

<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">6/17/14</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">STANDARDS, FINDINGS AND DECISION OF THE CITY OF FRANKLIN COMMON COUNCIL UPON THE APPLICATION OF THE CITY OF FRANKLIN FOR A SPECIAL EXCEPTION TO CERTAIN NATURAL RESOURCE PROVISIONS OF THE CITY OF FRANKLIN UNIFIED DEVELOPMENT ORDINANCE FOR THE WEST EVERGREEN STREET EXTENSION</p>	<p style="text-align: center;">ITEM NUMBER</p> <p style="text-align: center;"><i>G. 8.</i></p>

The City of Franklin Environmental Commission reviewed the NRSE Application at their December 18, 2013 meeting. At that meeting, Alderman Mayer moved and Commissioner Phillipson seconded a motion to “recommend approval of the Natural Resource Features Special Exception for the City of Franklin, for the purpose of allowing approximately 1,500 square feet of wetland filling and paving, 7,100 square feet of filling and paving of the wetland buffer and 11,100 square feet of wetland setback filling and paving.” On voice vote, Alderman Mayer and Commissioners Phillipson and Cannon voted 'aye'. Commissioners Bolton, Rindfleisch and McManus voted 'no'; therefore, the motion failed with a 3-3 vote.

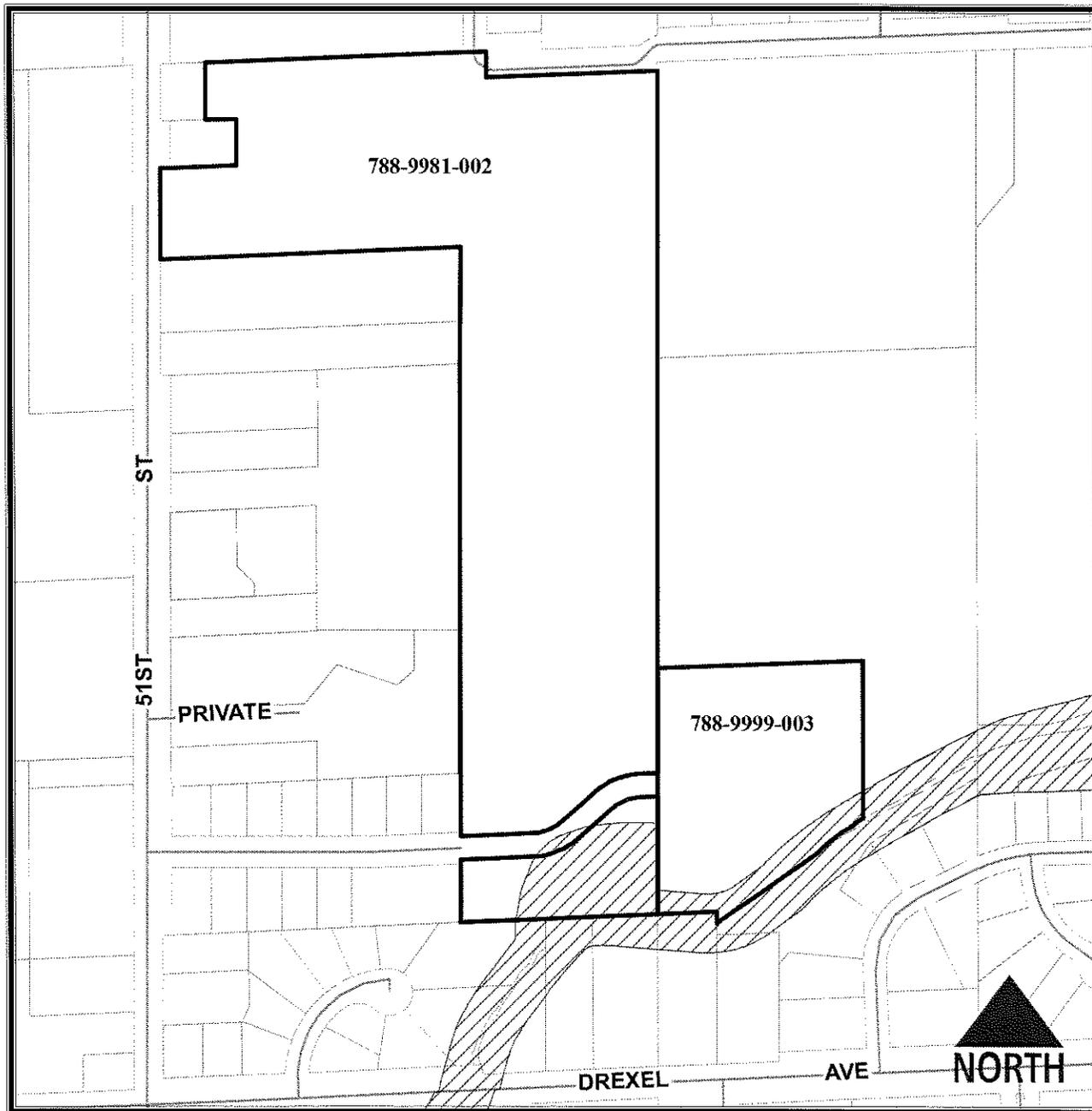
At their June 5, 2014 meeting, the Plan Commission approved a motion to recommend approval of the City of Franklin Natural Resource features Special Exception pursuant to the Standards, Findings and Decision recommended by the Plan Commission and Common Council consideration of any Environmental Commission recommendation.

COUNCIL ACTION REQUESTED

Adopt the standards, findings and decision of the City of Franklin Common Council upon the application of the City of Franklin for a special exception to certain natural resource provisions of the City of Franklin Unified Development Ordinance for the West Evergreen Street extension.



Evergreen Street Extension Natural Resource Special Exception



Planning Department
(414) 425-4024

00000.02.03
Miles

2013 Aerial Photo

This map shows the approximate relative location of property boundaries but was not prepared by a professional land surveyor. This map is provided for informational purposes only and may not be sufficient or appropriate for legal, engineering, or surveying purposes.

Draft 6/11/14

Standards, Findings and Decision
of the City of Franklin Common Council upon the
Application of the City of Franklin for a Special Exception to Certain Natural
Resource Provisions of the City of Franklin Unified Development Ordinance for the
West Evergreen Street Extension

Whereas, the City of Franklin, having filed an application dated November 4, 2013, for a Special Exception pursuant to Section 15-9.0110 of the City of Franklin Unified Development Ordinance pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature; a copy of said application being annexed hereto and incorporated herein as Exhibit A; and

Whereas, the application having been reviewed by the City of Franklin Environmental Commission and the Commission not making a recommendation within forty-five days from receipt of application as required per Section 15-10.0208 of the Unified Development Ordinance; and

Whereas, following a public hearing before the City of Franklin Plan Commission, the Plan Commission having reviewed the application and having made its recommendation thereon as set forth upon the report of the City of Franklin Planning Department, a copy of said report dated June 5, 2014 being annexed hereto and incorporated herein as Exhibit B; and

Whereas, the property which is the subject of the application for a Special Exception is located at and about 7501 South 49th Street, zoned R-6 Suburban Single-Family Residence District, C-1 Conservancy District, FC Floodplain Conservancy District, FW Floodway District and P-1 Park District, and such property is more particularly described upon Exhibit C annexed hereto and incorporated herein; and

Whereas, Section 15-10.0208B. of the City of Franklin Unified Development Ordinance, as amended by Ordinance No. 2003-1747, pertaining to the granting of Special Exceptions to Stream, Shore Buffer, Navigable Water-related, Wetland, Wetland Buffer and Wetland Setback Provisions, and Improvements or Enhancements to a Natural Resource Feature, provides in part: "The decision of the Common Council upon any decision under this Section shall be in writing, state the grounds of such determination, be filed in the office of the City Planning Manager and be mailed to the applicant."

Now, Therefore, the Common Council makes the following findings pursuant to Section 15-10.0208B.2.a., b. and c. of the Unified Development Ordinance upon

the application for a Special Exception dated November 4, 2013 by the City of Franklin, pursuant to the City of Franklin Unified Development Ordinance, the proceedings heretofore had and the recitals and matters incorporated as set forth above, recognizing the applicant as having the burden of proof to present evidence sufficient to support the following findings and that such findings be made by not less than four members of the Common Council in order to grant such Special Exception.

1. That the condition(s) giving rise to the request for a Special Exception were not self-imposed by the applicant (this subsection a. does not apply to an application to improve or enhance a natural resource feature): *but rather, a result of the natural environment and location of the park. Access to this park has been contemplated via West Evergreen Street. The parkland is located directly to the south of Pleasant View Elementary School, limiting access from West Marquette Avenue to the north. To the east of the parkland is conservancy land acquired from MMSD, commonly referred to as Victory Creek. As protected property, acquired by MMSD for the purpose of conservation and flood prevention, a road is a prohibited use. There is vacant land to the west, zoned R-6 District and C-1 District. There would be impacts to natural resources if a street were extended south from Marquette Avenue to the park. Based on the preceding information, at this time, access to the park is reasonably attained from West Evergreen Street. Based upon Southeastern Wisconsin Regional Planning Commission (SEWRPC) wetland determinations, the road would cross wetland areas in order to connect to Pleasant View Neighborhood Park. The SEWRPC map illustrates wetlands and a Secondary Environmental Corridor running north/south through the property, necessitating the wetland impacts for the street extension. The City has determined, with input from SEWRPC, the location of the street extension to best minimize environmental impacts.*

2. That compliance with the stream, shore buffer, navigable water-related, wetland, wetland buffer, and wetland setback requirement will:

a. be unreasonably burdensome to the applicant and that there are no reasonable practicable alternatives: Alternatives where; *or*

b. unreasonably and negatively impact upon the applicant's use of the property and that there are no reasonable practicable alternatives:

Subsections 2a. and 2b. apply. From the beginning of the design phase of this project, the City sought a design and location of the street extension to avoid environmental impacts; however, as wetland areas and a Secondary Environmental Corridor are located north/south through the entire project area, it is not possible to extend the street to connect to Pleasant View Neighborhood Park and avoid all wetland impacts. After SEWRPC conducted a field assessment and delineated wetlands, it was confirmed that the project could not be redesigned to avoid wetland impacts. However, the City was able to redesign the project to minimize these impacts. Two alternative locations were considered for the street extension.

The City considered a straight extension of the street to connect to the park as Alternative 1. This alternative would result in disturbance of approximately 4,500 square feet of wetland, 11,800 square feet of wetland buffer and 9,200 square feet of wetland setback.

The second alternative, Alternative 2, was considered after SEWRPC's field assessment and input. The delineations show a gap between two wetlands located within the project area. The street extension was redesigned to curve the street to extend through this area. There are still impacts; however, this location best minimized the amount. With the curved extension, the street will impact approximately 1,500 square feet of wetland, 7,100 square feet of wetland buffer and 11,100 square feet of wetland setback.

As Alternative 2 has the least amount of wetland impacts, the City eliminated Alternative 1. This Alternative also reduces impacts to the SEWRPC Secondary Environmental Corridor. The City did not consider cost to be a significant factor in determining the design of the roadway.

3. The Special Exception, including any conditions imposed under this Section will:

a. be consistent with the existing character of the neighborhood: *the proposed development with the grant of a Special Exception as requested will be consistent with the existing character of the neighborhood; and*

b. not effectively undermine the ability to apply or enforce the requirement with respect to other properties: *this is a unique project for the benefit of the general public and does not apply to other properties within the City; therefore, approval does not undermine future enforcement of the natural resource protection standards; and*

c. be in harmony with the general purpose and intent of the provisions of this Ordinance proscribing the requirement: *the project best minimizes impacts to protected natural resource features, while still benefiting the public by providing access to a planned park; and*

d. preserve or enhance the functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback in co-existence with the development: *(this finding only applying to an application to improve or enhance a natural resource feature).*

The Common Council considered the following factors in making its determinations pursuant to Section 15-10.0208B.2.d. of the Unified Development Ordinance.

1. Characteristics of the real property, including, but not limited to, relative placement of improvements thereon with respect to property boundaries or otherwise

applicable setbacks: *improvements are contained within City owned property and comply with all other Unified Development Ordinance requirements and City design standards and construction specifications.*

2. Any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district: *West Evergreen Street currently provides the only reasonable and possible access to Pleasant View Neighborhood Park. The park is located directly to the south of Pleasant View Elementary School, existing residential properties to the south, and conservancy land to the east. A wetland runs north/south through the majority of the project area and a navigable stream, shore buffer, shoreland wetlands and a Secondary Environmental Corridor encompass the southern portion of the property. There is a small gap between the wetland and Secondary Environmental Corridor, which has been historically used as a tractor crossing between agricultural fields. The proposed road was centered on this existing gap to minimize impacts to the adjacent natural resource features.*

3. Existing and future uses of property; useful life of improvements at issue; disability of an occupant: *The street extension will allow for development of Pleasant View Neighborhood Park, providing a benefit to City of Franklin residents.*

4. Aesthetics: *The proposed street extension will not degrade the aesthetic appeal, recreation, education, or scientific value of the East Branch Root River or its associated floodplain, and wetlands. On the contrary, the proposed street extension will provide a greater number of Franklin residents access to Pleasant View Neighborhood Park, Victory Creek Park and the Pleasant View/Victory Creek Trail for numerous recreational opportunities for enjoying the aesthetic appeal of the East Branch Root River and its associated floodplain, woodlands and wetlands.*

5. Degree of noncompliance with the requirement allowed by the Special Exception: *The proposed street extension is approximately 560 linear feet in length and twenty-eight (28) feet wide. The extension will impact approximately 1,451 square feet of wetland, 7,086 square feet of wetland buffer and 11,068 square feet of wetland setback.*

6. Proximity to and character of surrounding property: *The park is located directly to the south of Pleasant View Elementary School, existing residential properties to the south, and conservancy land to the east.*

7. Zoning of the area in which property is located and neighboring area: *Current zoning of the project area and adjacent areas is R-6 Suburban Single-Family Residence District, FW Floodway District, FC Flood Conservancy District, P-1 Park District and C-1 Conservancy District. Surrounding uses include single-family residential to the north, south and west and Pleasant View Neighborhood Park and Victory Creek Special Park to the east.*

8. Any negative affect upon adjoining property: *No negative affect upon adjoining property is perceived.*

9. Natural features of the property: *The property is vacant and consists of wetlands, wetland buffers, wetland setbacks, Southeastern Wisconsin Regional Planning Commission Secondary Environmental Corridor floodplain, a navigable stream, shore buffer and shoreland wetlands.*

10. Environmental impacts: *The project consists of filling and paving a small wetland area for the extension of West Evergreen Street. The purpose of the extension is to provide access to Pleasant View Neighborhood Park. The relevant plans for the street construction are attached.*

11. A recommendation from the Environmental Commission as well as a review and recommendation prepared by an Environmental Commission-selected person knowledgeable in natural systems: *The Environmental Commission reviewed the subject application at their December 18, 2013 meeting and made no recommendation related to the project and environmental impacts.*

12. The practicable alternatives analysis required by Section 15-9.0110C.4. of the Unified Development Ordinance and the overall impact of the entire proposed use or structure, performance standards and analysis with regard to the impacts of the proposal, proposed design solutions for any concerns under the Ordinance, executory actions which would maintain the general intent of the Ordinance in question, and other factors relating to the purpose and intent of the Ordinance section imposing the requirement: *The Plan Commission recommendation addresses these factors and are incorporated herein.*

Decision

Upon the above findings and all of the files and proceedings heretofore had upon the subject application, the Common Council hereby grants a Special Exception for such relief as is described within Exhibit B, upon the conditions: 1) that the applicant obtain all other necessary approval(s) from all other applicable governmental agencies prior to any development within the areas for which the Special Exception is granted; 2) that all development within the areas for which the Special Exception is granted shall proceed pursuant to and be governed by the approved Natural Resource Protection Plan and all other applicable plans for the City of Franklin and all other applicable provisions of the Unified Development Ordinance. The duration of this grant of Special Exception is permanent.

Introduced at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2014.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this _____ day of _____, 2014.

APPROVED:

Stephen R. Olson, Mayor

ATTEST:

Sandra L. Wesolowski, City Clerk

AYES _____ NOES _____ ABSENT _____

Planning Department
9229 West Loomis Road
Franklin, Wisconsin 53132
Email: generalplanning@franklinwi.gov

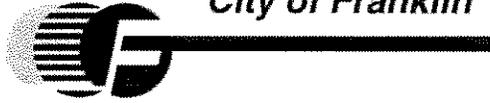


Exhibit A City of Franklin

Phone: (414) 425-4024
Fax: (414) 427-7691
Web Site: www.franklinwi.gov

Date: November 4, 2013

NATURAL RESOURCE SPECIAL EXCEPTION APPLICATION

(Complete, accurate and specific information must be entered, including full legal names. Please Print.)

Property Owner(s)/Legal Entity: <u>City of Franklin</u>	Applicant (Legal Business Owner Name): <u>City of Franklin</u>
Address: <u>9229 W. Loomis Road, Franklin</u>	Address: <u>9229 W. Loomis Road</u>
City: <u>Franklin</u> State: <u>WI</u> Zip: <u>53211</u>	City: <u>Franklin</u> State: <u>WI</u> Zip: <u>53211</u>
Phone: <u>414-425-4024</u> Fax: <u>414-427-7691</u>	Phone: <u>414-425-4024</u> Fax: <u>414-427-7691</u>
Email Address: <u>generalplanning@franklinwi.gov</u>	Email Address: <u>generalplanning@franklinwi.gov</u>
Project/Development Name: <u>Evergreen Street Extension</u>	
Project Description: <u>Extension of Evergreen Street to Pleasant View Neighborhood Park</u>	
Project Property Address: <u>7501 S. 49th Street & 0 W. Drexel Avenue</u> Project Tax Key No(s): <u>788-9981-002 & 788-9999-003</u>	
Existing Zoning: <u>R-6, C-1, FC, FW & P-1, FW, FC</u> Proposed Zoning: <u>Same</u> Existing Use: <u>Vacant RES & REC</u> Proposed Use: <u>Same</u>	
2025 CMP Land Use Identification*: <u>Residential, Areas of Natural Resource Features & Recreational, Areas of Natural Resource Features</u>	
* The 2025 CMP Future Land Use Map is available at: http://www.franklinwi.gov/DefaultFile/DefaultFile/User/Planning/2025CMP/2025 CMP Ch5 2025Future Land Use Map5.7.pdf	
All Natural Resource Special Exception submittals must include and be accompanied by the following:	
<input checked="" type="checkbox"/> This Application form accurately completed and with original signatures (facsimiles and copies will not be accepted).	
<input type="checkbox"/> Application Filing Fee: \$500, payable to the City of Franklin.	
<input checked="" type="checkbox"/> Ten copies of a Project Narrative describing the project.	
<input checked="" type="checkbox"/> Names and Addresses of all abutting and opposite property owners of records, as required by Section 15-9.0110(A) of the UDO*.	
<input checked="" type="checkbox"/> An electronic copy of the Legal Description for the subject property.	
<input checked="" type="checkbox"/> Ten 24x36 inch copies of the Plat of Survey, as required by Section 15-9.0110(B) of the UDO, collated and folded into 9 x 12 inch sets.	
<input checked="" type="checkbox"/> Ten 24 x 36 inch colored copies of the Natural Resource Protection Plan (NRPP), collated and folded into 9 x 12 inch sets, and three copies of the NRPP report, if applicable. See Sections 15-4.0102 and 15-7.0201 of the UDO for information that must be denoted on or included with the NRPP.	
<input checked="" type="checkbox"/> Ten copies of the completed Special Exception Question and Answer Form (from Section 15-9.0110C. of the UDO).	
<input checked="" type="checkbox"/> One copy of all necessary governmental agency permits for the project or a written statement as to the status of any application for each such permit.	
* The City's Unified Development Ordinance (UDO) is available at www.franklinwi.gov .	
<ul style="list-style-type: none">A meeting must be scheduled with the Planning Department prior to Application submittal.Upon receipt of a complete submittal, staff review will be conducted within ten business days.All Natural Resource Special Exception requests require Environmental Commission and Plan Commission review, a public hearing at a Plan Commission meeting, and Common Council approval.See Section 15-10.0208 of the UDO for Natural Resource Special Exception review and approval procedures.	
The applicant and property owner(s) hereby certify that: (1) all statements and other information submitted as part of this application are true and correct to the best of applicant's and property owner(s) knowledge; (2) the applicant and property owner(s) has/have read and understand all information in this application; and (3) the applicant and property owner(s) agree that any approvals based on representations made by them in this Application and its submittal, and any subsequently issued building permits or other type of permits, may be revoked without notice if there is a breach of such representation(s) or any condition(s) of approval. By execution of this application, the property owner(s) authorize the City of Franklin and/or its agents to enter upon the subject property(ies) between the hours of 7:00 a.m. and 7:00 p.m. daily for the purpose of inspection while the application is under review. The property owner(s) grant this authorization even if the property has been posted against trespassing pursuant to Wis. Stat. §943.13.	
(The applicant's signature must be from a Managing Member if the business is an LLC, or from the President or Vice President if the business is a corporation. A signed applicant's authorization letter may be provided in lieu of the applicant's signature below, and a signed property owner's authorization letter may be provided in lieu of the property owner's signature[s] below. If more than one, all of the owners of the property must sign this Application).	
Signature of Property Owner: _____	Signature of Applicant: _____
Name and Title: _____	Name and Title: _____
Date: _____	Date: _____
Signature of Property Owner: _____	
Name and Title: _____	
Date: _____	
Project Contact Name: <u>Nick Fuchs</u> Company: <u>City of Franklin</u> Phone: <u>414-425-4024</u> Email: <u>nfuchs@franklinwi.gov</u>	



CITY OF FRANKLIN



PROJECT NARRATIVE AND ALTERNATIVE ANALYSIS

November 4, 2013

West Evergreen Street Extension

Background/Description of the Project

At their April 6, 1998 meeting, the City of Franklin Common Council authorized the purchase of approximately 24-acres of land from The John C. and Mary C. Armbruster Grandchildren Educational Trust for public park purposes. Approximately 17-acres of the acquisition were funded by a grant from the Urban Rivers Grant Program administered by the Department of Natural Resources.

The City of Franklin has anticipated a park in this general location in several planning documents, including the 1992 Comprehensive Master Plan and the 2025 update completed in 2009 as well as the 1994 Comprehensive Outdoor Recreation Plan and in the recent 2025 CORP update completed in 2010. Access to this park has been contemplated via West Evergreen Street. The parkland is located directly to the south of Pleasant View Elementary School, limiting access from West Marquette Avenue to the north. To the east of the park land is conservancy land acquired from MMSD, commonly referred to as Victory Creek Conservancy. As protected property, acquired by MMSD for the purpose of conservation and flood prevention, a road is a prohibited use. Therefore, access to the park must be attained from West Evergreen Street.

In 2013, the City of Franklin Common Council determined it necessary to acquire property located to the west of Pleasant View Neighborhood Park for the right-of-way for the extension of West Evergreen Street from a point 800 feet east of South 51st Street to a point 1,340 feet east of South 51st Street (legal description attached).

As the City now owns the land necessary for the extension of West Evergreen Street, the subject application is being submitted to gain access to Pleasant View Neighborhood Park.

On September 17, 2013 the Southeastern Wisconsin Regional Planning Commission (SEWRPC) field verified wetlands in this area and it was determined that the street must cross wetland areas in order to connect to Pleasant View Neighborhood Park. The SEWRPC map (attached) illustrates wetlands and a Secondary Environmental Corridor running north/south through the property, necessitating the wetland impacts for the street extension. The City has determined, with input from SEWRPC, the location of the street extension to best minimize environmental impacts (see the Alternatives section below for additional information).

The extension of West Evergreen Street will be an asphalt paved street with concrete curb and gutter. The street is 28-feet wide, from face of curbs, with a five foot sidewalk on the north side of the street. The project will include a 30-inch reinforced concrete culvert.

Alternatives

From the beginning of the design phase of this project, the City sought a design and location of the street extension to avoid environmental impacts; however, as wetland areas and a

Secondary Environmental Corridor are located north/south through the project area, it is not possible to avoid impacts and extend the street to connect to Pleasant View Neighborhood Park. After SEWRPC conducted a field assessment and delineated wetlands, it was confirmed that the project could not be redesigned to avoid wetland impacts. However, the City was able to redesign the project to best minimize these impacts. Two alternative locations were considered for the street extension.

Alternative 1

The City initially considered a straight extension of the street to connect to the park. This alternative would result in approximately 4,500 square feet of wetland impacts.

Alternative 2

Alternative 2 was considered after SEWRPC's field assessment and input. The delineations show a gap between two wetlands located within the project area. The street extension was redesigned to curve the street to extend through this area. There are still impacts; however, this location best minimized the amount. With the curved extension, the street will impact approximately 1,452 square feet of wetland.

The attached maps illustrate the impacts of both Alternatives.

Conclusion

As Alternative 2 has the least amount of wetland impacts, the City eliminated Alternative 1. This Alternative also reduces impacts to the Secondary Environmental Corridor. The City did not consider cost as a significant factor in determining the design of the roadway.

Furthermore, the City intends to construct the roadway utilizing the best management practices. The City also intends to appropriately restore disturbed areas as part of the Natural Resource Special Exception that will be required by the City's Unified Development Ordinance. The details of the restoration would be determined at that time.

Natural Resource Special Exception Question and Answer Form.

1. Questions to be answered by the Applicant. Items on this application to be provided in writing by the Applicant shall include the following, as set forth by Section 15-9.0110C. of the UDO:

- a. Indication of the section(s) of the UDO for which a Special Exception is requested.

A Special Exception is requested from Table 15-4.0100 of the UDO for encroachments into wetlands, wetland buffers and wetland setbacks for the extension of West Evergreen Street to Pleasant View Neighborhood Park.

- b. Statement regarding the Special Exception requested, giving distances and dimensions where appropriate.

The proposed street extension is approximately 560 linear feet in length and twenty-eight (28) feet wide. The extension will impact approximately 1,451 square feet of wetland, 7,086 square feet of wetland buffer and 11,068 square feet of wetland setback.

- c. Statement of the reason(s) for the request.

The extension of West Evergreen Street is necessary to provide public access to Pleasant View Neighborhood Park. Without the access the park cannot be developed as planned.

- d. Statement of the reasons why the particular request is an appropriate case for a Special Exception, together with any proposed conditions or safeguards, and the reasons why the proposed Special Exception is in harmony with the general purpose and intent of the Ordinance. In addition, the statement shall address any exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district, including a practicable alternative analysis as follows:

- 1) Background and Purpose of the Project.

- (a) Describe the project and its purpose in detail. Include any pertinent construction plans. *The project consists of filling and paving a small wetland area for the extension of West Evergreen Street. The purpose of the extension is to provide access to Pleasant View Neighborhood Park. The relevant plans for the street construction are attached.*

- (b) State whether the project is an expansion of an existing work or new construction. *The project is new construction and is an extension of an existing roadway, West Evergreen Street.*
- (c) State why the project must be located in or adjacent to the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback to achieve its purpose. *West Evergreen Street provides the only possible access to Pleasant View Neighborhood Park. The park is located directly to the south of Pleasant View Elementary School, existing residential properties to the south, and conservancy land to the east. A wetland runs north/south through the majority of the project area and a navigable stream, shore buffer, shoreland wetlands and a Secondary Environmental Corridor encompass the southern portion of the property. There is a small gap between the wetland and Secondary Environmental Corridor, which has been historically used as a tractor crossing between agricultural fields. The proposed road was centered on this existing gap to minimize impacts to the adjacent natural resource features.*

2) Possible Alternatives.

- (a) State all of the possible ways the project may proceed without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback as proposed. *Two street designs were considered by the City. The design chosen is a curved street, which minimizes impacts to wetlands, wetland buffers and wetland setbacks. In addition, this alternative avoids shoreland wetlands and minimizes impacts to a SEWRPC Secondary Environmental Corridor.*
- (b) State how the project may be redesigned for the site without affecting the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback. *The City's preferred alternative, Alternative 2, minimizes impacts to wetlands and their associated wetland buffers and wetland setbacks. There is no alternative which completely avoids wetland impacts.*
- (c) State how the project may be made smaller while still meeting the project's needs. *The roadway must meet City*

design standards for road construction. Designing the street in another manner may provide for less safe vehicular and pedestrian traffic.

- (d) **State what geographic areas were searched for alternative sites.** *There are no alternative sites or areas that would provide vehicular access to Pleasant View Neighborhood Park. The park abuts the Pleasant View Elementary School property to the north. The City has approached the Franklin School District on multiple occasions regarding access to the park, but the School District has not been willing to provide the City access through their property. In addition, the northern boundary of the park consists of woodlands peppered with wetlands. The property to the East of Pleasant View Neighborhood Park was purchased by the Milwaukee Metropolitan Sewerage District as part of their Greenseams Program and subsequently given to the City. However, the property has a conservation easement on it prohibiting improvements such as roads and parking lots. Therefore, park access from the east is not an option. Finally, the park is bounded to the south by a SEWRPC identified Secondary Environmental Corridor, which encompasses the East Branch of the Root River and its associated shore buffer, shoreland wetlands and woodlands. Therefore, any park access from the south would have to cross these natural resource features resulting in a greater impact than the preferred alternative from the west side of the park.*
- (e) **State whether there are other, non-stream, or other non-navigable water, non-shore buffer, non-wetland, non-wetland buffer, and/or non-wetland setback sites available for development in the area.** *No as stated above (d). The location of the park necessitates access from West Evergreen Street. Alternative 2 is the option with the least amount of natural resource feature impacts.*
- (f) **State what will occur if the project does not proceed.** *If the project does not proceed, the City will not gain access to nor be able to develop Pleasant View Neighborhood Park as contemplated in the City's Comprehensive Master Plan and Comprehensive Outdoor Recreation Plan.*

3) **Comparison of Alternatives.**

- (a) **State the specific costs of each of the possible alternatives set forth under sub.2., above as compared to the original proposal**

and consider and document the cost of the resource loss to the community.

Cost was not considered to be a significant factor between the two alternatives considered; therefore, a cost analysis was not completed. The alternative with the least amount of environmental impacts (Alternative 2) was chosen, irrespective of cost.

- (b) State any logistical reasons limiting any of the possible alternatives set forth under sub. 2., above.

Accessing Pleasant View Neighborhood Park from the north and east is not feasible. Accessing the park from the south would likely impact even more natural resources than a street extension from the west.

- (c) State any technological reasons limiting any of the possible alternatives set forth under sub. 2., above.

There are no technological reasons. The lack of alternatives is due to the location of the wetlands on this property, which span the majority of the project area.

- (d) State any other reasons limiting any of the possible alternatives set forth under sub. 2., above.

As indicated, the number of alternatives is limited due to the location of wetlands within the project area and the isolated location of the parkland itself.

- 4) Choice of Project Plan. State why the project should proceed instead of any of the possible alternatives listed under sub.2., above, which would avoid stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback impacts.

The project should proceed as proposed as it utilizes the alternative with the least amount of environmental impacts. The curved street alternative chosen minimizes both, the wetland impacts and impacts to the SEWRPC Secondary Environmental Corridor.

- 5) Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Description. Describe in detail the stream or other navigable water shore buffer, wetland, wetland buffer, and/or wetland setback at the site which will be affected, including the topography, plants, wildlife, hydrology, soils and any other salient information pertaining to the stream or other

navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback.

The attached letter from the Southeastern Wisconsin Regional Planning Commission (SEWRPC) describes the project area in a letter which includes a vegetation survey and a description of nearby wetlands. A soils map of the project area is also attached.

- 6) **Stream or Other Navigable Water, Shore Buffer, Wetland, Wetland Buffer, and Wetland Setback Impacts.** Describe in detail any impacts to the following functional values of the stream or other navigable water, shore buffer, wetland, wetland buffer, and/or wetland setback:

- a) **Diversity of flora including State and/or Federal designated threatened and/or endangered species.**

No Federal- or State-designated Special Concern, Threatened or Endangered species will be impacted by the proposed street extension.

- b) **Storm and flood water storage.**

There will be no significant impacts to storm and flood water storage as a result of the proposed street extension.

- c) **Hydrologic functions.**

The proposed street extension will have minimal impacts on the overall hydrologic functions of the impacted wetland. The proposed street design includes a 30-inch reinforced concrete culvert. This culvert will allow the property to continue to naturally drain from north to south towards the East Branch Root River.

- d) **Water quality protection including filtration and storage of sediments, nutrients or toxic substances.**

The proposed street extension will not significantly impact the adjacent wetlands or their ability to protect water quality or filter and store sediments, nutrients and toxic substances.

- e) **Shoreline protection against erosion.**

The proposed route of the evergreen street extension parallels the East Branch Root River, but does not intersect its shoreland area. Therefore, there will be no erosion of the shoreline as a result of this project.

f) Habitat for aquatic organisms.

Habitat for aquatic organisms will not be disturbed by the proposed street extension.

g) Habitat for wildlife.

Impacts to wildlife habitat have been minimized by pursuing Alternative 2, which avoids shoreland wetlands altogether. In addition, Alternative 2 minimizes impacts to a wooded portion of the SEWRPC identified Secondary Environmental Corridor.

h) Human use functional value.

The human use functional value of the area natural resources will be enhanced by the proposed street extension. The street will provide pedestrian and vehicular access to recreational opportunities at Pleasant View Neighborhood Park. In addition, it will provide greater access to Victory Creek Park and the new Pleasant View/Victory Creek Trail.

i) Groundwater recharge/discharge protection.

The proposed street extension will not significantly impact the overall ability of area wetlands to recharge groundwater and slowly discharge stormwater into the East Branch Root River.

j) Aesthetic appeal, recreation, education, and science value.

The proposed street extension will not degrade the aesthetic appeal, recreation, education, or scientific value of the East Branch Root River or its associated floodplain, and wetlands. On the contrary, the proposed street extension will provide a greater number of Franklin residents access to Pleasant View Neighborhood Park, Victory Creek Park and the Pleasant View/Victory Creek Trail for numerous recreational opportunities for enjoying the aesthetic appeal of the East Branch Root River and its associated floodplain, woodlands and wetlands.

k) Specify any State or Federal designated threatened or endangered species or species of special concern.

The proposed street extension will not impact any State or Federally designated threatened or endangered species or species of special concern.

l) Existence within a Shoreland.

The proposed street extension is not located within a shoreland.

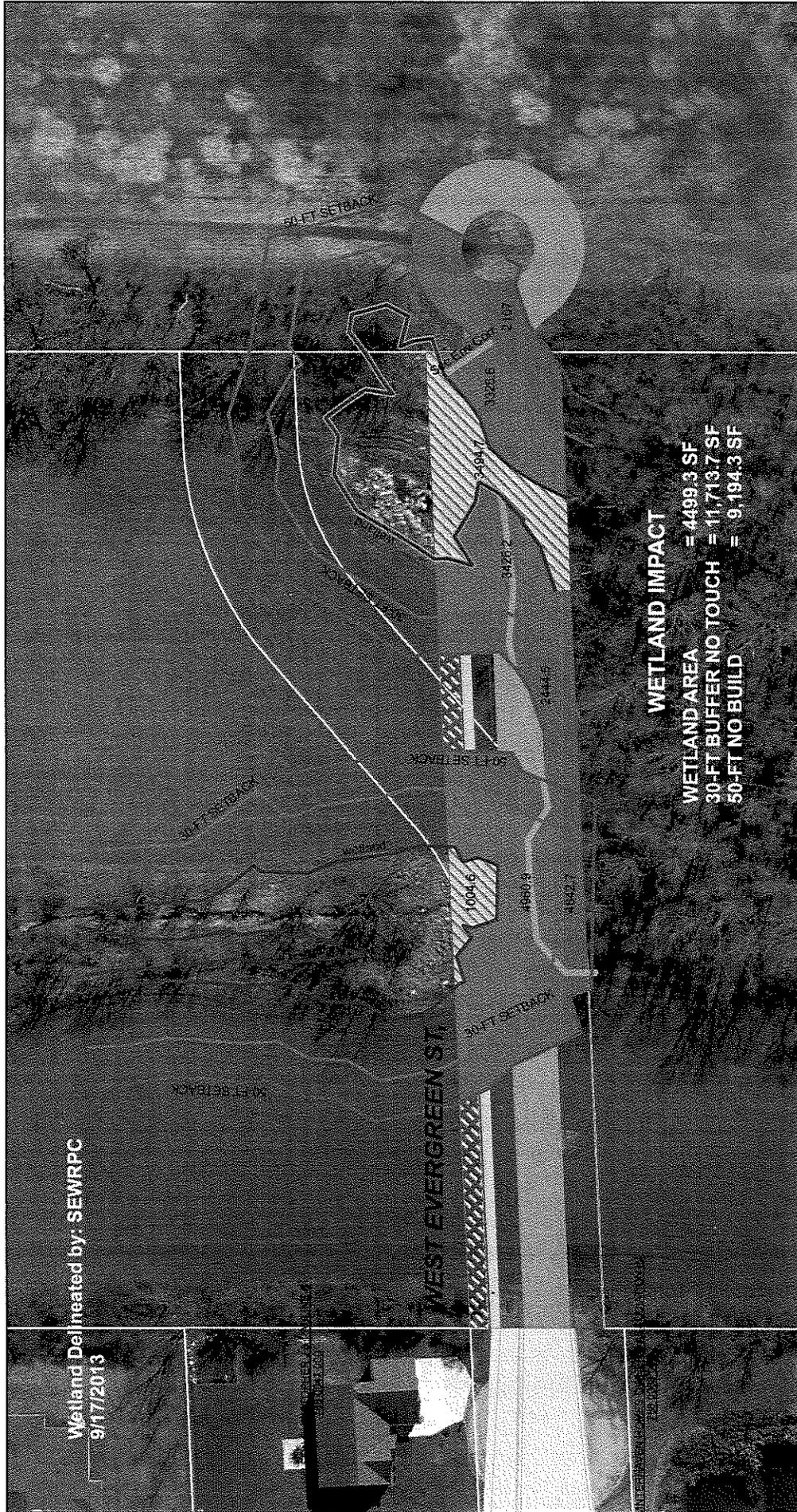
- m) Existence within a Primary or Secondary Environmental Corridor or within an Isolated Natural Area, as those areas are defined and currently mapped by the Southeastern Wisconsin Regional Planning Commission from time to time.

The project area contains a SEWRPC delineated Secondary Environmental Corridor. However, the impact to the Secondary Environmental Corridor is minimal.

- 7) **Water Quality Protection.** Describe how the project protects the public interest in the waters of the State of Wisconsin.

The proposed trail will be developed in accordance with an erosion and sedimentation control plan that generally follows the guidelines and standards set forth in Division 15-8.0300 of the City of Franklin Unified Development Ordinance, the U.S.D.A. Conservation Technical Guide, prepared by the U.S. Department of Agriculture, and the Wisconsin Construction Site Best Management Practices Handbook prepared by the Wisconsin Department of Natural Resources, as amended. The implementation of a sedimentation control plan will prevent construction site erosion thereby preventing siltation and sedimentation of the nearby East Branch of the Root River, which protects the public interest in the waters of the State of Wisconsin.

West Evergreen Street Extension
Alternative I



Wetland Delineated by: SEWRPC
9/17/2013

WETLAND IMPACT
 WETLAND AREA = 4499.3 SF
 30-FT BUFFER NO TOUCH = 11,713.7 SF
 50-FT NO BUILD = 9,194.3 SF



CITY OF FRANKLIN
ENGINEERING DEPARTMENT
RMA 11/26/13

CHECKED AND APPROVED BY: JOHN M. BENNETT, PE, CITY ENGINEER

SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION

W239 N1812 ROCKWOOD DRIVE • PO BOX 1607 • WAUKESHA, WI 53187-1607 • TELEPHONE (262) 547-6721
FAX (262) 547-1103

March 20, 2014

Serving the Counties of:

KENOSHA
MILWAUKEE
OZAURKEE
RACINE
WALWORTH
WASHINGTON
WAUKESHA



Mr. Joel E. Dietl, AICP
Planning Manager
City of Franklin Department of City Development
9229 W. Loomis Road
Franklin, WI 53132

Re: SEWRPC No. CA-405-372

Dear Mr. Dietl:

This will respond to your electronic mail message of June 27, 2013, requesting the Commission staff to conduct a field inspection of the proposed Evergreen Court extension between the eastern edge of existing Evergreen Court and the western edge of Pleasant View Park for the purpose of identifying and staking in the field the boundaries of any wetlands and secondary environmental corridor (SEC) contained within the proposed right-of-way extension. The project area is located in parts of the Southeast one-quarter of U.S. Public Land Survey Section 11, Township 5 North, Range 21 East, City of Franklin, Milwaukee County, Wisconsin.

Pursuant to your request, the Commission staff conducted a field inspection of the subject property on September 17, 2013, accompanied by Mr. John M. Bennett, P.E., and Mr. Orrin Sumwalt of the City staff. Mr. Bennett requested that we expand the project area to include undeveloped lands north of the proposed Evergreen Court right-of-way to accommodate planning for future development of lands north of the new roadway. Accordingly, the wetland and SEC boundaries within the expanded project area were identified and staked in the field by the Commission staff. A description of the study area, wetland delineation methods used, and results are attached hereto as Exhibit A. A list of plant species identified within the subject wetlands and upland SEC is attached hereto as Exhibit A1. Six representative sample sites were examined during field inspection and are summarized on the attached Exhibit A2, Wetland Determination Data Form – Midwest Region.

Should you have any questions regarding this information, please do not hesitate to call.

Sincerely,

Donald M. Reed, Ph.D.
Chief Biologist

Franklin

MAR 24 2014

City Development

DMR/CJJ/pk
CA405-372 PROPOSED EVERGREEN COURT EXTENSION LETTER (00216775).DOCX

Enclosures (#217156)

cc: Mr. John M. Bennett, City of Franklin
Mr. Jesse M. Jensen, Wisconsin Department of Natural Resources
Mr. Anthony Jernigan, U.S. Army Corps of Engineers

Proposed Evergreen Court Extension
SE Quarter, Section 11, T5N-R21E
City of Franklin, Milwaukee County

Legend

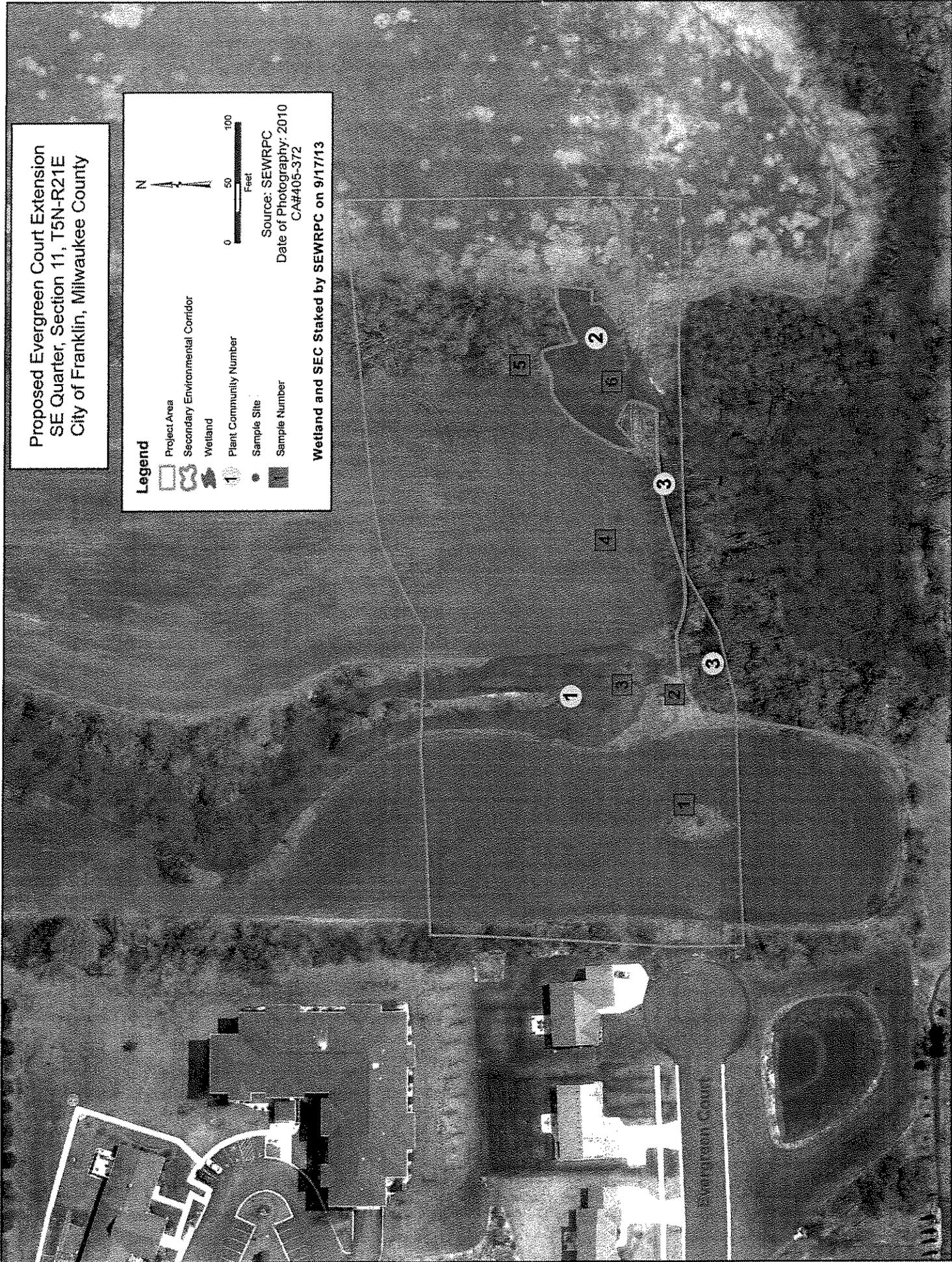
-  Project Area
-  Secondary Environmental Corridor
-  Wetland
-  Plant Community Number
-  Sample Site
-  Sample Number

N



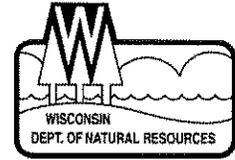
Source: SEWRPC
Date of Photography: 2010
CA#405-372

Wetland and SEC Staked by SEWRPC on 9/17/13



State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, WI 53212-3128

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
Toll Free 1-888-936-7463
TTY Access via relay - 711



January 22, 2014

IP-SE-2013-41-T03657

City of Franklin
Nick Fuchs
9229 West Loomis Road
Franklin, WI 53132

Dear Mr. Fuchs:

The Department of Natural Resources has completed its review of your application for a permit to discharge dredged or fill material into Root River, in the City of Franklin, Milwaukee County. You will be pleased to know your application is approved with a few limitations.

I am attaching a copy of your permit, which lists the conditions that must be followed. A copy of the permit must be posted for reference at the project site. Please read your permit conditions carefully so that you are fully aware of what is expected of you.

Please note you are required to submit photographs of the completed project within 7 days after you've finished construction. This helps both of us to document the completion of the project and compliance with the permit conditions.

Your next step will be to notify me of the date on which you plan to start construction and again after your project is complete.

If you have any questions about your permit, please call me at (414) 263-8517 or email Kristina.Betzold@wisconsin.gov.

Sincerely,

Kristina Betzold
Environmental Analysis and Review Specialist
cc: Anthony Jernigan, Project Manager, (651) 290-5729, U.S. Army Corps of Engineers

Quality Customer Service is Important to Us. Tell Us How We Are Doing.

Water Division Customer Service Survey
<https://www.surveymonkey.com/s/WDNRWater>

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

**Wetland Individual Permit PERMIT
IP-SE-2013-41-T03657**

Nick Fuchs is hereby granted under Section 281.36, 401 CWA, Wisconsin Statutes, a permit to discharge dredged or fill material into Root River, in the City of Franklin, Milwaukee County, also described as in the SE1/4 of Section 11, Township 5 North, Range 21 East, subject to the following conditions:

PERMIT

1. You must notify Kristina Betzold at phone (414) 263-8517 or email Kristina.Betzold@wisconsin.gov before starting construction and again not more than 5 days after the project is complete.
2. You must complete the project as described on or before . If you will not complete the project by this date, you must submit a written request for an extension prior to expiration of the initial time limit specified in the permit. Your request must identify the requested extension date. The Department shall extend the time limit for an individual permit or contract for no longer than 5 years if you request the extension before the initial time limit expires. You may not begin or continue construction after the original permit expiration date unless the Department extends the permit in writing or grants a new permit.
3. This permit does not authorize any work other than what you specifically describe in your application and plans, and as modified by the conditions of this permit. If you wish to alter the project or permit conditions, you must first obtain written approval of the Department.
4. Before you start your project, you must first obtain any permit or approval that may be required for your project by local zoning ordinances and by the U.S. Army Corps of Engineers. You are responsible for contacting these local and federal authorities to determine if they require permits or approvals for your project. These local and federal authorities are responsible for determining if your project complies with their requirements.
5. Upon reasonable notice, you shall allow access to your project site during reasonable hours to any Department employee who is investigating the project's construction, operation, maintenance or permit compliance.
6. The Department may modify or revoke this permit for good cause, including if the project is not completed according to the terms of the permit or if the Department determines the activity is detrimental to the public interest.
7. You must post a copy of this permit at a conspicuous location on the project site, visible from the waterway, for at least five days prior to construction, and remaining

at least five days after construction. You must also have a copy of the permit and approved plan available at the project site at all times until the project is complete.

8. Your acceptance of this permit and efforts to begin work on this project signify that you have read, understood and agreed to follow all conditions of this permit.
9. You must submit a series of photographs to the Department, within one week of completing work on the site. The photographs must be taken from different vantage points and depict all work authorized by this permit.
10. You, your agent, and any involved contractors or consultants may be considered a party to the violation pursuant to Section 30.292, Wis. Stats., for any violations of Chapter 30, Wisconsin Statutes, or this permit.
11. Construction shall be accomplished in such a manner as to minimize erosion and siltation into surface waters. Erosion control measures (such as silt fence and straw bales) must meet or exceed the technical standards of ch. NR 151, Wis. Adm. Code. The technical standards are found at:
http://dnr.wi.gov/topic/stormwater/standards/const_standards.html .
12. All equipment used for the project including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps shall be de-contaminated for invasive and exotic viruses and species prior to use and after use.

The following steps must be taken every time you move your equipment to avoid transporting invasive and exotic viruses and species. To the extent practicable, equipment and gear used on infested waters shall not be used on other non-infested waters.

1. **Inspect and remove** aquatic plants, animals, and mud from your equipment.
2. **Drain all water** from your equipment that comes in contact with infested waters, including but not limited to tracked vehicles, barges, boats, hoses, sheet pile and pumps.
3. **Dispose** of aquatic plants, animals in the trash. Never release or transfer aquatic plants, animals or water from one waterbody to another.
4. **Wash your equipment** with hot (>104° F) and/or high pressure water,

- OR -

Allow your equipment to **dry thoroughly for 5 days.**

FINDINGS OF FACT

1. Nick Fuchs has filed an application for a permit to discharge dredged or fill material into Root River, in the City of Franklin, Milwaukee County, also described as SE1/4 S11, T5N, R21E.
2. The purpose of the fill is for the construction of Evergreen Street Extension, a local road on a new alignment.
3. The Department has completed an investigation of the project site and has evaluated the project as described in the application and plans.
4. Root River is a navigable water (and no bulkhead exists at the project site.)
5. The proposed project, if constructed in accordance with this permit will not adversely affect water quality, will not increase water pollution in surface waters and will not cause environmental pollution as defined in s. 283.01(6m), Wis. Stats.
6. The proposed project will impact 0.03 acres of wetlands if constructed in accordance with this permit.
7. The Department of Natural Resources and the applicant have completed all procedural requirements and the project as permitted will comply with all applicable requirements of Sections 1.11, 281.36, 401 CWA, Wisconsin Statutes and Chapters NR 102, 103, 115, 116, 117, 150, 299 of the Wisconsin Administrative Code.
8. Dredging/Ponds/Enlargements: The activity will not cause environmental pollution as defined in s. 299.01(4).
9. Connected Enlargement: The proposal complies with all of the laws relating to platting of land and sanitation.
10. Dredging/Ponds/Enlargements: No material injury will result to the riparian rights of any riparian owners of real property that abuts any water body that is affected by the activity.

CONCLUSIONS OF LAW

1. The Department has authority under the above indicated Statutes and Administrative Codes, to issue a permit for the construction and maintenance of this project.

NOTICE OF APPEAL RIGHTS

If you believe that you have a right to challenge this decision, you should know that the Wisconsin statutes and administrative rules establish time periods within which requests to review Department decisions shall be filed. For judicial review of a decision pursuant to sections 227.52 and 227.53, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to file your petition with the appropriate circuit court and serve the petition on the Department. Such a petition for judicial review shall name the Department of Natural Resources as the respondent.

To request a contested case hearing of any individual permit decision pursuant to section 30.209, Wis. Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources, P.O. Box 7921, Madison, WI, 53707-7921. The petition shall be in writing, shall be dated and signed by the petitioner, and shall include as an attachment a copy of the decision for which administrative review is sought. If you are not the applicant, you must simultaneously provide a copy of the petition to the applicant. If you wish to request a stay of the project, you must provide information, as outlined below, to show that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment. If you are not the permit applicant, you must provide a copy of the petition to the permit applicant at the same time that you serve the petition on the Department.

The filing of a request for a contested case hearing is not a prerequisite for judicial review and does not extend the 30 day period for filing a petition for judicial review.

A request for contested case hearing must meet the requirements of section 30.209, Wis. Stats., and sections NR 2.03, 2.05, and 310.18, Wis. Admin. Code, and if the petitioner is not the applicant the petition must include the following information:

1. A description of the objection that is sufficiently specific to allow the department to determine which provisions of this section may be violated if the proposed permit or contract is allowed to proceed.
2. A description of the facts supporting the petition that is sufficiently specific to determine how the petitioner believes the project, as proposed, may result in a violation of Chapter 30, Wis. Stats.;
3. A commitment by the petitioner to appear at the administrative hearing and present information supporting the petitioner's objection.

If the petition contains a request for a stay of the project, the petition must also include information showing that a stay is necessary to prevent significant adverse impacts or irreversible harm to the environment.

Dated at Southeast Region Headquarters, Wisconsin on .

STATE OF WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary

By 
Kristina Betzold
Environmental Analysis and Review Specialist



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL MN 55101-1678

December 4, 2013

Operations
Regulatory (2013-04485-ADJ)

City of Franklin
Attn: Thomas Taylor
9229 West Loomis Rd.
Franklin, Wisconsin 53132

Dear Mr. Taylor:

We have reviewed information about a permit application from the City of Franklin to place dredged or fill material into 3,060 square feet of wetlands adjacent to the East Branch of the Root River for the purpose of extending a road in the City of Franklin. The project site is in the SE¼ of Sect. 11, T. 5N., R. 21E., Milwaukee County, Wisconsin.

This activity is authorized under Section 2(a)(10) Commercial, Residential, Industrial, Agricultural, Recreational, and Public Development of Department of the Army General Permit (GP-002-WI) **PROVIDED THE ENCLOSED CONDITIONS ARE FOLLOWED AND YOU OBTAIN CONFIRMATION THAT SECTION 401 WATER QUALITY CERTIFICATION HAS BEEN GRANTED OR WAIVED FOR THE PROJECT** from the Wisconsin Department of Natural Resources (WDNR). Your project **IS NOT** authorized by this **general permit** until you obtain this confirmation of water quality certification from WDNR.

You should contact Jesse Jensen of the WDNR office in Waukesha at (262) 574-2132, concerning water quality certification for your project.

If your project will require off-site fill material that is **not** obtained from a licensed commercial facility, you must notify us at least five working days before start of work. A cultural resources survey may be required if a licensed commercial facility is not used.

This General Permit is valid until May 31, 2016, unless reissued, or revoked. The time limit for completing the work described above ends two years from the date of this letter. It is the permittee's responsibility to remain informed of changes to the General Permit program. If this authorized work is not undertaken within the above time period, or the project specifications have changed, our office must be contacted to determine the need for further approval or re-verification.

It is your responsibility to ensure that the work complies with the terms of this letter and the enclosures **AND TO OBTAIN ALL REQUIRED STATE AND LOCAL PERMITS AND APPROVALS BEFORE YOU PROCEED WITH YOUR PROJECT.**

A preliminary jurisdictional determination (JD) has been prepared for the site of your project. The preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps representative identified in the final paragraph of this letter. You also may provide new information for further consideration by the Corps to reevaluate the JD. If this JD is acceptable, please sign and date both copies of the Preliminary Jurisdictional Determination Form and return one copy to the address below within 15 days from the date of this letter.

U.S. Army Corps of Engineers
20711 Watertown Road, Suite F
Waukesha, Wisconsin 53186

If you have any questions, contact Anthony Jernigan in our Waukesha office at (651) 290-5729. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,



for
Tamara E. Cameron
Chief, Regulatory Branch

Enclosures

Copy furnished to (email):
Jesse Jensen, WDNR
Nick Fuchs, City of Franklin

GP-002-WI CONDITIONS**GENERAL INFORMATION**

Persons proposing to do work should note that, in ALL cases, GP-002-WI requires that adverse impacts on water and wetland resources be avoided and minimized to the maximum extent practicable. Also, activities that would adversely affect federal endangered plant or animal species or certain cultural or archaeological resources, or that would impair reserved Native American tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights, are not eligible for authorization under GP-002-WI.

Department of the Army Permit General Conditions:

1. GP-002-WI expires on May 31, 2016. Unless otherwise specified in the St. Paul District's letter confirming your project complies with the requirements of this GP, the time limit for completing work ends upon the expiration date of GP-002-WI. If you find that you require additional time to complete authorized activities, submit your time extension request to this office for consideration at least three months before the expiration date is reached.
2. You must maintain the activity authorized by GP-002-WI in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity. Should you wish to cease to maintain an activity authorized by the reporting GP (2.a), or abandon it without a good faith transfer; you must obtain a modification of the authorization from this office, which may require restoration of the area. If you wish to transfer responsibility for completion or maintenance of the project to another, please contact this office so we may provide you with the necessary documentation to transfer the authorization.
3. If you discover any previously unknown historic or archaeological remains while accomplishing any activity authorized by GP-002-WI, you must immediately stop work and notify this office of what you have found. The St. Paul District will initiate the federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. You must allow representatives from this office and the WDNR to inspect the proposed project site and the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of GP-002-WI.
5. If a conditioned water quality certification has been issued for your project by the WDNR, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must also comply with the other GP-002-WI terms and conditions specified below as well as any project specific conditions imposed by the St. Paul District.

Further Information:

1. Congressional Authorities: Authorization to undertake the activities described above is pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), **only**. Work that also requires authorization under Section 10 of the Rivers and Harbors Act must be authorized separately through other GPs or individual permits.
2. Limits of this Authorization:
 - a. GP-002-WI does not obviate the need to obtain other federal, state, or local authorizations required by law.
 - b. GP-002-WI does not grant any property rights or exclusive privileges.
 - c. GP-002-WI does not authorize any injury to the property or rights of others.
 - d. GP-002-WI does not authorize interference with any existing or proposed federal project.
3. Limits of Federal Liability. In authorizing work, the Federal Government does not assume any liability, including for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data. The determination by this office that an activity is not contrary to the public interest will be made in reliance on the information provided by the applicant.

5. Reevaluation of Decision. This office may reevaluate its decision on an authorization at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. The applicant fails to comply with the terms and conditions of this general permit.
 - b. The information provided by the applicant in support of the permit application proves to have been false, incomplete, or inaccurate (see 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision. A reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of the permit and for the initiation of legal action where appropriate.

6. This office may also reevaluate its decision to issue GP-002-WI at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following: significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7.

GP-002-WI STANDARD CONDITIONS

1. Discretionary Authority.
The Corps retains discretionary authority to require a standard individual permit review of any activity eligible for authorization under GP-002-WI based on concern for the aquatic environment.
2. Federal Trust Responsibility to Indian Tribes.
Projects the Corps finds to have potential to affect tribal interests will be coordinated with the appropriate Indian Tribal governments. The Tribe's views and the federal trust responsibility will be considered in the Corps evaluation. Based on treaty rights, no activity or its operation may impair reserved treaty rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
3. Form and Confirmation of Authorization.
Every GP-002-WI authorization that requires submission of an application will be

confirmed in writing by the Corps. Any confirmation issued may include required special conditions.

4. Grandfather Provision.

Activities that were determined to be non-reporting under GP-002-WI prior to May 31, 2011 AND that had commenced prior to that date shall be completed no later than April 16, 2013. Reporting activities previously confirmed by our office in writing as authorized under GP-002-WI (expiration dates April 16, 2011 or May 31, 2011), continue to be authorized under the terms of the Corps project verification letter.

5. Case-by-Case Conditions.

The authorized activity must comply with any special conditions that may have been added by the Corps or by a state, tribe, or the United States Environmental Protection Agency in its Section 401 Water Quality Certification or consistency determination under the Coastal Zone Management Act. Such conditions will be specifically identified in any Corps authorization.

6. Avoidance and Minimization.

Discharges of dredged or fill material into waters of the United States must be avoided and minimized to the maximum extent practicable).

7. State Water quality Certification and Coastal Zone Management (CZM) Consistency Determination.

Some GP-002-WI authorizations may not be valid unless and until the WDNR has confirmed that the activity complies with state water quality certification and/or CZM consistency determination is obtained from or waived by the Wisconsin Coastal Management Program. If such a condition applies, it will be noted in the Corps authorization letter for the project. Refer to conditions 27 and 28 at the end of this document.

8. Proper Maintenance.

Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.

9. Erosion and Siltation Controls.

Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark must be permanently stabilized at the earliest practicable date. Work should be done in accordance with state-approved published practices.

Upon completion of earthwork operations, all exposed slopes, fills, and disturbed areas must be given sufficient protection by appropriate means such as landscaping, or

planting and maintaining vegetative cover, to prevent subsequent erosion. Cofferdams shall be constructed and maintained so as to prevent erosion into the water. If earthen sheet piling is used for cofferdam construction, silt piling, riprap or a synthetic cover must be used to prevent dam erosion. All non-biodegradable erosion controls must be removed within two weeks of site stabilization unless otherwise conditioned in the Corps project confirmation letter.

10. Removal of Temporary Fills.

Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation. The timeframe for completing this removal shall be:

- a. Not later than the timeframe stipulated in the activity description (unless extended in writing by our office);
- b. Not later than the timeframe stipulated in our office's confirmation letter; or
- c. Not longer than two weeks from the date the temporary fill was placed in waters of the United States (condition c. applies only if a timeframe is not otherwise established by applying a. or b. above).

11. Federal Threatened and Endangered Species.

GP-002-WI does not affect the Corps responsibility to insure that all Section 404 authorizations comply with Section 7 of the Federal Endangered Species Act (see Standard Condition 27a.x.(a) below for information regarding compliance with Chapter 29.604 Wisconsin State Statute).

a. No activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA) or which is likely to destroy or adversely modify the critical habitat of such species. Permittees shall notify the Corps if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is authorized.

b. Authorization of an activity under GP-002-WI does not authorize the take of a threatened or endangered species as defined under the federal ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the United States Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal takes of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the United States Fish and Wildlife Service and National Marine Fisheries Service,

WDNR or their world-wide web pages on the internet.

12. Historic Properties, Cultural Resources.

GP-002-WI does not affect the Corps responsibility to insure that all Section 404 authorizations comply with Section 106 of the National Historic Preservation Act (NHPA). No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP) is authorized, until the Corps has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must include notification to the Corps in the permit application if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the NRHP, and shall not begin the activity until notified by the Corps that the requirements of the NHPA have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the NRHP. If cultural, archaeological, or historical resources are unearthed during activities authorized by this permit, work must be stopped immediately and the State Historic Preservation Office must be contacted for further instruction.

13. Spawning Areas.

Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.

14. Obstruction of High Flows.

To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water (unless the primary purpose of the fill is to impound waters).

15. Adverse Effects from Impoundments.

If the discharge creates an impoundment of water, adverse effects on the aquatic system due to the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

16. Waterfowl Breeding Areas.

Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

17. Navigation.

No activity may cause more than a minimal adverse effect on navigation.

18. Aquatic Life Movements.

No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the

area, unless the activity's primary purpose is to impound water.

19. Equipment.

Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.

20. Water Quality Standards.

All work or discharges to a watercourse resulting from permitted construction activities, particularly hydraulic dredging, must meet applicable federal, state, and local water quality and effluent standards on a continuing basis.

21. Preventive Measures.

Measures must be adopted to prevent potential pollutants from entering the watercourse. Construction materials and debris, including fuels, oil, and other liquid substances, will not be stored in the construction area in a way that allows them to enter the watercourse as a result of spillage, natural runoff, or flooding.

22. Disposal Sites.

If dredged or excavated material is placed on an upland disposal site (above the ordinary high-water mark), the site must be securely diked or contained by an acceptable method that prevents the return of potentially polluting materials to the watercourse by surface runoff or by leaching. Construction of containment areas, whether bulkhead or upland disposal site, must be complete prior to the placement of any dredged material.

23. Suitable Fill Material.

All fill (including riprap), if authorized under this permit, must consist of suitable material (e.g. no trash, debris, car bodies, asphalt, etc.) free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act). In addition, rock or fill material used for activities dependent upon this permit and obtained by excavation must either be obtained from existing quarries or, if a new borrow site is opened up to obtain fill material, the State Historic Preservation Office (SHPO) must be notified prior to the use of the new site. Evidence of this consultation with the SHPO will be forwarded to the Corps.

24. Water Intakes/Activities.

An investigation must be made to identify water intakes or other activities that may be affected by suspended solids and turbidity increases caused by work in the watercourse. Sufficient notice must be given to the owners of property where the activities would take place to allow them to prepare for any changes in water quality.

25. Spill Contingency Plan.

A contingency plan must be formulated that would be effective in the event of a spill. This requirement is particularly applicable in operations involving the handling of petroleum products. If a spill of any potential pollutant

should occur, it is the responsibility of the permittee to remove such material, to minimize any contamination resulting from this spill, and to immediately notify the state Emergency Management Duty Officer at 1-800-943-0003 and the National Response Center at telephone number 1-800-424-8802.

26. Other Permit Requirements.

No Corps GP-002-WI authorization eliminates the need for other local, state or Federal authorizations, including but not limited to National Pollutant Discharge Elimination System (NPDES) or State Disposal System (SDS) permits.

27. State Section 401 Certification Conditions and Limitations (dated April 28, 2011):

a. GENERAL CONDITIONS:

i. The applicant shall allow the WDNR reasonable entry and access to the discharge site to inspect the proposed discharge for compliance with this certification and applicable laws and to inspect permitted discharges for compliance with this certification and applicable laws.

ii. Once wetland work commences, all wetland construction activities must be continuous (on a daily basis) until the project is completed and the site is stabilized.

iii. The removal of vegetative cover and exposure of bare ground must be restricted to the minimum amount mulching, sodding, diversion of surface runoff, installation of straw bales or silt screens, construction of settling basins, or similar methods as soon as possible after removal of the original ground cover as described in the Wisconsin Construction Site Handbook (BMP's).

iv. This permit has been issued with the understanding that any construction equipment used is the right size to do the job, and can be brought to and removed from the project's site without unreasonable harm to vegetative cover or fish or wildlife habitat.

v. Final site stabilization requires the re-establishment of native vegetation and must not contain any exotic species.

vi. Flush all other equipment with hot water of 105° F. to 110° F. for a period of 30 minutes or hot water of 140° F. for a period of 5 minutes; or, instead of flushing equipment, leave the equipment in a sunny location so that it dries completely (at least five full days).

vii. Inspect all equipment surfaces, scrape off any attached mussels, remove any aquatic plant materials (fragments, stems, leaves, or roots), and dispose of removed mussels and plants in a garbage can prior to leaving the water access area.

viii. You must ensure that all equipment used for the project has been adequately decontaminated for zebra mussels prior to being used in other waters of the state. All equipment that comes in contact with infested waters including, but not limited to, tracked vehicles, barges, boats, turbidity curtain, sheet

pile, and pumps must be thoroughly disinfected.

ix. If any conditions of this certification are found to be invalid or unenforceable, certification for all activities to which that condition applies is denied.

x. The following activities are not eligible for certification under this water quality certification action for GP-002-WI:

(a) Activities likely to jeopardize the continued existence of a state designated threatened or endangered species or a species proposed for such designation or which is likely to destroy or adversely modify the habitat of such species.

(b) Activities that result in adverse impacts to fishery spawning habitat or adversely affect avifauna breeding areas or substantially disrupt the movement of those species that normally migrate from open water to upland or vice versa (i.e. amphibians, reptiles and mammals).

(c) Activities detrimental to waters of the state, including wetlands, that would adversely affect designated areas of special natural resource interest as defined in NR 103.04, Wis. Adm. Code.

(d) Activities, individually or cumulatively, detrimental to waters of the state, including wetlands, that would further the substantial degradation of designated impaired waters of the state.

xi. Applicants seeking authorization under this regional general permit (except the non-reporting general permit) shall complete a Joint State/Federal Permit Application and submit two copies of each to the appropriate local COE office and the local WDNR Water Management Permit Intake Specialist. Applications for water quality certification must be complete as determined by the WDNR. Please note an application fee is required for state water quality certification activities identified under Section II below.

b. WATER QUALITY CERTIFICATION:

i. The WDNR grants water quality certification for the Non-Reporting GP subject to compliance with all applicable conditions in GP-002-WI and compliance with conditions 3.b.27(a).i. through xi. above.

ii. The WDNR grants water quality certification for projects that satisfy all applicable conditions of GP-002-WI under the Reporting GP subject to the General Conditions above, and:

iii. The applicant receives written confirmation from the department that their proposed activity(s) is consistent with the requirements of NR 299 Water Quality Certification, Wis. Adm. Code, and the Department confirms that the applicant has adequately demonstrated that no other practicable alternative exists which would not adversely impact wetlands and would not result in other significant adverse environmental consequences and the

Department confirms that the activity is consistent with the requirements of NR 103.08, Wis. Adm. Code.

iv. Certification for Hydropower Projects under this General Permit is conditionally approved when the applicant has received State Individual Water Quality Certification under the FERC regulatory process.

NOTE: If additional information is needed, or if heavy snow or ice cover prevents WDNR from completing their review, the normal processing time for confirming activities eligible for authorization under this certification may be extended (by written notice from WDNR to the applicant).

c. NOTICE OF APPEAL RIGHTS:

If you believe that you have a right to challenge this decision, you should know that Wisconsin Statutes and administrative rules establish time periods within which requests to review Department decisions must be filed.

To request a contested case hearing pursuant to section 227.42, Stats., you have 30 days after the decision is mailed, or otherwise served by the Department, to serve a petition for hearing on the Secretary of the Department of Natural Resources.

This determination becomes final in accordance with the provisions of NR 299.05(7), Wisconsin Administrative Code, and is judicially reviewable when final. For judicial review of a decision pursuant to Sections 227.52 and 227.53, Wisconsin Statutes, you have 30 days after the decision becomes final to file your petition with the appropriate circuit court and to serve the petition on the Secretary of the Department of Natural Resources. The petition must name the Department of Natural Resources as the respondent.

Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. This notice is provided pursuant to section 227.48(2), Stats.

28. Wisconsin Coastal Management Program (WCMP) Conditions.

The WCMP's Federal consistency determination for GP-002-WI provides that no GP-002-WI authorization for an activity taking place in coastal wetlands identified as ridge and swale complexes and/or wetlands adjacent to the Mink River (Door County), and the Kakagon and Bad Rivers (Ashland County) will be valid unless and until a Federal consistency determination is granted or waived by the WCMP. This requirement therefore is incorporated as a permit

condition of GP-002-WI. Applicants will be notified of this condition in the Corps's GP reporting authorization for projects in these areas.



CITY OF FRANKLIN



REPORT TO THE PLAN COMMISSION

June 5, 2014

Natural Resource Special Exception

RECOMMENDATION: City Development Staff recommends approval of the Natural Resource Special Exception for the extension of West Evergreen Street.

Project Name:	West Evergreen Street Extension
Project Location:	Approximately 7501 South 49 th Street (immediately east of the West Evergreen Street stub and south and west of Pleasant View Neighborhood Park)
Applicant:	The City of Franklin
Property Owner:	The City of Franklin
Current Zoning:	R-6 Suburban Single-Family Residence District, FW Floodway, FC Flood Conservancy District, P-1 Park District & C-1 Conservancy District
2025 Comprehensive Plan:	Residential, Recreational and Areas of Natural Resource Features
Use of Surrounding Properties:	Single-family to the north, south and west and Pleasant View Neighborhood Park and Victory Creek Special Park to the east

Introduction/Background:

Please note:

- Staff suggestions are only underlined and are not included in the draft resolution.

At their April 6, 1998 meeting, the City of Franklin Common Council authorized the purchase of approximately 24-acres of land from The John C. and Mary C. Armbruster Grandchildren Educational Trust. Approximately 17-acres of the acquisition were funded by a grant from the Urban Rivers Grant Program administered by the Department of Natural Resources.

The City of Franklin has anticipated a park in this general location in several planning documents, including the 1992 Comprehensive Master Plan and the 2025 update completed in 2009 as well as the 1994 Comprehensive Outdoor Recreation Plan (CORP), 2002 CORP and in the recent 2025 CORP update completed in 2010.

Access to this park has been contemplated via West Evergreen Street. The parkland is located directly to the south of Pleasant View Elementary School, limiting access from West Marquette Avenue to the north. To the east of the parkland is conservancy land acquired from MMSD, commonly referred to as Victory Creek. As protected property, acquired by MMSD for the purpose of conservation and flood prevention, a road is a prohibited use. There is vacant land to the west, zoned R-6 District and C-1 District. Staff

is not aware of the property owner's plans for development of that site. Furthermore, there would also be impacts to natural resources if a street were extended south from Marquette Avenue to the park. However, additional access could be further considered in the future. Based on the preceding information, at this time, access to the park is reasonably attained from West Evergreen Street.

In 2013, the City of Franklin Common Council determined it necessary to acquire the property located to the west of Pleasant View Neighborhood Park for the right-of-way for the extension of West Evergreen Street from a point 800 feet east of South 51st Street to a point 1,340 feet east of South 51st Street.

As the City now owns the land necessary for the extension of West Evergreen Street, the subject application is being submitted to gain access to Pleasant View Neighborhood Park.

Based upon Southeastern Wisconsin Regional Planning Commission (SEWRPC) wetland determinations, the road would cross wetland areas in order to connect to Pleasant View Neighborhood Park. The SEWRPC map illustrates wetlands and a Secondary Environmental Corridor running north/south through the property, necessitating the wetland impacts for the street extension. The City has determined, with input from SEWRPC, the location of the street extension to best minimize environmental impacts (see the Project Description section below for additional information).

On November 4, 2013, former Mayor Thomas Taylor signed the Natural Resource Special Exception (NRSE) Application for the extension of West Evergreen Street project, allowing staff to complete the NRSE process requirements.

The WDNR Individual Permit Application for the wetland disturbance was sent on November 8, 2013 and approved on January 22, 2014. The Department of the Army, Corps of Engineers approved the wetland disturbance on December 4, 2013; therefore, City staff has obtained the necessary approvals from other governmental agencies.

The City of Franklin Environmental Commission reviewed the NRSE Application at their December 18, 2013 meeting. At that meeting, Alderman Mayer moved and Commissioner Phillipson seconded a motion to "recommend approval of the Natural Resource Features Special Exception for the City of Franklin, for the purpose of allowing approximately 1,500 square feet of wetland filling and paving, 7,100 square feet of filling and paving of the wetland buffer and 11,100 square feet of wetland setback filling and paving." On voice vote, Alderman Mayer and Commissioners Phillipson and Cannon voted 'aye'. Commissioners Bolton, Rindfleisch and McManus voted 'no'; therefore, the motion failed with a 3-3 vote.

Per Section 15-10.0208 of the UDO, the Common Council, after a public hearing before and the review and recommendation of the Plan Commission, and the review and recommendation of the Environmental Commission, provided it is submitted to the Common Council within forty-five days of the Environmental Commission's receipt of a copy of the application for the Special Exception, may grant a Special Exception. As the

Environmental Commission failed to make a recommendation within 45 days of receipt of the Application, the Plan Commission may proceed with a public hearing and recommendation to the Common Council and the Common Council may grant or deny the Application without the Environmental Commission recommendation.

A neighborhood meeting was also held on February 13, 2014 to gather public input related to the extension of West Evergreen Street and development of Pleasant View Neighborhood Park. Approximately 17 residents attended the meeting. 9 comment sheets were submitted. The comment sheets are attached for review and consideration.

Project Description:

The extension of West Evergreen Street will be an asphalt paved street with concrete curb and gutter. The street is 28-feet wide, from face of curbs, with a five-foot sidewalk on the north side of the street.

Alternatives:

From the beginning of the design phase of this project, the City sought a design and location of the street extension to avoid environmental impacts; however, as wetland areas and a Secondary Environmental Corridor are located north/south through the entire project area, it is not possible to extend the street to connect to Pleasant View Neighborhood Park and avoid all wetland impacts. After SEWRPC conducted a field assessment and delineated wetlands, it was confirmed that the project could not be redesigned to avoid wetland impacts. However, the City was able to redesign the project to minimize these impacts. Two alternative locations were considered for the street extension.

Alternative 1

The City considered a straight extension of the street to connect to the park. This alternative would result in disturbance of approximately 4,500 square feet of wetland, 11,800 square feet of wetland buffer and 9,200 square feet of wetland setback.

Alternative 2 (selected route)

Alternative 2 was considered after SEWRPC's field assessment and input. The delineations show a gap between two wetlands located within the project area. The street extension was redesigned to curve the street to extend through this area. There are still impacts; however, this location best minimized the amount. With the curved extension, the street will impact approximately 1,500 square feet of wetland, 7,100 square feet of wetland buffer and 11,100 square feet of wetland setback.

As Alternative 2 has the least amount of wetland impacts, the City eliminated Alternative 1. This Alternative also reduces impacts to the SEWRPC Secondary Environmental Corridor. The City did not consider cost to be a significant factor in determining the design of the roadway.

Furthermore, the City intends to construct the roadway utilizing best management practices. The City also intends to appropriately restore disturbed areas as part of the Natural Resource Special

Exception as required by the City's Unified Development Ordinance. The details of the restoration would be determined at that time.

Comprehensive Master Plan Consistency:

Consistent with, as defined by Wisconsin State Statute, means "furthers or does not contradict the objectives, goals, and policies contained in the comprehensive plan."

- **Comprehensive Master Plan.** The proposed extension of West Evergreen Street is consistent with the following goals and objectives of the 2025 Comprehensive Master Plan:
 - Protect environmental resources
 - Control and minimize development within SEWRPC's delineated Environmental Corridors and Isolated Natural Resource Areas to protect, preserve, and enhance those natural resource features contained within, to maintain the natural beauty of the City, to balance these with the development rights of the underlying existing and planned zoning, and to minimize adverse impacts to surrounding properties.
 - Provide park and recreation areas throughout the City as identified in the Comprehensive Outdoor Recreation Plan (CORP).
 - Promote an active and healthy lifestyle.
 - Provide access to parks, open space, and a wide range of recreational programs and facilities that help to promote an active and healthy lifestyle.

Furthermore, Pleasant View Neighborhood Park is in the southwestern portion of the City of Franklin's 1992 Comprehensive Master Plan-delineated Pleasant View Neighborhood.

- **Comprehensive Outdoor Recreation Plan.** The CORP identifies this area as existing public outdoor recreation on Map 4.1 as N2 Pleasant View. Moreover, the CORP describes a street to service the park as a need to serve new development; thus providing such access will fulfill CORP objectives.

Conclusion:

Per Section 15-10.0208 of the Unified Development Ordinance (UDO), the applicant shall have the burden of proof to present evidence sufficient to support a Natural Resource Special Exception (NRSE) request. The applicant has presented evidence for the request by answering the questions and addressing the statements that are part of the Natural Resource Special Exception (NRSE) application. The applicant's responses to the application's questions and statements are attached for your review.

City Development Staff recommends approval of the Natural Resource Special Exception for the extension of West Evergreen Street with the following suggestions:

1. Invasive plant species control, such as buckthorn removal. There may be an opportunity to collaborate with The Conservation Fund, Friends of Franklin Parks, or another appropriate organization in an effort to control the presence of a highly invasive plant species within the project area and/or within Pleasant View Neighborhood Park.

2. Restore and replant appropriate areas adjacent to the street with a native wetland seed mix.
3. Utilize enhanced soil stabilization, erosion control measures and landscaping practices within the project area and/or within Pleasant View Neighborhood Park.

Exhibit C

Legal Description

Acquisition of 60-ft Right of Way for the Extension of
West Evergreen Street
Tax Key No. 788 9981 000

Being a part of the recorded Final Judgment, Document #09949223, Recorded on December 23, 2010 and being a part of the recorded Quit Claim Deed, Document #4980272, Recorded on February 17, 1976 at Milwaukee County Register of Deeds, also being a part of the West 1/2 of the SE 1/4 of Section 11, Township 5 North, Range 21 East, in the City of Franklin, Milwaukee County, bounded and described as follows:

Commencing at the Northeast corner of said SE 1/4 of Section 11; thence S87°47'45"W along the North line of said 1/4 of Section, 1309.06 feet to point which is also the west 1/2 of said section; thence S00°00'32"W, along the west 1/2 of said 1/4 section, 495.48 feet to a point; thence S00°02' 19"W, 304.22 feet to a point which is also the NW corner of the recorded Certified Survey Map No. 6540; thence S00°00'24"W along the west line of said Certified Survey Map, 1059.66 feet to the point of beginning of the land to be described; thence S87°8'06"W, 48.48 feet to a point; thence southwesterly 121.94 feet along the arc of a curve, whose center lies to the southeast, whose radius is 180.00 feet and whose chord bears S68°03'39"W, 119.62 feet to a point; thence S48°39'11"W, 116.26 feet to a point; thence southwesterly 81.29 feet along the arc of a curve, whose center lies to the northwest, whose radius is 120.00 feet and whose chord bears S68°03'39"W, 79.75 feet to a point; thence S87°28'06"W, 185.83 feet to a point; thence S00°00'15"W along the east line of the recorded Winterhaven Subdivision, 60.06 feet to a point; thence N87°28'06"E, 118.48 feet to a point; thence northeasterly 121.94 feet along the arc of a curve, whose center lies to the northwest, whose radius is 180.00 feet and whose chord bears N68°03 '39"E, 119.62 feet to a point; thence N48°39'11"E, 116.26 feet to a point; thence northeasterly 81.29 along the arc of a curve, whose center lies to the southeast, whose radius is 120.00 feet and whose chord bears N68°03'39"E, 79.75 feet to a point; thence N87°28 '06"E, 45.82 feet to a point; thence N00°00'24"E along the west line of the recorded Certified Survey Map No. 6540, 60.06 feet to a point of beginning.

Said lands containing 33228 square feet or 0.76 acres.

<p style="text-align: center;">APPROVAL</p> <p style="text-align: center;"><i>Slw</i></p>	<p style="text-align: center;">REQUEST FOR COUNCIL ACTION</p>	<p style="text-align: center;">MEETING DATE</p> <p style="text-align: center;">06/17/14</p>
<p style="text-align: center;">REPORTS & RECOMMENDATIONS</p>	<p style="text-align: center;">REQUEST FROM THE PARKS COMMISSION FOR THE COMMON COUNCIL TO DESIGNATE "PLEASANT VIEW TRAIL" AS THE OFFICIAL NAME FOR THE NEWLY INSTALLED TRAIL BETWEEN PLEASANT VIEW SCHOOL AND THE VICTORY CREEK SUBDIVISION</p>	<p style="text-align: center;"><i>G.9.</i></p>

At the regular meeting of the Parks Commission on June 9, 2014, the following action was approved: move to recommend the Common Council designate "Pleasant View Trail" as the official name of the newly installed trail between Pleasant View School and the Victory Creek Subdivision.

COUNCIL ACTION REQUESTED

A motion to preliminarily name the newly installed trail between Pleasant View School and the Victory Creek Subdivision the "Pleasant View Trail" and to publish the recommended name as a Class 2 notice, specifying a thirty (30) day public comment period in the City's official newspaper, in accordance with Resolution No. 2010-6634, A City Buildings, Parks and Facilities Naming Policy.

RESOLUTION NO. 2010-6634A RESOLUTION ESTABLISHING A CITY BUILDINGS, PARKS AND FACILITIES
NAMING POLICY

WHEREAS, the Common Council having considered the value of establishing a uniform policy to address the naming of City buildings, parks and facilities to assist in the consideration of requests received and proposals and considerations made from time to time to name City property; and

WHEREAS, the Parks Commission and the Board of Public Works having considered the terms of a naming policy for City property as directed by the Common Council and having reported their respective recommendations to the Common Council; and

WHEREAS, the Common Council having considered such recommendations in its deliberations and having determined a policy for the naming of City property which will promote the public welfare and best interests of the City.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, Wisconsin, that the naming of City buildings, parks and facilities be conducted as follows:

City of Franklin Public Buildings, Parks and Facilities Naming Policy

I. Purpose

The purpose of this policy is to establish a uniform procedure for the naming of City buildings, parks and facilities throughout the City of Franklin.

II. Authorization

The Common Council shall have the authority for the naming of all City buildings, parks and facilities by passing or rejecting a resolution at a regular or special Common Council meeting. The Common Council shall request the review and recommendation of the Parks Commission for the naming of any public park or park facility. The Common Council shall request the review and recommendation of the Board of Public Works for the naming of any public building. In the event the Common Council does not receive the requested recommendation from the Commission or the Board within 45 days of such request, respectively, the Common Council may take action without such recommendation(s).

III. Objectives

- Provide name identification

- Provide citizen/neighborhood input into the process
- Insure control for naming policy

IV. Qualifying Name

- Geographic location to facility
- Outstanding feature
- Adjoining subdivision
- Historical event, group, or individual; except that eligibility shall commence only after five years following the event or other basis establishing the historical significance
- Exceptional service in the public interest that has had a major impact and benefit to the City by an individual who demonstrates dedication to service to the City and/or to individuals, families, groups, or community services, extraordinarily above and beyond the call of duty; except that in the event of a public employee or elected or appointed official, eligibility shall commence only after five years following the completion of their public service
- Exceptional service in the public building, park or facility's interest
- Contribution to acquisition/development of the public building, park or facility

V. Naming City Buildings, Parks and Facilities

The City's approval of a naming proposal is the conferral of a privilege, not a right, and at all times the City shall reserve the right to reject any naming proposal for any reason not prohibited by law. The following guidelines will be used when naming a public building, park or facility:

1. A name is intended to be permanent.
2. Duplication of other places or facility names in the City shall not be considered.
3. Any consideration of a proposal for a name must be commenced by a motion authorizing the same made by the Common Council.
4. Prominent geographic features or local reference points (i.e., hill, stream, lake, notable tree, street, community or neighborhood) shall be considered for a potential name.
5. After the Common Council preliminarily decides upon a name, public notice of the recommended name shall be published as a Class 2 notice, specifying a thirty (30) day public comment period in the City's official newspaper. Citizen comments and recommendations must be in writing to the City Clerk and must be postmarked within the thirty (30) day public comment period.
6. After the thirty (30) day public comment period, the Common Council will pass a resolution adopting or rejecting the name.
7. An existing name of a public building, park and/or facility, particularly one of local or national importance or outstanding feature, shall not be changed unless there are extraordinary circumstances of local or national interest.

VI. Renaming

- a. The renaming of public buildings, parks and facilities is strongly discouraged. It is recommended that efforts to change a name be subject to the most critical

examination so as not to diminish the original justification for the name or discount the value of the prior contributors.

b. City buildings, parks and facilities named after individuals shall never be changed unless it is found that the individual's personal character is or was such that the continued use of the name for a park or facility would not be in the best interest of the community.

c. In order for a City building, park or facility to be considered for renaming, the recommended name must qualify according to Sections IV. and V. of this Policy.

VII. Other Naming Alternatives

a. City buildings, parks and facilities that are donated to the City can be named by deed restriction by the donor. The naming and acceptance of land is subject to the guidelines set forth above and approval by the Common Council.

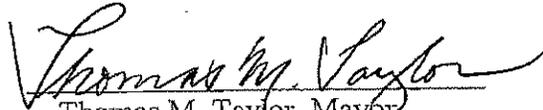
b. A facility within a park, i.e., playground, picnic shelter, etc., can be named separately from the park or facility location subject to this Policy.

c. This Policy does not apply to the naming of public streets.

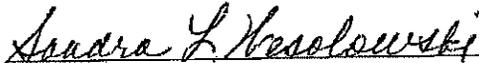
Introduced at a regular meeting of the Common Council of the City of Franklin this 16th day of March, 2010.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this 16th day of March, 2010.

APPROVED:


Thomas M. Taylor, Mayor

ATTEST:


Sandra L. Wesolowski, City Clerk

AYES 6 NOES 0 ABSENT 0

APPROVAL <i>Slew</i>	REQUEST FOR COUNCIL ACTION	MEETING DATE 06/17/14
REPORTS & RECOMMENDATIONS	REQUEST FROM THE PARKS COMMISSION FOR THE COMMON COUNCIL TO ACCEPT THE STUDENT CONSTRUCTED ALDO LEOPOLD DESIGN STYLE BENCH IN VICTORY CREEK SPECIAL PARK AS A GIFT TO THE CITY, SUBJECT TO ANCHORING AS DEEMED APPROPRIATE BY THE SUPERINTENDENT OF PUBLIC WORKS, OR OTHER OPTIONS AS DEEMED APPROPRIATE BY THE COMMON COUNCIL	<i>G.10.</i>

During the course of installing the trail between Pleasant View School and the Victory Creek Subdivision, Department of Public Works Staff discovered an Aldo Leopold design style bench within Victory Creek Special Park. The Superintendent of Public Works brought this bench to the attention of the Parks Commission during the Parks Maintenance Report of their May 12, 2014 meeting. It appears the bench was placed within the park by an unknown resident without the City's approval.

The Parks Commission requested, and Alderwoman Wilhelm agreed, to find out additional information regarding the bench. Alderwoman Wilhelm reported back to the Parks Commission that the bench was placed in memory of a Franklin student.

At the regular meeting of the Parks Commission on June 9, 2014, the following action was approved: move to recommend the Common Council accept the student constructed Aldo Leopold design style bench in Victory Creek Special Park as a gift to the City, subject to anchoring as deemed appropriate by the Superintendent of Public Works, or other options as deemed appropriate by the Common Council.

COUNCIL ACTION REQUESTED

A motion to accept the student constructed Aldo Leopold design style bench in Victory Creek Special Park as a gift to the City, subject to anchoring as deemed appropriate by the Superintendent of Public Works.

Or

A motion to take action on the above item as the Common Council deems appropriate.



IN MEMORY
OF
RON
EDMONDS





IN MEMORY OF
[Name]
[Dates]



cel of land against which a special assessment, or apportionment thereof, shall have been or shall be made under this section, any amendment, change or repeal of any such regulation to permit a less restricted use of any such lot or parcel of land shall require a three-fourths vote of the body authorized by law to make such amendment, change or repeal. No such amendment, change or repeal shall be effective unless, prior to the adoption thereof, notice by registered mail of the time and place of hearing on any such proposal shall have been given to the county park commission except in counties with a county executive or a county administrator, to the general manager, by the body authorized by law to make such amendment, change or repeal at least 10 days before the time set for any such hearing.

History: 1979 c. 110 s. 60 (13); 1983 a. 24; 1985 a. 29, 176; 1987 a. 378; 1991 a. 316; 1993 a. 184, 246, 301, 453; 1995 a. 225, 227, 417; 1997 a. 27; 1999 a. 96; 1999 a. 150 s. 672; 2011 a. 260.

27.067 Penalties for damages in county parks. (1) No person may destroy any notices, posted by a county, or break, tear up or mar trees, vines, shrubs or flowers, dislocate stones or disfigure natural conditions within the boundaries of any county park.

(2) Any person who violates sub. (1) shall forfeit not more than \$100.

History: 1995 a. 391 ss. 13 to 15.

27.07 First class city option. Any city of the 1st class may, at its option, act under ss. 27.08, 27.09, 27.10, 27.11, 27.12 and 27.14 or any part thereof, or under any other law applicable to any such city of the 1st class.

History: 1983 a. 192.

27.075 County exercise of municipal park powers.

(1) The county board of any county with a population of less than 500,000 is hereby vested with all powers of a local, legislative and administrative character for the purpose of governing, managing, controlling, improving and caring for public parks, parkways, boulevards and pleasure drives; and to carry out these powers in districts which it may create for different purposes, or throughout the county, and for such purposes to levy county taxes, to issue bonds, assessment certificates and improvement bonds, or any other evidence of indebtedness. The powers hereby conferred may be exercised by the county board in any town, city or village, or part thereof located in such county upon the request of any such town, city or village, evidenced by a resolution adopted by a majority vote of the members-elect of its governing body, designating the particular park function, duty or act, and the terms, if any, upon which the same shall be exercised by the county board. Such resolution shall state whether the authority or function is to be exercised exclusively by the county or jointly by the county and the town, city or village, and shall also state that the exercise of such power by the county is in the public interest. Upon the receipt of the resolution, the county board may, by a resolution adopted by a majority vote of its membership, elect to assume the exercise of such authority or function, upon the terms and conditions set forth in the resolution presented by the town, city or village.

(2) The county board of any such county may, by a resolution adopted by a majority of its membership, propose to the towns, cities and villages located in such county, or any of them, that it offers to exercise such powers and functions therein in order to consolidate municipal park services and functions in said county. Such resolution shall designate the particular function, duty or act and the terms and conditions, if any, upon which the county board will perform the same. The powers conferred in sub. (1) and designated in such resolution may thereafter be exercised by the county board in each such town, city or village which shall accept such proposal by the adoption of a resolution by a majority vote of the members-elect of its governing body.

(3) After the adoption of resolutions by the county board, the county board shall have full power to legislate upon and administer the entire subject matter committed to it, and among other

things, to determine, where not otherwise provided by law, the manner of exercising the power thus assumed.

(4) The town, city or village concerned may enter into necessary contracts with the county, and appropriate money to pay the county for the reasonable expenses incurred in rendering the park services assumed. Such expenses may be certified, returned and paid as are other county charges, and in the case of services performed pursuant to a proposal for the consolidation thereof initiated by the county board and made available to each town, city and village in the county on the same terms, the expenses thereof shall be certified, returned and paid as county charges; but in the event that each and every town, city and village in the county shall accept such proposal of the county board the expenses thereof shall be paid by county taxes to be levied and collected as are other taxes for county purposes. Said towns, cities and villages are vested with all necessary power to do the things herein required, and to do all things and to exercise or relinquish any of the powers herein provided or contemplated. The procedure herein provided for the request or acceptance of the exercise of the powers conferred on the county board in cities and villages is hereby prescribed as a special method of determining the local affairs and government of such cities and villages pursuant to article XI, section 3, of the constitution.

(5) The powers conferred by this section shall be in addition to all other grants of power and shall be limited only by express language.

History: 1973 c. 333; 1983 a. 192.

27.08 City park board, powers. (1) Every city may by ordinance create a board of park commissioners subject to this section, or otherwise as provided by ordinance. Such board shall be organized as the common council shall provide.

(2) The board of park commissioners is empowered and directed:

(a) To govern, manage, control, improve and care for all public parks, parkways, boulevards and pleasure drives located within, or partly within and partly without, the corporate limits of the city, and secure the quiet, orderly and suitable use and enjoyment thereof by the people; also to adopt rules and regulations to promote those purposes.

(b) To acquire in the name of the city for park, parkway, boulevard or pleasure drive purposes by gift, devise, bequest or condemnation, either absolutely or in trust, money, real or personal property, or any incorporeal right or privilege. Gifts to any city of money or other property, real or personal, either absolutely or in trust, for park, parkway, boulevard or pleasure drive purposes shall be accepted only after they shall have been recommended by the board to the common council and approved by said council by resolution. Subject to the approval of the common council the board may execute every trust imposed upon the use of property or property rights by the deed, testament or other conveyance transferring the title of such property to the city for park, parkway, boulevard or pleasure drive purposes.

(c) Subject to the approval of the common council to buy or lease lands in the name of the city for park, parkway, boulevard or pleasure drive purposes within or without the city and, with the approval of the common council, to sell or exchange property no longer required for its purposes. Every city is authorized, upon recommendation of its officers, board or body having the control and management of its public parks, to acquire by condemnation in the name of the city such lands within or without its corporate boundaries as it may need for public parks, parkways, boulevards and pleasure drives.

(d) To change or improve all parks, parkways, boulevards or pleasure drives within the city limits, controlled by the board, at the expense of the real estate to be benefited thereby, as provided in s. 27.10 (4).

(3) In any city having no board of park commissioners its public parks, parkways, boulevards and pleasure drives shall be under

<p>APPROVAL</p> <p><i>Slw</i></p>	<p>REQUEST FOR COUNCIL ACTION</p>	<p>MEETING DATE</p> <p>June 17, 2014</p>
<p>REPORTS AND RECOMMENDATIONS</p>	<p>Application of Milwaukee Water Works, Milwaukee County, Wisconsin, for Authority to Increase Water Rates; Public Service Commission of Wisconsin Docket No. 3720-WR-108; some 137 properties in the City of Franklin being affected thereby</p>	<p>ITEM NUMBER</p> <p><i>G, 11.</i></p>

Annexed hereto is a copy of the June 3, 2014 Council Action Sheet and the accompanying Milwaukee Water Works (MWW) May 5, 2014 letter. The City Attorney had further conversations with Wisconsin Public Service Commission (PSC) Division of Water staff and legal counsel and the Milwaukee Assistant City Attorney representing the MWW. The bottom line reached by PSC staff and legal counsel upon review of the application of public fire protection charges to areas served by MWW located in another municipality is that the only option available under all of the rate regulations and laws is that the utility charge and receive 100% of the public fire protection charges from its customers (in this case, the 137 properties in Franklin). Upon further study by the Director of Finance and Treasurer, it is noted that the vast majority of the 137 properties are served by a 1 inch or smaller meter; the tax equivalent share of public fire protection collected from Franklin general property taxes for a 1 inch meter served \$100,000 property under the current levy is \$7.80 per year. The Director of Finance and Treasurer and the City Attorney will be present at the meeting to discuss the subject with the Council.

COUNCIL ACTION REQUESTED

A motion as the Common Council deems appropriate.

APPROVAL	REQUEST FOR COUNCIL ACTION	MEETING DATE June 3, 2014
REPORTS AND RECOMMENDATIONS	Application of Milwaukee Water Works, Milwaukee County, Wisconsin, for Authority to Increase Water Rates; Public Service Commission of Wisconsin Docket No. 3720-WR-108; some 137 properties in the City of Franklin being affected thereby	ITEM NUMBER

Upon information gleaned from the Wisconsin Public Service Commission (PSC) web site, Milwaukee Water Works (MWW) commenced a water utility rate increase case before the PSC on or about March 4, 2014. Some 137 properties along the northern border of the City of Franklin are served by MWW. The only information received by staff with regard to the subject matter was the attached letter from the Superintendent of MWW on May 5, 2014. Attached is a newspaper article dated May 28, 2014, describing the participation of other municipalities in the proceedings before the PSC. Staff informs that no notice of the commencement of the proceedings was received other than the letter aforementioned. The Director of Finance has conferred with the Superintendent of MWW and the City Attorney has conferred with PSC staff. Apparently, while not specifically named in the proceedings, Franklin is under consideration due to the MWW application naming "suburban" class customers, as a prior PSC practice.

The subject matter of concern is that apparently, MWW has not been charging the costs of public fire protection (pfp), a standard cost of regulated Wisconsin water utilities, to the some 137 properties in Franklin, and the PSC in the aforementioned proceedings has directed MWW to address the situation with Franklin and the other municipalities with similar prior non-pfp charged customers of MWW. MWW offered the alternatives to Franklin of City pay or the some 137 property owners pay, in the attached letter.

The City of Franklin initiated what has been termed by the PSC as the "Franklin Method" for the payment of public fire protection charges, with the adoption of the attached Resolution No. 92-3913 on December 15, 1992, and a subsequent PSC public hearing proceeding and Decision thereon, the result being that a municipality may decide (as Franklin did) to pay one-half of the cost of public fire protection services from general revenues and require the other one-half to be paid by the utility customers.

The roughly estimated total costs of the MWW request (stated to be at the instance of the PSC in the aforesaid rate case proceedings) is in the \$13,500 to \$15,500 range. Discussions aforesaid by the Director of Finance and the City Attorney have mentioned the potential of the City paying one-half, with the subject some 137 property owners paying the other one-half of the pfp costs to MWW; those discussions included the disclaimer that neither office had any authority to do so, but were in response to the MWW position in the letter and follow-up correspondence that either the City or the property owners pay the entire charge, with no sharing involved, in preparation for the subject matter to be placed before the Franklin Common Council.

The Director of Finance and Treasurer and the City Attorney will be present at the meeting to discuss the subject with the Council. Staff at the time of this writing is also intending to search the archives for the PSC Decision on the "Franklin Method", so that same will be available for Council review at the meeting.

COUNCIL ACTION REQUESTED

A motion as the Common Council deems appropriate.

Milwaukee Water Works

Safe, Abundant Drinking Water.

VII-C
RECEIVED

MAY 05 2014

City of Franklin
Engineering Department

May 1, 2014

John Bennett
City Engineer
City of Franklin
9229 West Loomis Road
Franklin, WI 53132

Dear Mr. Bennett:

As you know, there are 137 "boundary" customers in Franklin that receive water service from, and are billed directly by, Milwaukee Water Works (MWW). These customers are served by MWW due to the proximity of our utility's water main(s) to the properties. The addresses for these "boundary" customers are attached.

The Public Service Commission (PSC) has brought to our attention that in addition to the water service charge and charge for the amount of water used, these customers should also be billed for public fire protection (PFP), but they are not being so charged. In order for MWW to properly assess the PFP charges, we need to know how Franklin would like to have these charges levied. Under Wis. Stats. 196.03(3)(b), each governing body can choose to accept an annual charge from MWW, or have the customers direct charged for PFP service on their "water" bill. If the PFP is to be charged to the community, a resolution to this effect must be passed. A copy of the resolution must be sent to MWW. If the charge is to be placed on each customer's bill, all that is needed is a letter from the appropriate city official to that effect. The PFP charge is based on meter size per the attached tariff.

Please let me know how you would like to proceed. The PSC has indicated that a response is required before the public hearing date for MWW's upcoming rate adjustment request, which is currently scheduled for June 25, 2014.

Thank you very much for your assistance with this matter.

Very truly yours,



Carrie M. Lewis
Superintendent

CML:sls
Enclosure



Milwaukee Water Works

CITY: FRANKLIN

ADDRESS

METER SIZE

3311 W COLLEGE AV	3 INCH
3131 W COLLEGE AV	5/8 INCH
2885 W COLLEGE AV	3/4 INCH
2885 W COLLEGE AV	1 INCH
6311 S 27TH ST	3/4 INCH
6405 S 27TH ST	3 INCH
6611 S 27TH ST A	5/8 INCH
6611 S 27TH ST B	1 INCH
3231 W COLLEGE AV	5/8 INCH
4269 W COLLEGE AV	1 1/2 INCH
4245 W COLLEGE AV	1 1/2 INCH
4221 W COLLEGE AV	1 1/2 INCH
4197 W COLLEGE AV	1 1/2 INCH
4165 W COLLEGE AV	1 1/2 INCH
4029 W COLLEGE AV	1 INCH
4011 W COLLEGE AV	1 1/2 INCH
3981 W COLLEGE AV	1 1/2 INCH
3965 W COLLEGE AV	1 1/2 INCH
3941 W COLLEGE AV	1 INCH
3925 W COLLEGE AV	1 1/2 INCH
4061 W COLLEGE AV	1 INCH
4045 W COLLEGE AV	1 1/2 INCH
4163 W COLLEGE AV	1 INCH
4139 W COLLEGE AV	1 1/2 INCH
4107 W COLLEGE AV	1 1/2 INCH
4123 W COLLEGE AV	1 1/2 INCH
4069 W COLLEGE AV	1 1/2 INCH
3901 W COLLEGE AV	1 1/2 INCH
3865 W COLLEGE AV	1 1/2 INCH
3849 W COLLEGE AV	1 1/2 INCH
3801 W COLLEGE AV	1 1/2 INCH
3621 W COLLEGE AV	1 1/2 INCH
3633 W COLLEGE AV	1 1/2 INCH
3641 W COLLEGE AV	1 1/2 INCH
3653 W COLLEGE AV	1 INCH
3661 W COLLEGE AV	1 INCH
3673 W COLLEGE AV	1 INCH
6371 S 35TH ST	1 INCH

6363 S 35TH ST	1 INCH
6351 S 35TH ST	1 INCH
6343 S 35TH ST	1 INCH
6331 S 35TH ST	1 INCH
6323 S 35TH ST	1 INCH
6311 S 35TH ST	1 INCH
6300 S 35TH ST	1 1/2 INCH
6316 S 35TH ST	1 1/2 INCH
6332 S 35TH ST	1 1/2 INCH
6350 S 35TH ST	1 INCH
6354 S 35TH ST	1 INCH
6358 S 35TH ST	1 INCH
6362 S 35TH ST	1 INCH
6370 S 35TH ST	1 INCH
6380 S 35TH ST	1 INCH
6388 S 35TH ST	1 INCH
6384 S 35TH ST	1 INCH
6376 S 35TH ST	1 INCH
6366 S 35TH ST	1 INCH
6604 S 35TH ST	1 1/2 INCH
6604 S 35TH ST	1 INCH
6586 S 35TH ST	1 1/2 INCH
6586 S 35TH ST	1 INCH
6556 S 35TH ST	1 1/2 INCH
6556 S 35TH ST	1 INCH
6516 S 35TH ST	1 1/2 INCH
6516 S 35TH ST	1 INCH
6410 S 35TH ST	1 INCH
6400 S 35TH ST	1 INCH
6430 S 35TH ST	1 INCH
6426 S 35TH ST	1 1/2 INCH
6422 S 35TH ST	1 INCH
6418 S 35TH ST	1 1/2 INCH
6414 S 35TH ST	1 INCH
3829 W COLLEGE AV	1 INCH
3829 W COLLEGE AV	5/8 INCH
3831 W COLLEGE AV	5/8 INCH
3833 W COLLEGE AV	5/8 INCH
3835 W COLLEGE AV	5/8 INCH
3837 W COLLEGE AV	5/8 INCH
3839 W COLLEGE AV	5/8 INCH
3841 W COLLEGE AV	1 INCH
3841 W COLLEGE AV	5/8 INCH
3843 W COLLEGE AV	5/8 INCH
3845 W COLLEGE AV	5/8 INCH
3847 W COLLEGE AV	5/8 INCH
3819 W COLLEGE AV	1 INCH

3819 W COLLEGE AV	5/8 INCH
3821 W COLLEGE AV	5/8 INCH
3823 W COLLEGE AV	5/8 INCH
3825 W COLLEGE AV	5/8 INCH
6503 S 27TH ST	1 INCH
6503 S 27TH ST	5/8 INCH
3709 W COLLEGE AV	5/8 INCH
6341 S 27TH ST	3/4 INCH
3400 W SYCAMORE ST	1 INCH
3400 W SYCAMORE ST	5/8 INCH
3402 W SYCAMORE ST	5/8 INCH
3404 W SYCAMORE ST	5/8 INCH
3406 W SYCAMORE ST	5/8 INCH
3420 W SYCAMORE ST	1 INCH
3420 W SYCAMORE ST	5/8 INCH
3422 W SYCAMORE ST	5/8 INCH
3424 W SYCAMORE ST	5/8 INCH
3426 W SYCAMORE ST	5/8 INCH
6341 S 27TH ST	5/8 INCH
3440 W SYCAMORE ST	1 INCH
3440 W SYCAMORE ST	5/8 INCH
3442 W SYCAMORE ST	5/8 INCH
3444 W SYCAMORE ST	5/8 INCH
3446 W SYCAMORE ST	5/8 INCH
3480 W SYCAMORE ST	1 INCH
3480 W SYCAMORE ST	3/4 INCH
3482 W SYCAMORE ST	5/8 INCH
3484 W SYCAMORE ST	3/4 INCH
3486 W SYCAMORE ST	5/8 INCH
3460 W SYCAMORE ST	1 INCH
3460 W SYCAMORE ST	5/8 INCH
3462 W SYCAMORE ST	3/4 INCH
3464 W SYCAMORE ST	5/8 INCH
3466 W SYCAMORE ST	3/4 INCH
3350 W SYCAMORE ST	1 INCH
3350 W SYCAMORE ST	5/8 INCH
3352 W SYCAMORE ST	5/8 INCH
3354 W SYCAMORE ST	5/8 INCH
3356 W SYCAMORE ST	5/8 INCH
3310 W SYCAMORE ST	1 INCH
3310 W SYCAMORE ST	5/8 INCH
3312 W SYCAMORE ST	5/8 INCH
3314 W SYCAMORE ST	5/8 INCH
3316 W SYCAMORE ST	5/8 INCH
3330 W SYCAMORE ST	1 INCH
3330 W SYCAMORE ST	5/8 INCH
3332 W SYCAMORE ST	5/8 INCH

3334 W SYCAMORE ST	5/8 INCH
3336 W SYCAMORE ST	5/8 INCH
3370 W SYCAMORE ST	1 INCH
3370 W SYCAMORE ST	3/4 INCH
3372 W SYCAMORE ST	5/8 INCH
3374 W SYCAMORE ST	5/8 INCH
3376 W SYCAMORE ST	3/4 INCH
3390 W SYCAMORE ST	1 INCH
3390 W SYCAMORE ST	5/8 INCH
3392 W SYCAMORE ST	3/4 INCH
3394 W SYCAMORE ST	5/8 INCH
3396 W SYCAMORE ST	3/4 INCH
3331 W COLLEGE AV	3/4 INCH
6489 S 27TH ST	1 1/2 INCH
6489 S 27TH ST	5/8 INCH
6525 S 27TH ST	1 1/2 INCH
6525 S 27TH ST	5/8 INCH
3715 W COLLEGE AV	3/4 INCH
6439 S 27TH ST	1 1/2 INCH
6439 S 27TH ST	5/8 INCH
3177 W COLLEGE AV	3/4 INCH
3177 W COLLEGE AV	5/8 INCH
6531 S 27TH ST	1 INCH
6531 S 27TH ST	3/4 INCH
6499 S 27TH ST	1 INCH
6499 S 27TH ST	3/4 INCH
6310 S 108TH ST	3/4 INCH
10535 W COLLEGE AV	5/8 INCH
6421 S 27TH ST	1 1/2 INCH
6421 S 27TH ST	5/8 INCH
6361 S 27TH ST	6 INCH

RATE FILE

Sheet No. 1 of 1

Schedule No. F-1.1

Public Service Commission of Wisconsin

Amendment No. 111

Milwaukee Water Works

Public Fire Protection Service – Suburban: Greenfield, Hales Corners, and St. Francis

For public fire protection service furnished to areas served at retail outside the City of Milwaukee where the suburban retail communities have chosen to have the utility directly bill public fire protection to all classes of retail general service customers under Wis. Stat. § 196.03(3)(b), the charges to cover the use of facilities shall be the following.
(Urban charges in Schedule F-1 plus 25 percent surcharge).

Quarterly Public Fire Protection Service Charges:

3/4 - inch meter - \$	7.19	3 - inch meter - \$	166.09
3/4 - inch meter - \$	7.19	4 - inch meter - \$	270.38
1 - inch meter - \$	23.82	6 - inch meter - \$	509.85
1 1/4 - inch meter - \$	23.82	8 - inch meter - \$	892.24
1 1/2 - inch meter - \$	54.08	10 - inch meter - \$	1,139.44
2 - inch meter - \$	83.05	12 - inch meter - \$	1,390.50

Customers who are provided service under Schedule Mg-2 shall also be subject to the charges in this schedule.

Billing: Same as Schedule Mg-1

STATE OF WISCONSIN : CITY OF FRANKLIN : MILWAUKEE COUNTY

RESOLUTION NO. 92- 3913

RESOLUTION CHANGING THE METHOD OF PAYING FIRE PROTECTION
CHARGES TO FRANKLIN WATER UTILITY

WHEREAS, §196.03(3)(b), Wis. Stats., provides that in the case of a public utility furnishing water, the retail charges for the production, storage, transmission, sale and delivery or furnishing of water for public fire protection purposes not included in general service charges shall be included in the water utility bill of each customer of the public utility in a city, village or town unless the governing body of that city, village or town adopts a resolution providing that the city, village or town will pay those charges to the public utility furnishing the water; and

WHEREAS, the Common Council of the City of Franklin passed and adopted a resolution on the 5th day of July, 1989, pursuant to said statute, resolving that the municipality would continue to pay the water-related fire protection charges billed to it by the Franklin Water Utility until the Common Council adopted a subsequent resolution changing the method of such payment to the Franklin Water Utility; and

WHEREAS, upon reviewing substantial rate increases for public fire protection charges promulgated in 1992, the Common Council of the City of Franklin has considered the methods of payment of public fire protection charges to the Franklin Water Utility, including the full payment of such charges to the utility by the municipality, the full payment of such charges by the customers of the utility and a method of payment whereby such payment would be apportioned between water utility customers and the municipality based upon a determination of the various levels of public fire protection service benefits flowing to water utility customers and other property owners within the municipality; and

WHEREAS, the Investigation on the Commission's Own Motion, into the Appropriate Method of Calculating Direct Customer Charges for Public Fire Protection, Case No: 05-WI-100, before the Public Service Commission of Wisconsin, Findings of Fact, Conclusions of Law and Order dated May 2, 1989, provides at Determination-Issue No. 11, that a municipality may change its method of payment of public fire protection charges to a water utility from time to time; and

WHEREAS, the Common Council understands that a change from the method of full municipal payment of public fire protection charges to the Franklin Water Utility to a method which apportions such payment between the municipality and utility customers will require a formal rate proceeding with hearings before the Public Service Commission; and

WHEREAS, the Common Council of the City of Franklin has determined that the payment of public fire protection charges on an apportioned basis determined by calculating the various levels of public fire protection benefits to utility customers and to other property owners within the municipality will provide for a more equitable distribution of the costs of public fire protection amongst those receiving different levels of benefit of such service as the community develops.

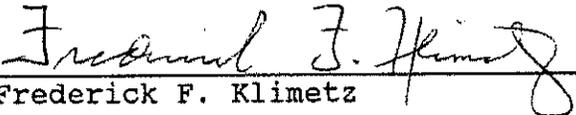
NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Common Council of the City of Franklin, that Resolution No. 89-3328, a Resolution Maintaining Present Method of Paying Fire Protection Charges to Franklin Water Utility, be and the same is hereby rescinded, effective January 1, 1993.

BE IT FURTHER RESOLVED, effective January 1, 1993, and until the Common Council of the City of Franklin adopts a subsequent resolution changing the method for payment for public fire protection charges, as is its intent pending direction from an anticipated rate case hearing determination of the Public Service Commission of Wisconsin to be brought by the Franklin Water Utility requesting approval of an apportioned method of payment of public fire protection charges between the City of Franklin and Franklin Water Utility customers, the City of Franklin will not pay public fire protection charges to the Franklin Water Utility.

Introduced at a regular meeting of the Common Council on the 15th day of December, 1992.

Passed and adopted by the Common Council on the 15th day of December, 1992.

APPROVED:


Frederick F. Klimetz

ATTEST:


James C. Payne, Business Administrator

AYES 6 NOES 0 ABSENT 0



Public Service Commission of Wisconsin

4802 Sheboygan Avenue
P. O. Box 7854
Madison, Wisconsin 53707-7854

Cheryl L. Parrino, Chairman
John T. Coughlin, Commissioner
Scott A. Neitzel, Commissioner

August 31, 1993

File No. 2105-WR-101

- Franklin Mun. Water Utility
9229 W. Loomis Rd., Franklin, WI 53132
- Jesse A. Weslowski
131 W. Layton Ave., Milwaukee, WI 53207
- Herbert Gurschke
10610 W. Robinwood Ln., Franklin, WI 53132
- ✓ John M. Bennett
- Norman F. McGarvie
- Jim Payne
9229 W. Loomis Rd., Franklin, WI 53132
- Vincent F. Wallenberger
3232 W. Fitzsimmons Rd., Franklin, WI 53132

Investigation Into the Reasonableness of the Request by the City of Franklin to Recover a Portion of the Public Fire Protection Charge Through a Direct Charge to the City and the Remainder Through Direct Charges to the Franklin Water Utility's General Service Customers

We enclose copy of Findings of Fact, Conclusion of Law, and Order Establishing a Direct Public Fire Protection Charge issued in the above-entitled matter.

Very truly yours,

Lynda L. Dorr
Secretary to the Commission

gef
encl

<p>DATE MAILED</p> <p>SEP 1 1993</p>
--

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

<p>Investigation Into the Reasonableness of the Request by the City of Franklin to Recover a Portion of the Public Fire Protection Charge Through a Direct Charge to the City and the Remainder Through Direct Charges to the Franklin Water Utility's General Service Customers</p>	<p>)))))))</p>	<p>2105-WR-101</p>
--	--	--------------------

FINDINGS OF FACT, CONCLUSION OF LAW, AND ORDER
ESTABLISHING A DIRECT PUBLIC FIRE PROTECTION CHARGE

The City of Franklin (city) provides water service at said location as a public utility under s. 196.01, Stats. It applied to the Commission on December 22, 1992, pursuant to ss. 196.03, 196.20 and 196.37, Stats., for authority to establish a dual cost recovery mechanism for Public Fire Protection (PFP).

Applicant proposed to recover a portion of the PFP charge through a direct charge to the City of Franklin and the remainder through direct charges to water utility general service customers. Application is granted subject to conditions.

Initially, applicant requested a declaratory ruling on the legality of its proposal under s. 196.03(3)(b), Stats. After review of the request, the Commission concluded that nothing in s. 196.03(3)(b) legally precludes the city's proposal. Therefore, the Commission dismissed the city's request for declaratory ruling and set the matter for hearing to determine the reasonableness of the PFP recovery proposal.

Docket 2105-WR-101

Applicant provided customer notification as required under PSC 2.73, Wis. Adm. Code, concerning the general nature and effect of its application to establish a multi-method cost recovery mechanism for PFP. Copies of the notices are included in the record as Exhibits 6 and 7.

Pursuant to due notice, hearing was held at Madison on June 16, 1993, before Examiner Ann Pfeifer.

Parties for purposes of review under s. 227.53, Stats., are listed in Appendix A.

Findings of Fact

THE COMMISSION FINDS:

Applicant's existing PFP rate is summarized as follows:

Public Fire-Protection Service - - - F-1

Approximate present annual charge to the City of Franklin - \$340,000.

Suburban Rate - - - Mg-2

Water supplied to customers outside the corporate limits of the City of Franklin will be billed under the applicable General Service-metered schedule, Mg-1, plus an additional charge of 25 percent.

Applicant no longer believes recovery of the total PFP charge through general property taxes is equitable. Applicant stated that there are approximately 8,100 properties within the city. Approximately 2,300 of these properties are connected to water

Docket 2105-WR-101

mains and receive general water utility service, as well as PFP service. Approximately 2,800 properties are not connected to mains but are within 1,000 feet of a municipal fire hydrant. The 1,000 foot radius is a criteria for increased fire insurance cost. Property owners outside the 1,000 foot radius pay more insurance and receive less PFP benefits. Due to the varying levels of fire protection supplied to its citizens, the city believes that a multi-method cost recovery of the PFP charge is most equitable.

Applicant requested that it be allowed to recover a portion of the PFP charge through direct charges to the water utility's general service customers and the remainder through a charge to the City of Franklin. Applicant also requested direct charges for the fourth quarter of 1993 which would recover 25 percent of the current total annual PFP charge. Beginning with the first quarter of 1994, applicant has requested direct charges which on an annual basis recover 50 percent of the current total annual PFP charge.

A representative of the city's Board of Water Commissioners (board) appeared at the hearing in opposition to the city's proposal. The board believes that the establishment of direct charges for PFP would subsidize the tax levy through the water rates. The board also stated it is unreasonable to directly charge water utility general service customers for PFP while the city continues to collect the tax equivalent from the utility, as the board believes the PFP charge and the tax equivalent are intended to be offsetting charges. Furthermore, the board argues

Docket 2105-WR-101

that the establishment of direct PFP charges is not in the best long-term interest of the utility because direct PFP charges will discourage citizens who do not currently receive water utility service from becoming customers of the water utility in the future.

The Commission finds that the applicant has the authority under s. 196.03(3)(b), Stats., to establish direct PFP charges and that this authority is not conditional upon the city waiving the collection of the tax equivalent from the utility.

The Commission is sensitive to the concerns raised by the Board of Water Commissioners but it does not believe that there is any historic coupling, statutory or procedurally, of the tax equivalent and the PFP charge. The Commission further finds the the record in this docket does not support the board's claim of such coupling.

Currently, there are 32 municipalities in Wisconsin in which the water utility is directly charging its general service customers for PFP. The Commission's experience to date with these municipalities does not support the board's assertion that direct PFP charges hinder a water utility's ability to attract new general service customers.

As stated above, the city's requested two step PFP rate structure would provide for a portion of the PFP charge to be recovered through direct charges to water utility general service customers with the remainder recovered through a charge to the

Docket 2105-WR-101

city. The Commission finds that this request is reasonable and in conformance with s. 196.03(3)(b), Stats., which provides municipalities the option to include the public fire-protection charges directly in the water utility bills of general service customers.

As requested, authorized rates as set forth in Appendix B, Schedules F-1 and Fd-1, provide for a portion of the PFP charge to be recovered through direct charges to general service customers and the remainder recovered through a charge to the city. Consistent with the direct charge provisions established in the general PFP order in docket 05-WI-100, Appendix B also deletes Schedule Mg-2. Schedule Mg-2 previously allowed a 25 percent surcharge to utility customers located outside of the municipal limits of the City of Franklin. The surcharge recovered PFP service costs from suburban water customers. This class of customer is now subject to the direct PFP charges under Schedule Fd-1, therefore the surcharge has been eliminated. The Commission concludes that the rates set forth in Appendix B are reasonable and just. All customers will be required to pay an appropriate amount for the service provided.

The Commission recognizes the precedence that will be established in authorizing this multi-method PFP cost recovery alternative. In making this option generally available to other municipalities, it is not the Commission's intent to prepare numerous PFP recovery options for a municipality to evaluate.

Docket 2105-WR-101

Accordingly, it will be necessary for any municipality filing for a multi-method recovery of PFP to request one apportionment of the PFP costs between general service users and the municipality or, after developing and evaluating their own PFP rate design alternatives, the municipality may submit a single rate proposal for Commission consideration.

This action to establish a multi-method cost recovery mechanism for PFP is classified as a Type 3 action under s. PSC 2.90(3)(1), Wis. Adm. Code. In addition, no unique circumstances have come to the attention of the Commission that would warrant further environmental review. It consequently requires neither an environmental impact statement under s. 1.11, Stats., nor an environmental screening.

Applicant bills quarterly. The authorized rates for PFP service shall be made effective as soon as possible after issuance of the order herein in accordance with ss. 196.21 and 196.40, Stats.

Conclusion of Law

THE COMMISSION CONCLUDES:

That the Commission has authority under ss. 196.03, 196.20 and 196.37, Stats., to authorize applicant to establish a multi-method cost recovery mechanism for PFP in accordance with

Docket 2105-WR-101

the preceding findings of fact; and that such an order should be issued.

Order

THE COMMISSION THEREFORE ORDERS:

1. That the City of Franklin, Milwaukee County, as a water public utility, be and is hereby authorized to discontinue its existing PFP rate and 25 percent surcharge to suburban customers and to make effective for such service the Step I rates for PFP set forth in the attached Appendix B.

2. That the effective date of this order shall be one day after mailing to, or physical service upon, the parties to the proceedings. The authorized Step I rates shall also be effective on that date provided that the newly authorized rates are filed with the Commission and placed in all offices and stations of the utility prior to or on that date. If the newly authorized rates are not filed with the Commission or are not placed in all offices and stations by that date, the rates will become effective on the date that they are filed with the Commission and placed in all offices and stations. Prior to the effective date, the utility shall inform the Commission, in writing, of the date that the authorized Step I rates are to take effect.

3. The authorized Step II rates set forth in the attached Appendix B shall be effective for service rendered on and after

Docket 2105-WR-101

January 1, 1994, and shall supersede the Step I rates authorized in paragraph 1 of this order. Upon making these rates effective, applicant shall place said rates in all offices and stations of the utility.

4. That the City of Franklin, Milwaukee County, as a water public utility, inform each customer of the new rates authorized in paragraph 1 of this order as required by s. PSC 185.33(1), Wis. Adm. Code. Such notification shall include notice and explanation of the rates to be made effective as authorized in paragraph 3 of this order.

5. That the City of Franklin, Milwaukee County, as a water public utility, further inform each customer of the rates authorized in paragraph 3 of this order with the first billing at said rates as required by s. PSC 185.33(1), Wis. Adm. Code.

Dated at Madison, Wisconsin,

August 31, 1993

By the Commission.

Lynda L. Dorr

Lynda L. Dorr
Secretary to the Commission

LLD:JAK:08139301.PDR/ORDER

See attached Notice of Appeal Rights.

Docket 2105-WR-101

Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in s. 227.53, Stats. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in s. 227.01(3), Stats., a person aggrieved by the order has the further right to file one petition for rehearing as provided in s. 227.49, Stats. The petition must be filed within 20 days of the date of mailing of this decision.

If this decision is an order after rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not an option.

This general notice is for the purpose of ensuring compliance with s. 227.48(2), Stats., and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

Rev. 4/22/91

APPENDIX A

In order to comply with s. 227.47, Stats., the following parties who appeared before the agency are considered parties for purposes of review under s. 227.53, Stats.

Public Service Commission of Wisconsin (Not a party
4802 Sheboygan Avenue but must be served)
P.O. Box 7854
Madison, WI 53707

CITY OF FRANKLIN,
AS A WATER PUBLIC UTILITY,
by
Mr. Jesse A. Wesolowski, Attorney
131 West Layton Avenue
Milwaukee, WI 53207

FRANKLIN BOARD OF WATER COMMISSIONERS,
by
Mr. Herbert Gurschke
10610 West Robinwood Lane
Franklin, WI 53132

2105WR.APP/GENERAL.EXA

Appendix B

Franklin Water Utility

Step I Authorized RatesPublic Fire-Protection Service - - - F-1

Delete.

Public Fire-Protection Service - - - Fd-1

Under Wisconsin Statutes, Section 196.03(3)(b), the municipality has chosen to have the utility bill the retail general service customers for public fire-protection service.

This service shall include the use of hydrants for fire-protection service only and such quantities of water as may be demanded for the purpose of extinguishing fires within the service area. This service shall also include water used for testing equipment and training personnel. For all other purposes, the metered or other rates set forth, or as may be filed with the Public Service Commission shall apply.

Quarterly Public Fire-Protection Service Charges:

5/8-inch meter - \$ 26.75	3-inch meter - \$ 401.25
3/4-inch meter - \$ 26.75	4-inch meter - \$ 668.75
1-inch meter - \$ 66.88	6-inch meter - \$1,337.50
1¼-inch meter - \$ 98.98	8-inch meter - \$2,140.00
1½-inch meter - \$133.75	10-inch meter - \$3,210.00
2-inch meter - \$214.00	12-inch meter - \$4,280.00

This rate is in addition to Schedules Mg-1, Ug-1, Mgt-1 and Mz-1.

Billing: Same provisions as for general service.

General Service - Suburban - - - Mg-2

Delete.

JAK:08209301.PDR/EXHIBIT

Appendix B

Franklin Water Utility

Step II Authorized Rates

Public Fire-Protection Service - - - F-1

For public fire-protection service to the City of Franklin, the annual charge shall be \$170,000 to cover the use of mains and hydrants up to and including the terminal hydrant and connection on each main.

This service shall include the use of hydrants for fire-protection service only and such quantities of water as may be demanded for the purposes of extinguishing fires within the municipal boundary. This service shall also include water used for testing equipment and training personnel. For all other purposes, the metered or other rates set forth, or as may be filed with the Public Service Commission, shall apply.

Public Fire-Protection Service - - - Fd-1

Under Wisconsin Statutes, Section 196.03(3)(b), the municipality has chosen to have the utility bill the retail general service customers for a portion of the charge for public fire-protection service.

This service shall include the use of hydrants for fire-protection service only and such quantities of water as may be demanded for the purpose of extinguishing fires within the service area. This service shall also include water used for testing equipment and training personnel. For all other purposes, the metered or other rates set forth, or as may be filed with the Public Service Commission shall apply.

Quarterly Public Fire-Protection Service Charges:

5/8-inch meter - \$ 13.38	3-inch meter - \$ 200.63
3/4-inch meter - \$ 13.38	4-inch meter - \$ 334.38
1-inch meter - \$ 33.44	6-inch meter - \$ 668.75
1 1/4-inch meter - \$ 49.49	8-inch meter - \$1,070.00
1 1/2-inch meter - \$ 66.88	10-inch meter - \$1,605.00
2-inch meter - \$107.00	12-inch meter - \$2,140.00

This rate is in addition to Schedules Mg-1, Ug-1, Mgt-1 and Mz-1.

Billing: Same provisions as for general service.

JAK:08209302.PDR/EXHIBIT

BLANK PAGE