 Open Burning, Out Door Burning and Open Flame Devices:

(A) Intent:

The intent of this section is to regulate open burning, outdoor burning and open flame for the purpose of preventing wildfires, preventing structure fires and the property damage or injuries associated with fire.

(B) Applicability:

This section applies to all outdoor burning within the municipality.

1. This section **does not** apply to grilling or cooking using charcoal, wood, propane or natural gas in cooking or grilling appliances located in approved locations at grade level.
2. This section **does not** apply to burning in a stove, furnace, fireplace or other heating device specifically designed and listed for that use within a building used for human habitation unless the material being burned includes refuse.
3. This section **does not** apply to the temporary use of fuels used in listed heating devices or appliances for construction or maintenance activities.

(C) Prohibition on open burning, outdoor burning

Open burning, outdoor burning and refuse burning are prohibited unless the burning is specifically permitted elsewhere in this ordinance.

(D) Materials that may not be burned

Unless a specific written approval has been obtained from the Department of Natural Resources, the following materials may not be burned in an open fire, furnace, stove or any other indoor or outdoor incineration or heating device:

1. Rubbish or garbage including but not limited to food wastes, food wraps, packaging, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes.
2. Waste oil or other oily wastes except when in a waste oil heating device for energy recovery subject to the restrictions in the state building code and manufactures listing.
3. Asphalt shingles which includes any and all products containing asphalt.
4. Treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
5. Any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films and plastic containers.
6. Rubber including tires and synthetic rubber-like products.

7. Newspaper, corrugated cardboard, container board, office paper and other materials that are recyclable must be recycled in accordance with the recycling ordinance.

(E) Open Burning of leaves, brush, clean wood and other vegetative debris

Burning leaves, brush, clean wood and other vegetative debris. Open burning of leaves, weeds, brush, stumps, clean wood, trees and other vegetative debris is prohibited except as may be approved by the local municipality and under a permit issued and conditional approval of the NSFD.

1. All allowed open burning shall be conducted in a safe nuisance free manner, when wind and weather conditions are such as to minimize adverse effects and not create a health hazard or a visibility hazard on roadways or railroads. Open burning shall be conducted in conformance with all local and state fire protection regulations.
2. Except for barbecue, gas and charcoal grills, no open burning shall be undertaken during periods when either the Fire Chief or the Wisconsin Department of Natural Resources has issued a burning ban applicable to the our area.
3. Open burning shall be conducted only on the property on which the materials were generated and in accordance with provisions established by this ordinance.
4. Open burning of weeds or brush on residential or commercial properties is prohibited except as may be approved by the Village of Brown Deer and under permit and approval of the NSFD and must be conducted in accordance with other applicable provisions of this ordinance.
5. Fires set for prairie or wildlife habitat management may be allowed with the approval of the local municipality and under permit and approval of the NSFD.
6. Small bonfires for cooking, or recreation are allowed provided that the fire is confined by a control device, structure or other device specifically designed for that use such as a fire pit, masonry barbeque pit, chimeneas or similar device or as approved by the municipality and the Fire Department. The maximum open burn area is 33 inches in diameter or 6 square feet. All of the above must have a screen to prevent sparks from becoming readily airborne and a cover which fits and encloses the entire opening to ensure all hot embers are confined. Small bonfires are allowed only if approved by and in accordance with the above provisions and all other provisions in this Code.
7. In emergency situations such as natural disasters burning is prohibited unless specifically approved by the Village of Brown Deer and permits are secured from the NSFD.
8. Open burning under this section shall be conducted only following issuance of and in accordance with a permit issued under **Section 15 (H)** of this ordinance.
9. Small bonfires for cooking, or recreation under this section shall only be conducted at a location **not closer than 25 feet** from the nearest building, accessory structure, fence, deck or any other combustible surface. Any open burning of this type shall be constantly attended and supervised by enough competent persons of at least eighteen (18) years of age; this includes the time from ignition until the fire is extinguished. These persons shall have readily available for use such fire extinguishing equipment as may be necessary for the total control and extinguishment of the fire i.e. a garden hose(s) that are connected and charged, 5 gallon buckets of water or other suitable extinguishing method.
10. Ceremonial fires (permit required) under this section shall not be greater than 5 feet in diameter and wood being burned is not greater than 3 feet high and shall only be conducted at a location **not closer than 50 feet** from any building, accessory structure, fence, deck or any other combustible surface. Any open burning of this type shall be constantly attended and supervised by enough competent persons of at least eighteen (18) years of age; this includes the time from ignition until the fire is extinguished and is cold. These persons shall have readily available for use such fire extinguishing equipment as may be necessary for the total control and extinguishment of the fire i.e. a garden hose(s) that are connected and charged, 5 gallon buckets of water or other suitable extinguishing method.
11. No materials may be burned upon any street, curb, gutter or sidewalk.
12. No materials may be burned on the ice of a lake, pond, stream or body of water without prior approval from the Department of Natural Resources, the Village of Brown Deer and the NSFD.
13. **Except for 1 & 2 family dwellings** no hibachi, gas fired grill, charcoal grill, electric grill or other similar device used for cooking shall be used or kindled above grade level, on any balcony or under any overhanging portion or **within 10 feet** of

any structure, from any combustible material, combustible wall or partition, exterior window opening, exit access or exit. All other types of open burning at 1 & 2 family dwellings shall comply with the provisions of this ordinance.

14. Although exempted from this section, one and two family dwellings are discouraged from deviating from **Section 15 (E) 13** for reasons of life safety and property protection.

15. No open burning other than the use of grills may be conducted on days when the Department of Natural Resources has declared an ozone action day.

(F) Fire Department practice burns

The NSFD may burn a standing building, structure or premise for firefighting practice once all necessary permits and abatements have been accomplished.

(G) Burning Permits

1. No person(s) shall start or maintain any open fire **except for 1 & 2 family dwellings** without the approval of the local municipality and a burning permit issued by the NSFD.
2. All ceremonial fires require a permit and such fires shall comply with all other applicable provisions of this ordinance.
3. Small bonfires for cooking, or recreation **for 1 & 2 family dwellings** shall comply with all the provisions of this ordinance including meet all setbacks as identified in **Section 15 (F) 6 and 9. Permits are not required for 1 & 2 family dwellings.**
4. Any person(s) responsible for burning leaves, brush, clean wood or other vegetative debris under **Section 15 (F)** of this ordinance shall obtain a burning permit before starting the fire. A new permit shall be obtained prior to every burn.
5. When weather conditions warrant, the Fire Chief or the Department of Natural Resources may declare a burning moratorium on all open burning and temporarily suspend previously issued burning permits for open burning.
6. A burning permit issued under this section shall require compliance with all applicable provisions of this ordinance and any additional special restrictions deemed necessary to protect public health and safety.
7. Any violation of the conditions of a burning permit shall be deemed a violation of this ordinance. Any violation to any portion of section shall void any permit issued for the purpose found in violation.

(H) Liability

*****Any person(s) starting or maintaining an outdoor fire will be held financially responsible for all fire suppression costs and any other liabilities resulting from damage caused by such fire, including all costs related to emergency personnel and equipment response.**

(I) Open Flame

1. Lights and Devices: No person shall take an open flame or light into any building or any other place where highly flammable, combustible, or explosive material is kept, unless such light or flame shall be well secured in a glass globe, wire mesh cage or similar approved device.
2. Places or Assembly: The use of any candles or other open flame fixture, whether equipped with a guard or not is prohibited without formal request and approval from the NSFD. The use of candles in any other occupancy for uses other than ceremonial will not be approved and are specifically prohibited by the Fire Code.
3. Restaurants: Open flame devices used for the warming of food may be used in restaurants and dining areas, provided such devices and their locations are approved by the Fire Department.

Exceptions: The use of other open flame light and devices not herein regulated may be permitted by the Chief of the Fire Department or his designee under such restrictions, in his/her judgment, are necessary to avoid danger of ignition of combustible material or injury to persons.

(J) Hot Work:

Permit Required. All hot work performed on Commercial Buildings requires a permit and approval from the NSFD prior to the start of any work. Proper safety precautions including a spotter and a readily accessible extinguishing device at the work location must be in place. Work may include but is not limited to: Cutting and Welding, Open flame Tar Kettles, Roof welding and seaming.

Section 16 **Tent Over 400 Square Feet****(A) Tent Permit Required:**

No tent exceeding 400 square feet in area shall be erected, maintained or used without a permit.

(B) Tents Construction:

Tents shall be designed, constructed, flame proofed, located on the site and properly maintained. Current flame proofing documentation shall be provided at time of inspection. Tents maybe required to provide exit and emergency lighting based on occupant load and use.

(C) Open Flame:

Open flame devices for heating or cooking are prohibited from being under the tent. Cooking appliances shall be located no closer than 10 feet to the tent.

Section 17 **Hazardous Materials****(A) Transportation:**

Every person, firm or corporation using, storing, handling or transporting (whether by rail or on the highways) flammable or combustible liquids, chemicals, gasses or other hazardous materials shall be liable to the municipality for the actual cost of labor and materials associated with the use of any specialized extinguishing agent, chemical, neutralizer or similar material or equipment employed to extinguish, confine or clean up any such hazardous material which is involved in any accidental spill or in threat of any fire or accidental spill.

(B) Notification of Discharge or Spill: Upon learning that a prohibited discharge or spill has taken place, all persons with knowledge shall immediately notify the Police and Fire Department of the time and place of the prohibited discharge and the substance discharged, if known.

(C) Reimbursement for Cleanup of Spills: Any person who possesses or controls a hazardous material or infectious agent which was discharged or who caused the discharge of a hazardous material or infectious agent shall reimburse the municipality for actual and necessary expenses incurred by the municipality or its agent to contain, remove or dispose of the hazardous substance or infectious agent or take any other appropriate action which is deemed appropriate under the circumstances.

(D) Village Under No Obligation: Nothing herein shall obligate the Village of Brown Deer to perform any of the remedial measures. The Village shall endeavor in all cases to have such remedial measures performed by the persons set forth in Subsection (1) hereof, and in default of such performance, shall itself perform such remedial measures only if the exigencies of time and circumstances indicate that the public health, safety and welfare require such intervention.

(E) Prohibited Discharge: No person shall discharge, allow, or cause to be discharged upon or into any public street, alley or public property or onto the ground, surface water, subsurface waters, or aquifers, or on any private property, any hazardous material, except in those areas licensed for waste disposal or landfill activities for hazardous waste and/or hazardous materials as identified in the Fire Code.

(F) Containment, Cleanup, and Restoration: Any person in violation of this Section upon the direction the Village's police, fire officers or public health officials, take immediate action to contain, clean up and remove to an approved depository the offending material(s) and restore the site to its original condition. Should any person fail to engage or complete the cleanup/containment requirement, the police/fire or health department may order the owner or lessee to take the required corrective action or, in default thereof, may on behalf of the municipality, without taking bids, do the necessary work with all costs incurred by the municipality to be reimbursed by the violator(s).

(G) Public Protection. Should any prohibited discharge occur that reasonably causes a threat to the life, safety, welfare or health of the public, a municipal official or employee on the scene may order evacuation of the area or take other appropriate protective steps for such period of time as needed.

(H) Access. When a prohibited discharge has occurred or is reasonably thought to have occurred, access to the site, upon notice to the owner or occupant whether on public or private land, shall be granted to police, fire and health department personnel for the purpose of evaluating the extent of the discharge, monitoring the cleanup and restoration of the site. Notice to the owner or occupant is not required if the delay will result in imminent risk to public health or safety or the environment.

Section 18 **Cost Recovery**

The Village of Brown Deer shall have all rights of recovery for costs related to the prevention, control, or extinguishing of any fire, and for subsequent cleanup or remedial action necessary pertaining to any fire, as provided by 1989 Wisconsin Act 256, which is

specifically adopted in its entirety, together with such amendments and reenactments as shall occur subsequent to the enactment of this section.

Section 19 **Penalties**

Any person, firm, corporation who or which shall violate any of the provisions of this ordinance shall be subject to forfeiture of an amount not less than \$1.00 (One Dollar) nor more than \$500.00 (Five Hundred Dollars) together with the costs of prosecution

Section 20 **Injunctive Relief**

The violation of this ordinance or any condition in violation of this ordinance shall constitute a public nuisance which may be abated, restrained and enjoined by court action at the suit of the Village of Brown Deer.

ARTICLE 14 REGULATING THE CONTROL OF FIRE AND RELATED DANGEROUS SUBSTANCES AND FIRE PREVENTION PRACTICES

Section 12-14.01	Definitions
Section 12-14.02	Adoption of Wisconsin Codes and National Fire Prevention Association Standards and Various Other References
Section 12-14.03	Hazardous Conditions in Structures
Section 12-14.04	Duties and Rights of the Fire Chief
Section 12-14.05	Fire Hydrant Requirements on Private Property
Section 12-14.06	Automatic Sprinkler and Alarm Systems
Section 12-14.07	Open Flame Devices
Section 12-14.08	Use and Storage of Combustible Materials and Ignition Agents
Section 12-14.09	Storage of Flammable Liquids in Residential Areas
Section 12-14.10	Permission Needed to Erect Tent Over 1500 Square Feet
Section 12-14.11	Smoking Prohibited in Certain Locations
Section 12-14.12	Filling Stations
Section 12-14.13	Delivery and Storage of Flammable Liquids in Commercial Areas
Section 12-14.14	Fire Extinguishers, Specifications and Installations
Section 12-14.15	Open Burning Prohibited
Section 12-14.16	Miscellaneous Provisions
Section 12-14.17	Enforcement Provisions
Section 12-14.18	Penalties
Section 12-14.19	Injunctive Relief

Section 12-14.01 Definitions

Unless otherwise expressly stated, the following terms shall, for the purpose of this code, have the meanings in this chapter.

(A) Approved

Approved means accepted by the Chief of the Fire Department as a result of his/her investigation and experience, or by reason of test, listing or approval by Underwriters Laboratories, Inc., the National Bureau of Standards, the American Gas Association Laboratories or other national recognized testing authorities.

(B) Automatic Fire Alarm System

Automatic Fire Alarm System means a system which automatically detects a fire condition and actuates a fire alarm signal device.

(C) Dwelling

Dwelling means a building occupied exclusively for residence purposes and having not more than two apartments, or as a boarding or rooming house serving not more than five persons with meals or sleeping accommodations or both.

(D) ICC Container

ICC Container means any container approved by the Interstate Commerce Commission for shipping any liquid, gaseous or solid material of a flammable, toxic or other hazardous nature.

(E) Institutional Building

Institutional Building means a building in which persons are harbored to receive medical, charitable or other care or treatment, or in which persons are held or detained by reason of public or civic duty, or for correctional purposes.

(F) Multi-Family Dwelling

Multifamily Dwelling means a building or portion thereof, containing three or more dwelling units occupied as the home or residence of individuals, families or households living independently of each other, including tenement house, apartment house, flat, town house, row house, condominium, dormitory, boarding or rooming house serving more than five persons with meals or sleeping accommodations or both.

(G) Person

Person means and includes person, persons, firm, corporation or co-partnership.

(H) Public Building

Public Building means a building in which persons congregate for civic, political, educational, religious, social or recreational purposes.

(I) Residence Building

Residence Building except when classed as an institutional building, means a building in which sleeping accommodations are provided.

(J) Area

Area means the maximum horizontal projected area on one floor of a building or structure within the exterior walls or when a building is divided by approved fire walls, each section so divided shall be considered an area.

(K) Automatic Fire Sprinkler Equipment

Automatic Fire Sprinkler Equipment means an integrated system of underground piping designed in accordance with fire engineering standards. The system includes a suitable water supply, such as a gravity tank, fire pump, reservoir or pressure tank and/or connection by underground piping to a municipal water main. The portion of the sprinkler system above ground is a network of specially sized or hydraulically designed piping installed in a building structure or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system includes a controlling valve and a device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area.

(L) Basement

Basement means any story where less than half the height between floor and ceiling is above the average level of street, sidewalk, or finished grade.

(M) Fire District

Fire District means the area within the boundaries of the Village of Brown Deer.

(N) Fire Resistive

Fire Resistive means the type of construction in which the structural members including walls, partitions, columns, floor, and roof construction are of non-combustible materials with the fire resistive ratings not less than those specified in the Wisconsin Administrative Code Ind. 51.001.

(O) Non-Fire Resistive

Non-Fire Resistive will include any construction not meeting the standard set forth in the Wisconsin Administrative Code Ind. 51.001 defining fire resistive construction.

(P) Fire Wall

Fire Wall means a recognized fire wall which has a fire resistance rating of not less than four (4) hours and which subdivides a building into separate buildings to restrict the spread of fire, including a three (3) foot parapet wall if required by the State Ind. Code.

(Q) Story

Story means that part of a building comprised between a floor and the floor or roof next above.

(R) Smoking

Smoking means and includes the carrying of a lighted pipe, cigar, or cigarette or tobacco in any form.

(S) No Smoking Signs

No Smoking Signs by this Section shall read: "NO SMOKING - BY ORDER OF THE FIRE CHIEF."

Section 12-14.02 Adoption of Wisconsin Codes and National Fire Prevention Association Standards and Various Other References

(A) Intent of Code

It is the intent of this code to prescribe regulations consistent with recognized standard practice for the safeguarding to a responsible degree of life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life and property in the use or occupancy of buildings or premises.

(B) Application to New and Existing Conditions

The provisions of this code shall apply to new and existing conditions except that existing conditions not in strict compliance with the terms of this code shall be permitted to continue where the exceptions do not constitute a distinct hazard to life or adjoining property.

(C) Exceptions

Nothing contained in this code shall be construed as applying to the transportation of any article or thing shipped in conformity with the regulations prescribed by the Interstate Commerce Commission, nor as applying to the military forces of the United States.

(D) Adoption of Codes

The current issues of the following codes of the State of Wisconsin and the National Fire Protection Association (NFPA) are hereby adopted by reference and made a part of the Village of Brown Deer Fire Prevention Code:

1. Safety Code 1.83, Wisconsin Administrative Code Explosive Code IND 5, Wisconsin Administrative code
2. Cleaning and Dyeing Code, Chapter IND 7, Wisconsin Administrative Code
3. Flammable Liquids Code, Chapter IND 8, Wisconsin Administrative Code
4. General Orders on Liquefied Petroleum Gases, Chapter IND 9, Wisconsin Administrative Code
5. General Orders on Dusts, Fumes, Vapors and Gases, Chapter IND 20, Wisconsin Administrative Code
6. General Orders on Spray Coating, Chapter IND 21, Wisconsin Administrative Code
7. Boiler and Unfired Pressure Vessel Code, Chapter IND 41 and 42, Wisconsin Administrative Code
8. Refrigerating Plant Code, Chapter IND 45, Wisconsin Administrative Code
9. Scope of Building Code, Chapter IND 50, Wisconsin Administrative Code
10. Definitions and Standards, Chapter IND 51, Wisconsin Administrative Code
11. General Requirements, Chapter IND 52, Wisconsin Administrative Code
12. Structural Requirements, Chapter IND 53, Wisconsin Administrative Code
13. Factories, Office and Mercantile Buildings, Chapter IND 54, Wisconsin Administrative Code
14. Theaters and Assembly Halls, Chapter IND 55, Wisconsin Administrative Code
15. Schools and Other Places of Instruction, Chapter IND 56, Wisconsin Administrative Code
16. Apartment Buildings, Hotels and Places of Detention, Chapter IND 57, Wisconsin Administrative Code
17. Heating, Ventilating and Air Conditioning, Chapter IND 59, Wisconsin Administrative Code
18. General Orders on Existing Buildings, Chapter IND 60 through 64, Wisconsin Administrative Code
19. General Orders on Fire Prevention, Chapter IND 65, Wisconsin Administrative Code
20. Electrical Code Vol. I, Wisconsin Administrative Code

21. Electrical Code II, Wisconsin Administrative Code
22. Volumes I through X inclusive, National Fire Protection Association Codes
23. A.I.A. Fire Prevention Code

Section 12-14.03 Hazardous Conditions and Structures

(A) Obstructions

Whenever the Fire Department shall find in any building or upon any premises combustible or explosive matter of dangerous accumulations of rubbish or accumulations of waste paper, boxes, shaving or any highly flammable materials which are so situated as to endanger life or property, or shall find obstructions to or on any fire escapes, stairs, passageways, corridors, halls, loading platforms, doors, or windows, liable to interfere with the operations of fire department or emergency equipment or egress of occupants in case of fire or emergency, he/she shall order the same to be removed immediately. If he/she shall find entrance or exit sidewalks or vehicular driveways or interior driveways or sidewalks obstructed by snow, debris, construction material, vehicles, or other matter liable to interfere with the ingress or the operation of fire apparatus or other emergency vehicles, he/she shall order the obstruction removed.

(B) Fire Lane Designations

To insure adequate ingress and egress for responding emergency vehicles and equipment the Fire Chief may order "No Parking, Fire Lane" signs to be erected and may designate the placement thereof, and may order that curbs be painted in a distinctive color. The parking of any vehicle, on private property or otherwise, in violation of the foregoing, shall constitute a violation of this chapter. In addition, the vehicle parked in violation may be impounded by the police department and held until the towing and storage charges incurred are paid.

(C) Defective Buildings

When the Fire Department finds any building or other structure which for want of repairs, lack of sufficient fire escapes, automatic or other fire alarm apparatus, or fire extinguishing equipment, or by reason of age or dilapidated conditions, or from any other cause, is especially liable to fire and which is so situated as to endanger other property or the occupants thereof, and whenever such inspector shall find in any building combustible waste material, explosive matter or flammable conditions dangerous to the safety of such building or the occupants thereof, he/she shall order such dangerous conditions or materials to be removed or remedied.

If in any existing building exits are necessary or where repairs to any structural part of such building or structure are required, the Fire Department shall notify the Building Inspector who shall re-inspect such building or structure, thereafter instituting the proper remedies as may be required.

(D) Correction Orders

Any orders under this section shall be served in writing upon the occupant and owner of the premises. If the owner or occupant of the premises cannot be found, such written order shall be affixed in a conspicuous place on the entrance door to such building or structure or on the premises. Thereafter a copy of such order shall be mailed to the owner and occupant addressed to their last known post office address. No person shall remove such affixed notice without the written consent of the Fire Chief.

Any such order shall forthwith be complied with by the owner and occupant of such buildings, structure or premises. The owner or occupant may within 24 hours appeal to the Fire Chief for a review of such order, who shall thereafter as soon as possible file his decision. Unless such order is revoked or modified by the Fire Chief, it shall remain in full force and be complied with within the time fixed in said order.

- (E) This section shall apply to all buildings except: private residences and accessory buildings in connection therewith; and Temporary buildings or sheds used for construction purposes only.

Provided, if any building or structure, whether above exempted or not, is especially liable to fire, and is so situated as to endanger other buildings or property, or contains any combustible or explosive material dangerous to the safety of any building or premises or the occupants thereof, or endangering or hindering firemen in case of fire, such building or structure shall be subject to these orders so far as may be necessary to protect adjoining or other buildings and their occupants and firemen.

Section 12-14.04 Duties and Rights of the Fire Chief

(A) Right of Entry

The Fire Chief or fire department member may at all reasonable hours enter any building, premises or public thoroughfare, excepting only the interior of private dwellings, for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, or any violation of any law or order relating to fire hazards or prevention of fires. The owner, agent or occupant of any such premises who refuses to permit, or prevents or interferes with any entry into or upon the premises by any such inspector, or interferes with any such inspection, shall be guilty of violating this chapter.

(B) Inspection of Building and Premises

It shall be the duty of the Chief of the Fire Department to inspect, or cause to be inspected by the fire department officers or members, all buildings and premises, except the interiors of private dwellings, as often as may be necessary for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or any violations of the provisions or intent of this code and of any other ordinance affecting the fire hazard, and to insure compliance in all places of assembly with all laws, regulations and orders dealing with overcrowding, use of decorative materials, maintenance of exit ways, and maintenance of fire alarm and fire detecting systems, and fire extinguishing systems and appliances.

The Chief of the Fire Department or member thereof, upon the complaint of any person or whenever he or they shall deem it necessary, shall inspect any buildings and premises within their jurisdiction.

(C) Investigation of Fires

The Fire Department shall investigate the cause, origin and circumstances of fires occurring in the Village by which property has been destroyed or damaged and, so far as possible, shall determine whether the fire is a result of carelessness or design. If it appears to a fire officer at a fire scene that the fire is of suspicious origin the Fire Chief shall be as soon as possible notified of the facts. He/she or his/her representative shall thereupon take charge immediately of the physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case. A written report shall be filed within 24 hours with the Fire Department of every fire by the senior officer in charge of such fire. Such report shall be in such form as prescribed by the Fire chief. It shall contain a statement of all facts relating to the cause, origin and circumstances of such fire and other information as may be required.

Section 12-14.05 Fire Hydrant Requirements on Private Property

(A) Intent

The intent of this section is to insure adequate water supply for fire fighting purposes to existing or new structures, buildings, tank farms, lumber yards, commercial or industrial complexes located at extended distances from water hydrants on private property.

(B) Where Required

Any tank farm, lumber yard, commercial complex, any structure or building hereafter erected, or structurally altered, the Water Department (Brown Deer Water Public Utility) shall provide at the owners expense an approved water hydrant system when such building is set back 250 feet or more from any street or highway or is located more than 300 feet from a Village water hydrant. Required hydrants shall be free standing and shall be located not more than 50 feet or less than 25 feet from the building. One hydrant shall be located not more than 50 feet or less than 25 feet from the main entrance to such building. Additional hydrants shall be provided around the perimeter of the building so that no water hydrant is more than 300 feet from any other approved hydrant by normal access routes.

(C) Fire Equipment on Private Property

The Fire Department through its authorized representative, must approve all fire hydrants, stand pipes and sprinkler systems for commercial, industrial or institutional buildings or properties. A permit must be issued before such equipment may be installed. Hydrants to be used on such properties shall be of the type approved by the Brown Deer Water Commission and be consistent with the type universally used in the Village of Brown Deer. The hydrant must open to the right. Hydrants are to be placed with seven (7) feet of earth cover and sufficient drainage bedding to allow hydrant to drain dry. Hose connection for Class 1 standpipe and Fire Department connection for sprinkler and standpipe connection shall be two and one-half inch diameter and shall have national standard couplings. Connection points shall be between three feet and four feet above the finished property grade.

(A) Intent

The intent of this section is to provide a means for the automatic extinguishment of fires in buildings which, because of their size, construction or occupancy or lack of suitable protective equipment, constitute a special fire hazard to life or property and an excessive burden upon the fire extinguishing facilities of the Fire Department.

(B) Where Installed

Every building hereinafter constructed or structurally altered shall have an approved automatic sprinkler system installed and maintained when occupied in whole or in part for the following purposes:

1. Throughout all buildings used for the manufacture, storage or sale of combustible goods or merchandise.
2. Throughout all garages used for commercial purposes or a passenger or freight terminals.
3. Basements: Throughout the entire basement.
4. Multi-Family Residences: Throughout the entire building.
5. Hospitals, Nursing, Convalescent, Old Age, and Other Institutional Buildings, Offices, Hotels, Motels, Restaurants and Places of Detention: Throughout the entire building.
6. Theaters, Assembly and Recreational Buildings: Throughout the entire building.
7. Schools, Colleges and Universities: Throughout the entire building.
8. Especially Hazardous Occupancies

(a) Prior to issuance of any building permit or occupancy permit, the Building Inspector and the Fire Chief or his/her designee, shall jointly review the plans, processes and materials involved. When upon review, it is determined that highly combustible processes or occupancy conditions exist, it shall be required that an adequate and approved fire extinguishment system be installed in buildings and/or designated hazardous areas in buildings.

(b) Examples of occupancies considered highly combustible:

Chemical Works
 Explosive and Pyrotechnics Manufacturing
 Linseed Oil Mills
 Linoleum and Oil Cloth Manufacturing
 Paint Shops
 Phroxylin Manufacturing and Processing
 Solvent Extract Extracting
 Varnish Works
 Combustible Dusts
 Occupancies Involving Processing, Mixing, Storage and Dispensing of Volatile Flammable Liquids
 Commercial or Institutional Kitchen Hoods, Vents and Ducts.

9. How Installed

Approved fire extinguishing systems shall be installed in accordance with current editions of N.F.P.A. Fire protection code or codes, or other standards which substantially meet or exceed N.F.P.A. standards as approved by the North Shore Fire Department.

10. Maintenance of Equipment

Sprinkler systems, standpipe systems, fire alarm systems, and other fire protective or extinguishing systems or appliances which have been installed in compliance with any permit or order, or because of any law or ordinance, shall be unlawful for any owner or occupant to reduce the effectiveness of the protection so required; except this shall not prohibit the owner or occupant from temporarily reducing or discontinuing the protection where necessary to make tests, repairs, alterations or additions. The Fire Department shall be notified before such tests, repairs, alterations, or additions are started. A written certification that the system has been tested will be filed with the Fire Department every twelve months.

11. Exemption and Substitution of Other Fire Protection Equipment and Alarm Systems

Nothing herein shall be construed to require the installation of sprinklers in safe deposit or other vaults, or in rooms or buildings devoted to the manufacture or storage of aluminum powder, calcium carbide, calcium phosphide, metallic sodium and potassium, quicklime, magnesium powder, sodium peroxide or like materials, where the application of water may cause or increase fire, nor in any other location where the installation of sprinklers may increase the hazard; nor shall it be construed in any way to interfere with the substitution of other automatic protective equipment, approved by the North Shore Fire Department.

12. Smoke Detectors in Existing Single Family or Duplex Dwellings:

- (a) Each single family or duplex dwelling within the Village of Brown Deer shall be provided with a minimum of one approved, listed and labeled smoke detector sensing visible or invisible particles of combustion, installed in a manner and location consistent with its listing. Smoke detectors required under this subsection shall be single station devices, either battery operated, plug in or direct wired A/C units.
- (b) It shall be the duty of the Chief of the Fire Department or his/her designated representative to inspect such single family or duplex dwelling when notified of change of ownership to assure that the provisions of this subsection have been conformed with.

Section 12-14.07 Open Flame Devices

(A) Lights and Devices

No person shall take an open flame or light into any building, barn, vessel, boat or any other place where highly flammable, combustible, or explosive material is kept, unless such light or flame shall be well secured in a glass globe, wire mesh cage or similar approved device.

(B) Place or Assembly

No open flame, candles or other open flame fixture, whether equipped with a guard or not, shall be used in any place of assembly, except within duly constituted church or Lodge buildings. Such open flame, candles or other flame fixtures, whether equipped with a guard or not, shall not be used in auditoriums of Church or Lodge buildings, except when such candles or fixtures are actually held by persons seated, standing or in procession in such auditorium. Such candles or fixtures need not be held by persons in the auditorium if they are securely supported on a non-combustible base, the flame is at least seven (7) feet above the floor, are so located as to avoid danger or ignition of combustible material, are under constant observation and supervision by a responsible person designated for each aisle, are kept lighted only when necessary during the ceremony or ritual, and are extinguished before the occupants leave the auditorium. Nothing herein contained shall be construed to prevent the burning of a fireplace in a place of assembly, or to the burning of votive candles or other candles used for religious purposes in auditoriums of a church, temple, synagog or lodge.

(C) Stages

Open flame devices may be used on stages or church alters where a necessary part of the theatrical or religious performance requires, provided adequate precautions, satisfactory to the Fire Department, are taken to prevent ignition of any combustible materials.

(D) Restaurants

Open flame devices used for the warming of food may be used in restaurants and dining areas, provided such devices and their location are approved by the Fire Department.

(E) Exceptions

The use of other open flame light and devices not herein regulated may be permitted by the Chief of the Fire Department or his designee under such restrictions, in his judgment, are necessary to avoid danger of ignition of combustible material or injury to persons.

Section 12-14.08 Use and Storage of Combustible Materials and Ignition Agents

(A) Apparatus Capable of Igniting Flammable Material Prohibited

No heating or lighting apparatus or equipment capable of igniting flammable materials of the type stored or handled shall be used in the storage area of any warehouse storing rags, excelsior, hair or other highly flammable or combustibly material; nor in the work area of any shop or factory used for the manufacture, repair, or renovating of mattresses or bedding, nor in the work areas of any establishment used for the upholstering of furniture.

(B) Chimneys and Heating Appliances

All chimneys, smokestacks or similar devices for conveying smoke or hot gases to the outer air and the stoves, furnaces, fire boxes, or boilers to which they are connected shall be constructed and maintained in such a manner as not to create a fire hazard.

(C) Use of Torches or Flame-Producing Devices

Any person using a torch or other flame-producing device for removing paint from any building or structure or for other uses shall provide one approved fire extinguisher or water hose connected to the water supply on the premises where such burning is done. In all cases, the person doing the burning shall remain on the premises one (1) hour after the torch or flame-producing device has been used.

(D) Hot Ashes or Other Dangerous Materials

No person shall deposit hot ashes or cinders, or smoldering coals, or greasy or oily substances liable to spontaneous ignition, into any wooden receptacle or place the same within ten (10) feet of any combustible materials, except in metal or other non-combustible receptacles. Such receptacles, unless resting on a non-combustible floor or on the ground outside the building, shall be placed on non-combustible stands, and in every case must be kept at least two (2) feet away from any combustible wall or partition.

(E) Handling Readily-Combustible Materials

No person making, using or storing, having in charge or under his control, any shavings, excelsior, rubbish, sacks, bags, litter, hay, straw, or combustible waste materials shall fail or neglect at the close of each day to cause all such materials which are not compactly baled and stacked in an orderly manner to be removed from the building or stored in suitable vaults or in metal or metal-lined, covered, receptacles or bins.

(F) Storage of Readily-Combustible Materials

Storage in buildings shall be orderly, shall not be within two (2) feet of the ceiling, and not so located as to endanger exit from the building. Storage in the open shall not be more than twenty (20) feet in height, shall be so located with respect to adjacent buildings, as not to constitute a hazard, and shall be compact and orderly.

(G) Flammable Decorative Materials in Stores

Cotton batting, straw, dry vines, leaves, trees, or other highly-flammable materials shall not be used for decorative purposes in show windows or other parts of stores unless flame-proofed; provided, however, that nothing in this section shall be held to prohibit the display of salable goods permitted and offered for sale. Electric light bulbs in stores shall not be decorated with paper or other combustible materials unless such materials shall have first been rendered flame proof.

Section 12-14.09 Storage of Flammable Liquids in Residential Areas

(A) Delivery and Storage Restrictions

No person, firm or corporation shall deliver, place, receive, store on, above or underground any gasoline or like product or petroleum which has a flash point of less than 100° F., upon any premise located in the Village subject to the following restrictions:

1. Dwellings:

Not more than ten(10) gallons of flammable liquid as defined above may be stored, in a proper container, in a single or two family dwelling, outbuilding area normally designated as a garage for storage of residents' vehicles. The storage of flammable liquids in the above dwellings is prohibited in any other area of the structure.

2. Multi-Family Residences:

The storage of any flammable liquids as defined above is prohibited in any multi-family structure.

3. Exemptions:

The above limitations do not include tanks supplying fuel directly to an engine such as automobiles, lawn mowers and the like.

4. Storage Tanks:

The installation of storage tanks for the use of storing flammable liquids defined above is prohibited in all residential areas.

Section 12-14.10 Permission Needed to Erect Tent Over 1,500 Square Feet

(A) Tent Permit Required

No tent exceeding 1,500 square feet in area shall be erected, maintained or used without a permit.

(B) Fire Watchers to be Employed

One or more qualified persons to serve as fire watchers shall be employed by all circuses, carnivals, or other exhibitions where large crowds assemble. They shall familiarize themselves with all fire protection facilities and fire prevention features and with the condition of exits and shall patrol the entire tent area during the time of occupancy. They shall see that aisles and exitways are kept open and that "No Smoking" rules are enforced.

(C) Tents for Assembly to Conform to Recognized Safe Practices

The design, construction, flame proofing, location, maintenance and use of tents for assembly shall be in accordance with recognized safe practices. Compliance with the American Standard of Outdoor Assembly Grandstands and Tents, as adopted by the National Fire Protection Association, shall be considered as prima facie evidence of compliance with such recognized safe practices.

Section 12-14.11 Smoking Prohibited in Certain Locations

(A) Fire Department to Designate Areas Where Smoking Shall be Prohibited

Where conditions are such as to make smoking a hazard in any areas of warehouse, stores, industrial plants, institutions, places of assembly, and in open spaces where combustible materials are stored or handled, the Fire Department is empowered and authorized to order the owner or occupant in writing to post "No Smoking" signs in each building, structure, room or place in which smoking shall be prohibited. The Fire Department shall designate specific safe locations, if necessary, in any building, structure or place in which smoking may be permitted.

(B) Smoking and Removal of No Smoking Signs Prohibited

No person shall remove any legally required "No Smoking" sign or smoke in any place where such signs are posted.

Section 12-14.12 Filling Stations

(A) Construction and Care

Gasoline stations or any other place or structure where gasoline or other flammable liquid is disposed of shall be constructed or graded as to effectively prevent spills from flowing into the interior of buildings or from collection in any place. No such flammable liquid or the drainage from crank cases, except in suitably closed metal containers, shall be permitted within a hazardous distance from a motor or spark emitting device.

(B) Vending Devices

Devices vending or gauging flammable liquids shall be firmly secured to concrete or masonry foundations, shall not leak or drip, and when an attendant is not present shall be securely locked.

(C) Signs

"No Smoking" and "Stop Motor While Filling" signs shall be prominently posted so as to be readily visible at points where gasoline is handled.

(D) Smoking Prohibited

In all rooms or parts of buildings which contain flammable liquids in open containers or in which the vapors from flammable liquids are present, or in which flammable liquids are used in any manufacturing process, smoking and the carrying of matches is prohibited. Suitable signs lettered "Smoking Prohibited" shall be displayed.

(E) Fire Extinguishers

Wherever flammable liquids are dispensed or distributed an adequate number of chemical fire extinguishers shall be provided in prominent and easily accessible places. Extinguishers shall be reconditioned and refilled once a year and shall always be in working order. No fire bucket, pail or any device by which water alone is applied to flames shall be construed to be an extinguisher within the meaning of this subsection.

(F) Open Flames

No flammable liquids shall be drawn, handled or stored near or in the presence of open flames or fire.

Section 12-14.13 Delivery and Storage of Flammable Liquids in Commercial Areas

(A) Any person dealing at retail or wholesale in gasoline, benzine or naphtha, and other like products of petroleum in this Village, shall deliver the same to the purchaser only in tank wagons or in barrels, jugs or cans, painted vermilion red and having the word "Gasoline", "Benzine", and the name of such other like products of petroleum plainly stenciled in English thereon, except gasoline, benzine, naphtha or other like product may be delivered from underground containers or tanks by means of a hose, through a measuring device or pump complying with the rules and regulations of the State, direct to the tank of motor vehicles. No dealer shall deliver kerosene in a barrel, jug or can painted or stenciled except as herein provided. Any person purchasing gasoline, benzine, naphtha or other like product of petroleum for use or sale shall procure and keep the same only in barrels, jugs or cans painted and stenciled as herein provided, or if such products are used as fuel from a motor vehicle or motor boat, in the tanks of such vehicle or boat. No person keeping for use or using kerosene shall put or keep the same in any barrel, jug or can painted or stenciled except as herein provided. However, gasoline, benzine and naphtha or other like produce or petroleum or of which gasoline, benzine, naphtha or petroleum is a constituent part may be sold in bottles or cans of not more than one quart for cleaning and similar purposes, if the contents of such bottles or cans are so designated by a label securely pasted or attached thereto with the words "gasoline", "benzine", or "naphtha" as "unsafe to heat or fire", painted thereon in bright red ink in letters not less than one-fourth inch in size.

(B) Underground Storage of Flammable Liquids

In addition to existing Wisconsin Industrial Code Regulations no underground tank for the storage of flammable liquid is to be installed without a permit from the Fire Department. Tanks shall not be closer than ten (10) lateral feet from the building sewer line to the nearest point of excavation for such tank.

Section 12-14.14 Fire Extinguishers, Specifications and Installation

(A) At least one fire extinguisher shall be required for every assembly, educational, industrial, institutional, mercantile, storage and multifamily building, and additional fire extinguishers shall be required for every 2,400 square feet or fraction thereof of floor space in such establishment.

(B) The Fire Chief or his/her representative shall survey each building requiring fire extinguishers and shall specify fire extinguishing appliances and fire detecting devices of a type approved by a recognized testing laboratory in such number as may be necessary to provide reasonable safety to persons and property.

Section 12-14.15 Limitations on Open Burning

(A) No person, firm or corporation shall conduct, allow, suffer, cause or permit the burning of any substance or material outdoors on any private property, street, alley, parkway or other public place within the Village, with the following exceptions:

1. Outdoor fires used for cooking on grills or fireplaces.
2. Trees, wood or brush, performed by the Department of Public Works of the Village.
3. Fires set for practice instruction of Fire Department members, testing of fire fighting equipment, or emergency situations that require the removal of dangerous or hazardous materials to protect the public.

4. Small open flames or fires for heating tar, welding, acetylene torches, safety flares and fuses, torches, for aesthetic appearance or to repel insects, trenching operations for utility maintenance and service or similar applications.

Section 12-14.16 Miscellaneous Provisions

(A) Commercial and Institutional Kitchens

All commercial and institutional kitchens shall have a U.L. Approved Hood and Duct Extinguishment System as approved by the Wisconsin Fire Insurance Rating Bureau. The system shall also have an automatic fuel cutoff.

(B) False Alarms

It shall be unlawful for any person to knowingly start or spread any false fire alarm in the Village.

(C) Combustible Refuse

It shall be unlawful to permit or store any combustible refuse in such a way as to create a fire hazard, or to store or throw away any refuse of any kind in any alley, street, or other public place in the Village.

(D) Effective Date

This ordinance shall take effect and be in force from and after its passage and publication, and shall not have retroactive or retrospective effect or application. Specifically, the ordinance does not apply to existing buildings, buildings in the process of construction and buildings for which applications for building permits were made prior to the effective date of this ordinance; however, it shall apply to additions to existing buildings.

In the event that an addition to an existing building, building under construction, or a building for which a permit has been issued causes the completed building to meet or exceed the standards set forth in this code for extinguishing system installations, then, in that event, the entire building shall be made to conform to the standards of this code.

(E) Review and Appeals

The Fire Chief, or his/her designee, and Building Inspector shall review all building permits applicable to this ordinance, and all requests of change of occupancy and shall require Fire Extinguishing Systems to be installed in conformance with this code. Where extinguishing systems are installed, the Building Inspector shall approve installations made in accordance with Pamphlet #13, "Standards for the Installation of Sprinkler Systems", dated May 13, 1969, and its revisions, published by N.F.P.A.

Whenever the Fire Chief, or his/her designee shall approve an application, and the Building Inspector refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply, or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision to the Village Manager within thirty (30) days from the date of the decision appealed, and subsequently to the Board of Appeals within thirty (30) days from the date of the decision appealed.

(F) Fire Bombs

No person shall make, carry, possess, sell, give, or use any type of "Molotov Cocktail", which is defined to mean a bottle or container containing a flammable liquid fire bomb; or any other device or missile which can be ignited and cause ignition of any premises or material, or cause damage thereto by explosion. This prohibition does not apply to conventional kerosene or gasoline lamp, lantern, fuses or safety flare.

(G) Permit Required for Welding or Cutting

1. A permit shall be required of each person, firm or corporation performing welding or cutting operations except as provided below. This permit shall not be required for each welding or cutting job location. The person, firm or corporation shall notify the Fire Department in advance where such work is taking place, except where such work is done in response to an emergency call that does not allow time for the Fire Department to be notified in advance of the work.
2. A permit shall not be required of any person, firm or corporation:
 - (a) Where the welding or cutting is performed in areas approved for that purpose, or
 - (b) Having an approved permit system established for control of the fire hazards involved.

3. Application for a permit required by this article shall be made by the person, firm or corporation performing the welding or cutting operation or by its duly authorized agent.
4. A permit for welding or cutting operations shall not be issued unless the individuals in charge of performing such operations are capable of doing such work in a safe manner. Demonstrations of a working knowledge of the provisions of this article shall constitute acceptable evidence of compliance with this requirement.
5. Approved equipment shall be used in welding and cutting.
6. Welding and cutting equipment shall be installed and operated so as to be reasonably safe to persons and property.
7. Before welding or cutting operations are begun in areas not designated or approved for that purpose, specific authorization shall be obtained from the owner of the premises or his duly authorized agent.
8. One or more portable fire extinguishers of approved type and size shall be kept at the locations where welding or cutting is to be done.
9. Welding or cutting shall not be done in or near rooms or locations where flammable gases, liquids or vapors, lint, dust or loose combustible stocks are present when sparks or hot metal from the welding or cutting operations may cause ignition or explosion of such materials.
10. Sprinkler protection shall not be shut off while welding or cutting work is being performed. When welding or cutting is done close to automatic sprinkler heads, sheet asbestos or damp cloth guards may be used to shield the individual heads but shall be removed when the work is completed.

Section 12-14.17 Enforcement Provisions

- (A) The Fire Prevention Code shall be enforced by the North Shore Fire Department, who is the Fire Chief of the Village of Brown Deer, and such subordinates of the Fire Department as he/she designates or any designated member of the Village of Brown Deer Police Department.
- (B) This code shall not be construed to affect the responsibility of any person owning, operating or installing any equipment for damage to persons or property caused by any defect therein, nor shall the municipality be held as assuming any such liability by reason of the inspection or reinspection authorized herein or the permit as herein provided or by reason of the approval or disapproval of any equipment authorized herein.

Section 12-14.18 Penalties

Any person, firm, corporation who or which shall violate any of the provisions of this ordinance shall be subject to forfeiture of an amount not less than \$1.00 (One Dollar) nor more than \$500.00 (Five Hundred Dollars) together with the costs of prosecution, and in default thereof be imprisoned in the County Jail or House of Correction Milwaukee County until such forfeiture and the said cost together with the subsequent costs are paid, but in any event for a term not greater than thirty (30) days. Each day of violation of any of the provisions of this Ordinance shall be construed to be a separate violation and shall be punished as such.

Section 12-14.19 Injunctive Relief

The violation of this ordinance or any condition in violation of this ordinance shall constitute a public nuisance which may be abated, restrained and enjoined by court action at the suit of the Village of Brown Deer.

SECTION II. EFFECTIVE DATE.

This Ordinance shall be in full force and effect upon adoption by the Village Board.

PASSED AND ADOPTED by the Village of Brown Deer Village Board this 5th day of September, 1995

Earl McGovern

Earl McGovern, Village President

Countersigned:

Paul A. Patrie

Paul A. Patrie, Village Clerk



REQUEST FOR CONSIDERATION

COMMITTEE:	Village Board
ITEM DESCRIPTION:	Update on Original Village Streetscape Project
PREPARED BY:	Russell Van Gompel, Village Manager 
REPORT DATE:	March 29, 2012
RECOMMENDATION:	To discuss the status of the Original Streetscape Project.
EXPLANATION:	<p>Attached is a report prepared by Attorney Fuchs regarding the status of litigation and the project for the Original Village Streetscape. In addition, there is a proposed letter which will be sent to residents within the project.</p> <p>This item is placed on the agenda in order to bring the Village Board up to date on the status and to discuss alternatives.</p> <p>If you have any additional questions, please contact either Attorney Fuchs or me.</p>

**ORIGINAL VILLAGE
STATUS OF PROJECT/STATUS OF LITIGATION/RECOMMENDATION**

Background

The Original Village Project arose in part due to resident and property owner requests. Roads are poor and dated. There are drainage problems. The infrastructure is declining, and the area suffers a great deal of obsolescence.

A plan was prepared by staff and presented to the Village Board. The Board scheduled several meetings for input and informational purposes, more than are typical or mandated by law. Based upon those meetings, and the input of residents and property owners, substantial modifications and revisions were made to the plan.

Initial Problem

During the planning stage, it was discovered that ownership, and property line issues plagued the area. The streets had never been dedicated. What has been employed as public area for generations was often included, throughout the area, within the meets and bounds legal descriptions of various private properties. The Village had taken responsibility for the street and right of way areas for years, and property owners were generally not assessed as though they owned those areas.

Initial Resolution Efforts

Staff sent offer letters to all affected property owners, including follow up mailings and met one on one several times with a great majority of owners to discuss the offers and other concerns. The standard by which valuations were determined was explained, as well as the repercussions of property owners retaining the area within their legal description. Agreement for acquisition was reached with 39 of 51 property owners.

Current Issue

While an accord was reached with most property owners, no agreement for acquisition of the street and right of way areas could be reached as to the following properties:

- | | |
|----------|---|
| Brickner | 8759 N. 43rd Street, Brown Deer, WI 53209. Marie Brickner and Gerald Brickner. Single Family residential property. Tax ID 047-9997 |
| Reno 1 | 8752 N. Deerwood Dr., Brown Deer, WI 53209. Anthony T Reno and Julie L Reno. Commercial/Mixed Use property. Tax ID 048-8990-001 |
| Reno 2 | 8740 N. Deerwood Drive, Brown Deer, WI 53209. Anthony T Reno, Julie L Reno, Casey Reno and JoAnn Reno. Commercial/Mixed Use property. Tax ID 048-8989-001 |

- Spransy 4133 W. River Lane, Brown Deer, WI 53209. William B and Angela M Spransy. Single Family Residential property. Tax ID 048-8992
- Krolikowski 1442 Cedar Creek Parkway, Grafton, WI 53024. (property address: 4125 W. River Lane) Karen V Krolikowski. Single Family Residential property. Tax ID 048-8993
- Ehlers 4113 W. River Lane, Brown Deer, WI 53209. David H Ehlers. Single Family Residential property. Tax ID 048-8994
- Kaiser 8806 N. Deerwood Drive, Brown Deer, WI 53209. Marvin E. and Vivian Kaiser. Commercial property. Tax ID 027-8993-001
- Kotlarek 500 N. Dries St, Saukville, WI 53080. (property address: 8611-13 N. Deerwood Drive) Russell Kotlarek. Two Family Residential property. Tax ID 048-8972
- Balisterri 8627 N. Deerwood Drive, Brown Deer, WI 53223. Leland P Balisterri. Single Family Residential property. Tax ID 048-8975
- Burg 8581 N. 42nd Street, Brown Deer, WI 53209. Jeffrey D and Kelly A Burg. Single Family Residential property. Tax ID 048-8968
- Harmon 8588 N. 42nd Street, Brown Deer, WI 53209. Charlene M Harmon. Single Family Residential property. Tax ID 048-8960
- Daugherty 8597 N. Deerwood Drive, Brown Deer, WI 53209. Thomas J Daugherty. Two Family Residential property. Tax ID 048-8959

Current Status

The Project was let for bids, and favorable bids were obtained. This was significant, in that the Village has had, from the inception of the project, an objective of no assessments to abutting property owners. That objective was relayed to property owners who cooperated in this effort.

Both the Village Attorney, and its special counsel for development projects, had recommended to the Village Board that it proceed as to the objectors by way of an adverse possession suit. This recommendation was based upon several considerations. Eminent domain is a process best suited for acquisitions from private owners as to land previously employed as private property. The areas in question have been employed for street and right of way purposes, and were generally not even known to have been owned privately. The more appropriate legal remedy for this type of situation is that of adverse possession. Adverse possession seeks a court declaration that the areas in issue should simply be declared as public. Legal counsel also deemed it unfair to compensate those

obstructing the project higher than the compensation offered those who cooperated in the project.

Staff Recommendation

Legal counsel and staff feel that there is a high probability that the project will need to be laid over for one year. The position taken by those with whom we are in litigation makes the timing, and staging of the project in the 2012 calendar year difficult. Litigation is inherently attended by uncertainty as to both the time in which a case will resolve, as well as the resolution itself. Adding to the probability of a full year delay is that believing a phased or split year construction schedule for the project will unreasonably interfere with the conduct of local businesses, more so than if the project is done in one season. In addition, phasing might result in greater costs.

Staff specifically recommends against any other course other than that taken in the pending litigation. Further, in the consideration of fairness to those who have cooperated, and the remaining tax payers in the Village as a whole, staff recommends that no compensation of a greater nature than that agreed to by the majority of the owners be offered those with whom we are in suit.

Clearly the objectors in the pending litigation will cause greater expense as to this project, and how those costs might be recovered remains an open issue. While the Village would like to remain committed to the position of no special assessments for this project, the added cost of legal review and the loss of a favorable bid may force consideration of a special assessment to all property owners to recover said increased costs.

Finally, staff recommends that a letter be sent to the owners explaining the status of the project, and advising them of the action of the Board.

DRAFT

Date

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Re: Original Village Project

Dear Property Owner/Resident:

Included with this letter is a staff recommendation to the Village Board. It is provided for your information, as it provides a summary of the project, and its current status.

Please be advised that the Village Board accepted the recommendation of staff. By formal action, it has advised staff to proceed as follows.

1. To pursue the litigation with the objecting property owners to its conclusion.
2. To do everything possible to procure the general contractor's agreement to extend its bid, and lock it in for another year.
3. To determine, by no later than the May 7th Village Board meeting, whether to postpone the project to year 2013, pending resolution of the litigation.

The Board regrets any inconvenience to the property owners and residents and offers its appreciation to those who provided positive or objective input, cooperation, or assistance, in attempting to make this project work for the benefit of our owners and residents.

Very truly yours,

Russell Van Gompel
Brown Deer Village Manager

Enclosure(s)