**OFFICIAL NOTICE AND AGENDA - REVISED**

Notice is hereby given that the Common Council of the City of Wausau, Wisconsin will hold a regular or special meeting on the date, time and location shown below.

**Meeting of the:** COMMON COUNCIL OF THE CITY OF WAUSAU  
**Date/Time:** Tuesday, April 25, 2017 at 7:00 pm.  
**Location:** City Hall (407 Grant Street, Wausau WI 54403) - Council Chambers  
**Members:** Patrick Peckham, Romey Wagner, David Nutting, Tom Neal, Gary Gisselman, Becky McElhaney, Lisa Rasmussen, Karen Kellbach, Joe Gehin, Sherry Abitz, Dennis Smith

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### Call to Order

Pledge of Allegiance / Roll Call / Proclamations

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### Public Comment

Pre-registered citizens for matters appearing on the agenda and other public comment.

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<table>
<thead>
<tr>
<th>File #</th>
<th>CMT</th>
<th>Consent Agenda</th>
<th>ACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>17-0401</td>
<td>Minutes of previous meeting(s), (4/11/17)</td>
<td>N/A</td>
<td>N/A</td>
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<tr>
<td>10-0903</td>
<td>N/A</td>
<td>Clerk's Appointments to the Board of Canvassers for a term expiring December 31, 2018, pursuant to Wisconsin Statutes 7.53 (2) (a) 1.</td>
<td>N/A</td>
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<tr>
<td>17-0411</td>
<td>CISM</td>
<td>Initial Resolution Setting a public hearing regarding vacating and discontinuing a portion of S. 19th Avenue south of Pardee Street</td>
<td>Approved 4-0</td>
</tr>
<tr>
<td>04-0311</td>
<td>CISM</td>
<td>Resolution Approving 2017 Street Reconstruction Projects and Authorization to Let Bids – Plaza Drive from 28th Avenue to Pine Ridge Boulevard</td>
<td>Approved 4-0</td>
</tr>
<tr>
<td>11-0505</td>
<td>Par &amp; Rec</td>
<td>Resolution Designating May 20, 2017 as International Migratory Bird Day</td>
<td>Approved 5-0</td>
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<table>
<thead>
<tr>
<th>File #</th>
<th>CMT</th>
<th>Resolutions and Ordinances</th>
<th>ACT</th>
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<tbody>
<tr>
<td>17-0403</td>
<td>HR</td>
<td>Confirmation of Mayor's Appointments</td>
<td>Approved 4-0</td>
</tr>
<tr>
<td>17-0409</td>
<td>HR</td>
<td>Resolution Approving the Reclassification of the Administrative Assistant I position to Administrative Assistant II position, Approving Elimination of the Administrative Assistant III position, and Approving Creation of another Administrative Assistant II position within the Inspections Department</td>
<td>Approved 4-0</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Suspend the Rules (2/3 vote required)</td>
<td></td>
</tr>
<tr>
<td>17-0408</td>
<td>FIN</td>
<td>Resolution approving selection of vendor and authorizing to enter into a contract for computer assisted mass appraisal (CAMA) software for the Assessment Department</td>
<td>Pending</td>
</tr>
<tr>
<td>17-0410</td>
<td>FIN</td>
<td>Resolution authorizing application to the 2017 WDNR Knowles-Nelson Stewardship Grant for the South Riverfront Area</td>
<td>Pending</td>
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<tr>
<td>17-0410</td>
<td>FIN</td>
<td>Resolution authorizing assistance in preparing application to the WDNR Knowles-Nelson Stewardship Grant for the South Riverfront Area</td>
<td>Pending</td>
</tr>
</tbody>
</table>

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**Public Comment & Suggestions**

Adjournment

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Signed by Robert B. Mielke, Mayor

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This Notice was posted at City Hall and faxed to the Daily Herald newsroom on 4/21/17 @ 11:45 am. Questions regarding this agenda may be directed to the City Clerk.

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Please note that, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids & services. For information or to request this service, contact the City Clerk at (715) 261-6620.
OFFICIAL PROCEEDINGS OF THE WAUSAU COMMON COUNCIL
held on Tuesday, April 11, 2017, at 7:00 pm in the Council Chambers at City Hall.
Mayor Mielke presiding.

Roll Call 4/11/2017 7:00:57 PM
Roll call indicated 10 members present.

<table>
<thead>
<tr>
<th>District</th>
<th>Alderperson</th>
<th>Present</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Peckham, Patrick</td>
<td>YES</td>
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<td>2</td>
<td>Wagner, Romey</td>
<td>YES</td>
</tr>
<tr>
<td>3</td>
<td>Nutting, David E.</td>
<td>YES</td>
</tr>
<tr>
<td>4</td>
<td>Neal, Tom</td>
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<tr>
<td>5</td>
<td>Gisselman, Gary</td>
<td>YES</td>
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<td>6</td>
<td>McElhaney, Becky</td>
<td>YES</td>
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<td>7</td>
<td>Rasmussen, Lisa</td>
<td>YES</td>
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<td>8</td>
<td>Kellbach, Karen</td>
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<td>9</td>
<td>Gehin, Joe</td>
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<td>10</td>
<td>Abitz, Sherry</td>
<td>NV</td>
</tr>
<tr>
<td>11</td>
<td>Smith, Dennis</td>
<td>YES</td>
</tr>
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</table>

Presentations:
PRESENTATION BY AMERICORP
Steve Frodl explained the purpose of the AMERICORP program and the work it accomplishes. The presentation can be viewed on the city’s website of Council meeting videos: https://waam.viebit.com/?folder=City%20Council

2016 MAIN STREET AWARD
Gary Gisselman stated at a recent Main Street Awards Ceremony for the State of Wisconsin, the 2016 Main Street Award was presented to the City of Wausau for the 2nd Avenue Reconstruction Project – Best Public Improvement. He praised the Engineering Department and Department of Public Works for the great work they did on this project earning this prestigious award.

Public Comment for Pre-registered citizens for matters appearing on the agenda and other public comment
1) Glenn Speich, MSA Professional Services, updated the Council on the progress of the Thomas Street Reconstruction Project and stated we are at a milestone with the last parcel acquisition to be approved tonight. Barbara Skibinski, MSA, commented on the Thomas Street project and stated it was a pleasure working with the city.
2) Matt Foss, 620 E. Union Ave, spoke in opposition to the rezoning change for Kwik Trip on 6th Street, which he felt was an unnecessary expansion that encroaches into the neighborhood.
3) Thomas Brown, owner of a lot at 610 E Union Ave, and also representing the owner of the house at the corner of 6th Street and E Union Ave, spoke in support of the rezoning of Kwik Trip. He felt they were the most affected property owners living directly across from the proposed expansion. He felt it would be a huge improvement to the neighborhood and provide additional lighting and safety. He suggested Union Avenue be turned into a cul de sac to make it safer for Mr. Foss.

Consent Agenda 4/11/2017 7:27:41 PM
Motion by Neal, second by Nutting to approve all items on the consent agenda as presented.

A correction was noted to the minutes of 3/28/2017.

17-0301 Minutes of previous meeting(s). (03/28/2017)

17-0404 Resolution of the Finance Committee authorizing Public Support of Community of Development Block Grant Funds

02-1005 Resolution of the Finance Committee approving acquisition in Fee of 2,055 sq. ft. at 1405 West Thomas Street and 1,797 sq. ft. at 1401 West Thomas Street (Webko)

01-0907 Resolution of the Plan Commission adopting the City of Wausau Comprehensive Plan 2016

17-0108 Resolution of the Public Health & Safety Committee approving or denying various licenses as indicated

Yes Votes: 10  No Votes: 0  Not Voting: 1  Result: PASS

17-0403 4/11/2017 7:28:11 PM
Motion by Wagner, second by Gehin to confirm the Mayor's appointments as presented.
16-1109  4/11/2017 7:28:51 PM
Motion by Rasmussen, second by Peckham to adopt a Resolution of the Finance Committee approving the modification of the 2017 Budget - Capital Project Funds and General Fund

Yes Votes: 10  No Votes: 0  Not Voting: 1  Result: PASS

16-0913  4/11/2017 7:29:32 PM
Motion by Nutting, second by Wagner to adopt a Joint Resolution of the Economic Development and Finance Committees approving the proposal/plan submitted by Urban Street Bistro and the sale of property for the redevelopment of the former Westside Battery and L&S Printing properties at 401 and 415 South First Avenue

Yes Votes: 10  No Votes: 0  Not Voting: 1  Result: PASS

15-0614  4/11/2017 7:30:11 PM
Motion by Rasmussen, second by Neal to adopt a Joint Resolution of the Economic Development and Finance Committees approving the changes to the Air Rights and Ground Lease, sublease (Sears) and parking agreements between the City of Wausau Center Joint Venture (the Wausau Center Mall)

Yes Votes: 10  No Votes: 0  Not Voting: 1  Result: PASS

97-0404  4/11/2017 8:13:10 PM
Motion by Rasmussen, second by Neal to adopt a Joint Resolution of the Economic Development and the Finance Committees approving the acquisition and relocation of Wausau Chemical at 2001 N River Drive, 180 E Wausau Ave, 1940 N 2nd Street and 2001 N 2nd Street and the transfer of land in the Wausau Business Campus Expansion Area

Chris Schock stated there has been discussions about the eventual relocation of Wausau Chemical away from the riverfront into an appropriate location for the last two years. He stated the vast majority of the riverfront is a brownfield site and has been in various states of management and remediation. Two years ago the city hired Connestoga Rover, a large consulting firm, to do extensive tests at the Wausau Chemical site before this was considered the first time. Wausau Chemical will be required to perform additional tests on the site as part of this process and the next step will be to review the reports. He noted a vapor barrier is typical for the riverfront property.

Smith commented he was troubled by this project on many levels; he felt they should do the environmental study before taking any Council action. He pointed out the location of this property is bordered on the south by the water plant, on the north by a cheese processing building, and on the back side by an active railroad line and questioned what could ever be put there.

Lengthy Council discussion followed – it can be accessed on the city’s website of Council meeting videos:
https://waam.viebit.com/?folder=City%20Council

Schock summarized that all we are saying at this point by approving this, is that we are going to do the environmental analysis; we are serious about relocating Wausau Chemical; and that we will put together a TIF plan that allocates the costs of their new building and the potential redevelopment of the property.

Yes Votes: 9  No Votes: 1  Abstain: 0  Not Voting: 1  Result: PASS

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<tr>
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<tbody>
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<tr>
<td>11</td>
<td>Smith, Dennis</td>
<td>NO</td>
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</table>
Motion by Rasmussen, second by Neal to amend the Ordinance of the Plan Commission rezoning 2203 North 6th Street & 2215 North 6th Street from B1, Neighborhood Shopping District, and 2209 North 6th Street, 603, 611, & 613 East Union Avenue and 610 & 614 East Wausau Avenue from R3, Two Family Residence District, to UDD, Unified Development District and approve the General Development Plan to allow for a convenience store with a fueling canopy - that the project move forward whether or not the alley vacation is completed.

Rasmussen did not want the alley vacation to hinder the forward movement of the project. Gisselman questioned if the alley vacation was contingent. Brad Lenz explained the plan is essentially the same with or without the alley vacation and with UDD’s it can be flexible. He stated this small strip of land is being shown as being vacated and that is what went through Plan Commission.

Yes Votes: 10 No Votes: 0 Not Voting: 1 Result: PASS

Motion by Nutting, second by Gehin to adopt an Ordinance of the Plan Commission rezoning 2203 North 6th Street & 2215 North 6th Street from B1, Neighborhood Shopping District, and 2209 North 6th Street, 603, 611, & 613 East Union Avenue and 610 & 614 East Wausau Avenue from R3, Two Family Residence District, to UDD, Unified Development District and approve the General Development Plan to allow for a convenience store with a fueling canopy, as amended on council floor.

Gisselman indicated he voted against this in Plan Commission and agreed with Mr. Foss’s arguments with regard to Kwik Trip’s invasion of this block. He understood there were commercial businesses along 6th Street, but he felt the destruction of the lots between East Union Avenue and East Wausau Avenue is an overstepping of what we want as a city. He believed it would have a large impact on the neighborhood and sets a strong statement for what a business can do.

Rasmussen commented the Kwik Trip is already there and when talking to people who live near other Kwik Trips, they have said they are a good neighbor, a responsible employer, and elevate neighborhoods. She pointed out it really operates more like a neighborhood convenience store that also sells gas. The UDD zoning is a classification that allows a municipality to work with the developer regarding noise, lights, signage, hours of operation and landscaping. All we need to determine is if the zoning plan is an appropriate land use for that corner. She did not feel it was for us to decide when Wausau has enough of any type of business; the consumer market decides that.

Yes Votes: 9 No Votes: 1 Abstain: 0 Not Voting: 1 Result: PASS

Motion by Nutting, second by Wagner to adopt a Resolution of the Plan Commission approving the Precise Implementation Plan at 2203, 2209 & 2215 North 6th Street, 603, 611 & 613 East Union Avenue and 610 & 614 East Wausau Avenue to allow for a convenience store with fueling canopy

Yes Votes: 9 No Votes: 1 Abstain: 0 Not Voting: 1 Result: PASS
8     Kellbach, Karen     YES
9     Gehin, Joe         YES
10    Abitz, Sherry      NV
11    Smith, Dennis      YES

17-0406  4/11/2017 8:34:02 PM
Motion by Rasmussen, second by Gehin to adopt an Ordinance of the Plan Commission Rezoning 9904, 9906, 9908, 9910, 9912, 9914 & 9916 Highland Drive from unzoned parcels to IP, Industrial Park District

Yes Votes: 10  No Votes: 0  Not Voting: 1  Result: PASS

17-0304 Amendment  4/11/2017 8:35:19 PM
Motion by Wagner, second by Rasmussen to amend the Resolution of the Wausau Water Works Commission approving the acquisition of 330 and 336 Adrian Street - to delay the closing two days to April 17, 2017, to allow seller to remove personal property from the parcels.

Yes Votes: 10  No Votes: 0  Not Voting: 1  Result: PASS

17-0340  4/11/2017 8:35:42 PM
Motion by Wagner, second by Peckham to adopt a Resolution of the Wausau Water Works Commission approving the acquisition of 330 and 336 Adrian Street, as amended on the council floor

Yes Votes: 10  No Votes: 0  Not Voting: 1  Result: PASS

Suspend the Rules  4/11/2017 8:36:01 PM
Motion by Neal, second by Gehin to suspend the rules of the Common Council (2/3 Vote Required)

Yes Votes: 10  No Votes: 0  Not Voting: 1  Result: PASS

17-0407  4/11/2017 8:36:37 PM
Motion by Neal, second by McElhaney to adopt a Resolution of the Human Resources Committee approving the Reclassification of the Financial Analyst to Accountant position within the Finance Department

Yes Votes: 10  No Votes: 0  Not Voting: 1  Result: PASS

Adjournment  4/11/2017 8:37:11 PM
Motion by Neal, second by Nutting to adjourn. Motion carried unanimously. Meeting adjourned at 8:37 p.m.

Robert B. Mielke, Mayor
Toni Rayala, City Clerk
COMMUNICATION TO CITY COUNCIL

Clerk’s Appointments to the Board of Canvassers for a term expiring December 31, 2018, pursuant to Wisconsin Statutes 7.53 (2) (a) 1.

Committee Action: N/A
Fiscal Impact: None

File Number: 10-0903  Date Introduced: April 25, 2017

Board of Canvassers:

<table>
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<th>Representing</th>
<th>Name</th>
<th>Address</th>
<th>Term</th>
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<td>Citizen Member</td>
<td>Martin Burkhardt</td>
<td>3403 Seymour Lane</td>
<td>2 Yrs Expires: 12/31/2018</td>
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<tr>
<td>Citizen Member</td>
<td>Russell Tonelli</td>
<td>603 Broken Arrow Rd</td>
<td>2 Yrs Expires: 12/31/2018</td>
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<td>Alt Citizen Member</td>
<td>Mary Goede</td>
<td>706 Prospect Ave</td>
<td>2 Yrs Expires: 12/31/2018</td>
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Approved:

__________________________
Toni Rayala, City Clerk
INITIAL RESOLUTION OF THE CAPITAL IMPROVEMENTS AND STREET MAINTENANCE COMMITTEE

Setting a public hearing regarding vacating and discontinuing a portion of S. 19th Avenue south of Pardee Street

Committee Action: Approved 4-0
Fiscal Impact: None

File Number: 17-0411
Date Introduced: April 25, 2017

FISCAL IMPACT SUMMARY

<table>
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<th>COSTS</th>
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RESOLUTION

WHEREAS, pursuant to Wis. Stats. 66.1003(4)(a), it is declared that since the public interest requires it, the following described public way, all of which is in the City of Wausau be vacated and discontinued leaving a 16 foot wide unpaved alley extending south from Pardee Street to the property line:

Part of the Southwest ¼ of the Northeast ¼, Section 34, Township 29 North, Range 7 East, City of Wausau, Marathon County, Wisconsin, described as follows:

The West 25 feet of S. 19th Avenue lying South of the South right-of-way of Pardee Street, and lying North of the Northerly line of the Railroad right-of-way running through said Southwest ¼ of the Northeast ¼;

and also;

The East 9 feet of S. 19th Avenue lying South of the South right-of-way of Pardee Street, and lying North of the Northerly line of the Railroad right-of-way running through said Southwest ¼ of the Northeast ¼;

and also;

The East 25 feet of S. 19th Avenue lying South of the North line of the parcel described
in Document No. 561392 recorded in the Office of Register of Deeds for Marathon County in Volume 503 of Deeds on Page 634 (1839 Pardee Street), extended Westerly, and lying North of the Northerly line of the Railroad right-of-way running through said Southwest ¼ of the Northeast ¼.

WHEREAS, the Capital Improvements and Street Maintenance Committee at its April 13, 2017 meeting recommended that a hearing be held.

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Wausau, that a hearing on the passage of the foregoing resolution shall be held before the Capital Improvements and Street Maintenance Committee of the City of Wausau in the Council Chambers of City Hall, 407 Grant Street, Wausau, Marathon County, Wisconsin, on the 8th day of June, 2017, at 5:30 p.m., on said day, and the proper City officials are hereby authorized and directed to give notice of said hearing by personal service and publication of said hearing as provided by law.

Approved:

______________________________
Robert B. Mielke, Mayor
Date of Meeting: April 13, 2017, at 5:30 p.m. in the Council Chambers of City Hall.

Members Present: Gisselman, Kellbach, McElhaney, Rasmussen (Abitz was excused.)

Also Present: Lindman, Wesolowski, Sean Gehin, Buckner, Peckham

In compliance with Chapter 19, Wisconsin Statutes, notice of this meeting was posted and received by the Wausau Daily Herald in the proper manner.

Noting the presence of a quorum, at approximately 5:30 p.m. Chairman Gisselman called the meeting to order.

CONSENT AGENDA
A. Approve minutes of the March 9, 2017 meeting
B. Action on initial resolution to hold a public hearing to vacate a portion of 19th Avenue south of Pardee Street

Kellbach moved to approve the consent agenda items. Rasmussen seconded and the motion carried unanimously 4-0.
<table>
<thead>
<tr>
<th>AGENDA ITEM</th>
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<tr>
<td>Action on initial resolution to hold a public hearing to vacate a portion of 19th Avenue south of Pardee Street</td>
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</table>

<table>
<thead>
<tr>
<th>BACKGROUND</th>
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<tbody>
<tr>
<td>The City is proposing to vacate a portion of 19th Avenue as shown on the attached map.</td>
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<table>
<thead>
<tr>
<th>FISCAL IMPACT</th>
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<tbody>
<tr>
<td>The fiscal impact for vacating a portion of the road is none.</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>STAFF RECOMMENDATION</th>
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</thead>
<tbody>
<tr>
<td>Staff recommends approval of the initial resolution to hold a public hearing for the purpose of vacating a portion of 19th Avenue as shown on the attached map.</td>
</tr>
</tbody>
</table>

Staff contact: Allen Wesolowski 715-261-6762
RESOLUTION OF THE CAPITAL IMPROVEMENTS & STREET MAINTENANCE COMMITTEE

Approving 2017 Street Reconstruction Projects and Authorization to Let Bids – Plaza Drive from 28th Avenue to Pine Ridge Boulevard

Committee Action: Approved 4-0
Fiscal Impact: Estimated construction cost $650,000; estimated special assessments $125,000

File Number: 14-0311
Date Introduced: April 25, 2017

FISCAL IMPACT SUMMARY

<table>
<thead>
<tr>
<th>COSTS</th>
<th>Budget Neutral</th>
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<td>Increment Revenue</td>
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<td>Funds on Hand</td>
<td>Interfund Loan</td>
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</table>

RESOLUTION

WHEREAS, the following streets have been proposed for construction under the 2017 Street Construction Project:

Plaza Drive from 28th Avenue to Pine Ridge Boulevard

WHEREAS, this project is assessable in whole or in part to the abutting property owners for special benefits conferred upon properties by the improvement of the abovementioned streets; a preliminary resolution to levy special assessments to the abutting owners was adopted by the Common Council on March 28, 2017; and the Engineer's report has been filed with the City Clerk, and

WHEREAS, the Board of Public Works conducted public hearings for the project special assessments on April 11, 2017, and
WHEREAS, the Capital Improvements and Street Maintenance Committee discussed the proposed projects at its meeting on April 13, 2017 and recommends work be accomplished under the 2017 Street Construction Projects, and

WHEREAS, the 2017 special assessment rate was set by Council on October 11, 2016, and

WHEREAS, street grades will be established or reestablished and fixed as shown on the plans for the project (copy on file in the Engineering Department), and minor revisions will be made in the plans as may be necessary during construction, now therefore

BE IT RESOLVED that the Common Council authorizes securing of bids and construction of the 2017 Street Construction Projects.

Approved:

__________________________
Robert B. Mielke, Mayor
Date of Meeting: April 11, 2017, at 4:00 p.m. in the Council Chambers.

Members Present: Lindman, Jacobson, Splinter

Also Present: Wesolowski, Gehin

In compliance with Chapter 19, Wisconsin Statutes, notice of this meeting was posted and received by the *Wausau Daily Herald* in the proper manner.

**PUBLIC HEARING: 2017 Street Reconstruction Project – Plaza Drive from North 28th Avenue to Pine Ridge Boulevard**

Lindman opened the public hearing. No one appeared to offer comments and the public hearing was closed at approximately 4:10 p.m.

**Adjourn**

Lindman moved to adjourn the meeting. Splinter seconded and the motion passed.
Date of Meeting: April 13, 2017, at 5:30 p.m. in the Council Chambers of City Hall.

Members Present: Gisselman, Kellbach, McElhaney, Rasmussen (Abitz was excused.)

Also Present: Lindman, Wesolowski, Sean Gehin, Buckner, Peckham

In compliance with Chapter 19, Wisconsin Statutes, notice of this meeting was posted and received by the Wausau Daily Herald in the proper manner.

Noting the presence of a quorum, at approximately 5:30 p.m. Chairman Gisselman called the meeting to order.

**2017 Street Construction Project of Plaza Drive from 28th Avenue to Pine Ridge Boulevard: Discuss public hearing results and make recommendation**

Wesolowski stated that the Board of Public Works held a public hearing for this project. No one appeared to offer comments. He recommends approving the street construction project.

Rasmussen moved to approve the 2017 Street Construction Project of Plaza Drive from 28th Avenue to Pine Ridge Boulevard. Kellbach seconded and the motion carried unanimously 4-0.
# Agenda Item No.

| 3 | STAFF REPORT TO CISM COMMITTEE – April 13, 2017 |

## Agenda Item

2017 Street Construction Project of Plaza Drive from 28th Avenue to Pine Ridge Boulevard: Discuss public hearing results and make recommendation

## Background

On April 11, 2017, the Board of Public Works held a public hearing taking comments on the reconstruction of Plaza Drive from 28th Avenue to Westwood Drive.

Comments received at the public hearing will be made available to the committee prior to the meeting.

## Fiscal Impact

The project is proposed to be funded with TID 6 and special assessments to abutting property owners. The estimated construction cost for the roadway is $320,000. The estimated special assessments for the street project are approximately $125,000.

## Staff Recommendation

Staff will make a recommendation at the CISM meeting based upon comments received at the Board of Public Works public hearing.

Staff contact: Allen Wesolowski 715-261-6762
RESOLUTION OF PARK & RECREATION COMMITTEE

Designating May 20, 2017 as International Migratory Bird Day

Committee Action: Approved 5-0
Fiscal Impact: None

File Number: 11-0505 Date Introduced: April 25, 2017

RESOLUTION

WHEREAS, migratory birds are one of the most easily observed wildlife species. Their beauty causes many to rejoice that spring has finally arrived; and

WHEREAS, migratory birds play an important economic role. Birds control both rodent and insect pests and bird watching activities generate millions in recreational dollars. Wausau reaps the benefit by hosting bird watching related conventions annually; and

WHEREAS, migratory birds face numerous threats to their survival both here and on their wintering grounds; and

WHEREAS, since 1993 International Migratory Bird Day (IMBD) has been celebrated by thousands of people throughout the Americas. Recognizing that birds migrate through different areas at different times the whole month of May has been named IMBD; and

WHEREAS, at these IMBD celebrations the public is involved and educated on ways to not only appreciate the birds for their beauty but to take on the cause of conservation. IMBD is a call to action for everyone to support migratory bird conservation efforts both locally and globally; and

WHEREAS, your Park and Recreation Committee, at their March 6, 2017 meeting, recommended adopting a resolution marking May 20, 2017 International Migratory Bird Day.

NOW, THEREFORE BE IT RESOLVED, the Common Council of the City of Wausau does hereby resolve to mark May 20, 2017 as International Migratory Bird Day in the City of Wausau, and all citizens are urged to celebrate this observance and to support efforts to protect and conserve migratory birds and their habitats in our community and the world at large.

Approved:

Robert B. Mielke, Mayor
DRAFT
CITY OF WAUSAU – PARK AND RECREATION COMMITTEE MEETING MINUTES

Date/Time: March 6, 2017 at 3:00p.m. Location: Council Chambers, City Hall
Members Present: Joe Gehin, Gary Gisselman, Tom Neal, David Nutting, Pat Peckham (c)
Others Present: Bill Duncanson-Director, Dan Fiorenza – Park and Recreation Manager, Robert Mielke - Mayor, Elizabeth Field-Wausau River District

In accordance with Chapter 19, Wisc. Statutes, notice of this meeting was posted and sent to the Daily Herald in the proper manner. It was noted that there was a quorum present and the meeting was called to order by Peckham at 4:30 p.m.

Bird City Status - Discussion and Possible Action on International Migratory Bird Day Proclamation and Bird City High Flyer Status – Duncanson said the City had achieved Bird City Wisconsin status about five years ago. It had also achieved High Flyer status because the City did additional things to promote songbirds in the community. This year the Wausau Bird Club will celebrate May 20th as International Migratory Bird Day at Monk Gardens. The Mayor will make a proclamation and the resolution will be modified for 2017. Duncanson noted that the High Flyer status is in jeopardy because the City passed the feral cat ordinance. One of the things that Bird City Wisconsin is adamantly opposed to is supporting the feral cat in Bird City municipalities. Neal felt that the trap, neuter, release program was a way to mitigate cat populations. It’s a long term effort but inaction only keeps the cat population growing. He did not believe that a trap and euthanize program was something that the City or many of its citizens would want to become a part of. He felt it was counterintuitive to hold something like the High Flyer status over the City when the City has a program that it is encouraging as an effort to reduce the feral cat population. He understands there is an economic aspect that the Bird City involves but the City has a reason for having the cat trap, neuter and release program. Peckham said he wasn’t an expert on the trap, neuter, release program versus other methods, but he believes the Bird City Wisconsin people believe that the trap, neuter, release program is more damaging to birds to allow those cats to continue. Nutting asked about the benefits of the High Flyer status. He understands people are going to be passionate about both animals. Duncanson said it’s recognition in the birding community that the City cares about birds.

Approximately 1 in 5 people are birders and it is a high dollar recreational pastime. Gisselman said he had voted against the trap, neuter, release program and at that time he thought there was going to be a report coming back to City Council. Neal questioned if the City’s High Flyer status would be maintained if the City had no policy and the cats were left to run wild. Duncanson said his understanding is that if the trap, neuter and release program were not in place the City would retain the High Flyer status. Neal reiterated his previous position. Motion by Gisselman, second by Nutting to mark May 20, 2017 as International Migratory Bird Day in the City of Wausau and all citizens are encouraged to celebrate this observance and support efforts to protect and conserve migratory birds and their habitats in their community and the world at large. Motion carried by voice vote. Vote reflected as 5-0.

Peckham said he would ask the chair of Public Health and Safety Committee that a report be given to City Council about the trap, neuter, and release program. In the future Neal said he would like a statement given to Bird City Wisconsin about the City’s position.
CITY OF WAUSAU, 407 Grant Street, Wausau, WI 54403

CONFIRMATION OF MAYOR'S APPOINTMENTS

to Boards, Commissions and Committees: Transit Commission

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<th>File Number:</th>
<th>17-0403</th>
<th>Date Introduced:</th>
<th>April 25, 2017</th>
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**Transit Commission**

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<td>Keith Draheim</td>
<td>920 W Campus Dr Term Exp 4/30/20</td>
<td>715-675-9699</td>
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<tr>
<td>Dennis Smith</td>
<td>3516 Polzer Dr Term of Office</td>
<td>715-573-7994</td>
<td>*Replacing Becky McElhaney</td>
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(N) Individual is filling the unexpired term of a former member
(1) Individual is in their own 1st full term
(#) Designates the term number appointed to

Approved:

______________________________
Robert B. Mielke, Mayor
RESOLUTION OF THE HUMAN RESOURCES COMMITTEE

Applying the Reclassification of the Administrative Assistant I position to Administrative Assistant II position, Approving Elimination of the Administrative Assistant III position, and Approving Creation of another Administrative Assistant II position within the Inspections Department

Committee Action: Approved 4-0

Fiscal Impact: Savings of $7,500 a year

File Number: 17-0409

Date Introduced: April 25, 2017

FISCAL IMPACT SUMMARY

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RESOLUTION

WHEREAS, the Inspections Division of the Department of Public Works currently has an Administrative Assistant I and an Administrative Assistant III, and

WHEREAS, one position primarily handled inspections and permitting while the other position worked with the property maintenance group and municipal court functions, and

WHEREAS, the Administrative Assistant III position is vacant which prompted review of the current administrative organization of the division, and

WHEREAS, due to implementation of a comprehensive software program that incorporates all of the division’s primary functions, both administrative positions will be operating in a dual role splitting administrative duties evenly, and

WHEREAS, the division recommends reclassifying the Administrative Assistant I to an Administrative Assistant II, eliminating the Administrative Assistant III position and creating a second Administrative Assistant II position, and
WHEREAS, on April 10, 2017, the Human Resources Committee considered, reviewed, discussed and supported the recommendations; now therefore,

BE IT RESOLVED by the Common Council of the City of Wausau that the proper City officials are hereby authorized and directed to reclassify the Administrative Assistant I position in the Inspections Department to Administrative Assistant II, eliminate the Administrative Assistant III position and create a second Administrative Assistant II position in the Inspections Department, and begin recruitment immediately.

Approved:

______________________________
Robert B. Mielke, Mayor
TO: Human Resources Committee

FROM: William D. Hebert, MPA
Chief Inspector / Zoning Administrator

DATE: April 4, 2017

SUBJECT: Administrative Assistant Changes for Inspections Division of DPWU

Background and History:

The Inspections Division of the Department of Public Works currently has an Administrative Assistant I and Administrative Assistant III. The Administrative Assistant III recently announced her retirement which prompted review of the current administrative organization in the inspections division. The Inspections Division typically has had 2 FTE administrative positions. One has primarily handled inspections and permitting while the other position has worked with the property maintenance group and municipal court functions.

In 2016 the Inspections Division implemented a comprehensive software program that incorporates all of our division’s primary functions; permitting, inspections, and code enforcement. We also utilize the software for functions such as conditional use, zoning change, and site plan review, and online permitting which is being finalized.

Both administrative positions will work within the software system and will be capable of utilizing all functions. It is staff’s recommendation to move from 1 (one) – Administrative Assistant I and 1 – Administrative Assistant III to 2 (two) – Administrative Assistant II. We have included the propose job description in the packet.

Reasoning and Justification:

Administrative personnel are key to any service organization. The Inspections Division works with a variety of customers; the general public, contractors, homeowners, landlords, tenants, other city departments, and elected officials. Conservatively we issue over 2,000 permits annually, take code enforcement action in excess of 5,000 violations per year and countless phone calls, emails and requests for information.

In reviewing the job duties it was determined that the administrative personnel would operate in a dual role where both positions would split the administrative duties evenly. This would help to support the office during employee leave or training.
Summary:

Staff recommends reclassifying the current Administrative Assistant I to Administrative Assistant II. Ms. Engen is fully capable of completing all duties in the proposed job description and has performed well in her current position.

Further we recommend eliminating the current Administrative Assistant III and creating a second Administrative Assistant II position.

These changes should leave a nominal savings in the current budget.
JOB DESCRIPTION

Administrative Assistant II – Inspections

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This description is not an announcement of a position opening. To view current openings please visit www.ci.wausau.wi.us. The following statements are intended to describe, in broad terms, the general functions and responsibility levels characteristic of positions assigned to this classification. They should not be viewed as an exhaustive list of the specific duties and prerequisites applicable to individual positions that have been so classified.

**Purpose of the Position**
This position requires general advanced and non-routine administrative duties which involve dealing directly with employees or citizens. Work includes administrative and secretarial support for the chief inspector/zoning administrator. Expected to exercise independent action and judgment in completion of tasks. Work involves considerable contact with inspectors, the general public, contractors, other city departments for various ordinances, codes, programs, and policies.

**Essential Duties and Responsibilities**

- Prepare wide variety of statistical/analytical data regarding construction activity, code enforcement and other information as required.
- Coordinate with attorney’s office, municipal court, and service processor for enforcement actions for housing and property maintenance. Similar duties are required for building, plumbing, electrical and HVAC code violations.
- Compose correspondence, reports and other material for supervisor and inspectors.
- Prepare legal notices, agendas, minutes and all other material necessary for board, committee, and commission meetings.
- Disseminate a large volume of information between inspectors, contractors, and the general public. Provide public information and customer service. Keep appraised of various ordinances, state codes, policies, and program procedures relating to our division.
- Accept payments and process weekly invoices for general permits and zoning applications.
- Assist in the Division’s budget preparation process, monitor expenditures and revenues; complete accounts payable, accounts receivable, and purchase order functions.
- Provide information to citizens and/or employees over the counter, by phone or in writing.
- Act as receptionist by answering the telephone, and taking and giving information for the division.
- Organize and maintain files and documents in different areas of concentration for inspections, plan commission, historical preservation and parcel files.
- Perform related work as assigned.
Additional Duties and Responsibilities

- Research and provide support for special projects.

Job Requirements
Associate's Degree in Administrative Assistant, accounting, or directly related field, and one to three years’ experience; or an or combination of experience and training which provides the knowledge, skills and abilities to perform the job.

Technical Skills
MS Word – Intermediate
MS Excel – Intermediate
PowerPoint – Basic
GIS – and other software programs specific to the departmental functions.

Performance Specifications
Ability to classify, compute and tabulate data and information, following a prescribed plan requiring the exercise of some judgment.
Ability to compare, count, differentiates measure and sort information.
Ability to assemble, copy, record and transcribe data and information.
Ability to advise and provide interpretation to others how to apply policies, procedures and standards to specific situations.
Ability to utilize a wide variety of descriptive data and information, such as regulations, non-routine correspondence, billing statements, invoices, payroll records, time sheets, schedules and calendars, a variety of departmental reports, computer software operating manuals, ordinances, contracts and general operating manuals.
Ability to communicate orally and in writing with Department personnel, other City department personnel, and citizens.
Ability to add and subtract, multiply and divide, and calculate percentages, fractions, and decimals.
Ability to use functional reasoning in and independently apply rational judgment in performing diversified work activities.
Ability to exercise the judgment, decisiveness and creativity in situations involving a variety of pre-defined duties subject to frequent change.

Work Environment
Ability to work under safe and comfortable conditions where exposure to environmental factors is minimal and poses little to no risk of injury to the employee.

Acknowledgement
All requirements of the described position are subject to change over time. The employee may be required to perform other duties as requested by the City.

Signature of Department Director: ___________________________ Date: __________

I acknowledge that this job description is neither an employment contract nor a legal document. I have received, read, and understand the expectations for the successful performance of this job.

Printed Name: ___________________________ Signature: ___________________________ Date: __________
The City of Wausau is an Equal Opportunity Employer. In compliance with the American with Disabilities Act, the City will provide reasonable accommodations to qualified individuals and encourages both prospective and current employees to discuss potential accommodations with the employer.
RESOLUTION OF THE FINANCE COMMITTEE

Approving selection of vendor and authorizing to enter into a contract for computer assisted mass appraisal (CAMA) software for the Assessment Department

Committee Action: Pending

Fiscal Impact:

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**FISCAL IMPACT SUMMARY**

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RESOLUTION

WHEREAS, a Request for Proposals was released on September 13, 2016 for computer assisted mass appraisal (CAMA) software for the Assessment Department; and

WHEREAS, two proposals were received and opened by the Board of Public Works on October 18, 2016 from Devnet and Market Drive; and

WHEREAS, staff has reviewed both proposals; and

WHEREAS, your Finance Committee, at their April 25, 2017 meeting, discussed the proposals and

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Wausau that the proper City officials are hereby authorized and directed to execute a contract between the City of Wausau and

Approved:

Robert B. Mielke, Mayor
RESOLUTION OF THE FINANCE COMMITTEE

Authorizing application to the 2017 WDNR Knowles-Nelson Stewardship Grant for the South Riverfront Area.

Committee Action: Pending
Fiscal Impact:

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<tr>
<td>17-0410</td>
<td>April 25, 2017</td>
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RESOLUTION

WHEREAS, the City of Wausau has been proactive in improving its riverfront properties – transitioning them away from industrial uses of the past; and

WHEREAS, public access to the river has dramatically improved through efforts to clean up, restore, and enhance the riverfront; and

WHEREAS, the riverfront north of Scott street is an important link between the heart of downtown and the Wisconsin River; and

WHEREAS, riverbank improvements as described in the application would allow better visibility and access to the river, as well as improve recreational opportunities; and

WHEREAS, financial aid is required to carry out the project, and would allow the City to continue its success of improving the waterfront in the downtown area.

WHEREAS, the City of Wausau has money available through a Tax Increment District to sufficiently cover the required match of the grant, as well as the overall costs of the project; now therefore

BE IT RESOLVED by the Common Council of the City of Wausau that Brad Lenz, Community Development Department, is authorized to act on behalf of the City to:
Submit an application to the State of Wisconsin Department of Natural Resources for any financial aid that may be available; and
Submit reimbursement claims along with necessary supporting documentation within 6 months of project completion date; and
Submit signed documents; and
Take necessary action to undertake, direct and complete the approved project.
BE IT FURTHER RESOLVED that the City of Wausau will comply with state or federal rules for the programs; may perform force account work; will maintain the completed project in an attractive, inviting and safe manner; will keep the facilities open to the general public during reasonable hours consistent with the type of facility; and will obtain from the State of Wisconsin Department of Natural Resources or the National Park Service approval in writing before any change is made in the use of the project site.

Approved:

__________________________
Robert B. Mielke, Mayor
On the Finance Committee agenda are two items pertaining to the submission of a grant application to the Wisconsin DNR for riverbank improvements north of Scott Street. The first Resolution is to retain the consulting firm Stantec for assistance in preparing and submitting the grant application. The City has successfully partnered with Stantec in the past to obtain grant funding from a variety of sources. Currently, there is a master services agreement in place with Stantec that allows the City the ability to continue working with them on riverfront projects. Their proposal for grant preparation work is included in the packet.

The second Resolution for the Finance Committee to consider is a requirement of the grant application. Passing this Resolution lets the grant reviewers know that the governing body is in support of the grant application, and that the municipality has the wherewithal to carry out the project. It also authorizes a city staff member the ability to administer the grant.

A draft of the application will be made available to committee members prior to the Finance Committee meeting.
RESOLUTION OF THE FINANCE COMMITTEE

Authorizing assistance in preparing application to the WDNR Knowles-Nelson Stewardship Grant for the South Riverfront Area.

Committee Action: Pending
Fiscal Impact:

File Number: 17-0410 Date Introduced: April 25, 2017

FISCAL IMPACT SUMMARY

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<td>TID Source:</td>
<td>Increment Revenue</td>
<td>Debt</td>
<td>Funds on Hand</td>
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RESOLUTION

WHEREAS, the City of Wausau has been proactive in improving its riverfront properties – transitioning them away from industrial uses of the past; and

WHEREAS, public access to the river has dramatically improved through efforts to clean up, restore, and enhance the riverfront; and

WHEREAS, funding for the planning, assessment, cleanup, and redevelopment of riverfront properties has come from a variety of sources, including grants; and

WHEREAS, the public improvements along the river in the East Riverfront area will soon be completed; and

WHEREAS, the riverbank north of Scott street has not received the same level of improvement as areas to the north; and

WHEREAS, the riverbank north of Scott street is important to link the heart of downtown to the Wisconsin River; and
WHEREAS, riverbank improvements similar to ones completed to the north would allow better
visibility and access to the river, as well as improve recreational opportunities; and

WHEREAS, a partnership with the consulting firm Stantec has allowed the city of Wausau to
obtain a variety of grant dollars in the past; and

WHEREAS, the current proposal from Stantec would allow the City to pursue grants that have
not been previously obtained; and

WHEREAS, the grant funds would allow the City to continue its success of improving its
waterfront in the downtown area;

NOW THEREFORE BE IT RESOLVED, by the Common Council of the City of Wausau,
that city staff is authorize to amend the master services agreement with Stantec to include grant
preparation for the WDNR Knowles-Nelson Stewardship Grant for the south riverfront area.

Approved:

______________________________
Robert B. Mielke, Mayor
April 12, 2017

File: 599440

Attention: Brad Lenz, AICP
City Planner
City of Wausau
407 Grant Street
Wausau, WI 54403

Dear Brad:

Reference: Proposal to Assist in Preparation and Submittal of a WDNR Knowles-Nelson Stewardship Grant Application, South Riverfront Properties Riverbank Enhancements, Wausau, Wisconsin

Stantec Consulting Services Inc. (Stantec) has prepared the following proposal to provide assistance to the City of Wausau (the City) to prepare and submit a Wisconsin Department of Natural Resources (WDNR) Knowles-Nelson Stewardship Grant Application (grant) for non-remedial components of enhancements planned for the riverbank and bi-modal trail areas located adjacent to the Wisconsin River and extending north from Scott Street to the pedestrian bridge at Barker-Stewart Island (herein referred to as the Property).

The grant requires a 50% match, and the 2017 competition applications are due May 1, 2017. Based on discussions with Jennifer Gihring, WDNR Bureau of Facilities and Lands, and Christine Haag, WDNR Brownfields and Outreach Section Chief, the WDNR is generally very positive about the project and suggested a request on the order of $200,000 was typical, although the agency has funded larger requests ($500,000 to $700,000), especially for property acquisition. The project targeted for funding through the grant would likely be funded through several Stewardship Program Funds including:

- Urban Greenspace (UGS)
- Urban Rivers (UR)
- Acquisition and Development of Local Parks (ADLP)
- Federal Recreational Trails Program

The City is not required to own all properties forming the project site prior to application or implementation but must show that they will “control” the site through long term easements or other methods.

PROPOSED SCOPE OF WORK

The activities to be performed by Stantec as part of the grant application assistance will include:

- Preparing responses to the 40 eligibility, tie-breaker, and scoring questions required for the application, as well as completion of the standard forms. Stantec will rely on information provided by the City and obtained from other information sources;
- Assisting the City with solicitation of letters of support from stakeholders;
- Reviewing applicable existing environmental, planning, and/or redevelopment documents;
- Assembling the final application and submitting the application package to WDNR on behalf of the City; and
- Other activities identified by Stantec and deemed necessary to increase the likelihood of the application being successful.
It is assumed, for the purpose of this proposal, that City staff will perform the following tasks in assisting Stantec with the grant preparation. It is anticipated that City staff time would be between 4 – 8 hours over the grant preparation period (2 weeks) and will include the following activities:

- Passing a resolution to pursue the funding;
- Reviewing the draft grant application forms and written responses to questions prepared by Stantec in a timely fashion;
- Contacting local and regional community partners for commitments to support the project, including obtaining letters of support and providing these to Stantec; and
- Assisting Stantec in identifying proposed and committed sources of financing.

**SCHEDULE**

Work on the application by Stantec will begin immediately upon notice to proceed in order to take full advantage of the time available. Stantec requests authorization by April 17, 2017 in order to allow sufficient time to prepare the application. A kickoff meeting would be held with the City immediately following authorization to proceed. Our goal will be to prepare a complete draft of the grant application package for review by City staff by April 27, 2017.

**COST**

The grant application will be completed for an upfront time and materials not-to-exceed fee of $3,000 and a grant success fee of $3,000, if awarded. The grant success fee will be waived if Stantec is retained to perform consultant portions of the grant-funded work.

If there are changes to the scope of services that would cause the estimated fees to be exceeded, Stantec will contact the City for approval to proceed.

**PAYMENT TERMS & CONDITIONS**

*Payment for services and expenses will be due immediately upon receipt of invoices.* Invoices for the services performed will be submitted either upon completion of such services or on a monthly basis. Refer to the attached Agreement for additional terms and conditions.

Please send executed Agreement to:
Stantec Consulting Services Inc
12075 Corporate Parkway, Suite 200
Mequon, WI 53092

Please remit payments for invoices to:
Stantec Consulting Services Inc
13980 Collections Center Drive
Chicago, IL 60693

The above-stated fee and specified hourly rates proposed for this scope of services are valid for 30 days from the date of this proposal and are subject to annual adjustments. Upon review and acceptance of the proposal and attached Agreement, please return a signed copy of the Agreement to Rick.Binder@stantec.com, or the address shown on the letterhead.
April 12, 2017
Brad Lenz, AICP
Page 3 of 4

RE: Proposal to Assist in Preparation and Submittal of a WDNR Knowles-Nelson Stewardship Grant Application, South Riverfront Properties Riverbank Enhancements, Wausau, Wisconsin

If you have any questions, or require additional information, please contact me using the contact information provided below. We look forward to working with you on this project.

Sincerely,

STANTEC CONSULTING SERVICES INC.

[Signature]

Richard J. Binder, PG, CPG
Senior Associate
Phone: (262) 643-9010
Fax: (262) 241-4901
Rick.Binder@stantec.com

Enclosure: Professional Services Terms and Conditions
RE: Proposal to Assist in Preparation and Submittal of a WDNR Knowles-Nelson Stewardship Grant Application, South Riverfront Properties Riverbank Enhancements, Wausau, Wisconsin

The Terms and Conditions, and referenced Proposal scope of services and fees are agreed upon:

Consultant: _________________________________ Date:            4/12/2017

Richard J. Binder, Senior Associate
Stantec Consulting Services, Inc.
12075 Corporate Parkway, Suite 200
Mequon, WI  53092

Client: ______________________________________ Date: ________________

Client Name (Printed): ____________________________

Client Address: __________________________________

_____________________________________________________________________

_____________________________________________________________________

_____________________________________________________________________
The following Terms and Conditions are attached to and form part of a proposal for services to be performed by Consultant and together, when the CLIENT authorizes Consultant to proceed with the services, constitute the AGREEMENT. Consultant means the Stantec entity issuing the Proposal.

DESCRIPTION OF WORK: Consultant shall render the services described in the Proposal (hereinafter called the “SERVICES”) to the CLIENT.

DESCRIPTION OF CLIENT: The CLIENT confirms and agrees that the CLIENT has authority to enter into this AGREEMENT on its own behalf and on behalf of all parties related to the CLIENT who may have an interest in the PROJECT.

TERMS AND CONDITIONS: No terms, conditions, understandings, or agreements purporting to modify or vary these Terms and Conditions shall be binding unless hereafter made in writing and signed by the CLIENT and Consultant. In the event of any conflict between the Proposal and these Terms and Conditions, these Terms and Conditions shall take precedence. This AGREEMENT supersedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to the PROJECT.

COMPENSATION: Payment is due to Consultant upon receipt of invoice. Failure to make any payment when due is a material breach of this AGREEMENT and will entitle Consultant, at its option, to suspend or terminate this AGREEMENT and the provision of the SERVICES. Interest will accrue on accounts overdue by 30 days at the lesser of 1.5 percent per month (18 percent per annum) or the maximum legal rate of interest. Unless otherwise noted, the fees in this agreement do not include any value added, sales, or other taxes that may be applied by Government on fees for services. Such taxes will be added to all invoices as required.

NOTICES: Each party shall designate a representative who is authorized to act on behalf of that party. All notices, consents, and approvals required to be given hereunder shall be in writing and shall be given to the representatives of each party.

TERMINATION: Either party may terminate the AGREEMENT without cause upon thirty (30) days notice in writing. If either party breaches the AGREEMENT and fails to remedy such breach within seven (7) days of notice to do so by the non-defaulting party, the non-defaulting party may immediately terminate the Agreement. Non-payment by the CLIENT of Consultant’s invoices within 30 days of Consultant rendering same is agreed to constitute a material breach and, upon written notice as prescribed above, the duties, obligations and responsibilities of Consultant are terminated. On termination by either party, the CLIENT shall forthwith pay Consultant all fees and charges for the SERVICES provided to the effective date of termination.

ENVIRONMENTAL: Except as specifically described in this AGREEMENT, Consultant’s field investigation, laboratory testing and engineering recommendations will not address or evaluate pollution of soil or pollution of groundwater.

PROFESSIONAL RESPONSIBILITY: In performing the SERVICES, Consultant will provide and exercise the standard of care, skill and diligence required by customarily accepted professional practices normally provided in the performance of the SERVICES at the time and the location in which the SERVICES were performed.

LIMITATION OF LIABILITY: The CLIENT releases Consultant from any liability and agrees to defend, indemnify and hold Consultant harmless from any and all claims, damages, losses, and/or expenses, direct and indirect, or consequential damages, including but not limited to attorney’s fees and charges and court and arbitration costs, arising out of, or claimed to arise out of, the performance of the SERVICES, excepting liability arising from the sole negligence of Consultant. It is further agreed that the total amount of all claims the CLIENT may have against Consultant under this AGREEMENT, including but not limited to claims for negligence, negligent misrepresentation and/or breach of contract, shall be limited to the lesser of professional fees paid to Consultant for the SERVICES or $50,000.00. No claim may be brought against Consultant more than two (2) years after the cause of action arose. As the CLIENT’s sole and exclusive remedy under this AGREEMENT any claim, demand or suit shall be directed and/or asserted only against Consultant and not against any of Consultant’s employees, officers or directors.

Consultant’s liability with respect to any claims arising out of this AGREEMENT shall be absolutely limited to direct damages arising out of the SERVICES and Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the CLIENT, including but not limited to claims for loss of use, loss of profits and/or loss of markets.

INDEMNITY FOR MOLD CLAIMS: It is understood by the parties that existing or constructed buildings may contain mold substances that can present health hazards and result in bodily injury, property damage and/or necessary remedial measures. If, during performance of the SERVICES, Consultant knowingly encounters any such substances, Consultant shall notify the CLIENT and, without liability for consequential or any other damages, suspend performance of services until the CLIENT retains a qualified specialist to abate and/or remove the mold substances. The CLIENT agrees to release and waive all claims, including consequential damages, against Consultant, its subconsultants and their officers, directors and employees arising from or in any way connected with the existence of mold on or about the project site whether during or after completion of the SERVICES. The CLIENT further agrees to indemnify and hold Consultant harmless from and against all claims, costs, liabilities and damages, including reasonable attorneys’ fees and costs, arising in any way from the existence of mold on the project site whether during or after completion of the SERVICES, except for those claims, liabilities, costs or damages caused by the sole gross negligence and/or knowing or willful misconduct of Consultant. Consultant and the CLIENT waive all rights against each other for mold damages to the extent that such damages sustained by either party are covered by insurance.
DOCUMENTS: All of the documents prepared by or on behalf of Consultant in connection with the PROJECT are instruments of service for the execution of the PROJECT. Consultant retains the property and copyright in these documents, whether the PROJECT is executed or not. These documents may not be used for any other purpose without the prior written consent of Consultant. In the event Consultant’s documents are subsequently reused or modified in any material respect without the prior consent of Consultant, the CLIENT agrees to defend, hold harmless and indemnify Consultant from any claims advanced on account of said reuse or modification.

Any document produced by Consultant in relation to the Services is intended for the sole use of Client. The documents may not be relied upon by any other party without the express written consent of Consultant, which may be withheld at Consultant’s discretion. Any such consent will provide no greater rights to the third party than those held by the Client under the contract, and will only be authorized pursuant to the conditions of Consultant’s standard form reliance letter.

Consultant cannot guarantee the authenticity, integrity or completeness of data files supplied in electronic format (“Electronic Files”). CLIENT shall release, indemnify and hold Consultant, its officers, employees, Consultant’s and agents harmless from any claims or damages arising from the use of Electronic Files. Electronic files will not contain stamps or seals, remain the property of Consultant, are not to be used for any purpose other than that for which they were transmitted, and are not to be retransmitted to a third party without Consultant’s written consent.

FIELD SERVICES: Consultant shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with work on the PROJECT, and shall not be responsible for any contractor’s failure to carry out the work in accordance with the contract documents. Consultant shall not be responsible for the acts or omissions of any contractor, subcontractor, any of their agents or employees, or any other persons performing any of the work in connection with the PROJECT. Consultant shall not be the prime contractor or similar under any occupational health and safety legislation.

GOVERNING LAW/COMPLIANCE WITH LAWS: The AGREEMENT shall be governed, construed and enforced in accordance with the laws of the jurisdiction in which the majority of the SERVICES are performed. Consultant shall observe and comply with all applicable laws, continue to provide equal employment opportunity to all qualified persons, and to recruit, hire, train, promote and compensate persons in all jobs without regard to race, color, religion, sex, age, disability or national origin or any other basis prohibited by applicable laws.

DISPUTE RESOLUTION: If requested in writing by either the CLIENT or Consultant, the CLIENT and Consultant shall attempt to resolve any dispute between them arising out of or in connection with this AGREEMENT by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties. If a dispute cannot be settled within a period of thirty (30) calendar days with the mediator, if mutually agreed, the dispute shall be reffered to arbitration pursuant to laws of the jurisdiction in which the majority of the SERVICES are performed or elsewhere by mutual agreement.

ASSIGNMENT: The CLIENT and Consultant shall not, without the prior written consent of the other party, assign the benefit or in any way transfer the obligations under these Terms and Conditions or any part hereof.

SEVERABILITY: If any term, condition or covenant of the AGREEMENT is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of the AGREEMENT shall be binding on the CLIENT and Consultant.