



Village of Weston, Wisconsin

OFFICIAL MEETING AGENDA OF THE COMMUNITY LIFE & PUBLIC SAFETY COMMITTEE

This regular meeting of the Village of Weston's Community Life and Public Safety Committee, composed of five (5) members, will convene at the Weston Municipal Center, in the Board Room, at 5500 Schofield Avenue, Weston, WI, on **MONDAY, NOVEMBER 28, 2016, AT 6:00 P.M.** to consider, and potentially take action on all of the following matters:

- A. OPENING OF SESSION** - - Meeting called to order by Trustee Schuster at 6:00 p.m.
 - 1. Request for silencing of cellphones and other electronic devices.
 - 2. Acknowledgment of visitors, by the chair, if any are present.

- B. ROLL CALL** - - Recording Secretary/Clerk will take attendance and roll call.

- C. OPPORTUNITY FOR CITIZENS TO BE HEARD ON MATTERS PERTAINING TO COMMITTEE BUSINESS.**

- D. ANNOUNCEMENTS.**

- E. PRESENTATIONS** - - None scheduled.

- F. REPORTS.**
 - 3. Fire/EMS
 - 4. Police
 - 5. Taxpayer Engagement.

- G. NEW BUSINESS.**
 - 6. Approve meeting minutes from September 26, 2016.
 - 7. Recommendation to Create an Opt-Out Ordinance, within Chapter 66, Solid Waste.
 - 8. Discussions on Raze Order of residential home at 4803 Mesker Street.
 - 9. Discussion on Mobile Home Park inspections
 - 10. Social Host Ordinance likely unenforceable following court decision.

- H. REPORT FROM ADMIN ON MATTERS RELATED TO COMMITTEE BUSINESS.**

- I. COMMITTEE MEMBER REPORTS.**
 - 11. Report from Fiene regarding SAFER Training Center.

NEXT MEETING DATE: Mon, 1/23/17, @ 6:00 P.M., and discuss items for next agenda.

J. ADJOURN.

This notice was posted at the Municipal Center, and on the Village's website at www.westonwi.gov, and was emailed to local media outlets (Print, TV, and Radio) on 11/23/2016 @ 2:00 p.m. A quorum of members from other Village governmental bodies (boards, commissions, and committees) may attend the above noticed meeting in order to gather information. **No actions to be taken by any other board, commission, or committee of the Village, aside from the Community Life and Public Safety Committee. Should a quorum be other government bodies be present, this would constitute a meeting pursuant to State ex rel. Badke v. Greendale Village Bd., 173 Wis.2d 553,494 N.W.2d 408 (1993).** Wisconsin State Statutes require all agendas for Committee, Commission, or Board meetings be posted in final form, 24 hours prior to the meeting. Any posted agenda is subject to change up until 24 hours prior to the date and time of the meeting. Any person who has a qualifying disability as defined by the Americans with Disabilities Act requires that meeting or material to be in accessible location or format must contact the Weston Municipal Center at 715-359-6114, so any necessary arrangements can be made to accommodate each request.

Village of Weston, Wisconsin
REGULAR MEETING OF THE BOARD OF TRUSTEES

November 28, 2016

MEETING PACKET COVER SHEET
AGENDA ITEM –F.3.



Village of Weston, Wisconsin
REGULAR MEETING OF THE BOARD OF TRUSTEES

November 28, 2016

MEETING PACKET COVER SHEET
AGENDA ITEM –F.4.



EVEREST METRO POLICE DEPARTMENT

VILLAGE OF WESTON – BOARD MEETING NOVEMBER 21, 2016

OCTOBER 2016 STATS – Village of Weston

Accidents:	37
Property Damage only	32
Injury Accidents	4
Hit & Run Accidents	1
Total Calls for Service:	788

Stillwater Landing Trailer Park

October 2016 calls for service – 18* October 2015 – 25 calls

(*See attached Type of Incident Summary Report for detailed call types)

Resignation / Recruitment / Staffing

Officer Matthew Krembs has tendered his letter of resignation, effective Nov 28, 2016. Officer Krembs was the department K-9 officer. We have selected Officer Matthew Hable to become the new K-9 officer. Officer Hable will take custody of our canine “Aron” before November 28th and he is scheduled to attend a six week K-9 Training course at Von Liche Kennels in Indiana starting on January 30, 2017. Aron is about halfway through his K-9 working life, so we are hoping to get another 3-4 years of work under Officer Hable.

The department has been approved to hire two new patrol officer positions in 2017, one in January and the other in July. This is the first time we have added additional officers since 2005, while the Village of Weston has grown by over 3,000 residents for a 20% population increase during that time.

We have begun a recruitment process with applications being accepted until Dec 31, 2016. With the resignation of Officer Krembs, the department will be hiring three officers in 2017, two upon completion of the recruitment process and one additional officer in July. The first phase of the recruitment process will be the physical agility testing on Saturday, Jan 14, 2017 at the D.C. Everest High School gym / field house. Based upon the length of the recruitment process, we anticipate that the first two hires will likely start sometime in early to mid-March. The Field Training program following employment is around 15-16 weeks, so we will likely not have those officers in the field on solo patrol until July.

2016 has been a very challenging year for the department with six different personnel taking Family Medical Leave time and one sergeant currently being out on a Workman’s Comp injury. He is presently back in a light duty capacity, but it will be two to three weeks before he is cleared to return to patrol / field duties. We have been running short staffed all year and are running well above our overtime budget. Based on some of the FMLA time being unpaid, some of these overtime expenses will be offset by unpaid leave time. The officers have responded well to the increased demands and constant juggling of schedules, but it will still be very lean during the next 6-8 months until new officers are hired and trained.

2016 Municipal Spending - Local Totals & Comparison to State Averages for Cities and Villages

	General Government	% of budget	State average	Street Maintenance	% of budget	State average	Fire EMS	% of budget	State average	Police	% of budget	State average
Schofield	\$304,380	10.87%	14.60%	\$1,206,159	43.07%	20.40%	\$216,444	7.73%	24.70%	\$503,693	17.99%	40.30%
V. Weston	\$1,056,976	15.46%	14.60%	\$1,819,360	26.62%	20.40%	\$734,807	10.75%	24.70%	\$2,369,633	34.67%	40.30%

**Under State Average
Over State Average**

	Public Safety	Total Budget	% of budget	State average	Police Net Per Capita Spending	State Median Avg Police Net Per Capita Spending by Pop. Category
Schofield	\$720,137	\$2,800,549	25.72%	65.00%	\$249.93	\$187.00
V. Weston	\$3,104,440	\$6,835,180	45.42%	65.00%	\$141.96	\$211.00

Everest Metro Police Department stats From 10/1/2016 to 10/31/2016

Case Number Stats

	City	Other	Town	Village	Total
Accident Hit and Run	2	0	0	1	3
Accident Iniurv	2	0	0	4	6
Accident Propertv Damaae	5	0	2	32	39
Aaencv Assist	0	1	0	0	1
Aaaravated Assault	1	0	0	1	2
Animals	0	0	0	2	2
Bail Jumpina	1	0	0	2	3
BATTERY	4	0	0	1	5
Burlarv	1	0	0	3	4
CHILD NEGL	0	0	0	1	1
CITES PRKG	3	0	0	6	9
CITES UTC	30	1	0	52	83
Criminal Damaae	0	0	0	4	4
DC	0	0	0	9	9
Death Investiaation	0	0	0	1	1
Domestic	3	0	0	7	10
Druas	3	0	0	9	12
EMBEZZLE	1	0	0	1	2
Fire Investiaation	2	0	0	2	4
Foraerv	0	0	0	1	1
Fraud	1	0	0	5	6
HARASS	0	0	0	1	1
Lost and Found	1	0	0	0	1
MENTAL COM	1	0	0	3	4
Misc Investiaation	3	0	0	3	6
OWI	0	1	0	5	6
PHY ABU	0	0	0	1	1
Prob/Parole Viol	1	0	0	2	3
Restrain Ord Viol	2	0	0	2	4
Robbery	1	0	0	0	1
Runawav	0	0	0	3	3
Sex Crime	2	0	0	3	5
STN PR POS	1	0	0	0	1

Noteworthy Cases:

Dollar General Robbery E3
 Car Versus Pedestrian E2
 Check Fraud Case E2
 Possess Meth - Child Neg E2
 Forced Entry Burglary E2
 Huge Meth Bust -Traffic Stop E2

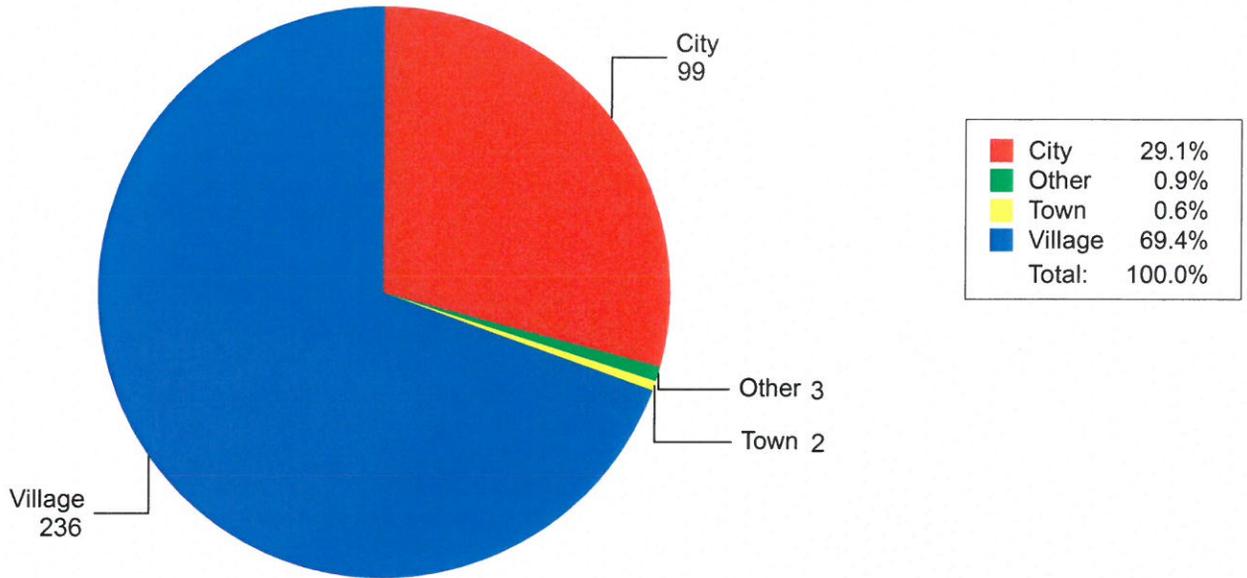
	Total
	3
City	259
Other	34
Town	17
Village	788
Total	1,101

Everest Metro Police Department stats From 10/1/2016 to 10/31/2016

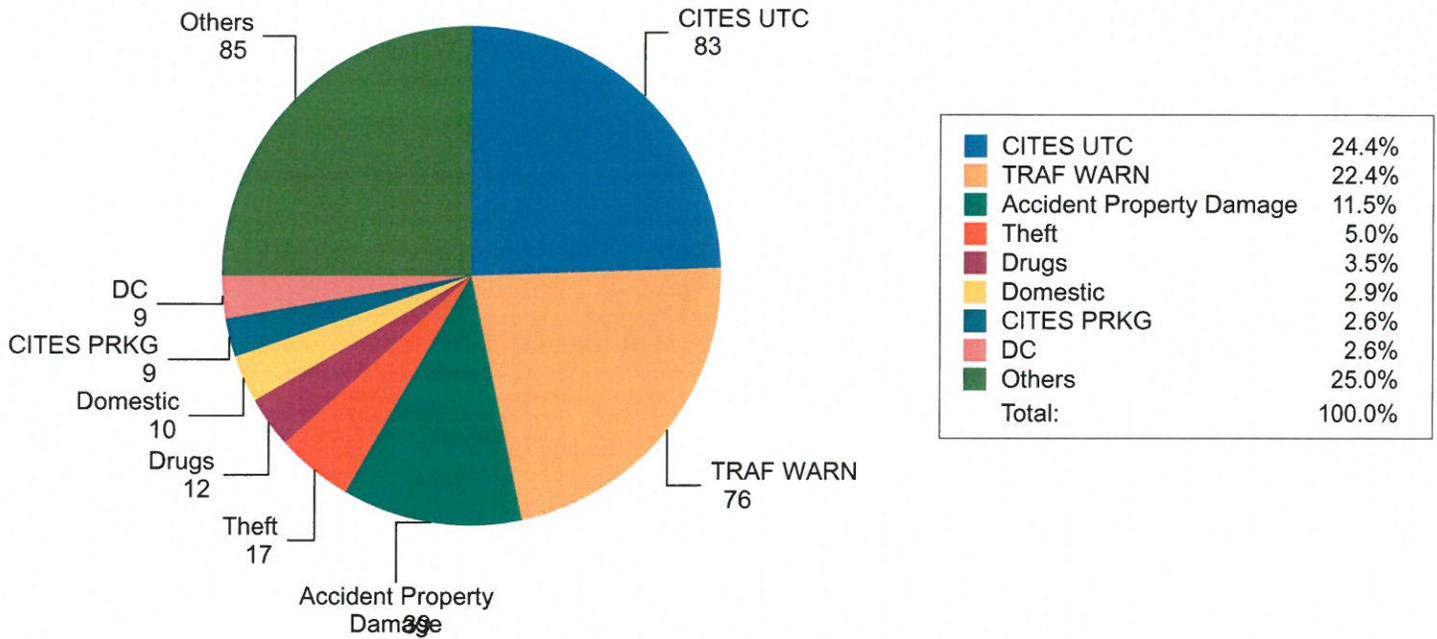
	City	Other	Town	Village	Total
Theft	5	0	0	12	17
TRAF ARRST	0	0	0	1	1
TRAF WARN	22	0	0	54	76
Underage Alcohol	0	0	0	1	1
Warrant Arrest	1	0	0	1	2
Total	99	3	2	236	340

Everest Metro Police Department stats From 10/1/2016 to 10/31/2016

Case Numbers by Area



Case Numbers by Case Type



October 2016 EMPD DRUG RELATED CASES

#	DATE	TOTAL CASE #	VILLAGE	CITY	TOWN	TIP	OTHER CHARGES	DRUG CHARGES/COMMENTS	CASE STATUS
1	10/04/16	16-4154	X					Poss THC	cba
2	10/04/16	16-4153		X			Child neglect	Marathon County Department of Social Services report of parent possibly possessing/using methamphetamine in the presence of children.	ACTIVE
3	10/07/16	16-4185		X			Probation hold	Male subject found in possession of methamphetamine and paraphernalia after the homeowner called police for a welfare check on the male	cba
4	10/06/16	16-4182		X				Caller requested an ambulance following a possible overdose of prescription medications obtained from another party.	ACTIVE
5	10/07/16	16-4184	X					Assisted KPD with traffic stop. Drug residue and paraphernalia located in vehicle.	Closed
6	10/08/16	16-4213	X						
7	10/12/16	16-4240	X				KPD Assist resisting, 51.15, battery to law enforcement	Poss THC poss drug paraphernalia	cba cba
8	10/13/16	16-4248	X					poss THC & drug para; Citation for Paraphernalia	cba
9	10/12/16	16-4244		X				POSS THC, DRUG PARA & UNDERAGE POSS ALCOHOL	CBA
10	10/14/16	16-4266	X					Poss THC & Drug Paraphernalia	CBA

4311 SCHOFIELD AVENUE

October 2016

TLR #	DATE OF INCIDENT	TYPE OF INCIDENT	EVENT #
No #			
1			
2	10/03/16	Welfare check	160123290
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
			160131904
			160131965
			160131966
			160131968
			160131969
			160131970
23	10/23/16	Structure fire (6 calls)	
24	10/05/16	Warrant service	160124163
24	10/31/16	Suspicious activity-vehicle sitting for days	160135140
25			
26			
27			
28			
29			
			160134893
			160134894
			160134895
30	10/30/16	Medical emergency (3 calls)	
31			
32			
33			
34			
35			

4311 SCHOFIELD AVENUE

October 2016

36			
37			
38			
39			
40			
41			
42			
43			
44			
45			
46			
47			
48			
49			
50			
51			
52			
53			
53			
54	10/10/16	Vehicle lockout	160126423
55			
56			
57			
58			
59			
60			
61			
62			
63			
64			
64B			
64C			
65			
66	10/12/16	Lost dogs	160127129
67			
68			
69	10/17/16	Traffic misc - assist party in backing out of lot	160129400
70			
71			
72			
73			
74			
75			
76			
77			

4311 SCHOFIELD AVENUE

October 2016

78			
79			
80			
81			
82			
83			
84			
85			
86			
87			
88			
89			
90			
91			
92			
93			
94			
95			
96			
97			
98			
99	10/10/16	Welfare check	160126487
99	10/13/16	Warrant service	160127580
100			
101			
102			
103			
104			
105			
106			
107			
108			
109			
110			
111			
112			
113			
114			
115			
116			
117			
118			
119			
120			
121			

4311 SCHOFIELD AVENUE

October 2016

122			
123			
124			
125			
126			
127			
128			
129			
130			
131			
132			
133			
134			
135			
136			
137			
138			
139			
140			
141	10/15/16	911 Hang up	160128412
142			
143			
144			
145			
146			
147			
148			
149			
150			
151			

Village of Weston, Wisconsin
REGULAR MEETING OF THE BOARD OF TRUSTEES

November 28, 2016

MEETING PACKET COVER SHEET
AGENDA ITEM –F.5.



MEMORANDUM
VILLAGE OF WESTON
RENEE HODELL; TAXPAYER RELATIONS COORDINATOR

TO: CLPS Committee
DATE: November 23, 2016
RE: Taxpayer Relations Coordinator Report

Nuisances Issues

With the leaves off the trees now, residents are able to better see their neighbors property now and are calling in with complaints of junk, debris, garbage, and vehicles. Letters are being sent with citations being issued if compliance is not met.

Working with the Planning and Development department on getting letters out to residents who are running a business from their home without a permit and are causing concerns with the neighbors. There are also complaints on property maintenance with various junk and debris scattered throughout the property and/or vehicles parked on the lawn, unlicensed or inoperable.

Farmer's Market

The Farmer's Market ended on October 29th. There were actually quite a few vendors up until they very end that have fruits and vegetables including pumpkins, squash, and apples. There were between 25 and 30 vendors still there on Saturday's and 15-20 on Tuesdays which is great. There is also a new vendor [Broken Earth Farms](#) that sells organically grown beef and [ZZ Ranch](#) which had pasture raised chickens, beef, honey, soap and more.

Worked with the Finance department to get checks out to the vendors who have turned in EBT (food share) and DEBIT tokens).

Miscellaneous

The January/February edition of The Weston Wire Newsletter is in its preliminary stages. This is scheduled to go out the last week in December.

Updating website and social media sites with current and special events happening in the community along with Village projects. Creating and inserting articles for This Week In Weston.

Roman and I completed our Mobile Home Inspections of each Mobile Home Park. We went home by home, took pictures and took notes on each property. A report will then be put together and given the Park owners/managers and the tenants, to resolve the issues/violations that were documented. Failure to comply may result in a citation. Working with Daniel on putting together a booth and information along with contacting.

Helped with elections with Absentee ballots, registration, and Central Count.



**Weston
Animal Licensing
3rd Quarter, 2016**



Customer Service

20 Total Calls
54 Minutes on Phone
9 Emails
85 Web Page Views

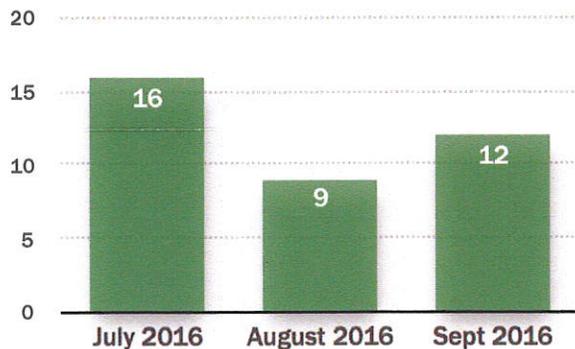
Mailings

44 New Tags
12 Exception Letters

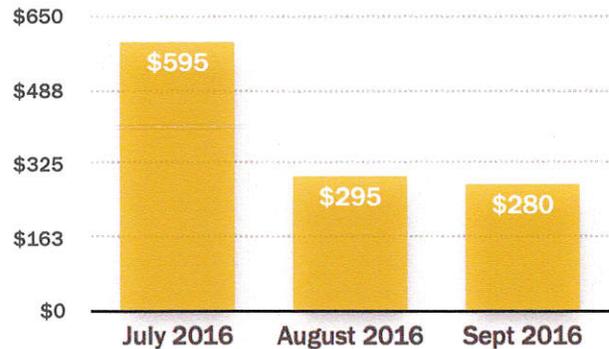
Licenses & Revenue

37 Total Licenses Sold
1,731 Licenses Tag Year-to-Date
\$1,170 Revenue Collected
\$26,703 Revenue Tag Year-to-Date
16 Licenses Sold Online
\$555 Online Sales
\$630 Late Fees

Licenses Sold

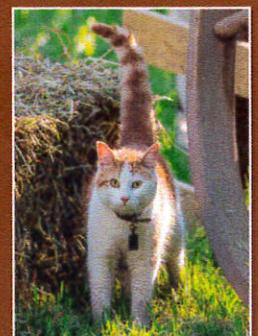


License Revenue



PetData News

- ◆ Did you know PetData produces custom reports for our clients at no charge? Contact Marilee at mseay@petdata.com to schedule a meeting to discuss your reporting needs.
- ◆ PetData will be exhibiting at several conferences this Fall, including International City/County Managers Association in Kansas City; Colorado Animal Welfare in Blackhawk, CO; and National Animal Control Association in Seattle. Stop by and say 'Hello' to Ann!
- ◆ A big welcome to our newest clients - the City of Hawthorne, CA and the City of Sunnyvale, CA! We love to hear feedback on PetData's service from all of our clients! Contact Ann at acampbell@petdata.com to schedule a time to chat!



Village of Weston, Wisconsin
REGULAR MEETING OF THE BOARD OF TRUSTEES

November 28, 2016

MEETING PACKET COVER SHEET
AGENDA ITEM –G.6.



Village of Weston, Wisconsin
COMMUNITY LIFE & PUBLIC SAFETY MEETING MINUTES

held on Monday, September 26, 2016, 2016 at 6:00 p.m., in the Board Room, at the Municipal Center.
Trustee Schuster Presiding.

A. OPENING OF SESSION - - Meeting called to order by Trustee Schuster at 6:00 p.m.

1. Request for silencing of cellphones and other electronic devices.
2. Acknowledgment of visitors, by the chair, if any are present. *There was one visitor.*

B. ROLL CALL - - Recording Secretary/Clerk will take attendance and roll call. Roll call indicated 5 CLPS members present. Fred introduced and welcomed the newest member Robert Kienbaum to the CLPS Committee. Village Staff in attendance: Trustee Loren White, Administrator Daniel Guild, Chief Wally Sparks, Captain Clay Schulz, Deputy Fire Chief Josh Finke, Building Inspector Scott Tatro, Property Inspector Roman Maguire, and Bob Wesenick from the Town of Weston

<u>Member</u>	<u>Present</u>
Fiene, Brian	YES
Kienbaum, Robert	YES
Martin, Zach	YES
Schuster, Fred	YES
Zeigler, Jon	YES

C. OPPORTUNITY FOR CITIZENS TO BE HEARD ON MATTERS PERTAINING TO COMMITTEE BUSINESS AND TOPICS WHICH IT HAS OVERSIGHT. There were no comments from the public.

D. PRESENTATIONS. There were no presentations.

E. REPORTS FROM STAFF

3. **Everest Police Department.** Captain Schulz talked about the drug problem with Heroin and Meth being the big issue as it is anywhere from the poor to the rich. He stated they were taking a different approach and are using officers to knock on resident's doors informing them that there has been a drug complaint. He also stated they would like to have more plain cloths officers and vehicles.
4. **South Area Fire and Emergency Response District.**
 - **1st Amendment to Charter.** Deputy Finke stated there was an amendment to the Charter and it was approved by SAFER Board of Directs and the Village and Town Board.
 - **fy2017 operating and capital budget proposal.** Deputy Finke stated the SAFER budget has been passed. They are currently working on being able to continue with inter facility transports throughout the Midwest, however due to the increase call volume they have been unable to accommodate all of these requests (and have turned down about 40 transfers). They have requested in the budget to add more part time employees and the cost to have them would be offset by the revenue they would obtain from the transfers (SAFER is able to keep 100% of that revenue)
 - **fy2017 proposal for fiscal agent services with WIPFLI.** WIPFLI has been approved to be the Fiscal agent for SAFER for 2017. They will be staying with ADP for payroll but will be working with them on their own and not through Sherry and the Village. They will be making visits about once a month to follow-up on everything.
 - **Strategic Plan.** A strategic plan has been put in place which will start at the first of the year (2017) for 3-5 years (rather than 10 years) due to it being a new organization. They met once a month for six months in which 12 members of the department were on the committee. There was also a survey that was given to everyone in the fire department in which over 70% of the staff took and with that they are in the process of fixing certain issues. They are looking at doing another survey in 6-12 months in hopes of correcting those issues.
5. **Village Planning and Development Department.**
 - **Uniform addressing update.** Maguire stated there has been no update on the new county addressing.
6. **Village Taxpayer Engagement and Communications.** Hodell talked about working with Everest Metro Police regarding the multiple complaints they are being received on vehicles including unlicensed, inoperable, and parking on the lawn. She also talked about the Farmer's Market

F. NEW BUSINESS.

7. **Approve previous meeting minutes from August 22, 2016.** Motion by Ziegler, second by Martin, to approve the Community Life & Public Safety, August 22, 2016 meeting minutes. Fiene did note that there were a few words that had transposed letters towards the end of the minutes.

Yes Vote: 5

No Votes: 0

Abstain: 0

Not Voting: 0

Result: PASS

Village of Weston, Wisconsin
COMMUNITY LIFE & PUBLIC SAFETY MEETING MINUTES

held on Monday, September 26, 2016, 2016 at 6:00 p.m., in the Board Room, at the Municipal Center.
Trustee Schuster Presiding.

<u>Member</u>	<u>Voting</u>
Fiene, Brian,	YES
Kienbaum, Robert	YES
Martin, Zach	YES
Schuster, Fred	YES
Ziegler, Jon	YES

8. SAFER Training Center

Finke stated that the Training Center is part of the Strategic Plan and is planned to create a revenue stream for people wanting to get trained and to be able to train their own people. He explained this is nothing new and multiple communities across the state have fire departments that are training centers (Baraboo would be a similar comparison). He stated the State is encouraging fire departments to create training centers (mostly for refresher courses). The plans are to have refresher courses for their own staff, EMS courses, and continuing education for paramedics (which they currently do).

Fiene had a number of questions including how they plan on creating a “revenue stream” especially if there is already another training center in the area. Finke stated they are going to do some training sessions but they aren’t going to be a “large” training facility. They are looking at doing 3-4 sessions a year (NTC does over 20), training in the High Schools (Edgar and Marathon have approached them), or when individual people would like to get trained on something. Fiene questioned if NTC is doing so many classes why do they need another facility? Finke stated, SPIRIT and Medivac who would like refresher classes have been unable with their schedules to be able to take classes at the Tech.

Fiene questioned that per the Strategic Plan if SAFER has missed out on inter-facility transports due to there not being enough staff, how is it that there is going to be enough instructors. Finke stated that training instructors know in advance when classes are and how long they are. With inter-facility transports it could be in the middle of the night and they have no idea on what time that could happen. Finke also stated for the most part they would be using only one instructor.

Fiene had concerns about liability and why they would want to take on all the risk of people who don’t work for SAFER in case there was an accident or they didn’t perform well, along with all the paper work. Finke stated they are checking into the insurance issues but if they follow and pass all state requirements to function in their job the liability is fairly low, and it would be a revenue stream. Fiene feels it would be a big revenue loss if there was an accident.

Fiene questioned how much it would be for equipment as he heard it would be \$70,000. Finke stated there would be no expense for equipment as they already have what they need since they’ve been training in house for years.

Schuster asked Fiene if NTC has suffered losses due to negligent training. Fiene stated NTC has been named in cases but didn’t think they’ve ever lost.

Fiene stated an observation in listening to an audio tape of one of the SAFER meetings it was stated one of the reasons for creating a new training facility was the quality of training at NTC and how students had to be retrained. Fiene also made note that 1/3 of the instructors are the SAFER personnel. Finke stated they know of one person who teaches there on a regular basis. Finke did state they did have some concerns with instructors. For example, a paramedic class that was taught had 7 different instructors and not all of them were licensed by the state. They did discuss these concerns NTC and also met with Dr. Lori Weyers as they do feel there is some miscommunications going on as SAFER is not trying to compete with NTC.

Fiene commented that SAFER is making statements that are incorrect and that NTC does offer high school training as they did it last semester and they are doing it again next semester. Kelly Bechel the SAFER EMS Division Chief (1127 N. 4th Ave. Wausau) stated the high schools she was talking with would like to take classes within their daily schedule (and hour a day, five days a week) at their school and not having to go to the tech during after school hours which is what the Tech offers.

Fiene stated he is not in favor of this decision and doesn’t feel we are getting factual information in a timely basis. Fiene then motioned to pass a resolution to the Board to suspend the approval of the SAFER budget until it comes before the Board until there is a better explanation of the training center with some factual timelines. There was no 2nd to the motion, so the motion dies due to lack of a 2nd.

Finke made the statement that if anyone on this Committee or any other committee or board has specific questions they should send them to him, Chief Savage, or Kelly Bechel and they would be more than happy to take those questions and give answers and establish their credibility.

Village of Weston, Wisconsin
COMMUNITY LIFE & PUBLIC SAFETY MEETING MINUTES

held on Monday, September 26, 2016, 2016 at 6:00 p.m., in the Board Room, at the Municipal Center.
Trustee Schuster Presiding.

9. **Raze Order of residential home at 4803 Mesker Street.** *A Raze Order was issued and signed by Building Inspector Scott Tatro and Village Attorney Matt Yde. However, they have been unable to locate the owner of the property to serve him the papers. Fiene questioned what if you can't find him in which Tatro stated the Village would get ahold of a contractor to have the house demolished with the cost being assessed to the owner on his property taxes.*
10. **Mobile Home Park inspections.** *Maguire stated Mobile Home inspections at the parks will begin the first week in October and last for a couple of weeks. He also stated the process has been revamped where there will be photo documentation on each lot at all parks. Schuster stated that one of the parks felt they were being singled out and if other residential properties were being treated the same. Tatro stated the Mobile Home parks are a separate zoning and are handled a little differently. Fiene questioned when the fence was going to be installed along E. Jelinek Ave at Stillwater Landing. Guild stated he would get an answer this week and email the committee.*

G. REPORT FROM ADMIN ON MATTERS RELATED TO COMMUNITY LIFE, & PUBLIC SAFETY.

11. **Board of Trustee action on potential anti-gambling ordinance.** *Guild stated there is a resident who is very passionate on gambling in the Village and making sure it doesn't happen in our community. Attorney Yde wrote up a potential ordinance however he did mention there could be law suits and the Village Board ended up deny to have an ordinance.*
12. **Plan Commission // Board of Trustee action on Chicken ordinance.** *Guild explained how the Plan Commission and the Village Board did not vote in favor of allowing chickens in residential areas of the Village. Guild stated he did reach out to the family and they want to come back and present their case. Schuster stated when this was presented to the Plan Commission he gained more insight as it was explained to them the amount of extra work it would entail to allow chickens in a residential neighborhood and was not in favor of this anymore. White stated the zoning code would need to be rewritten, including what the consequence would be if there was a violation, there would also need to be a conditional permit, there would also need to be a mailing done to the surrounding neighbors informing them of the request in case they had any objection. Guild did state the implementation of the conditional use permit was not that difficult but with staff having other bigger projects and only one residential property requesting this, it just wasn't feasible at this time. Schuster and White agreed that this isn't something they would revisit anytime soon.*

H. COMMITTEE MEMBER REPORTS. *Bob Wesenick from the Town of Weston inquired about the property on Callon Avenue by Cty Road J and if there were still talks about this site coming another venue for a Canoe/Kayak launch. Guild stated a letter has been drafted to the owners who currently live in California. Wesenick stated if having the launch at that property doesn't work he knows the owners on the south east end who are looking to sell. Guild stated he would further explore this idea.*

I. ANNOUNCEMENTS. *There were no announcements*

J. NEXT MEETING DATE: *The next meeting is scheduled for Mon, 10/24, @ 6:00 P.M., and discuss items for next agenda.*

K. ADJOURN. *Schuster adjourned Community Life and Public Safety Meeting at 7:04 p.m.*

*Fred Schuster, Trustee
Renee Hodell, Recording Secretary*

Village of Weston, Wisconsin
REGULAR MEETING OF THE BOARD OF TRUSTEES

November 28, 2016

MEETING PACKET COVER SHEET
AGENDA ITEM –G.7.



**Village of Weston, Wisconsin
AGENDA ITEM COVERSHEET
Requested for Official Consideration and Review**

REQUEST FROM: **VALERIE PARKER, PLANNING TECHNICIAN**

ITEM DESCRIPTION: **CREATION OF AN OPT-OUT ORDINANCE, WITHIN CHAPTER 66, SOLID WASTE**

DATE/MTG: **COMMUNITY LIFE AND PUBLIC SAFETY; MONDAY, NOVEMBER 28, 2016**

POLICY QUESTION: Should the CLPS consider, and forward on to the Board of Trustees, the Planning Technician's recommendation to create an opt-out ordinance within Chapter 66, Solid Waste

RECOMMENDATION TO: (I make a motion to. . .) approve the recommendation from Planning Technician to create an opt-out ordinance, within Chapter 66, Solid Waste.

LEGISLATIVE ACTION:

- | | | |
|--|------------------------------------|---------------------------------------|
| <input checked="" type="checkbox"/> Acknowledge/Approve | <input type="checkbox"/> Ordinance | <input type="checkbox"/> Proclamation |
| <input type="checkbox"/> Administrative Order | <input type="checkbox"/> Policy | <input type="checkbox"/> Reports |
| <input type="checkbox"/> Expenditure | <input type="checkbox"/> Procedure | <input type="checkbox"/> Resolution |
-
-

FISCAL IMPACT ANALYSIS:

- Budget Line Item: _____
- Budget Line Item: _____
- Budgeted Expenditure: _____
- Budgeted Revenue: _____
-
-

STATUTORY / RULEMAKING / POLICY REFERENCES:

- WI Statue: _____
- WI Administrative Code: _____
- Case Law / Legal: _____
- Municipal Code: _____
- Municipal Rules: _____
-
-

PRIOR REVIEW: N/A

BACKGROUND:

Under Wis. Stat. 287.09, Municipal County Duties and Powers, the Village of Weston, is considered a "Responsible Unit" or "RU". Under this designation, we are required to carry out certain powers and duties. One main duty is to develop and implement a recycling or other program to manage the solid waste generated within its region in compliance with s. 287.07 (1m) to (4) and the priorities under s. 287.05 (12). One of the main powers given is to adopt an ordinance to enforce the program established under sub. (2) (a).

An incentive for Responsible Units to carry out their duties and powers is the annual Recycling Grant. In order to be eligible for the recycling grant, the RU must meet criteria as specified in Chapter NR 544, which determines if an RU has an effective recycling program.

One of the required components of an effective recycling program (NR 544.04(4)) is to have *a system for single family and 2 to 4 unit residences which meets the provisions of s. NR 544.05 for processing and marketing of the recyclable materials specified in s. 287.07 (3) and (4), Stats., which have been separated for recycling or recovered from solid waste in as pure a form as is technically feasible.*

The way I have always interpreted the Statutes is that all single-family up to 4-unit residences had to accept our refuse and recycling services, and with our contracted hauler. Which we charge those property owners for refuse and recycling services on their property tax bill. The current rate is \$155.00 per residential unit. A three-unit apartment would be charged \$465.00, and a four-unit apartment would be charged \$620.00.

In 2014, with the set-up and delivery of the single stream recycling carts it was found that many 3-4 unit apartments were utilizing dumpsters, rather than the provided carts. These property owners were still paying the special charge on their tax bill for refuse/recycling services. Shortly after the single-stream recycling service began, I started taking in phone calls from these property owners requesting to receive some kind of reimbursement, as by their using dumpsters, they are also paying a fee to the hauler, Advanced Disposal. From discussions held back then, I was under the impression that the fee these apartment owners were paying, for their dumpster service, was not a full service fee (what 5+ apartment owners pay for dumpster service). With this knowledge a policy statement was written and approved, in the form of a Resolution (VW-14-01), on February 17, 2014, by the Board of Trustees which allows 3-4 unit apartments to utilize dumpsters versus carts and if these properties met certain criteria (a current contract, enclosure around dumpsters, etc.), they would be eligible for a partial reimbursement of the annual refuse/recycling special charge. This reimbursement would amount to 1/3 of the charge they pay, as part of what is charged on their property tax bill covers the costs for yard waste service, spring bulk-item drop-off service, and other administrative services provided.

There are two 4-unit apartment building owners who do not use Weston's services. These are W&D Enterprises, LLC (Wally Legenza), 6211 Labrador Road, and Strey's Sunnyhill Acres, Inc. (Joan Eckes), 6207 Labrador Road. These two properties have shared access from Labrador Road, and have shared refuse and recycling services. It has been documented that there is not enough recycling containers for their tenants to use, and on multiple occasions I have seen and taken photos of there being recycling material within the refuse dumpster. Eckes and Legenza have hired IROW to collect their refuse and recycling, as they said they were not happy with the services received by Advanced Disposal. They are disputing the requirement to pay for refuse/recycling services to the Village through their property tax bills. They are also disputing the requirement to utilize Advanced Disposal as their refuse/recycling hauler.

This then led me to a discussion with Attorney Yde, he questioned the Village's authority to require all single-family up to four-unit residences to use the Village's contracted service. He felt this requirement could be viewed as unconstitutional, and that we could face litigation by enforcing this. Again, I was under the impression, the way the State Statutes read, that the Village was under a State Law requirement to require these properties to use our services, and if we did not, that we would be jeopardizing our recycling grant.

After then consulting with Meleesa Johnson, Director of Marathon County Solid Waste, I had requested another meeting with Attorney Yde to further clarify his opinion. During this meeting with Attorney Yde, he explained to me again, that unless the Village can show proof that it is necessary for the health, safety, welfare, and convenience of the public, that our requiring properties to use our service could lead us into litigation.

SUMMARY:

The Village of Weston is required under the Wisconsin State Statutes 287, to have an ordinance in place to manage solid waste and recycling. However, per Attorney Yde's review, the Village does not have the authority to require single-family up to four-unit residences to use and pay for our services, if they elect to contract with a different provider. If the Village feels that it is necessary for the health, safety, welfare, and convenience of the public (related to the protection of the public from disease), the Village could make a formal motion to require single-family up to four-unit residences to use and pay for our services; however, would be at risk of litigation with property owners and/or other private haulers.

Per Attorney Yde's review, an opt-out clause should be provided within the solid waste ordinance, giving property owners the choice to utilize a different refuse/recycling hauler, as in most cases, it will be found that property owners will have a difficult time contracting with their own hauler at a less expensive option. For those who do decide to go on their own, we should revise our solid waste ordinance to include language that requires these property owners to provide a signed

contract with their licensed hauler, and requirements of the hauler to confirm Village refuse and recycling requirements are being followed. There would also be language added that any property owners who fail to comply with our solid waste ordinance are then not permitted to opt out.

In Attorney Yde's 09/01/16 letter, he offers three suggestions: 1) Determine that mandatory refuse/recycling collection by the Village's contracted carrier for all single-family up to four-unit residences is necessary for the health, safety, welfare, and convenience of the public [keeping our solid waste ordinance as is]. 2) Continue operating as-is without creating an opt-out procedure in our ordinances, but informally allowing property owners to contract on their own. 3) Revise the solid waste ordinance to create an opt-out procedure. His recommendation is to choose option 3.

POTENTIAL OUTCOMES

Revising the Solid Waste Ordinance to create an "opt-out" procedure could bring on some unintended repercussions.

During our budget planning season, primarily in October, the annual per unit refuse/recycling service fee is calculated for the upcoming personal property tax roll. This amount partially consists of number of residential units, compared to the actual costs the Village will pay to Advanced Disposal Services for the upcoming year. Other amounts are also factored in, which include administration costs to run the overall refuse/recycling program, estimates of what the spring bulk-item drop off costs may be, yard waste collection costs, etc. If enough property owners chose to opt-out during the year, it could have a negative effect on our budget, as I feel we would be required to reimburse those property owners the refuse/recycling services costs they had paid on their tax bill, and could cause a shortfall on we pay for those services. A possible solution for this would be to have an opt-out period of time, such as applying in early September or October, with a January 1st start date.

A requirement on our being eligible to receive the recycling grant is that we are required to report all recyclable tonnages collected from all single-family up to four-unit residences. I am concerned that if people opt-out, and have services from a different hauler, that our recycling tonnages being reported will be greatly understated. Somehow, a requirement would have to be placed that the property owner is responsible for reporting their recycling tonnages, or that their hauler needs to somehow be able to share those individual recyclable material weights for each Weston single-family up to four-unit residence that they serve.

If the Village does recommend the ordinance revision to allow properties to opt-out, we will need to work with Eckes and Legenza (previously mentioned), and submit a refund of special charges placed on their tax roll for the past few years, and possibly along with refunding the penalties they have incurred due to their property taxes being delinquent.

STAFF RECOMMENDATION

Though, as Attorney Yde has explained to me, Option 1 is doable. However, the Board would have to make a strong case on why requiring this is necessary to protect the public, and be prepared to handle litigation issues from some property owners who do not want to use our contracted service, but a service on their own.

I personally am not in favor of Option 2, as I feel to our residents, it could create a sense of dishonesty on the Village.

With this, I would recommend the Village pursue Option 3, and work with Attorney Yde to revise the solid waste ordinance to include language giving single-family up to four-unit residences the option to opt-out of our service, allowing them to sign a contract for service with their own licensed hauler. This option should also include a specific time period when properties can apply to opt-out. This option should also include requirements of a proof of contract with their hauler, and the hauler's agreement to submit recycling tonnages, broken down by material, and a statement that the tonnages are only from Weston properties, and include all Weston properties served.

- Supplemental Briefer for Agenda Items under Consideration?
- Attachments?

September 1, 2016

VIA E-MAIL ONLY

Daniel Guild, Jennifer Higgins, Valerie Parker
Village of Weston
5500 Schofield Ave.
Weston, WI 54476

Re: Refuse/recycling ordinance

Greetings:

This letter will confirm our discussions on August 24, 2016 regarding how to address the two property owners who refuse to use the Village's contracted carrier and have withheld from payment of their real estate taxes that amount that was placed on the tax roll as a special charge for refuse and recycling collection.

THE DISPUTE

The Village was contacted by Wally Lagenza and Joan Eckes about removing the refuse/recycling special charge on their tax bills because they do not use this service. They claim that they are not satisfied with the services provided by the Village's contracted carrier and have chosen to hire IROW to remove refuse/recyclables from their two, four-unit apartments. Per Village ordinance Sec. 66.111 (b), a "service fee shall be placed on the tax roll, as a special charge, per dwelling unit."

I previously provided a legal opinion letter dated May 25, 2016 addressing this issue. I have attached a copy of this May 25, 2016 letter. In the prior letter, I concluded the following:

1. The Village has the authority to require mandatory garbage collection service if the Village Board determines that it is necessary for the health, safety, welfare and convenience of the public.
2. If the Village Board determines that mandatory garbage collection service is necessary, the ordinance may be challenged as an unreasonable use of the Village's police powers.
3. The Village cannot use the special charge statute to collect a garbage collection fee if the taxpayer does not use the special service.
4. If the Village Board decides that residential units can opt out of refuse/recycling services provided by the Village's contracted collector, the Village should include in its ordinance requirements that will ensure compliance, such as a signed contract between the residential unit and a licensed hauler, a verification process

by the licensed hauler of compliance with Village ordinances, and forfeiture of this privilege to those who violate garbage removal or recycling ordinances.

DISCUSSION/RECOMMENDATIONS

The Village must provide a system for collection of recyclable materials for single family and two-four unit residences. The Wisconsin Administrative Code also grants the Village the authority to conduct inspections to ensure compliance. There is no statutory or Code requirement that Village citizens must use the Village's contracted carrier. However, the Village Board may exercise its police powers to force owners of residential units to accept its refuse/recycling services. The Village Board should not exercise its police powers without articulating why doing so is necessary to protect the public.

Option one is for the Village to determine that mandatory refuse/recycling collection by the Village's contracted carrier for all single and two-four unit residential properties is necessary for the health, safety, welfare and convenience of the public. If the Village Board exercises its police powers and makes refuse/recycling collection by the Village's contracted carrier mandatory, a resident may challenge the ordinance as an unreasonable use of the Village's police powers. The issue for the court to determine is whether the ordinance is rationally related to the protection of the public from disease. In addition, if our ordinance precludes a resident from opting out, a competitor of the Village's contracted carrier may challenge the ordinance as a violation of the Commerce Clause of the United States Constitution. Forcing private citizens to use government services is generally impermissible due to the discrimination against interstate commerce.

Option two is to do nothing. Continue operating "as-is" without creating an opt-out system, but informally allowing residents who refuse to be a part of the services to contract on their own. It is doubtful that citizens will find a less expensive option. The Village can regulate those who refuse the service by enforcing the ordinance if the unit owner fails to comply with our ordinances that require the timely removal and proper disposal of solid waste and recyclable materials.

Option three is to create an opt-out procedure as part of the Village's Solid Waste Ordinance. The opt-out procedure should ensure that refuse will be removed from the property at least once per week and recyclables every other week. The ordinance should require the unit owner to provide a signed contract with a licensed hauler. The ordinance should impose requirements on the licensed hauler to verify that all Village refuse and recycling ordinances are being followed. The opt-out option should not be available to any residential unit owner who has violated any refuse or recycling ordinance in the previous 12 months.

My recommendation is to create an opt-out ordinance. The vast majority of residents will use the Village contracted carrier because it is more convenient and cheaper. Unless the Village Board can articulate why the exercise of such power is necessary, I have concerns that forced refuse/recycling collection by the Village's contracted carrier will be viewed as an unreasonable use of the Village's police powers.

Refuse/Recycling
September 1, 2016
Page 3 of 3

Please call me if you have any questions, comments or concerns.

Very Truly,

Matthew E. Yde
Strasser & Yde, S.C.

MEY:mrr
Enclosures

May 25, 2016

VIA E-MAIL ONLY

Daniel Guild, Jennifer Higgins, John Jacobs, Valerie Parker

Re: Refuse/Recycling Issues for two 4-Unit Apartments owned by Wally Legenza and Joan Eckes

Dear Daniel, Jennifer, John, and Valerie:

It is my understanding that you have been contacted by Wally Legenza and Joan Eckes about removing the refuse/recycling special charges on their tax bills because they do not use this service. Instead they claim they have hired IROW to remove refuse/recyclables from their two 4-unit apartments. It is further my understanding that the Village places a refuse/recycling special charge on the tax bill of each residential unit within the Village, which includes each single family, two family, three family and four family residential dwelling.

You asked me to provide a legal opinion addressing the following issues:

1. Can the Village force owners of residential units to accept our refuse/recycling services?
2. Is the Village required to reimburse a special charge if the property does not receive the specific service?
3. If the Village decides to allow residential units to opt-out of the refuse/recycling services provided by the Village, what safeguards should be put into place to ensure that the Village's Ordinances with respect to garbage removal and recycling are satisfied?

VILLAGE'S GARBAGE PICKUP AUTHORITY

Wis. Stat. § 61.34(1) is the Village's general grant of power, which states in pertinent part as follows:

Except as otherwise provided by law, the Village Board shall have the management and control of the Village property, finances, highways, streets, navigable waters, public service, and shall have the power to act for the government and good order of the Village, for its commercial benefit and for the health, safety, welfare and convenience of the public, and may carry its powers into effect by license, regulation, suppression, borrowing, taxation, special assessment, appropriation, fine, imprisonment, and other necessary or convenient means. The powers hereby conferred shall be in addition to all other grants and shall be limited only by express language.

In addition to the general grant of power pursuant to Wis. Stat. § 61.34, Wis. Stat. § 66.0405 addresses the Villages authority to remove garbage as follows:

Removal of rubbish. Cities, villages and towns may remove ashes, garbage, and rubbish from such classes of places in the city, village or town as the board or council directs. The removal may be from all of the places or from those whose owners or occupants desire the service. Districts may be created and removal provided for certain districts only, and different regulations may be applied to each removal district or class of property. The cost of removal may be funded by special assessment against the property served, by general tax upon the property of the respective districts, or by general tax upon the property of the city, village or town. If a city, village or town contracts for ash, garbage or rubbish removal service, it may contract with one or more service providers.

Finally, the Special Charge Statute, Wis. Stat. § 66.0627(2), permits the governing body of a village, to impose a special charge against real property for current services rendered by allocating all or part of the cost of the service to the property served. Wis. Stat. § 66.0627(1)(c) defines “service” to include “garbage and refuse disposal” and “recycling”.

In *Rubin v. City of Wauwatosa*, 112 Wis. 2d 305, 342 N.W. 2d 451 (1983), the plaintiffs brought an action challenging the validity of the City of Wauwatosa’s refuse collection ordinance. In preparing its 1982 budget, Wauwatosa decided to charge for the collection of refuse from properties defined as “commercial.” Wauwatosa intended to collect refuse from residential properties without charge, but in an effort to further reduce costs, the residential properties were required under the new ordinance to transport refuse containers to curbside for pickup.

Plaintiffs argued that Wauwatosa was not authorized to create a single city wide commercial collection district defined by the type of property. Moreover, plaintiffs argued that Wauwatosa does not have the power to charge some properties by one method of payment and others by a different method. The Wisconsin Court of Appeals disagreed.

The court of appeals determined that Wis. Stat. § 66.049(renumbered to 66.0405) authorizes a city to collect refuse from such classes of property that its legislative body decides. It also allows a city to create districts and to remove refuse from certain districts only. The court noted that the last sentence of the statute authorizes three methods of payment for the service: (1) a special assessment may be made against the property service; (2) a general tax may be levied against the property in any created district; or (3) a general tax may be levied on all of the property of the city. In addition, the court noted that Wis. Stat. § 66.60(16)(a)(renumbered 66.0627) provides a fourth method to defray the cost, which involves imposing a special charge for all or part of the service on the properties served.

In addressing the equal protection argument, the court noted that there was a strong presumption that a classificatory scheme established either by statute or by ordinance is valid. Although the

collection of refuse is one of numerous governmental functions, its existence does not give rise to a vested right to its continuation or the creation of a “fundamental right.” The appropriate standard for review of a classificatory scheme is whether there is a rational basis for the classification. The challenged classification must rationally relate to a legitimate state interest. The basic test is not whether some inequality results from the classification, but whether there exists any reasonable basis to justify the classification. After reviewing the information relied upon by the city council to create this distinction, the court concluded that there are valid distinctions in the methods, procedures and costs for refuse collection of property defined as commercial. The reasons for the two classifications were the distinctions made manifest by the surveys and reports submitted to the city council and the conclusions drawn from them by the city manager. As a result, the court found that Wauwatosa’s ordinance did not violate the equal protection provisions of the 14th Amendment and the Wisconsin Constitution.

The League of Wisconsin Municipalities issued a legal opinion on April 19, 1990 that addresses a municipality’s authority to charge for garbage collection. The City of Ladysmith requested the legal opinion. The first question was whether Wis. Stat. § 66.049(renumbered 66.0405) authorizes the city to recover the cost of collecting garbage by general tax upon all property in the city. This question was answered in the affirmative since Wis. Stat. § 66.049(renumbered 66.0405) specifically states that the cost of garbage removal may be funded “by special assessment against the property served, by general tax upon the property of the respective districts, or by general tax upon the property of the city, village, or town.”

The second issue addressed in the legal opinion is whether the Special Charge Statute, Wis. Stat. § 66.60(16)(renumbered 66.0627) authorizes (1) a basic garbage collection fee that is identical for all properties and is added to water and sanitary sewer service utility bills; (2) selling of three sizes of stickers which must be attached to various sized containers of trash for them to be collected; or (3) charging a surcharge based upon size of dumpster and frequency of collection for dumpster users unable to use the sticker system. The League attorney’s opinion was that the basic service fee for garbage collection and the surcharge on dumpsters were authorized by Wis. Stat. § 66.60(16)(renumbered 66.0627). However, the sale of stickers was not the type of charge for current services contemplated by Wis. Stat. § 66.60(16). It was the League attorney’s opinion that the sale of stickers to recover the costs of garbage collection may be authorized by the city’s general powers pursuant to Wis. Stat. § 62.11(5).

The League’s attorney raised concern over the city’s practice of charging all property owners the basic garbage collection fee. Wis. Stat. § 66.60(16)(renumbered 66.0627) does not authorize a city to charge a property owner for garbage collection services when his or her property is not provided such services. The Special Charges Statute only authorizes municipalities to levy special charges for garbage collection against property which has been provided the service. In the opinion of the League’s attorney, if the city does not collect waste from a particular property then that property owner cannot be charged for that service under Wis. Stat. § 66.60(16). When property is vacant and no waste is generated or collected, the owner should have an opportunity to challenge the validity of the special charges levied against his or her property.

The final question addressed by the legal opinion was whether the city’s ordinance, which

prohibits persons from hauling their own garbage outside the city for disposal and charges all property owners the basic garbage service fee no matter whether or not they place garbage for collection, is valid. In the League attorney's opinion, Wis. Stat. § 66.049(renumbered 66.0405) does not authorize a city to adopt an ordinance prohibiting persons from disposing their own garbage or requiring property owners to pay a garbage service fee if they do not use the service. The legal opinion notes that Wis. Stat. § 62.11(5) might authorize a city to adopt such an ordinance. However, the League's attorney questioned whether prohibiting persons from disposing their own garbage outside the city constitutes a reasonable police power regulation. He was also concerned that imposing a garbage collection fee upon property owners not accumulating garbage and not using the service may violate the owners' due process rights and may be arbitrary and unreasonable.

Wis. Stat. § 66.049(renumbered 66.0405) does not authorize a city to charge a basic garbage collection service fee as a method of recovering the cost of providing garbage collection services. Such a method of recovering garbage collection costs is authorized by Wis. Stat. § 66.60(16)(renumbered 66.0627). However, since Wis. Stat. § 66.60(16) authorizes a city to levy charges against property owners for garbage collection services only when those services have actually been provided, the Special Charge Statute cannot be used to authorize a basic garbage collection service fee for those properties that do not receive the service.

Authority for adopting an ordinance prohibiting persons from disposing their own garbage and requiring property owners to pay a garbage collection fee, even if they do not make use of the service, might be found in Wis. Stat. § 62.11(5). However, even if such an ordinance may be adopted pursuant to a city's general police powers, it must be reasonable in order to be valid. The test for reasonableness is whether the ordinance is rationally related to the public health, safety or general welfare. *See State ex rel. Grand Bazaar Liquors, Inc. v. City of Milwaukee*, 105 Wis. 2d 203, 313 N.W. 2d 805, 810 (1982).

The League attorney found no Wisconsin case law relevant to these issues. However, in *City of Portsmouth v. McGraw*, 21 Ohio St. 3d 117, 488 N.W. 2d 472 (Ohio 1986), the Supreme Court of Ohio upheld an ordinance which levied a garbage collection fee upon every family or individual maintaining living quarters in the city in which garbage was created and required such residents to use the city's garbage collection service. The court concluded that the statutory scheme was "really and substantially related to protection of the public from disease and, therefore, to the public health and welfare." 488 N.W. 2d at 475. In its reasoning, the court stated that "without the ability to require every resident of the city upon whose premises garbage or refuse accumulates to conform to a uniform regulation, the city would be unable to tackle all the health problems which would result from a helter-skelter approach of allowing each citizen to individually strew his garbage throughout the city as he sees fit." *id.*

The Ohio court was careful to distinguish Portsmouth's ordinance from a regulation which imposed a garbage collection fee upon those not accumulating garbage, and thus not requiring the service. The court noted that such an ordinance may violate the owners' due process rights and may be arbitrary and unreasonable.

CAN THE VILLAGE FORCE OWNERS OF RESIDENTIAL UNITS TO ACCEPT THE VILLAGE'S REFUSE/RECYCLING SERVICES?

Yes, if the Village determines that mandatory garbage collection service is “really and substantially related to protection of the public from disease and therefore, to the public health and welfare.” The ordinance should state that the garbage collection fee applies to every property that creates garbage. The Village’s authority to do so is based on the Village’s general grant of power pursuant to Wis. Stat. § 61.34(1). The ordinance might be challenged as an unreasonable use of the Village’s police powers. The issue for the court to determine is whether the ordinance is rationally related to the public health, safety or general welfare.

IF THE VILLAGE USES THE SPECIAL CHARGES STATUTE TO COLLECT A GARBAGE COLLECTION FEE, IS THE VILLAGE REQUIRED TO REIMBURSE THE FEE IF THE TAXPAYER DOES NOT RECEIVE THE SPECIAL SERVICE?

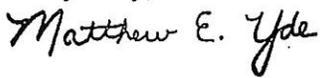
Yes, the Special Charge Statute, Wis. Stat. § 66.0627(2), permits the governing body of a village to impose a special charge against real property for current services rendered by allocating all or part of the cost of the service to the properties served. Wis. Stat. § 66.0627(2) authorizes a village to levy charges against property owners for garbage collection services only when those services have actually been provided.

IF RESIDENTIAL UNITS CAN OPT-OUT, WHAT SAFEGUARDS SHOULD BE PUT IN PLACE TO ENSURE VILLAGE ORDINANCE COMPLIANCE?

If the Village exercises its police powers to force owners of residential units to accept its refuse/recycling services and then provides an opt-out provision, the Village would have more coverage to create safeguards to ensure ordinance compliance. If the Village continues to use the Special Charge Statute, the Village has no leverage because Wis. Stat. § 66.0627 authorizes a village to levy charges against property owners for garbage collection services only when those services have actually been provided.

A good first step for any opt-out program is to require a signed contract with a licensed hauler. The Village would need to develop a verification process for those properties as well. The option to opt-out should not be available to property owners who violate garbage removal or recycling ordinances.

Please call me if you have any questions, comments or concerns.

Very truly,

Matthew E. Yde
Strasser & Yde, S.C.

RESOLUTION VW-14-01
VILLAGE OF WESTON, MARATHON COUNTY, WISCONSIN

A RESOLUTION APPROVING VILLAGE STAFF POLICY STATEMENT
FOR REFUSE/RECYCLING PROGRAM

WHEREAS, the Wisconsin State Statutes 287.09 (1)(a) designates each Municipality as a Responsible Unit (RU); and

WHEREAS, per Wisconsin State Statutes 287.09 (2)(a), each responsible unit shall develop and implement a recycling or other program to manage the solid waste generated within its region in compliance with s. 287.07 (1m) to (4) and the priorities under s. 287.05 (12); and

WHEREAS, the Municipal Code of Ordinances, Chapter 66, Solid Waste, requires occupants of single-family up to four-unit residences to follow the preparation and collection of recyclable and refuse materials as detailed in that Chapter, as provided by the Village through its service contract with the collection hauler; and

WHEREAS, per Wisconsin State Statutes 287.23, Responsible Unit's shown to have an effective recycling program are eligible to receive annual financial assistance (Recycling Grant) from the State of Wisconsin. By continuing to make recycling easier for the community and educating the public on sustainability, and more recycling tonnages collected being reported annually to the State, the Village is eligible for larger grant monies; and

WHEREAS, all single-family up to four unit residence (on one tax parcel) pays a special service charge fee on their annual real estate property tax bill for certain Village services offered to each residential unit (this includes refuse and recycling curbside collection, yard materials collection, free utilization of yard materials drop-off site, free spring bulk-item drop off services, and administrative fees). The 2014 annual rate for these services is \$150.00 per residential unit, and

WHEREAS, the on July 1, 2013, Board of Trustees authorized Village staff to implement a single-stream recycling program for all single-family up to four-unit residences (on one tax parcel), as a way to promote more recycling within the community. This program is done by the Village's contracted collector issuing all single-family up to four-unit residences a 95-gallon single-stream recycling cart; and

WHEREAS, the use of the single-stream recycling carts are known to be cleaner for neighborhoods (keeping debris from blowing around), are easier for residents to use (as the cart has an easy to use handle and is on wheels), and are safer for workers (where there is no more physical lifting of filled bins into a truck, as the worker's truck's mechanical arm will lift and empty the cart into the truck); and

WHEREAS, some owners of three to four-unit residences have contacted the Village inquiring on options of lesser quantity carts for their property (allowing multiple units to share), as the tenants within their property do not generate much refuse and/or recycling; and

WHEREAS, some owners of three to four-unit residences have contacted the Village inquiring on an option of utilizing recycling dumpsters for its tenants to share, rather than individual 95-gallon single-stream carts, due to limited space along the right-of-way, and their already utilizing a refuse dumpster for all tenants to share, and

WHEREAS, owners of three to four-unit residences have requested, if allowed the use of dumpsters to receive a reimbursement of special charges paid on their real estate property tax bill, as they are also billed for special service by the Village's contracted collector.

NOW, THEREFORE, BE IT RESOLVED, that the Village of Weston Board of Trustees hereby proclaim that they lend their support to all of the above statements, and are

RESOLVED THAT all single-family and two-family residences (covered under the Village of Weston's service contract) accept and utilize the 95-gallon recycling carts for each unit, and be it further;

RESOLVED THAT Village staff be allowed to work with, on a case-by-case basis, three and four-unit residences (covered under the Village of Weston's service contract) on options of lesser quantity carts per residential unit (however, continuing to pay the per unit service fee on their annual real estate property tax bill), and be it further;

RESOLVED THAT Village staff be allowed to work with, on a case-by-case basis, three and four-unit residences (covered under the Village of Weston's service contract) on options of utilizing refuse and recycling dumpsters for their tenants to share, providing a proof of contract is submitted to Village staff, and the owner of said property constructs a 3-sided enclosure with a fourth gated side to house the refuse and recycling dumpsters, and be it further;

RESOLVED THAT upon meeting Village staff requirements and all municipal ordinances to utilize dumpsters, owners of said properties may be eligible to receive a reimbursement of a portion of the special charges paid on their real estate property tax bill, and be it further;

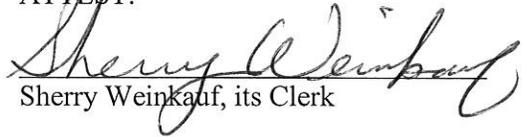
RESOLVED THAT Village staff, following proper documentation of the reason for the special exception, be allowed the flexibility in determining the appropriate reimbursement eligible to owners of said properties.

Adopted this 17 day of February, 2014.



Loren White, its President

ATTEST:



Sherry Weinkauff, its Clerk

Village of Weston, Wisconsin
REGULAR MEETING OF THE BOARD OF TRUSTEES

November 28, 2016

MEETING PACKET COVER SHEET
AGENDA ITEM –G.8.



Village of Weston, Wisconsin
REGULAR MEETING OF THE BOARD OF TRUSTEES

November 28, 2016

MEETING PACKET COVER SHEET
AGENDA ITEM –G.9.



Village of Weston, Wisconsin
REGULAR MEETING OF THE BOARD OF TRUSTEES

November 28, 2016

MEETING PACKET COVER SHEET
AGENDA ITEM –G.10.



Village of Weston, Wisconsin
REGULAR MEETING OF THE BOARD OF TRUSTEES

November 28, 2016

MEETING PACKET COVER SHEET
AGENDA ITEM –I.11.

