CITY OF MENASHA
COMMON COUNCIL
Third Floor Council Chambers
140 Main Street, Menasha
Monday May 16, 2011

NEW COUNCIL ORIENTATION WORKSHOP
5:00 PM
6:00 PM

AGENDA

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE

C. ROLL CALL/EXCUSED ABSENCES

D. PUBLIC HEARING

E. PUBLIC COMMENTS ON ANY MATTER OF CONCERN TO THE CITY
   (five (5) minute time limit for each person)

F. REPORT OF DEPARTMENT HEADS/STAFF/CONSULTANTS
   1. Public Works Week Proclamation presentation
   2. Police Week Proclamation presentation
   3. Mayor Merkes & Joe Weidert - Presentation of Historic Preservation Awards
   4. CDD Keil – Sale of city owned property to Redevelopment Authority
   5. Clerk Galeazzi - the following minutes and communications have been received and placed on file:
      Minutes to receive:
      a. Administration Committee, 5/2/11
      b. Board of Public Works, 5/2/11
      c. Landmarks Commission Minutes, 4/13/11
      d. Library Director Search Committee, 5/4/11
      e. Parking Committee, 4/27/11
      f. Personnel Committee, 5/2/11
      g. Police Commission Minutes, 4/28/11
      h. Plan Commission Minutes; 4/19/11, 5/3/11
      i. Redevelopment Authority Minutes, 5/3/11
      j. Joint Review Board Minutes, 4/18/11
      Communications:
      l. Menasha Fire Station #36 Open House invitation – 1108 Province Terrace
      m. Menasha Historical Society Newsletter April-May 2011
      n. Mayor Merkes, 5/12/11; Menasha Attributes
      o. Ald. Zelinski, 4/26/11; Fox Cities Magazine City/Guide article
      q. PRD Tungate, 5/11/11; Kayak/Canoe Launch Dedication
      r. PWD Radtke, 5/1/11; Consent Agenda Items G2, G3 & G4 (Recommendation to award City of Menasha Wastewater Collection System contracts)

G. CONSENT AGENDA
   (Prior to voting on the Consent Agenda, items on the Consent Agenda may be removed at the request of any Alderman and place immediately following action on the Consent Agenda. The procedures to follow for the Consent Agenda are: (a) removal of items from Consent Agenda; and (b) motion to approve the items from Consent Agenda.)

   Minutes to approve:
   1. Common Council, 5/2/11

"Menasha is committed to its diverse population. Our Non-English speaking population and those with disabilities are invited to contact the Menasha City Clerk at 967-3603 at least 24-hours in advance of the meeting for the City to arrange special accommodations."
G. CONSENT AGENDA, Continued:
   Board of Public Works, 5/2/11; recommends approval of:
   2. Recommendation to Award – City of Menasha Wastewater Collection System Rehabilitation
      Improvements – Phase 4 Project: Sanitary Sewer Rehabilitation; Contract E145-11-01A, Terra
      Engineering & Construction Corp. of Madison, WI; $528,640.50
   3. Recommendation to Award – City of Menasha Wastewater Collection System Rehabilitation
      Improvements – Phase 4 Project: Sanitary Sewer Replacement; Contract E145-11-01B; Van Straten
      Construction Co., Inc. of Green Bay, WI; $219,206.00
   4. Recommendation to Award – City of Menasha Wastewater Collection System Rehabilitation
      Improvements – Phase 4 Project: Sanitary Manhole Lining Contract E145-11-01C; Infrastructure
      Technologies, Inc. of Rhinelander, WI; $40,825.00
   5. Recommendation to Award – Menasha Utilities Sedimentation Basin Scraper Modifications; Contract
      M0002-910184; Siemens Industry, Inc.; $162,100.00
   6. Recommendation to Award – Menasha Utilities Island Water Tower Painting; Contract M0002-910274;
      L.C. United Painting Co.; $131,500.00

Plan Commission, 4/19/11; recommends approval of:
   7. Project plan and boundary for the proposed Tax Increment District #12

H. ITEMS REMOVED FROM CONSENT AGENDA

I. ACTION ITEMS
   1. Accounts payable and payroll for the term of 5/5/11 to 5/12/11 in the amount of $ 571,914.31
   2. Class “B” Liquor License Application of Menasha Athletic Association (MAC) to sell fermented malt
      beverages, Koslo Park Concession, May 16, 2011-October 31, 2011, Paul S. Johnson, agent
   3. Class “B” Liquor License Application of Menasha Twins Baseball (Legion Team) to sell fermented malt
      beverages, Koslo Park Concession, May 16, 2011-October 31, 2011, Debbie Chew, agent

J. ORDINANCES AND RESOLUTIONS
   1. O-5-11 – Ordinance relating to Overnight Parking (Introduced by Ald. Zelinski) (Recommended by
      Parking Committee)
   2. R-21-11 – Resolution Creating Tax Incremental District No. 12 in the City of Menasha, Wisconsin
      (Introduced by Mayor Merkes)

K. APPOINTMENTS
   1. Mayor’s Appointment to the Fire Commission
      a. Ken Kubiak, 1214 Fieldview Dr., for the term of May 16, 2011 to May 1, 2014

L. HELD OVER BUSINESS
   1. R -19-11 - Resolution Approving Application to Board of Commissioners of Public Lands to Borrow
      $350,000 from the State Trust Funds, Authorizing the Borrowing and the Issuance of Certificates of
      Indebtedness and Levying a Tax in Connection Therewith, (Ribblesdale and Woodland Hills Street
      Construction Project) (Introduced by Mayor Merkes)(Held 5/2/11)

M. CLAIMS AGAINST THE CITY

N. PUBLIC COMMENTS ON ANY MATTER LISTED ON THE AGENDA
   (five (5) minute time limit for each person)

O. ADJOURNMENT
Memorandum

TO: Common Council
FROM: Mayor Merkes
SUBJECT: Public Works Week
DATE: 12 May 2011

The President of the United States and the Congress and the State of Wisconsin, working with the American Public Works Association (APWA), have traditionally designated the third full week of May as National Public Works Week. The designation of Public Works Week is recognition of the importance of the service provided by Public Works and Engineering personnel. Their services are basic to the quality of life for residents and sustainability of Menasha’s businesses.

Instituted as a public education campaign by the APWA in 1960, National Public Works Week calls attention to the importance of public works in community life. The week seeks to enhance the prestige of the public works and engineering employees who serve the public every day with quiet dedication.

In the past 35 years through innovation, automation, and efficiency the Menasha Public Works department has decreased staffing levels in the department while the community increased lane miles of streets by 77%, added over 1500 refuse collection stops, and a recycling program.

Collectively the individuals employed within the department provide services to the community including but not limited to:

- Refuse & recycling collection
- Maintain turf areas in medians, islands, etc.
- Administer residential dumpster rental program
- Lift Bridge operations & City’s four lift stations
- Sanitary & storm sewer maintenance
- Weed cutting & appliance recycling program
- Create & maintain maps & G.I.S program
- Rear Yard Drainage grant program
- Administer storm water utility operations
- Handle excavation permits & grade stake
- HVAC management in all city buildings

- Snow and ice removal & hauling & anti-icing operations
- Traffic sign manufacturing, placement & maintenance
- The recycling drop off facility & compost facility
- Street and sidewalk repairs, restorations & excavation
- Manage fleet maintenance and repair operations
- Design City street, walk, sewer & drainage projects
- Maintain & oversee all Public Works projects
- Enforce city’s erosion control ordinance
- Sanitary sewer industrial monitor programming
- Custodial services for almost all city buildings
- Building operation maintenance & repair

The services these individuals perform are basic to the daily activities of the residents and businesses. They ensure Menasha remains a sustainable, attractive community providing a high quality of life for its residents and a positive economic environment for its businesses.
Dated this 15th day of May, 2011

Donald Mikes, Mayor

Photo Courtesy of Aeriel Photos of America

COMMUNITY.

The contributions and the efforts made to the betterment of our community; the employees and all citizens in recognizing our dedicated employees;

NATIONAL PUBLIC WORKS WEEK

NOW, THEREFORE, BE IT PROCLAIMED, that I, Donald Mikes,

WHEREAS, this year’s theme, “Serving You and Your Community,”

WHEREAS, it is important that our young people know that public works personnel are rewarded for their service; and

WHEREAS, public works infrastructure, facilities and services could not be provided

WHEREAS, public works infrastructure, facilities and services could not be provided

National Public Works Week May 15 – May 21, 2011
<table>
<thead>
<tr>
<th>Services Provided on Tax Levy</th>
<th>2011 GF Budgeted Expenditures</th>
<th>2011 RECEF Budgeted Expenditures</th>
<th>Total Expenditures</th>
<th>2004 General Fund</th>
<th>2004 GF Budgeted Expenditures</th>
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<tr>
<td>Street Construction 100-1003-541</td>
<td>$549,824</td>
<td>68,580</td>
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<td>Storm Sewers 625-1010-541</td>
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<td><strong>$2,391,313</strong></td>
<td><strong>$963,788</strong></td>
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<td><strong>3,149,888</strong></td>
<td><strong>19.93%</strong></td>
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<th>Budgeted Revenues</th>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$1,244,078</strong></td>
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</table>

- **Property Tax Levy Cost** $1,147,235
- **Property Tax Rate** $1.216
- **Cost on $151,500 Home** $181.28
- **Cost per day (365)** $0.50
Memorandum

TO: Common Council
FROM: Mayor Merkes
SUBJECT: Police Week
DATE: 12 May 2011

National Police Week, which occurs each year during the week in which May 15 falls, recognizes the service and sacrifice of U.S. law enforcement. Established by a joint resolution of Congress in 1962, National Police Week pays special recognition to those law enforcement officers who have lost their lives in the line of duty for the safety and protection of others.

The first recognition of Police Week and Peace Officers Memorial Day was signed by President Kennedy in 1961. It was resolved by Congress that May 15 be designated Peace Officers Memorial Day and the week in which it falls be designated as Police Week. The purpose of Peace Officers Memorial Day is to honor the police officers at all levels of government who have been killed or disabled in the line of duty.

In Menasha there are 36 employees dedicated to the Police Department as well as 6 part-time community service officers. Collectively these individuals provide services to the community including but not limited to:

- Homicides & felonies
- Armed robberies, burglaries & thefts
- Disorderly Conduct & OWI's
- Various ordinance violations
- Open locked car doors
- Trestle Trail & park patrol
- Respond to vehicle accidents
- School crossings
- Assaults with injury
- Forgeries, fraud & vandalism
- All juvenile offenses
- All animal complaints
- Vacation home checks
- Special event assistance
- Hazard Calls
- General nuisance complaints
- Sexual Assaults
- Prostitution & drug violations
- Traffic & parking issues
- Respond to medical emergencies
- Respond to fire calls
- Funeral Escorts
- Police School Liaison
- Neighbor issues

The brave men and women of the Menasha Police Department continually provide a vital public service protecting our community and safeguarding life and property. Their efforts ensure that Menasha remains an attractive community with a high quality of life for its residents and a positive economic environment for its businesses.
Respect to the survivors of those fallen heroes.

Deathful in the performance of duty, and let us recognize and pay

tribute to their selfless service to the community or have

become

throughout our nation, who, thoughout their courageous deeds, have made

in the City of Menasha, in honor of those law enforcement officers

in the City of Menasha, on May 15th, 2011, is observed as

Peace Officers’ Memorial Day

BE IT FURTHER RESOLVED that May 15th, 2011, is observed as

National Police Week

NOW, THEREFORE, BE IT RESOLVED that the Common Council of

the City of Menasha, with Mayor, Corporation proclamation, May 15

Fridays, May 13th, 2011, in Washington, D.C.,

Memorial Fund’s 23rd Annual Candlelight Vigil, on the evening of

of duty will be honored during the National Law Enforcement Officers

WHEREAS, the service and sacrifice of all officers killed in the line

of duty, which May 15 falls as National Police Week; and

WHEREAS, the Congress and President of the United States have

designated May 15 as Peace Officers’ Memorial Day; and the week in

WHEREAS, the Congress and President of the United States have

agains violence, disorder, and destruction by protecting the week

WHEREAS, members of our community honor their day to serve the

WHEREAS, the Menasha Police Department continuously provides a

WHEREAS, the Menasha Police Department continuously provides a

WHEREAS, there are approximately 90,000 law enforcement officers

National Police Week - May 13-May 20, 2011

Proclamation
CALL TO ORDER
Meeting called to order by Chairman Klein at 7:50 p.m.

ROLL CALL/EXCUSED ABSENCES
PRESENT: Aldermen Taylor, Sevenich, Langdon, Krueger, Zelinski, Englebert, Benner, Klein
ALSO PRESENT: Mayor Merkes, CA/HRD Captain, PC Stanke, DPW Radtke, CDD Keil, C/T Stoffel, Clerk Galeazzi and the Press.

MINUTES TO APPROVE
1. Administration Committee, 4/19/11
Moved by Ald. Langdon, seconded by Ald. Zelinski to approve minutes.
Discussion: Ald. Krueger asked to amend the minutes to change item D3 of minutes to show the motion was carried on a roll call of 6-2 not a voice vote. The Clerk will make the change to the minutes.
Motion carrier on voice vote.

ACTION ITEMS
1. Appeal of Denial of Operator’s License – Julie M. Riese
CA/HRD Captain explained PC Stanke referred the operator’s license application for Julie M. Riese to her because of a felony conviction. She stated that the felony conviction is not a basis for which to deny the license since it was over 20 years ago and there has been nothing since then. Ms. Riese did not disclose the felony conviction on the operator’s license application, it was discovered in the background check. Failure to provide accurate information is a reason for denial as stated in the guidelines that is followed by the Police Department when approving operator’s license. PC Stanke denied the request for application based on applicant’s failure to disclose the felony conviction.

Ms. Riese explained she thought the felony conviction was no longer part of her record as it occurred more than 20 years ago and it had not shown up on a recent background check by her employer.

Moved by Ald. Zelinski, seconded by Ald. Langdon to grant the appeal of the applicant and reverse the denial of an operator’s license for Julie M. Riese.
Motion failed on roll call 4-4.
Ald. Klein, Langdon, Zelinski, Englebert – yes
Ald. Taylor, Sevenich, Krueger, Benner – no

2. CA/HRD Captain – Update on April 2011 Storm Damage to City Property
CA/HRD Captain explained which City properties received damage from the April 10, 2011 storm and what claims have been filed with the insurance company.
DPW Radtke stated the City is seeking State assistance for cleanup cost from the storm. Committee thanked staff and other municipalities that helped clean up after the storm.
3. **CA/HRD Captain – Legal Matters Update**

CA/HRD Captain gave a brief update on the legal matters pending. She suggested going into Closed Session if there were more specific questions.

**E. CLOSED SESSION**

Moved by Ald. Benner, seconded by Ald. Langdon to Adjourn into Closed Session at 8:20 p.m. pursuant to sec. 19.85(1)(g), Wis. Stats., conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved (LaFayette Life Ins. Co. et al. v. City of Menasha et al., U.S. District Court (Northern District, IN) Case No. 4:09-CV-64-TLS; Gueths v. City of Menasha, 1:11-CV-00336 WCG, U.S. District Court, Eastern District of Wisconsin; EPA-5-11-113(A)-W1.) Motion carried on roll call 8-0.

Respectfully submitted by Deborah A. Galeazzi, WCMC, City Clerk
A. CALL TO ORDER
Meeting called to order by Chairman Taylor at 9:12 p.m.

B. ROLL CALL/EXCUSED ABSENCES
PRESENT: Aldermen Taylor, Sevenich, Langdon, Krueger, Zelinski, Englebert, Benner, Klein
ALSO PRESENT: Mayor Merkes, CA/HRD Captain, PC Stanke, DPW Radtke, CDD Keil, C/T Stoffel, MU Co-Managers Dick Sturm and Melanie Krause and Clerk Galeazzi

C. MINUTES TO APPROVE
1. April 19, 2011
Moved by Ald. Langdon, seconded by Ald. Klein to approve minutes.
Motion carried on voice vote.

D. ACTION ITEMS
1. Recommendation to Award – City of Menasha Wastewater Collection System Rehabilitation Improvements – Phase 4 Project: Sanitary Sewer Rehabilitation; Contract E145-11-01A, Terra Engineering & Construction Corp. of Madison, WI; $528,640.50

DPW Radtke explained the bids were very competitive and came in under engineers estimates. The award may need to be amended at the Council level as these are Clean Water Fund projects and staff is waiting to hear back from the State on the approval of the application on the funding.

Moved by Ald. Benner, seconded by Ald. Englebert to recommend approval to Common Council.
Motion carried on voice vote.

2. Recommendation to Award – City of Menasha Wastewater Collection System Rehabilitation Improvements – Phase 4 Project: Sanitary Sewer Replacement; Contract E145-11-01B, Van Straten Construction Co., Inc. of Green Bay, WI; $219,206.00

DPW Radtke explained good bids were received and came in under engineers estimates. He explained Phase 4 is the eastern portion of the Island area. The first project is for the relining of the sanitary system. Second part is a sanitary sewer relay where the old pipe will be excavated and a new pipe installed on sections of Winnebago Ave., Cleveland St., and Nicolet Blvd.

Motion carried on voice vote.
3. **Recommendation to Award – City of Menasha Wastewater Collection System Rehabilitation Improvements – Phase 4 Project: Sanitary Manhole Lining; Contract E145-11-01C; Infrastructure Technologies, Inc. of Rhinelander, WI; $40,825.00**

DPW Radtke explained this project is for the relining of the manhole covers. Bid came in under estimates. This procedure has been done to other manhole covers in the City.

Moved by Ald. Benner, seconded by Ald. Englebert to recommend approval to Common Council.
Motion carried on voice vote.

4. **Recommendation to Award – Menasha Utilities Sedimentation Basin Scraper Modifications; Contract M0002-910184; Siemens Industry, Inc.; $162,100.00**

MU Co-Manager Sturm explained the project is for parts to redo the sediment basin scraper at the Water Treatment Plant. This is part of Phase III of the original plan of the reconstruction of the Water Treatment Plant. Funding for this will come from Safe Drinking Water Revolving Loan Fund.

When asked how the payment to the Safe Drinking Water Revolving Loan Fund is budgeted, MU Co-Manager Krause explained it was included in the last rate increase.

Moved by Ald. Englebert, seconded by Ald. Krueger to recommend approval to Common Council.
Motion carried on voice vote.

5. **Recommendation to Award – Menasha Utilities Island Water Tower Painting; Contract M0002-910274; L.C. United Painting Co.; $131,500.00**

MU Co-Manager Sturm explained the project is for the inside painting of the water tower. Some touch up of the outside will take place.

Moved by Ald. Englebert, seconded by Ald. Zelinski to recommend approval to Common Council.
Motion carried on voice vote.

E. **ADJOURNMENT**
Moved by Ald. Klein, seconded by Ald. Langdon to adjourn at 9:30 p.m.
Motion carried on voice vote.

Respectfully submitted by Deborah A. Galeazzi, WCMC, City Clerk
CALL TO ORDER

Meeting called to order by Chairman Joe Weidert at 4:30 PM.

ROLL CALL/EXCUSED ABSENCES

LANDMARKS MEMBERS PRESENT: Commissioners Mary Nebel, Tom Grade, Kristi Lynch, and Joe Weidert
LANDMARKS MEMBERS ABSENT: Commissioner Andrew Jennings and Alderman Eric Hendricks
OTHERS PRESENT: CDD Keil and Pat DuFrane from the WeatherVane

MINTUES TO APPROVE

Minutes of the February 9, 2011 Landmarks Commission Meeting
Moved by Comm. Nebel, seconded by Comm. Grade to approve the minutes of the February 9, 2011 Landmarks Commission meeting.

The motion carried.

PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA OR ANY ITEM RELATED TO THE RESPONSIBILITIES OF THE LANDMARKS COMMISSION

No one spoke.

COMMUNICATIONS

2011 WAHPC Spring Conference
A flyer was distributed describing the event.

ACTION ITEMS

Sign Permit Application and Outdoor Seating Proposal – 186 Main Street – Weather Vane
Pat DuFrane described the signage that is proposed including wall mounted signs in the front and the rear and a projecting sign in the front. The projecting sign will be externally lit on both sign faces. CDD Keil stated that the signs comply with ordinance requirements for signs in the C-2 Commercial zoning district.

Motion by Comm. Zimmerman, seconded by Comm. Grade to approve the proposed signage. The motion carried. No action was necessary relative to the outdoor seating area because it did not affect the building.

Historic Menasha Contest Entry Form
Chairman Weidert reviewed the contest entry form and rules. Commissioners discussed contest entry and return dates. Motion by Comm. Zimmerman, seconded by Comm. Lynch to make the entry forms available on April 25th and establish a return date of 5:00 PM on May 18th. The motion carried.

DISCUSSION ITEMS

Landmarks Commission Recognition/Awards
The awards are to be presented at the May 16, 2011 Common Council meeting.

Landmarks Commission Guidebook Distribution

Greg Keil is to make copies available to Comm. Lynch for distribution to tenants of the Brin Building.

Façade Improvement Program Grant/Loan Balance
The balance in the fund remains at approximately $18,400.

4. **Future Landmarks Commission Activities/Projects**
Commissioners discussed conducting a workshop for businesses in the historic districts regarding the use of colors and displays. Commissioners are also to review the web pages from landmarks Commissions in other communities to gather ideas about modifying the City of Menasha’s to make it more interesting and visually appealing.

H. **PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA**

1. No one spoke.

I. **ADJOURNMENT**

Moved by Comm. Nebel, seconded by Comm. Grade to adjourn at 4:43 PM.

The motion carried.

*Respectfully submitted by Greg Keil, CDD.*
Minutes
Elisha D. Smith Public Library
Library Director Search Committee
May 4, 2011

Present: Bob Stanke, Cindy Schaefer-Kemps, Paul Nelson, Kathy Wicihowski, Jim Englebert, Lynn Tungate, Sue Werley, Jill Enos, Cate Brandt

Meeting called to order at 3:36 p.m. by Enos

1) Review of May 11th Schedule for Library Director Candidates’ Interviews
   Candidate #1  8:00-10:30
   Candidate #2  9:15-12:45
   Candidate #3  12:15-3:45
   Candidate #4  2:15-5:45

   Interviews will include a tour of the Library and meeting the staff, a tour of Menasha, an interview by the committee and a PEP test (screening tool used to determine how applicants respond to various questions relating to character).

2) Committee developed final list of interview questions. Each committee member will be responsible to ask questions in a specific category. Tungate will rewrite final questions and email them to committee members to review.

3) Discussion on use of references. Use will be determined as we finalize candidates. The draft questions for references are appropriate for use.

4) Committee may meet after last interview.

5) Committee recommended a Menasha restaurant for lunch.

6) Water needed for candidates during interviews.

Englebert moved to adjourn meeting at 5:06 p.m., seconded by Werley and carried unanimously.

Respectfully submitted,
Kathy Wicihowski
CITY OF MENASHA
Parking Committee
Third Floor Council Chambers, City Hall - 140 Main Street, Menasha
April 27, 2011

DRAFT MINUTES

A. CALL TO ORDER
Meeting called to order by PWD Radtke at 10:34 AM

B. ROLL CALL/EXCUSED ABSENCES
PRESENT: PWD Radtke; CDD Keil; PC Stanke; CA Captain; Ald. Zelinski
ALSO PRESENT: Carol Schmidt, Public Works and Engineering Department

C. MINUTES TO APPROVE-MINUTES & COMMUNICATIONS TO RECEIVE
1. Motion by CDD Keil, seconded by PWD Radtke to approve the minutes of the
   November 9, 2010 meeting. Motion carried.

D. DISCUSSION ITEMS
1. Request to Remove Prohibited Parking on the South Side of Lake Street
   Resident who requested this item be added to the agenda was notified of meeting,
   however she is not present.

   Motion made by CA Captain and seconded by Ald. Zelinski to table this item.

   Motion carried on voice vote.

2. Recommendation to Prohibit Parking along the East Side of STH 47 (Fourth
   Street to Ninth Street)
   General discussion ensued.

   Motion made by PC Stanke and seconded by Ald. Zelinski to recommend the
   concept of bike lanes including eliminating some parking on east side of Appleton
   Road and allowing some parking on west side of Appleton Road; excluding from
   Sixth to Marquette on the west side.

   Motion carried on voice vote 4-1.

3. Overnight Parking Options in Downtown Parking Lots and Ramp
   General Discussion ensued.

   Motion made by CDD Keil and seconded by PWD Radtke to allow overnight
   parking by permit only in the eastern most seven stalls of the marina place parking
   lot.

   Motion carried on voice vote.
E. ADJOURNMENT

1. Motion made by, CDD Keil seconded by PC Stanke to adjourn at 11:47 AM. Motion carried.

Respectfully submitted by Carol A. Schmidt, Public Works and Engineering Department
A. CALL TO ORDER
Meeting called to order by Chairman Englebert at 9:31 p.m.

B. ROLL CALL/EXCUSED ABSENCES
PRESENT: Aldermen Sevenich, Langdon, Krueger, Zelinski, Englebert, Benner, Klein, Mayor Merkes.
EXCUSED: Alderman Taylor
ALSO PRESENT: CA/HRD Captain, PC Stanke, Clerk Galeazzi

C. MINUTES TO APPROVE
1. Personnel Committee, 4/19/11
Moved by Ald. Langdon, seconded by Ald. Krueger to approve minutes.
Motion carried on voice vote.

D. ACTION ITEMS
1. Police Union Local 603 - Ongoing contract negotiations, and other matters pertaining to collective bargaining activity or establishing collective bargaining strategy.

Chairman Englebert suggested adjourning into Close Session to discuss the Police Union Contract.

Moved by Ald. Benner, seconded by Ald. Langdon to adjourn into Closed Session pursuant to Wis. Stats. §19.85(1)(e)&(g): Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session; Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. (Union Contracts)
Motion carried on roll call 8-0.

Respectfully submitted by Deborah A. Galeazzi, WCMC, City Clerk
Commissioner Liebhauser called the meeting to order at 5:00pm, April 28 2011 at the Menasha Safety Building, 430 First Street, Menasha, WI.

Present: Chief Stanke Jim Liebhauser, Ron Duuck, Tony Gutierrez, Marshall Spencer
Absent: Terri Reuss

1. Meeting Minutes.
   - Ron Duuck moved to accept the March 17 2011, minutes, Marshall Spencer seconded the motion. The motion was unanimously supported.

2. Police Report – Chief Stanke
   - Dept member training certificates
     - Paul Scheppf, FEMA IS-00907 Active Shooter.
     - Aaron Zemlock Wisconsin Crime Prevention Practitioner’s Assoc. Retail Fraud, Scams & Trends
     - Roger Picard Crisis Intervention training NAMI Fox Valley
     - Amy Cook Anne Golner Investigation & Prosecution of Child Abuse, National District Attorney Association
     - Tim Styka, Ethics Instructor Seminar, National Institute of Ethics
     - Aaron Zemlock, scrap metal theft, Wisconsin Crime Prevention Practitioners Assoc.
   - Peg Meltz sent a letter of appreciation for the department’s assistance provided during the Team Hailey 5k Run/ Walk for cure.
   - Officer Chris Groeschel named NAMI Law Enforcement Officer of the year.

3. Old business–None

4. New Business
   - Chief Stanke requested that Christopher M. Spielbauer be offered employment as a patrol officer to fill the open position.
     - Ron Duuck moved to approve the hiring of Mr. Spielbauer. Marshall Spencer seconded the motion. The motion was unanimously supported.
   - Chief Stanke reported that Ron Bouchard may be brought back as a contract employee, pending approval of the Mayor, Common Council and City Attorney and Mr. Bouchard’s acceptance of the offer.
     - Tony Gutierrez motioned to indorse making Mr. Bouchard such an offer. Ron Duuck seconded the motion. The motion was unanimously supported.

5. Next Meeting: May 18, 2011, 12 noon.

6. Adjourn, motion by Ron Duuck, seconded by Tony Gutierrez at 5:40 pm. The motion was unanimously supported.

Menasha alderpersons occasionally attend meetings of this body. It is possible that a quorum of Common Council, Board of Public Works, Administration Committee, Personnel Committee, may be attending; however no official Acton of any of these bodies will be taken.

Menasha is committed to its diverse population. Our non-English speaking population or those with disabilities are invited to contact the Chief of Police at 967-3500 at least 24-hours in advance to ensure special accommodations can be made.

Respectfully submitted,
Marshall Spencer,
Commissioner, Secretary
CITY OF MENASHA
Plan Commission
Council Chambers, City Hall – 140 Main Street
April 19, 2011
DRAFT MINUTES

Public Hearing – TID # 12 Project Plan and Boundary

No one spoke.

A. CALL TO ORDER

The meeting was called to order at 3:30 p.m. by Mayor Merkes.

B. ROLL CALL/EXCUSED ABSENCES

PLAN COMMISSION MEMBERS PRESENT: Mayor Merkes, Commissioners Schmidt, Cruickshank, Homan and Sturm, DPW Radtke and Ald. Benner

PLAN COMMISSION MEMBERS EXCUSED:


C. MINUTES TO APPROVE

1. Minutes of the March 8, 2011 Plan Commission Meeting
   Motion by Ald. Benner, seconded by DPW Radtke to approve the March 8, 2011 Plan Commission meeting minutes. The motion carried.

D. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA

1. Ellen Maxymek commented on the potential negative impacts of the proposed development of the vacant land west of the existing Lake Park Villas development.

E. DISCUSSION

1. Conceptual Site Plan for Automobile Sales at 835 Oneida Street
   Chuck Krause, owner of the site, discussed the preliminary site plan and stated that it is his intention that the car sales lot be a transitional use.

   Commissioners discussed:
   • On-site stormwater management
   • Site access and its relationship to the adjoining Kwik Trip
   • Future use of the property
   • Adjoining land uses and wetlands considerations

   CDD Keil stated that a Special Use Permit is required for automobile sales lots. Mr. Krause will need to submit an application and provide a fully developed set of plans in support of the application for his proposal to move forward.

2. Sign Illumination Standards
   Tom Vandeyacht, site owner of 700 Midway Road and Jim Slezak from Appleton Sign explained the aesthetic and practical issues relative to the standards in the city’s sign code relative to internally lit signs. The specific concerns relate to the required opacity of light colored sign backgrounds in multi-tenant signs when only one of the sign panels is being changed-out. This gives the appearance of the sign lighting not working properly.
Plan Commissioners discussed the differing impacts of the lighting requirements for single vs. multi-tenant signs and the desirability of creating standards for each type. CDD Keil is to make a determination regarding the sign panel insert at this address and prepare ordinance language clarifying the lighting/opacity standards for multi-tenant signs.

3. **Acquisition of 121 Washington Street**
   CDD Keil stated that there have been discussions with the owner regarding acquisition by the city. The primary purpose of the acquisition would be to clean-up the site as it is located in a gateway corridor. The owner lives out of state and has a difficult time ensuring that the site is properly maintained. The site has petroleum contamination and about $10,000 of clean-up work remains. The clean-up is PECFA eligible and the owner would be responsible for 5% of the clean-up cost.

Commissioners discussed the desirability of improving the Washington Street corridor as a gateway into the community, PECFA clean-up costs and future liability, and the long range benefits of securing the property.

It was the consensus of the Plan Commission that staff should continue to pursue acquisition.

**F. ACTION ITEMS**

1. **Plan Commission Resolution 1-2011 Recommending Approval of the Project Plan and Boundary of Tax Increment District #12**

CDD Keil reviewed the background leading up to the development of the project plan. TID #12 is being proposed as a means of stimulating development in Lake Park Villas (LPV). The debt associated with the original phases of the LPV development was intended to be supported by lot sales. Since the city hasn't sold a lot in over 3 years, this debt is now being placed on the general tax levy.

Commissioner's discussed:
- The various phases of the new development
- Its relationship and impact on the existing residential area
- The character, quality and density of development
- Future street and pedestrian access
- Extending the existing trail system

Motion by DPW Radtke, seconded by Catherine Cruickshank to approve Plan Commission Resolution PC 1-2011 Recommending Approval of the Project Plan and Boundary of TID #12 to the Common Council. The motion carried.

**G. ADJOURNMENT**

Motion by Ald. Benner, seconded by DPW Radtke to adjourn at 5:10 p.m. The motion carried.

Minutes respectfully submitted by Greg Keil, CDD.
A. CALL TO ORDER

The meeting was called to order at 3:35 p.m. by Mayor Merkes.

B. ROLL CALL/EXCUSED ABSENCES

PLAN COMMISSION MEMBERS PRESENT: Mayor Merkes, Commissioners Schmidt and Cruickshank, DPW Radtke and Ald. Benner

PLAN COMMISSION MEMBERS EXCUSED: Commissioners Homan and Sturm

OTHERS PRESENT: CDD Keil, Dave Stubbs and John Davel

C. MINUTES TO APPROVE

1. Minutes of the April 19, 2011 Plan Commission Meeting
Motion by Comm. Schmidt, seconded by Ald. Benner to approve the April 19, 2011 Plan Commission meeting minutes. The motion carried.

D. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA

1. No one spoke.

E. DISCUSSION

1. Status of Driveway Ordinance
CDD Keil reported that the amended driveway ordinance will be placed on the May 17 Plan Commission agenda.

F. ACTION ITEMS

1. Site Plan Amendment – Community Clothes Closet – 1465 Opportunity Way
CDD Keil reviewed the proposed addition to the Community Clothes Closet.

Plan Commissioners discussed:
- Drainage and storm water management
- Site lighting
- Landscaping
- Sidewalk/crosswalk
- Parking
- Turning radii & delivery vehicles
- Zoning classifications

Motion by Dave Schmidt, seconded by DPW Radtke to approve the site plan amendment based on the finding that the addition will increase the capacity of the Community Clothes Closet to serve the needs of Fox Cities residents, and subject to the conditions that a lighting plan be submitted demonstrating compliance with lighting standards and that the drainage and erosion control plan be reviewed and approved by the Public Works Department.

2. Site Plan Amendment – Minimax Storage – 1840 Bud Drive
CDD Keil reviewed the proposed site plan amendment.
Commissioners discussed:
- Definition of steel panels
- Setbacks
- Landscaping
- Lighting
- Fencing

The consensus was to hold this item pending receipt of a revised site plan that met setback requirements, added landscaping along bud drive, and considers relocating the fence along Bud Drive to the west of the street ROW. Information is also to be provided about site lighting.

G. ADJOURNMENT

Motion by DPW Radtke, seconded by Ald. Benner to adjourn at 4:20 p.m. The motion carried.

Minutes respectfully submitted by Greg Keil, CDD.
A. CALL TO ORDER

The meeting was called to order a 6:00 p.m. by Kim Vanderhyden.

B. ROLL CALL/EXCUSED ABSENCES

REDEVELOPMENT AUTHORITY MEMBERS PRESENT: Kim Vanderhyden, Bob Stevens, Kip Golden, Dave Wuestenberg, Ken Skalmoski and Alderman Englebert

REDEVELOPMENT AUTHORITY MEMBERS EXCUSED: Linda Kennedy

OTHERS PRESENT: CDD Keil, CA Captain, Comptroller Stoffel, Mayor Merkes and Ald. Chris Klein

C. MINUTES TO APPROVE

1. Minutes of the June 11, 2008 Redevelopment Authority Meeting

Motion by Ken Skalmoski, seconded by Alderman Englebert to approve the June 11, 2008 Redevelopment Authority meeting minutes.

The motion carried.

D. SELECTION OF OFFICERS

Motion by Ken Skalmoski to nominate Kim Vanderhyden as Chairman of the Redevelopment Authority. There were no other nominations. Motion by Dave Wuestenberg, seconded by Ken Skalmoski to close the nominations and cast a unanimous ballot for Kim Vanderhyden. The motion carried.

Motion by Kim Vanderhyden to nominate Bob Stevens as Vice Chairman. There were no other nominations. Motion by Kim Vanderhyden, seconded by Ken Skalmoski to close the nominations and cast a unanimous ballot for Bob Stevens.

The motion carried.

E. PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA

1. Chris Klein, 730 Keyes Street, commented on the need to build public/private partnerships and to facilitate job creation.

F. DISCUSSION

1. Role & Function of the Redevelopment Authority

CDD Keil summarized a presentation prepared by the city’s bond consul concerning the structure and undertakings of redevelopment authorities. He also discussed the projects/initiatives the RDA had been involved with in the past.

Board members discussed:
- Status of redevelopment area plans and processes
- Reactive vs. proactive approaches to redevelopment
• Capacity and resources to carry out projects
• Community assets and constraints

Board members requested that staff prepare an inventory of plans related to the city’s redevelopment areas to be presented at the next meeting. Staff is also to prepare a status report on the city’s tax increment finance districts.

2. Acquisition and Disposition of City Owned Property by the Redevelopment Authority
CDD Keil reviewed a concept whereby the city would transfer certain lands to the redevelopment authority. In the Midway Business Park and Province Terrace areas these lands would be transferred to the RDA for nominal consideration. The RDA would, in turn, sell these lots for development purposes and use the proceeds of the sale to invest in redevelopment project areas. The city would recover its land write-down costs through TIF Increment.

In the case of Lake Park Villas, the city would sell the land to the RDA for an amount equivalent to the debt attributable to Lake Park Villas that is not expected to be recovered from other sources (approximately $3.9 million). Increment from the proposed Tax Increment District #12 would be the source of revenue from which the RDA would pay the city for the land. It is necessary to make the transaction between the city and the RDA because the city cannot directly insert existing debt as a project cost into the proposed TID #12.

Board members discussed the city’s financial status and the impact of Lake Park Villas debt on the city’s tax rate. The concepts described above are to be presented to the Common Council, and a course of action will be proposed at the next RDA meeting.

G. ACTION ITEMS

1. Set Next Meeting Date
   The next meeting will be held on Wednesday, May 25 at 6:00 pm.

H. ADJOURNMENT

   Motion by Alderman Engelbert, seconded by Kip Golden to adjourn at 7:15p.m.

   The motion carried.

Minutes respectfully submitted by Greg Keil, Community Development Director.
A. CALL TO ORDER

The meeting was called to order at 3:38 p.m. by Mayor Merkes.

B. ROLL CALL/EXCUSED ABSENCES

JOINT REVIEW BOARD MEMBERS PRESENT: Mayor Merkes, Dan DeBonis, Calumet County, Chris Peterson, Appleton Area School District and Faith Schiedermayer, Fox Valley Technical College (Jim Lueneburg participated as a member following his nomination.)

JOINT REVIEW BOARD MEMBERS EXCUSED: None

OTHERS PRESENT: Jim Lueneburg, Greg Keil, CDD and Mike Schanke

C. MINUTES TO APPROVE

1. None

D. DISCUSSION

1. None

E. ACTION ITEMS

1. Selection of Joint Review Board Public Member
   Dan DeBonis made a motion to nominate Jim Lueneburg as Joint Review Board Public Member. There were no other nominations. Mayor Merkes seconded the motion and a unanimous ballot was cast nominating Jim Lueneburg as the Public Member of the JRB.

2. Selection of Chairperson
   Dan DeBonis nominated Mayor Merkes as Chairperson of the Joint Review Board. There were no other nominations. Faith Schiedermayer seconded the motion and a unanimous ballot was cast nominating Mayor Merkes as Chairperson of the JRB.

3. Review of Proposed TID #12 Project Plan, Boundaries and Development Agreements
   CDD Greg Keil summarized the history of the Lake Park Villas development. Despite initial successes, the development has now stalled. The debt incurred by the city for land acquisition, infrastructure and amenities was to have been paid out of the proceeds from lot sales. There have been no lot sales in three years, and the debt burden has fallen on the general tax levy. This is placing financial stress on the city. The Project Plan for TID #12 includes expenditures for land acquisition, infrastructure, amenities and development assistance with the objective being to stimulate new development.

   He also described the substantive elements of the development agreements with Cypress Homes and Realty, and the Ponds of Menasha.

   Board members discussed:
   - Base year value of the proposed district
   - The expected amount and timing of increases in tax increment
   - Proposed improvements to be made in the district
   - Relationship to adjoining development
Staff is to provide the JRB members the expected base year value of the district and drawings showing the proposed layout of the new development.

4. **Set Next Meeting Date**
The next Joint Review Board meeting will be held on Wednesday, May 18, 2011 at 2:30 p.m.

F. **PUBLIC COMMENT ON ANY ITEM OF CONCERN ON THIS AGENDA**

Five (5) minute time limit for each person.

   No one spoke.

G. **ADJOURNMENT**

   Motion by Jim Lueneburg, seconded by Dan DeBoins to adjourn at 3:15 p.m.

   The motion carried.

*Minutes respectfully submitted by Greg Keil, Community Development Director.*
DECLARATION OF OFFICIAL INTENT

This is a Declaration of Official Intent of the City of Menasha (the Issuer) to reimburse an expenditure with proceeds of a borrowing or borrowings authorized by the Issuer. This Declaration is made under and pursuant to Treas. Reg. Section 1.150-2. The undersigned has been designated as an official or employee authorized by the Issuer to make this Declaration of Official Intent pursuant to a Resolution adopted on February 20, 1995. This Declaration of Official Intent is a public record maintained in the files of the Issuer and is available for public inspection pursuant to Subchapter II of Chapter 19 of the Wisconsin Statutes.

The undersigned hereby declares that it is the reasonable expectation of the Issuer to use proceeds of a borrowing or borrowings to be incurred by the Issuer to reimburse expenditures for the property, project or program or from the fund(s)/account(s) described below:

High Lift Pumping Station modifications, Abandonment of Manitowoc Street Tower and upgrading the Distribution System River Crossing

OR

Menasha Utilities Water Utility Reserve Fund

The maximum principal amount of the borrowing or borrowings to be incurred to reimburse expenditures for the above-described purpose is reasonably expected on the date hereof, to be $100,000.

The Issuer intends to reimburse itself from borrowed funds within eighteen (18) months, (three (3) years if the Issuer is a “small Issuer”) after the later of (a) the date the expenditure is paid or (b) the date the facility is placed in service, but in no event more than three (3) years after the expenditure is paid.

No money from sources other than the anticipated borrowing or borrowings is, or is reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside by the Issuer with respect to the expenditure, pursuant to the budgetary and financial circumstances of the Issuer as of the date of this Declaration.

Dated this tenth day of May, 2011

By: [Signature]

Title: Comptroller/Treasurer

Each of the expenditures described must be one of the following: a capital expenditure (i.e. any cost which is properly chargeable to a capital account or would be so chargeable with a proper election), a cost if issuance for a bond, an expenditure relating to certain extraordinary working capital items, a grant, a qualified student loan, a qualified mortgage loan, or a qualified veterans’ mortgage loan.
Welcomes Family, Friends, City Officials and all of the Citizens of Neenah and Menasha to a

Fire Station Open House

Tuesday, June 14, 2011

4:00 p.m. to 7:00 p.m.

Please join us in touring our new fire station located at

1108 Province Terrace in the City of Menasha
(Located on the corner of Manitowoc Road and Province Terrace)

Please join us for:

- Station Tours
- Fire Safety Presentation at 5:30 p.m.
- Dedication Ceremony at 6:00 p.m.
- Activities for the children

Neenah-Menasha Fire Rescue
886-6200
www.nmfire.org

"One Department - Fully Involved"
MCKINNON NAME
FROM THE PAST TO THE PRESENT

Past:
Ethel MacKinnon was born to Duncan William Herbert and Elizabeth MacKinnon in July of 1888 and was educated at the Grafton Hall for girls in Fond du Lac. She worked for 31 years as a proof reader and on layouts for magazines for George Banta Co., She traveled extensively, was very active at St. Thomas Episcopal Church, the Economics Club, N-M Garden Club, the Emergency Society of Neenah-Menasha and was a charter member of the Menasha Historical Society. Ethel’s grandfather, Capt. Falkland MacKinnon, a native Scotsman, served in the Royal Navy and was a member of Parliament. He came to this country in 1852 and while in New York City he met Gov. James Doty who invited him to visit Wisconsin. During his visit he prophesied this area would one day become a great manufacturing center. He went back to London and in 1854 returned to WI with 3 of his sons. He also brought along beef cattle, a Durham bull, sheep, chickens and a famous pedigreed horse, the “King of Cymry.”

He purchased the property which later became the George Banta residence on Keyes Street. He started up an excelsior mill near the Woodenware on the canal, had a pulley company and was president of the Island Paper Co.

Nicolet Blvd was formerly known as MacKinnon Ave. At that time it ran from Lake Winnebago on the east through to Little Lake Butte des Morts on the west. St. Patrick Church congregation is indebted to the captain for the property on which it stands.

When Ethel’s parents were married in 1880 they resided in the National Hotel, complete with outhouses at the end of each hall. This was the forerunner of the present Menasha Hotel. In 1882 they built the lovely home on the corner of First and Milwaukee Streets, which later became the Sunset Haven Nursing Home. Over the years several additions were constructed. The 1st floor consisted of front and back parlors, a music room, formal dining room, kitchen, pantries and bath. There were 7 bedrooms, a sleeping porch, sewing room and 3 baths on the 2nd floor and the 3rd floor boasted a ballroom. The staff consisted of a laundress, cook, maid and chauffeur. Their social life was very elegant with lots of parties and many dances. The house was always full of unexpected company. Teas and musicals, with imported musicians performing, also were popular with the hospitable MacKinnons.

Present:
Today the McKinnon home at 360 First Street is owned by our very own Menasha Historical Society members, Bob & Darlene Stevens. They purchased the 24 room home in 2001. One of their first projects was to remove all of the locks which the former owners had put on doors, cupboards, etc. due to housing foster children in their care. The Stevens presently live in ½ of the 1st floor while the other ½ is home to The House of Prayer for Christian ministry. They are presently in the process of remodeling the 2nd floor which will be used for a Christian retreat center and is called Sanctuary North. The 3rd floor is under consideration for remodeling in the distant future.
MAY EXCURSION-10,000 YEARS OF WISCONSIN HISTORY    THURS. MAY 12-9:00 AM
HENSCHEL'S INDIAN MUSEUM & TROUT FARM-HOLSTEIN RD., ELKHART LAKE

LEAVE FROM MEMORIAL BLDG. 9:00 A.M. (carpool/map/directions will be available)
Since the first Henschel homesteader settled in Sheboygan County in 1849, the family’s land has yielded evidence of 10,000 yrs. of human occupation. Today, the Henschel collection of prehistoric artifacts is one of the most complete in Wisconsin. These items trace the lives and times of the original culture inhabiting the area. This farm has been owned and run by 7 generations of Henschels. It was purchased from a man who had bought it from the Government. They were some of the few white people in the area and they got along well with the Indians. They had no idea their land was a large burial ground for Indians who had lived 3,000 yrs. before their time. It is not far from what is now the Sheboygan Marsh. About the same time Henschels purchased the farm someone purchased the surrounding lake. They and several owners after him tried unsuccessfully to drain the lake to build a beautiful city on its site. Therefore, it remains a marsh area to this day and needs to be drained each spring. Several Universities, politicians (Wm. Steiger & Tony Earl), friends and neighbors came to the Henschel’s aid during the hearings in Campbellsport, WI. when the DNR and the Dept. of the Interior tried to take the farm away from them. You will see how much this history means to this family and how respectful they are of these Indian burial remains. We will stop for lunch at Siebkens in Elkhart Lake surrounded by it’s beauty. The view alone is worth the trip.

IMPORTANT NOTICE-THE JUNE TOUR HAS BEEN CANCELLED. THE NEXT SCHEDULED MEETING OF THE SOCIETY WILL BE THE ANNUAL POTLUCK SUPPER IN SEPTEMBER. HAVE A NICE SUMMER AND WE WILL SEE YOU IN THE FALL

THANK YOU
Once again our willing and talented volunteer carpenters are hard at work (keeping 2 women happy!!). Bob Smarzinski and Tom Konetzke have now built 2 additional bookshelves in which to display our many shoes that were discovered while Katie and Jean were unpacking the last few boxes of stored items. We are utilizing every available floor and wall space to “show off” our beautiful artifacts and make the Resource Center/mini-museum a desirable place to visit.

POSITIONS WANTED
Board member to fill the recently vacated position
Miscellaneous help - inventorying, filing, etc. (Monday-9:00 a.m. - 12:30 p.m.)
Knowledge/experience cataloging collections/data for computerized references

ITEMS WANTED
Used paperback books - drop them off at the Resource Ctr/museum any Monday 9:00 am-12:30 pm or call Katie 725-3634 or Jean 722-7349 for other arrangements.
Lemon Cheese Bars – 24 bars-preparation time 15 min., baking time 27-30 min. (Katie LaMore)
1 pkg. plain lemon cake mix (18.25 ozs.)
1/3 cup veg. oil
2 large eggs
1 pkg. (8 ozs.) cream cheese at room temperature
1/3 cup sugar
2 T fresh lemon juice (1 lemon) and the zest (grated) from the lemon
Preheat oven to 350 degrees. Set aside ungreased 13 x 9 baking pan. Place cake mix, oil and 1 egg in lg. mixing bowl. Blend with elec. mixer on low speed for 2 min. Mixture should be crumbly. Reserve 1 cup for the topping. Transfer remaining to pan, patting down firmly with fingertips to reach all corners of pan. Bake crust until it is light brown 13-15 min. Remove pan from oven, leaving oven on.
Filling: Beat cream cheese with beaters till creamy and add sugar, lemon juice, 1 egg and lemon zest. Beat for 2 min. Place pan in oven and bake until crust is golden and filling sets. 15 min. Cool for 30 min. Cut into bars.

Date Crumb Bars -16 bars or make 1-1/2 batches for a 9 x 13 pan = 24 bars (Nancy Repella)
2 cups chopped dates
3/4 cup orange juice, divided
1 tsp. grated orange peel
1-1/2 C quick oatmeal
2 cups melted margarine
1-1/2 cups all purpose flour
1/2 cup brown sugar, packed
1/4 tsp. baking soda
1/2 tsp. salt
Cook dates with 1/2 cup juice in sauce pan for 5 min. until soft or thickens. Stir in remaining juice and peel. In a bowl combine oats, flour, sugar, baking powder, salt. Stir in melted margarine until mixed. Press 2/3 of mixture onto bottom of a 8 x 9 sq. pan. Spread date filling over crust. Cover filling with remaining crust, pressing down firmly.
Bake 375 degrees, 25 min. or until lightly brown. Cut into squares.

Brownie Goody Bars (Carol Sweet)
1 box (1 lb. 8 oz.) Betty Crocker fudge brownie mix (water, oil, eggs called for on the box)
1 container (1 lb.) rich & creamy or whipped vanilla frosting
3/4 cup salted peanuts, chopped
3 cups rice cereal
1 (12 oz.) bag of chocolate chips
1 cup peanut butter
Frost cooled brownies with frosting. Sprinkle with peanuts & refrigerate while making cereal mixture.
Melt peanut butter & chocolate chips. Pour over cereal in bowl. Stir. Spread on cooled brownies.
Bake 350 degrees in 9 x 13 greased pan about 25 min. (time on box). Cut when cool.

E M E Bars (Dolores Gear)
1-1/4 cups flour
1 tsp. salt
3/4 cup brown sugar
1/2 cup butter
Mix these ingredients and put in greased 9 x 13 pan. Bake 10 min. at 350 degrees. Cool a little.
Sprinkle 12 oz. can of mixed nuts on top.
Bring to boil slowly
(6 oz.) butterscotch chips
2 tsp butter
1 tsp. vanilla
2 tsp water
1/3 cup Karo syrup (lite)
Pour mixture over nuts in pan. Bake 10 min. at 350 degrees until bubbly.

Layer Bars (Dolores Gear)
1/3 cup butter, melted
1 (6 oz.) pkg. butterscotch chips
1 cup fine graham cracker crumbs (optional)
1 cup flaked coconut (optional)
1/6 oz.) pkg. chocolate chips
Melt butter in 13 x 9 x 2 pan. Sprinkle cracker crumbs over butter followed by coconut, chocolate chips, butterscotch chips and nuts. Bake 350 degrees for 30 min.
Memorandum

TO: Common Council
FROM: Mayor Merkes
SUBJECT: Menasha Attributes
DATE: 12 May 2011

I was encouraged to read in the City Guide about the high quality of life and lower than average cost to do business in the here. There are many things to consider when choosing a place to call home or start your business. Menasha offers a wide range of housing options, jobs in diverse fields, great schools, and numerous recreational opportunities, in a friendly atmosphere. The City Guide provided an overall picture for the Fox Valley. Menasha has many assets to highlight beyond what they were able to print.

Schools
Menasha residents benefit from excellent educational choices at every level – public and private, elementary, high school and post-secondary. The Menasha Joint School District educates over 3,600 children at seven locations. Kindergarten classes for 4-year-olds give hundreds of youngsters an important head start in their education, and the renowned K-12 World Language Program (the only one in the Fox Valley) manifests Menasha’s commitment to exposing students to various cultures. Menasha’s after-school program offers activities that combine academic enrichment, one-on-one tutoring and varied recreational activities helping children to succeed academically in accord with measurable outcomes. The district is the home of the energetic Bluejay Brigade Marching Band boasting national awards and the Fox Valley Association Champion Football team in 2010.

Menasha is proud to be the home of UW Fox Valley. The campus is known to provide private university attention at the reasonable cost of attending a public university. Home to the Aylward Gallery, Perry Theatre, Barlow Planetarium, and Weis Earth Science Museum the UW Fox campus is an enriching environment filled with fascinating programs and activities for people of all ages and areas of interest.

Employment
Long known to be a center of the paper and printing industry, Menasha continues to offer numerous family supporting jobs in those industries. Giants in the industry like SCA Tissue, Sonoco, and RR Donnelley are major employers in the community. Homegrown employers such as Advanced Tooling Specialists, Whiting Paper, & Earl Litho remain strong and growing. Menasha isn’t just about paper; companies like Faith Technologies, McClone Insurance, North Star Asset Management, Watters Plumbing, and Affinity Medical Group all call our community home.

Housing
Menasha is comprised of numerous neighborhoods with diverse housing opportunities. From the historic yet affordable homes of Doty Island to the luxurious homes of Woodland Hills. With an average price of a home in Menasha at only $111,067 the opportunity of ownership is available to many. For those interested in a hands on approach; historic homes in need of a little love offer homebuyers opportunity to grow their investment in the property and neighborhood. On the eastern side of the community new construction offers a turnkey opportunity for a new home. Menasha is also blessed with numerous lakefront and riverfront homes affording that resort atmosphere year round for residents.

140 Main Street • Menasha, Wisconsin 54952-3151 • Phone (920) 967-3600 • Fax (920) 967-5273
www.cityofmenasha-wi.gov
Cost of Living
The cost to live in a community is comprised of many things, while taxes tend to be what we focus on, fees and utilities play a large role in that total cost. Menasha is unique in the Fox Valley among cities having no special assessments for reconstruction of streets. Menasha’s municipal electric utility saves the average customer $15 every month on their electric bill. Menasha has no fee for residential garbage collection of 64 gallons or less weekly per parcel. Menasha’s K4 & afterschool programs save families on child care costs. Menasha’s convenient location central to Appleton, Oshkosh, and Darboy saves time and money with the high cost of transportation.

Looking at the total cost of living for an average $150,000 home in Menasha and elsewhere in the Fox Valley shows that living in Menasha all things considered can be more or less expensive than our neighbors.

<table>
<thead>
<tr>
<th></th>
<th>C. Menasha</th>
<th>T. Menasha</th>
<th>T. Menasha</th>
<th>C. Neenah</th>
<th>C. Menasha</th>
<th>C. Appleton</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Appleton Schools</td>
<td>Neenah schools</td>
<td>Menasha Schools</td>
<td>Neenah Schools</td>
<td>Menasha Schools</td>
<td>Appleton Schools</td>
</tr>
<tr>
<td>City Taxes</td>
<td>$1,453</td>
<td>$812</td>
<td>$812</td>
<td>$1,281</td>
<td>$1,453</td>
<td>$1,182</td>
</tr>
<tr>
<td>County Taxes</td>
<td>$662</td>
<td>$965</td>
<td>$965</td>
<td>$854</td>
<td>$864</td>
<td>$666</td>
</tr>
<tr>
<td>School Taxes</td>
<td>$1,304</td>
<td>$1,322</td>
<td>$1,431</td>
<td>$1,322</td>
<td>$1,431</td>
<td>$1,364</td>
</tr>
<tr>
<td>Total Taxes</td>
<td>$3,479</td>
<td>$3,089</td>
<td>$3,198</td>
<td>$3,457</td>
<td>$3,738</td>
<td>$3,457</td>
</tr>
<tr>
<td>Ave. electric cost (700kwh/month)</td>
<td>$973</td>
<td>$1,165</td>
<td>$1,165</td>
<td>$1,165</td>
<td>$973</td>
<td>$1,166</td>
</tr>
<tr>
<td>Storm Water Utility</td>
<td>$75</td>
<td>$100</td>
<td>$100</td>
<td>$84</td>
<td>$75</td>
<td>$125</td>
</tr>
<tr>
<td>Street Reconstruction</td>
<td>-$95</td>
<td>-$49</td>
<td>-$49</td>
<td>-$52</td>
<td>-$95</td>
<td>-$71</td>
</tr>
<tr>
<td>Trash Collection</td>
<td>$5</td>
<td>$145</td>
<td>$145</td>
<td>$5</td>
<td>$26</td>
<td>$26</td>
</tr>
<tr>
<td>Total</td>
<td>$4,437</td>
<td>$4,450</td>
<td>$4,559</td>
<td>$4,654</td>
<td>$4,896</td>
<td>$4,702</td>
</tr>
</tbody>
</table>

Recreation
Menasha is positioned incredibly well to capitalize on the continued popularity of silent sports. The city’s location at the mouth of the Fox River water trail system, center point of the multi use Friendship Trail, and two wetland conservancy areas, offer endless opportunities for experiencing wildlife, fishing, biking, kayaking, snowshoeing, walking, and cross country skiing.

Downtown continues to emerge as a unique dining and specialty retail shopping district anchored by the premier marina in the Fox Cities. Events like the Farm Fresh Market, parades, and summer music series are making the downtown even more desirable as a place to live or work.

Menasha offers many opportunities to compete in team athletics, or be a spectator. Koslo Field is home to league baseball several nights a week, complemented by league softball at Jefferson Park overlooking the waterfront. Youth Sports offers numerous activities and opportunities. Tennis courts at many parks throughout the community offer convenient access for residents across the community. The Menasha pool offers a family friendly activity throughout the summer.

Value
The characteristics described above illustrate that the city of Menasha is providing value to its residents and businesses for the tax dollars they are investing in the community. That value should be considered in the broader context of how well we are serving the needs of our community. We are continually striving to improve the efficiency and effectiveness of our facilities, programs and services to deliver the best value and quality of life for our residents.
Although Wisconsin is among the top 10 taxed states in the nation, Wisconsin citizens rank high in return for tax dollars invested.

In Fiscal Year 2007, the most recent year for which actual data is currently available, 54.1 percent of the state’s general fund expenditures were devoted to school aids, school tax relief, and higher education as follows:

- Elementary & Secondary $5.81 billion 44.3%
- Higher Education $1.28 billion 9.8%
- TOTAL $7.09 billion 54.1%

On both tax policy and quality of life measures, many organizations have found Wisconsin to be an attractive location, says Meredith Helgeson of the Department of Revenue. For example, according to the Fox Cities Chamber of Commerce:

- Wisconsin business taxes were lower than in 35 other states.
- A Milken Institute study found the cost of doing business in Wisconsin is 46% below the U.S. average.

The benefits of Wisconsin as a location for businesses and employees include low insurance costs, quality schools—both K-12 and higher education—low crime rates and 5-Star Quality of Life Metros.

The state is also attractive to business and industry because of a business tax exemption on manufacturing machinery and equipment. Other advantages in the Wisconsin tax code that aren't available in other states include: homestead tax relief for older citizens, a 60 percent exclusion on capital gains—vital for both large and small business—and the removal of inheritance taxes. Wisconsin has a 60 percent capital gains exclusion from income taxes.

And what about local taxes? A typical property tax bill is broken down into taxing jurisdictions—state, county, local (town, city, or village), school and technical college—for a total tax less a lottery aid and gaming credit and a school levy tax credit for a net tax owed.

Wisconsin’s ranking of other economic factors still makes it an average state for cost efficiency and income.

Statistics from the U.S. Census Bureau of Economic Analysis from 2007 tell us:

- Wisconsin has the 20th highest median household income of the 50 states.
- Wisconsin produces the 21st highest gross domestic product, at $232 billion dollars.
- Wisconsin is the 25th wealthiest state in personal income per capita.

Breaking down individual community and county tax rates is difficult because school districts overlap city and county boundaries in the Fox Cities. A prime example is the City of Appleton, which encompasses parts of three counties and four school districts. On an equalized basis, the average tax rate may be $2 per thousand of valuation.

### Local Property Tax Rates 2009*

<table>
<thead>
<tr>
<th>Location</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Appleton, Calumet County</td>
<td>21.07</td>
</tr>
<tr>
<td>City of Appleton, Outagamie County</td>
<td>21.46</td>
</tr>
<tr>
<td>City of Appleton, Winnebago County</td>
<td>22.23</td>
</tr>
<tr>
<td>City of Kaukauna</td>
<td>21.69</td>
</tr>
<tr>
<td>City of Menasha, Winnebago County</td>
<td>25.42</td>
</tr>
<tr>
<td>City of Neenah</td>
<td>22.76</td>
</tr>
<tr>
<td>Village of Combined Locks</td>
<td>19.34</td>
</tr>
<tr>
<td>Village of Hortonville</td>
<td>19.15</td>
</tr>
<tr>
<td>Village of Kimberly</td>
<td>20.06</td>
</tr>
<tr>
<td>Village of Little Chute</td>
<td>21.01</td>
</tr>
<tr>
<td>Village of Sherwood</td>
<td>21.02</td>
</tr>
<tr>
<td>Town of Buchanan</td>
<td>16.12</td>
</tr>
<tr>
<td>Town of Clayton</td>
<td>17.61</td>
</tr>
<tr>
<td>Town of Grand Chute</td>
<td>18.55</td>
</tr>
<tr>
<td>Town of Greenville</td>
<td>16.46</td>
</tr>
<tr>
<td>Town of Harrison</td>
<td>16.65</td>
</tr>
<tr>
<td>Town of Kaukauna</td>
<td>16.46</td>
</tr>
<tr>
<td>Town of Menasha</td>
<td>19.61</td>
</tr>
<tr>
<td>Town of Neenah</td>
<td>20.38</td>
</tr>
<tr>
<td>Town of Vandenbroek</td>
<td>17.01</td>
</tr>
</tbody>
</table>

**City of Appleton, Calumet County 25.18**

**Source:** Evans Telecommunications, on the Fox Cities Chamber of Commerce Web site

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Utilities

Wisconsin has consistently ranked among the lowest average electric rates in the nation. Natural gas is also available in much of the area. Fresh water is abundant and available through public-owned utilities, which use either Lake Winnebago or groundwater wells.

Analog, digital and fiber optic phone service is available in the Fox Cities. Seven major long-distance and 50 access carriers serve the Fox Cities. In addition, several cellular service carriers have towers throughout the area.

Insurance

Ever consider that you might receive a salary increase from an unexpected source when relocating to the Fox Cities?

Wisconsin homeowner and auto insurance rates are among the lowest in the nation. Newcomers can typically look at the average 25 percent decrease in insurance premiums here when compared with the East Coast as a raise in pay.

While Wisconsin, over the last few years, has been hit with many claims from natural disasters such as hail and wind, and in some areas, flooding, the rate increases are still reasonable when compared with the rest of the nation. A homeowner policy based on average home values costing $1,200 annually on the East Coast in Illinois would only cost about $800 in the Fox Cities.

Average Sold Price

The following are average sale prices for residential properties sold, excluding new construction, comparing the January-August time frame of 2008 and the January-June time frame of 2009 for the municipalities listed.

Though the national real estate crisis of the past year has not left the Fox Cities completely untouched, this area still boasts a stable market. The economically conservative practices of our residents and housing prices that have always increased slowly and steadily have lead to relatively little fluctuation in home prices, despite the national outlook.

The following represents Closed Residential properties, including condos, from January 1, 2010-November 30, 2010, for the following municipalities:

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Median Sold Price</th>
<th>Average Sold Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Appleton</td>
<td>$119,900</td>
<td>$143,975</td>
</tr>
<tr>
<td>Town of Buchanan</td>
<td>$135,000</td>
<td>$183,939</td>
</tr>
<tr>
<td>Village of Combined Locks</td>
<td>$126,750</td>
<td>$159,025</td>
</tr>
<tr>
<td>Town of Grand Chute</td>
<td>$167,000</td>
<td>$185,352</td>
</tr>
<tr>
<td>Town of Greenville</td>
<td>$190,000</td>
<td>$200,289</td>
</tr>
<tr>
<td>Town of Harrison</td>
<td>$179,450</td>
<td>$194,177</td>
</tr>
<tr>
<td>City of Kaukauna</td>
<td>$114,531</td>
<td>$117,151</td>
</tr>
<tr>
<td>Town of Kaukauna</td>
<td>$245,000</td>
<td>$291,883</td>
</tr>
<tr>
<td>Village of Little Chute</td>
<td>$116,450</td>
<td>$126,756</td>
</tr>
<tr>
<td>City of Menasha</td>
<td>$104,700</td>
<td>$111,067</td>
</tr>
<tr>
<td>Town of Menasha</td>
<td>$136,500</td>
<td>$164,726</td>
</tr>
<tr>
<td>City of Neenah</td>
<td>$123,000</td>
<td>$151,082</td>
</tr>
<tr>
<td>Town of Neenah</td>
<td>$195,500</td>
<td>$198,715</td>
</tr>
</tbody>
</table>

Disclaimer: This representation is based in whole or in part on data supplied by the REALTORS Association of Northeast Wisconsin or its MLS for the period of 01/01/10 through 11/30/10. Neither the Association nor its MLS guarantees or is in any way responsible for its accuracy. Data maintained by the Association or its MLS may not reflect all real estate activity in the above named municipalities of the RANW MLS.

Housing Samples

- Location: Kaukauna
  - Price: $669,900
  - Square Feet: 5,324

- Location: Greenville
  - Price: $379,900
  - Square Feet: 3,700

- Location: Menasha
  - Price: $209,900
  - Square Feet: 2,490

- Location: Neenah
  - Price: $549,900
  - Square Feet: 4,887

- Location: Appleton
  - Price: $209,900
  - Square Feet: 2,033

- Location: Little Chute
  - Price: $139,900
  - Square Feet: 1,357
May 4, 2011

Mayor Merkes and Members of the City of Menasha Police Commission,

After careful consideration of recent activity at the state level regarding proposed changes in retirement and insurance benefits I am submitting my letter of retirement to be effective June 6, 2011.

It has truly been and honor and a privilege serving the citizens of Menasha and being a member of the Menasha Police Department. I have been quite fortunate to have been associated with two very supporting Mayors, a number of supporting City Councils as well as supporting Police Commissions and an excellent team of Department Heads.

I am also quite lucky to have an excellent supporting cast of police officers and support staff, all of which made my tenure enjoyable. I feel that we have made considerable progress in the areas of training and education. It has always been my goal to work closely with the citizens of Menasha and to collaboratively deal with issues as they arose and I believe we have made progress in that area.

The City of Menasha has become my home and I am proud that I was able to raise my children here and be a resident of Menasha for the past 40 years.

If I can ever be of any assistance in the future, please feel free to call on me.

Sincerely,

Bob Stanke
Chief of Police
Menasha Police Department
MEMORANDUM

To: Mayor, Common Council and Park Board

From: PRD Tungate

Date: May 11, 2011

RE: Kayak/Canoe Launch Dedication

You are invited to attend a short ceremony to officially open the two donated launch sites in the city. The ceremony will be held at 6:00 p.m. on Tuesday, May 24 at the Jefferson Park launch which is near the corner of Green Bay and Broad Streets. The event will be attended by representatives from the Friends of the Fox and Fox Cities Greenways organizations as well as other interested individuals.
Memorandum

DATE: May 11, 2011

TO: Menasha Common Council

FROM: Mark Radtke, Director of Public Works

RE: Consent Agenda Items G.2., G.3., and G.4. (Recommendation to Award City of Menasha Wastewater Collection System Contracts)

The Common Council will be considering three contract awards listed on the Consent Agenda at its May 16, 2011 meeting. The Board of Public Works recommended these contracts to the Council at its May 2, 2011 meeting. The City of Menasha applied for Clean Water Fund (CWF) low interest loans to fund these contracts. We are still awaiting the receipt of the CWF application approval letter from the Wisconsin Department of Natural Resources (WisDNR). It is anticipated we will receive the approval letter in the near future. Because we have not yet received the letter from WisDNR, we are recommending the Council make the following conditional approval motions at Monday’s meeting.

G.2. Recommendation to award on the condition the City receives a Clean Water Fund application approval letter – City of Menasha Wastewater Collection System Rehabilitation Improvements Phase 4 Project; Contract E145-11-01A; Terra Engineering & Construction Corp. of Madison, WI; $528,640.50.

G.3. Recommendation to award on the condition the City receives a Clean Water Fund application approval letter – City of Menasha Wastewater Collection System Rehabilitation Improvements Phase 4 Project; Contract E145-11-01B; Van Straten Construction Co., Inc. of Green Bay, WI; $219,206.00

G.4. Recommendation to award on the condition the City receives a Clean Water Fund application approval letter – City of Menasha Wastewater Collection System Rehabilitation Improvements Phase 4 Project; Contract E145-11-01C; Infrastructure Technologies, Inc. of Rhinelander, WI; $40,825.00

C: Pam Captain, City Attorney
    Taryn Nall, Kaempfer & Associates, Inc.
A. CALL TO ORDER
   Meeting called to order by Mayor Merkes at 6:00 p.m.

B. PLEDGE OF ALLEGIANCE
   A Moment of Silence was observed for former Alderman Robert Winarski who passed away on
   April 24, 2011

C. ROLL CALL/EXCUSED ABSENCES
   PRESENT: Aldermen Taylor, Sevenich, Langdon, Krueger, Zelinski, Englebert, Benner, Klein
   ALSO PRESENT: Mayor Merkes, CA/HRD Captain, PC Stanke, FC Auxier, DPW Radtke, CDD Keil,
   C/T Stoffel, PRD Tungate, PHD Nett, Clerk Galeazzi and the Press

D. PUBLIC HEARING
   None

E. PUBLIC COMMENTS ON ANY MATTER OF CONCERN TO THE CITY
   (five (5) minute time limit for each person)
   Kathy Bauer, 709 Lincoln Street. New Council needs to work together to innovate ways to solve financial
   issues of City.

F. REPORT OF DEPARTMENT HEADS/STAFF/CONSULTANTS
   1. Police Chief Stanke – Presentation of the NAMI CIT Officer of the year award to Chris Groeschel

      PC Stanke presented Officer Chris Groeschel with the 2010 CIT Officer of the Year Award from the
      National Alliance on Mental Illness, Fox Valley. A Crisis Intervention Officer (CIT) is trained to spot
      mental illness and provide assistance to those living with mental illness and their families. Currently
      the Menasha Police Department has nine officers trained as CIT Officer.

   2. Friends of the Fox & Fox Cities Greenways Inc. – Donation of two kayak/canoe access docks

      Representatives from Friends of the Fox and Fox Cities Greenways presented Mayor Merkes and
      PRD Tungate with a donation of $4,400 for two kayak/canoe floating access docks. One dock will be
      on the far west end of Jefferson Park and the other just outside the east end of the Marina along the
      Riverwalk. The City of Menasha was selected as an important access site for kayaks and canoes.

   3. Tracy Salisbury WDNR Northeast Region Urban Forestry Coordinator – Presentation of 28th consecutive
      Tree City, USA award

      Tracy Salisbury, WDNR Northeast Region Urban Forestry Coordinator presented Mayor Merkes and
      PRD Tungate with a Tree City USA, Arbor Day Foundation flag for being a Tree City USA for the 28th
      consecutive year. Ms. Salisbury explained the criteria that must be met to be a Tree City USA.
      She also recognized the City for receiving the Growth Award for their tree inventory and completing
      an Emerald Ash Borer plan. PRD Tungate reported on the Arbor Day observation held at Clovis Grove
      School. The City joined with SCA Tissue and students to plant 25 trees in the Clovis Grove School
      neighborhood.
F. REPORT OF DEPARTMENT HEADS/STAFF/CONSULTANTS, cont’d.
   4. Clerk Galeazzi - the following minutes and communications have been received and placed on file:
      Minutes to receive:
      a. Administration Committee, 4/19/11
      b. Board of Public Works, 4/19/11
      c. Board of Health, 3/9/11
      d. Committee on Aging, 3/10/11
      e. Library Board, 4/21/11
      f. Library Director Search Committee, 4/13/11
      g. NM Fire Rescue Joint Finance & Personnel Committee, 4/26/11
      h. NM Fire Rescue Joint Fire Commission, 4/27/11
      i. NM Sewerage Commission, 3/22/11
      j. Parks & Recreation Board, 4/11/11
      k. Personnel Committee, 4/19/11
      l. Plan Commission
      m. Safety Committee, 2/4/11; City Hall
      n. Safety Committee, 3/22/11; Public Works/Parks Department
      Communications:
      o. Calumet County Treasurer, 4/12/11; Notice of foreclosure
      p. Mayor Merkes, 4/28/11; 2010 Utility Commission Appointment
      q. PWD Radtke, 4/27/11; WDNR Annual Report under MS4

     Ald. Zelinski: Minutes L (Plan Comm.), discussion held on TID #12. CDD Keil explained the comments made by the Plan Commissioners on TID #12.

G. CONSENT AGENDA
   (Prior to voting on the Consent Agenda, items on the Consent Agenda may be removed at the request of any Alderman and placed immediately following action on the Consent Agenda. The procedures to follow for the Consent Agenda are: (a) removal of items from Consent Agenda; and (b) motion to approve the items from Consent Agenda.)

Minutes to approve:
1. Common Council, 4/19/11
2. New Common Council, 4/19/11
   Administration Committee, 4/19/11; recommends approval of:
   3. Approval of proposed fees for the licensing period July 1, 2011-June 30, 2012:
      a) DHS Agent of the State; b) DATCP Agent of the State; c) Tattoo Parlor/Body Piercing Establishments.
   Board of Public Works, 4/19/11; recommends approval of:
   4. Street Use Application – Memorial Day Parade; Monday, May 30, 2011; 8:00 AM – 10:30 AM
      (Neenah American Legion Post 33)
   NM Fire Rescue Joint Finance & Personnel Committee, 4/26/11; recommends approval of:
   5. The Automatic Aid Agreement as amended

   Ald. Langdon requested to remove item 5 (Automatic Aid Agreement) from Consent Agenda.

   Moved by Ald. Sevenich, seconded by Ald. Englebert to approve items 1-4 of Consent Agenda
   Motion carried on roll call 8-0.

H. ITEMS REMOVED FROM CONSENT AGENDA
      Discussion: FC Auxier explained the agreement and showed on the map the area included in the agreement. Discussion ensued on when agreement was first discussed, benefits to both cities, cost savings. Motion carried on roll call 8-0.
I. ACTION ITEMS

1. **Accounts payable and payroll for the term of 4/21/11 to 4/28/11 in the amount of $857,855.72**
   Moved by Ald. Klein, seconded by Ald. Zelinski to approve accounts payable and payroll.
   Motion carried on roll call 8-0.

2. **“Class A” Liquor License Application. Quik Mart Menasha LLC, Satnam Gill, 1515 Appleton Road, for the 2010-2011 licensing year**
   Moved by Ald. Sevenich, seconded by Ald. Klein to approve “Class A” liquor license.
   Discussion: Clerk Galeazzi and PC Stanke explained it was discovered in a background that the applicant received citations that were not disclosed on the liquor license applications. PC Stanke recommended denial of the application based on the applicant’s failure to disclose the convictions. Atty. Edward Jelinski, representing Satnam Gill, explained that English is a second language of his client and that his client did not understand the procedure when completing the liquor license application. Atty. Jelinski also explained the circumstances that led to the convictions.
   Motion carried on roll call 5-3.
   Ald. Klein, Sevenich, Langdon, Englebert, Benner – yes
   Ald. Taylor, Krueger, Zelinski - no

3. **Greenwood Fuels Letter of Intent**
   Ted Hansen from Greenwood Fuels spoke to the Council on the Letter of Intent from Greenwood Fuels to the City of Menasha and Menasha Utilities on the proposed purchase of the steam utility facility. Mr. Hansen gave a brief history of Greenwood Fuels and their intent for the facility. He told the Council the Letter of Intent is non-binding. This is all in the preliminary stages. Greenwood Fuels is exploring their options to determine if the facility has potential to use their fuel product to produce electricity.
   Moved by Ald. Benner, seconded by Ald. Krueger to approve the Letter of Intent from Greenwood Fuels.
   Motion carried on roll call 8-0.

J. ORDINANCES AND RESOLUTIONS

1. **R-18-11 – Resolution Terminating TIF District No. 2 and Authorizing City Treasurer to Distribute Excess Increment to Overlying Taxing Districts**
   Moved by Ald. Sevenich, seconded by Ald. Langdon to adopt R-18-11.
   Motion carried on roll call 8-0.

2. **R-19-11 - Resolution Approving Application to Board of Commissioners of Public Lands to Borrow $350,000 from the State Trust Funds, Authorizing the Borrowing and the Issuance of Certificates of Indebtedness and Levying a Tax in Connection Therewith. (Ribblesdale and Woodland Hills Street Construction Project)**
   Moved by Ald. Sevenich, seconded by Ald. Englebert to adopt R-19-11.
   Moved by Ald. Krueger, seconded by Ald. Langdon to hold.
   Item is held.

3. **R-20-11 - Resolution Approving Application to Board of Commissioners of Public Lands to Borrow $1,000,000.00 from the State Trust Funds, Authorizing the Borrowing and the Issuance of Certificates of Indebtedness and Levying a Tax in Connection Therewith. (Refinance Loan – First National Bank-Fox Valley-Sonoco Settlement)**
   Moved by Ald. Sevenich, seconded by Ald. Krueger to adopt R-20-11.
   Motion carried on roll call 8-0.
K. APPOINTMENTS
   1. Mayor’s reappointment of at large member to the Heckrodt Wetland Reserve Board
      a. Sheila Brucks, 238 Butte des Mortes Dr., for the term of April 19, 2011 – April 19, 2012
         Moved by Ald. Benner, seconded by Ald. Langdon to approve appointment
         Motion carried on voice vote.

   2. Mayor’s appointment to the Police Commission
      a. Jason Dionne, 394 Walnut St., for the term of May 1, 2011 – May 1, 2016
         Moved by Ald. Benner, seconded by Ald. Zelinski to approve appointment.
         Motion carried on voice vote.

   3. **Accept resignation of Steve Krueger from Parks & Recreation Board**
   4. Mayor’s appointment to the Parks & Recreation Board
      a. Luke Schiller, 389 Nassau St., for the term of May 1, 2011 – October 1, 2013
         Moved by Ald. Benner, seconded by Ald. Englebert to accept resignation of Steve Krueger and
         approve appointment of Luke Schiller.
         Motion carried on voice vote.

L. HELD OVER BUSINESS
   None

M. CLAIMS AGAINST THE CITY
   None

N. PUBLIC COMMENTS ON ANY MATTER LISTED ON THE AGENDA
   (five (5) minute time limit for each person)
   Mary Nebel, 713 First Street. Comments on Automatic Aid Agreement.

O. ADJOURNMENT
   Moved by Ald. Sevenich, seconded by Ald. Benner to adjourn at 7:41 p.m.
   Motion carried on voice vote.

Respectfully submitted by Deborah A. Galeazzi, WCMC, City Clerk
Plan Commission  
Resolution 1-2011

RECOMMENDING APPROVAL OF THE PROJECT PLAN AND BOUNDARY OF  
TAX INCREMENT DISTRICT #12  
CITY OF MENASHA, WISCONSIN

WHEREAS, the City of Menasha is proposing to create Tax Incremental District #12 for the  
purpose of stimulating mixed-use development in the Lake Park Road corridor and to provide  
opportunities for investment and economic development, and;

WHEREAS, it is desirable and in the best interest of the City to adopt the project plan for TID  
#12 to create additional redevelopment opportunities within and in proximity to TID #12, and;

WHEREAS, on April 19, 2011, the Menasha Plan Commission held a duly noticed public  
hearing at which interested parties were afforded a reasonable opportunity to express their  
views on the proposed TID #12 Project Plan and boundary,

NOW THEREFORE, BE IT RESOLVED THAT:

Section 1. Pursuant to Section 66.1105(4)(f) of the Wisconsin Statutes the Plan Commission  
adopts the project plan and boundary of the proposed TID #12 for the purpose of promoting  
mixed-use development within and outside of the district. Implementation of the plan will require  
expenditures relating to planning and design development, the write-down of land acquisition,  
improvement and amenity costs, the installation of landscape, streetscape and signage  
enhancements, street improvements, utility and lighting improvements, the installation of  
bike/pedestrian trails, the construction of stormwater management facilities, the installation of  
utilities and infrastructure, the provision of development assistance, site assembly marketing  
and administrative costs and other related expenditures as may be necessary to achieve the  
objectives of the project plan.

Section 2. The project plan contemplates expenditures for improvements on streets, utilities,  
bike/pedestrian trails, landscape, and related improvements outside of the district that are  
necessitated by the project plan for the district pursuant to Wis. Stat. 66.1105(2)(i) and  
66.1105(2)(j).

Section 3. Such project plan expenditures are necessary to promote the development of the  
proposed TID #12 and adjoining lands.

Section 4. The Menasha Plan Commission finds that the project plan for TID #12 is feasible  
and is in conformance with the master plan for the city.

Section 5. The Menasha Plan Commission recommends Common Council approval and  
adoption of the Project Plan and Boundary of Tax Increment District #12.

Adopted: APRIL 19, 2011

Don Merkes, Mayor

Attest Deborah A. Galeazzi, City Clerk
CITY OF MENASHA DISBURSEMENTS

Accounts Payable for 5/5/11-5/12/11
Checks # 29445-29571  $ 412,910.49

Payroll Checks for 5/5/11-5/12/11  159,003.82

Total  $ 571,914.31

Medical Expense Reimbursement Trust-Retirement Pay Out

Menasha Employees Credit Union-Employee Deductions

Wisconsin Council 40 Per Capita Tax-Union Dues

Wisconsin Support Collections-Child/Spousal Support

United Way-Employee Donations

**A gap in check numbers is due to more invoices being paid than fits on one check stub. In that case the last check stub used for that vendor is the check number that will show on the check register.
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### AP Check Register

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Total: $143,655.20
April 12, 2011

To: Common Council

From: Debbie Galeazzi, Clerk

Subject: Class "B" Liquor License for Menasha Athletic Association and Menasha Twins Baseball (Legion Team)

Applications for a 6-month Class "B" Liquor License for Menasha Athletic Association (MAC) and Menasha Twins Baseball (Legion Team) for May 16, 2011 to October 31, 2011 are on the agenda for consideration. The licensed premise will be the concession stand at Koslo Park.

The Police Department has done background checks and has no objection to issuing the license.

All necessary inspections by the Fire Department, Health Department and Building Inspectors have been completed and are in compliant.
RENEWAL ALCOHOL BEVERAGE LICENSE APPLICATION
Submit to municipal clerk. Read instructions on reverse side.

For the license period beginning: 05/02/2011 ending: 10/31/2011

TO THE GOVERNING BODY OF the: [ ] Town of [ ] Village of [ ] City of MENASHA

County of WINNEBAGO [ ] Aldermanic Dist. No. [ ] (If required by ordinance)

CHECK ONE [ ] individual [ ] Partnership [ ] Limited Liability Company
[ ] Corporation/Nonprofit Organization

Complete A or B. All must complete C.

A. Individual or Partnership:

Full Name(s) (Last, First and Middle Name) ___________________________ Home Address ___________________________

Post Office & Zip Code ___________________________


Address of Corporation/Limited Liability Company (if different from licensed premises) [ ] P.O. Box 343, Menasha 54952

All Officer(s)/Director(s) and Agent of Corporation and Members/Managers and Agent of Limited Liability Company:

Title [ ] President/Member [ ] Vice President/Member [ ] Secretary/Member [ ] Treasurer/Member [ ] Agent

Name (Inc. Middle Name) ___________________________ Home Address ___________________________

Post Office & Zip Code ___________________________

Business Phone Number ___________________________

Directors/Managers

C. 1. Trade Name [ ] Kesho Park - Geneva Road ______ Post Office & Zip Code [ ] Menasha, WI 54952


3. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers? [ ] Yes [ ] No

4. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) Kesho Park concessions & coolers.

5. Legal description (omit if street address is given above):

6. a. Since filing of the last application, has the named licensee, any member of a partnership licensee, or any member, officer, director, manager or agent for either a limited liability company licensee, corporation licensee, or nonprofit organization licensee been convicted of any offenses (excluding traffic offenses not related to alcohol) for violation of any federal laws, any Wisconsin laws, any laws of other states, or ordinances of any county or municipality? [ ] Yes [ ] No

b. Are charges for any offenses presently pending (excluding traffic offenses not related to alcohol) against the named licensee or any other persons affiliated with this license? [ ] Yes [ ] No

7. Except for questions 6a and 6b, have there been any changes in the answers to the questions as submitted by you on your last application for this license? If yes, explain. [ ] Yes [ ] No

address change - President & Agent [ ] Yes [ ] No

8. Was the profit loss from the sale of alcohol beverages for the previous year reported on the Wisconsin Income or Franchise Tax return of the licensee? If not, explain.

9. Does the applicant understand a Wisconsin Seller's Permit must be applied for and issued in the same name as that shown under Section A or B above? [ ] Yes [ ] No

10. Does the applicant understand that alcohol beverage invoices must be kept at the licensed premises for 2 years from the date of invoice and made available for inspection by law enforcement? [ ] Yes [ ] No

11. Is the applicant indebted to any wholesaler beyond 15 days for beer or 30 days for liquor? [ ] Yes [ ] No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signers. Signers agree to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants and each member of a partnership applicant must sign: corporate officer(s), members/managers of Limited Liability Companies must sign.)

SUBSCRIBED AND SWORN TO BEFORE ME

this _____ day of March, 2011

My commission expires __________ 12-23-12

TO BE COMPLETED BY CLERK

かかる日期と、地方公共団体の責任者に提出

Signature of Clerk/Deputy Clerk ___________________________

Wisconsin Department of Revenue

AT-115 (R. 3-09)
RENEWAL ALCOHOL BEVERAGE LICENSE APPLICATION

Submit to municipal clerk. Read instructions on reverse side.

For the license period beginning: 05/02/2011, ending: 10/31/2011

TO THE GOVERNING BODY of the: ○ Village of MENASHA

☑ City of MENASHA

County of WINNEBAGO

Aldermanic Dist. No. (if required by ordinance)

CHECK ONE □ Individual □ Partnership ○ Corporation □ Nonprofit Organization □ Limited Liability Company

Complete A or B. All must complete C.

A. Individual or Partnership:
   ▶ Full Name(s) (Last, First and Middle Name) Home Address Post Office & Zip Code

B. Full Name of Corporation/Nonprofit Organization/Limited Liability Company ▶ MENASHA TWINS
   Address of Corporation/Limited Liability Company (if different from licensed premises) ▶ 309 NINTH ST

All Officer(s) Director(s) and Agent of Corporation and Members-Managers and Agent of Limited Liability Company:

Title Name (Inc. Middle Name) Home Address Post Office & Zip Code
President/Member JEFF CHEW 1309 9TH ST MENASHA 54952
Vice President/Member DEREK CHEW 1309 9TH ST MENASHA 54952
Secretary/Member SCOTT MILLIGAN 708 10TH ST
Treasurer/Member BRIAN JUUSMA 1309 NINTH ST
Agent DEREK CHEW 1309 9TH ST

Directors/Managers

C. 1. Trade Name ▶ GENOA RD Business Phone Number
   2. Address of Premises ▶ 309 NINTH ST Post Office & Zip Code ▶ MENASHA 54952
   3. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers? □ Yes □ No
   4. Premises description: Describe building or buildings where alcohol beverages are to be sold and stored. The applicant must include all rooms including living quarters, if used, for the sales, service, and/or storage of alcohol beverages and records. (Alcohol beverages may be sold and stored only on the premises described.) KOSLO PARK CONCESSION STAND
   5. Legal description (omit if street address is given above):

   a. Since filing of the last application, has the named licensee, any member of a partnership license, or any member, officer, director, manager or agent for either a limited liability company license, corporation license, or nonprofit organization license been convicted of any offenses (excluding traffic offenses not related to alcohol) for violation of any federal laws, any Wisconsin laws, any laws of other states, or ordinances of any county or municipality? □ Yes □ No
   b. Are charges for any offenses presently pending (excluding traffic offenses not related to alcohol) against the named licensee or any other persons affiliated with this license? □ Yes □ No
   7. Except for questions 6a and 6b, have there been any changes in the answers to the questions as submitted by you on your last application for this license? □ Yes □ No
   8. Was the profit or loss from the sale of alcohol beverages for the previous year reported on the Wisconsin income or Franchise Tax return of the licensee? If not, explain. NON-PROFIT USA □ Yes □ No
   9. Does the applicant understand a Wisconsin Seller's Permit must be applied for and issued in the name as that shown under Section A or B above? [phone (608) 266-2778] □ Yes □ No
   10. Does the applicant understand that alcohol beverage invoices must be kept at the licensed premises for 2 years from the date of invoice and made available for inspection by law enforcement? □ Yes □ No
   11. Is the applicant indebted to any wholesaler beyond 15 days for beer or 30 days for liquor? □ Yes □ No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signers. Signers agree to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants and each member of a partnership applicant must sign; corporate officer(s), member/managers of Limited Liability Companies must sign.)

SUBSCRIBED AND SWORN TO BEFORE ME this 30th day of March, 2011

[Signature]

My commission expires 3-10-13

(Officer of Corporation/Member/Manager of Limited Liability Company/Partner/Individual)

(Additional Partner(s)/Member(s)/Manager(s)/Partner(s) of Limited Liability Company if Any)

TO BE COMPLETED BY CLERK

Date received and filed with Revenue Dept. License number issued
30-0 - 11 00075

Date reported to central board Date license granted

Date licensed issued Signature of Clerk / Deputy Clerk

Wisconsin Department of Revenue
ORDINANCE O-5-11

AN ORDINANCE RELATING TO OVERNIGHT PARKING
(Marina Place Lower Level Parking Lot)

INTRODUCED BY ALDERMAN ZELINSKI

The Common Council of the City of Menasha does hereby ordain as follows:

SECTION 1: Amend Title 10, Article C, SEC.10-1-30(d) of the Code of Ordinances of the City of Menasha, Wisconsin as follows:

Title 10 – Motor Vehicles and Traffic

ARTICLE C
Parking Regulations

SEC. 10-1-30 PUBLIC PARKING AREAS; PERMITTED PARKING AREAS.

... (d) Permit Parking
(1) Overnight parking shall be by permit issued by the Police Department or Harbor Master in the Broad Street Lot, the Chute Street Lot, and the Center Street Lot. Overnight parking at the east end of the Marina Place Lower Level Surface Parking Lot (up to seven (7) stalls) shall be by permit issued by the Police Department.

... (1) The permit fee shall be set and may be adjusted from time to time by the Common Council upon the recommendation of the ad-hoc parking committee.
(2) Vehicles shall be moved every 24 hours. All vehicles parked in City lots must be moved at least once every 72 hours.
(3) There shall be no parking of trailers, recreational vehicles, converted buses and commercial vehicles in any of these lots.

... (h) Parking in the Center Street Lot (Marina) is restricted to vehicles with a Menasha Marina sticker from April 1 through October 31.

SECTION 2: This amending Ordinance shall take effect upon passage and publication as provided by law.

Passed and approved this day of , 2011.

Donald Merkes, Mayor

ATTEST:

Deborah A. Galeazzi, City Clerk
RESOLUTION
R – 21 – 11

A RESOLUTION CREATING TAX INCREMENTAL DISTRICT NO. 12 IN THE CITY OF MENASHA,
WISCONSIN.

Introduced by Mayor Merkes.

WHEREAS, Section 66.1105 of the Wisconsin Statutes provides the authority and procedure for
creating Tax Incremental Districts for the purpose of financing certain public improvements; and,

WHEREAS, A PUBLIC HEARING HAS BEEN HELD, AFTER NOTICES REQUIRED BY LAW, all
pursuant to Wisconsin Statutes Section 66.1105(4)(a) and 66.1105 (4)(c) regarding the establishment of a Tax
Incremental District in the City of Menasha; and,

WHEREAS, the City convened a Joint Review Board to review the proposed District; and,

WHEREAS, the Planning Commission has submitted to the Common Council its proposed
recommendation of boundaries and a project plan for the creation of the Tax Incremental District No. 12.

NOW THEREFORE, BE IT RESOLVED, the Common Council of the City of Menasha, Wisconsin:

1. Deems the creation of the Tax Incremental District to be in the public interest and for a proper
public purpose.

2. Declares that January 1, 2011, is the date of creation of said Tax Incremental District No. 12, City
of Menasha, Calumet County, Wisconsin.

3. Declares that the district is a mixed-use district.

4. Finds and determines that:
   a. The project plan for TID #12 is feasible and is in conformance with the master plan of the
city;
   b. Not less than 50 percent, by area, of the real property within the district hereby created is
suitable for mixed-use development pursuant to Section 66.1105(4)(gm)(4)(a);
   c. Real property within the district that is found suitable for industrial use will remain zoned for
industrial use for the life of the tax increment district;
   d. The improvements of the area are likely to enhance significantly the value of substantially all
of the other real property in the district;
   e. The project costs relate directly to promoting the mixed-use development of the area,
consistent with the purpose of which the district is created;
   f. The equalized value of the taxable property of the district plus the value increment of all
existing districts does not exceed twelve percent of the total equalized value of taxable
property within the City of Menasha.

5. Accepts and adopts the TID #12 Project Plan and the district boundaries which are part of the
TID #12 Project Plan attached hereto as Exhibit A.

Passed and approved this ___16___ day of May, 2011.

______________________________________________
Don Merkes, Mayor

Attest:

______________________________________________
Deborah Galeazzi, City Clerk
City of Menasha
Tax Increment District #12
Project Plan

April, 2011
INTRODUCTION

Wisconsin’s Tax Incremental Financing law provides a mechanism that enables cities and villages to rehabilitate blighted areas, improve business areas, facilitate mixed-use development and/or develop industrial sites. The intent is to stimulate development that would not otherwise occur absent the infusion of resources from the TIF district. The cost of improvements in a Tax Incremental District (TID) is recovered from tax revenues generated by new development in the district.

Tax incremental financing enables the tax increment generated from private investment in the district to be applied to the repayment of obligations incurred by the municipality. When the cost of improvements has been recovered and the debt service and/or other obligations attributable to the district have been retired, the TID is dissolved and all taxing jurisdictions benefit from increased tax revenues on the same shared basis as before the creation of the TID.

Tax incremental financing provides benefits to all taxing entities, city, county, public schools, and technical college, by promoting development of new taxable value which otherwise would not occur. It provides a tool for municipalities to invest in projects using local financing sources to meet identified needs and fill legitimate public purpose roles. The law also recognizes that since municipalities do not share the investment risk with other tax entities, they are entitled within a prescribed period of time to receive all new tax revenues of the TID as the source of paying off all public investment costs. All other taxing entities continue to receive taxes on the value of the property as of the date of creation and will also receive benefits in the future from the increased tax base generated as a result of the city’s investment in the TID.

PURPOSE

The City of Menasha is proposing the creation of Tax Increment District #12 to promote mixed-use development in proximity to STH 114 and CTH LP. Implementation of TID #12 Project Plan will stimulate residential and commercial development and provide necessary public facilities and amenities to support the development. Upon completion, the project is estimated to yield $46 million in new tax base and support and create opportunities for residential and commercial growth.

Tax increment financing is essential to the successful development of this property. Without accessing TIF resources, the land and improvement costs would result in sale prices for developed parcels that would exceed the asking price for comparable sites elsewhere in the market. The unavailability of utilities and street access are barriers to the growth and development of this area. TIF funding is proposed to install the necessary infrastructure and write down the purchase price of the improved parcels so that land acquisition costs for prospective homeowners and businesses will be competitive.

Developed parcels within the boundary of TID #12 have been marketed without success as there have been no lot sales in over three years. Land and improvement costs, and site access has likewise hampered the sale of vacant land. It is only through the leverage provided by TIF funds that the property can be expeditiously developed. Upon full development this project is projected to yield $46 million in new tax base and support over 170 new jobs while creating opportunities for about 200 new single and multi-family dwelling units. If the TID is not created, the undeveloped property will likely remain in an undeveloped state for many years. The city’s
cost for carrying unimproved, tax exempt lands will continue to burden the city’s general property tax. It is in the interest of all the taxing entities to bring about high quality, high value development of this property as rapidly as possible. Creating TID #12 provides the means for achieving this objective.

DISTRICT NAME

The name of the district is City of Menasha Tax Incremental District #12.

CREATION DATE

The date of creation for the purpose of establishing the base value of the TID #12 is January 1, 2011.

PROJECT LOCATION AND BOUNDARIES

TID #12 is located north of STH 114 and west of CTH LP (Lake Park Road). Map 1 depicts the site location and the boundaries of TID #12.
City of Menasha
Proposed Tax Incremental District #12
PROPERTY CONDITIONS AND STATEMENT OF FINDINGS

Wisconsin Statute 66.1105(4)(gm)(4) provides that certain conditions must be present within the proposed district and that the city must find that these conditions are present for the area to be eligible for creating a tax increment district. The conditions within TID #12 were inventoried in April of 2011. The findings related to these conditions are as follows:

- Not less than 50 percent, by area, of the real property within the district is suitable for mixed-use development.
- The improvement of this area is likely to enhance significantly the value of substantially all the other real property in the district.
- The project costs relate directly to promote mixed use development.
- The equalized value of taxable property of the district plus the value increment of all existing districts does not exceed 12 percent of the total equalized value of taxable property within the city.
- Any real property within the district that is found suitable for industrial sites and is zoned for industrial use will remain zoned for industrial for the life of the tax increment district.
- The district is a mixed-use district based on the identification and classification of the property included within the district.

PROPOSED IMPROVEMENTS AND PROJECT COSTS

The costs of improvements made within the district include those financed by developers and those incurred by the city. Proposed improvements include approximately $2 million in developer-funded infrastructure improvements. TIF-funded improvements include land cost write-downs, incentive payments to developers, survey/engineering and real estate costs, the construction/repair of public streets and trails, the costs for landscape, streetscape and other amenities, administrative and other costs as listed in Table 1.

The project costs include land acquisition associated with the purchase of city-owned vacant lands by the Menasha Redevelopment Authority (RDA). The RDA will receive reimbursement for these costs through land sales to developers and subsequent tax increment payments. The land transfer is necessary to alleviate the financial distress the underperforming Lake Park Villas development has imposed on the city. The cost for development assistance in the form of incentive payments to developers is $4,175,000. Land write down costs through the RDA are $3.9 million. An additional $12.1 million is required for the installation of infrastructure and amenities. With administrative expenses and interest on debt, the total projected cost for implementing TID #12 is $3.25 million. These costs will be partially offset by $4.35 million in lot sales. Map 2 depicts the proposed land acquisition and project improvements. The project costs are listed in Table 1. The incentives made to developers are structured under the terms of the development agreements attached to the project plan. These expenditures are necessary to induce development and to ease pressures on the city’s general property tax caused by the debt burden imposed by the Lake Park Villas development.
There are certain improvements outside of TID #12, including the extension of a bike/pedestrian trail along CTH LP that may be installed using TID #12 resources. The improvements or amenities are necessitated by the project plan for the district pursuant to Wisconsin Statute 66.1105(2)(K) and may be paid through grant funds, special assessments, or other sources of funding, if available.

NON-PROJECT COSTS

There are no anticipated non-project costs projected for TID #12.

RELOCATION

No persons or businesses are expected to be displaced as a result of the implementation of TID #12.
Table 1
TID #12
Project Expenditures

<table>
<thead>
<tr>
<th>Year</th>
<th>Purpose</th>
<th>Amount</th>
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<tbody>
<tr>
<td>2011</td>
<td>Land Acquisition – City to Redevelopment Authority</td>
<td>$3,900,000</td>
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<tr>
<td>2011-2016</td>
<td>Developer Incentive</td>
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<td>2013</td>
<td>Lake Park Square Street Extension</td>
<td>395,000</td>
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<td>2011</td>
<td>Engineering/Survey/Environmental</td>
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<td>2011</td>
<td>Real Estate Closing Costs/Commissions</td>
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<td>2016</td>
<td>CTH LP Trail Design/Construction – STH 114-Manitowoc Road</td>
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<td>2012</td>
<td>STH 114 Trail Construction</td>
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<td>2012</td>
<td>Curbing and Roundabout Repairs</td>
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<td>2016</td>
<td>Landscape/Streetscape/Lighting/Signage/Amenities</td>
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<td>2011-2025</td>
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Total $11,350,625

TID #12
Project Revenues

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<tbody>
<tr>
<td>2011-2019</td>
<td>Land Sales to Developers</td>
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<td>2011-2023</td>
<td>Existing LPV HOA Lot Sales</td>
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<td>2012-2023</td>
<td>Existing Lake Park Square Commercial Lot Sales</td>
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<td>Total</td>
<td>4,347,237</td>
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</table>

City of Menasha
Tax Incremental District #12
Proposed Improvements

Legend
- - - - - Land Acquisition - Menasha Redevelopment Authority
- - - - - Future Street (Public Funded)
- - - - - Future Bike/Pedestrian Trail
MASTER PLAN, ZONING, BUILDING AND OTHER CODE CONSIDERATIONS

The City of Menasha Year 2030 Comprehensive Plan adopted in 2008 suggests commercial, residential and single and multi-family land uses within the district. The existing land use of the area is shown in Map 3. Future land use is depicted in Map 4. The existing zoning includes R-1 Single Family Residential, C-1 Commercial and PUD Planned Unit Development classifications as shown in Map 5. Future zoning, shown in Map 6, proposes the same zoning classifications, with some reconfiguration to the zoning district boundaries. Multi-family uses are permitted as a Special Use in the C-1 Commercial district. The proposed development within the district is compatible with the land use pattern of the area and is consistent with the City of Menasha Year 2030 Comprehensive Plan and Zoning Ordinance. The goal for industrial development established by the comprehensive plan is to “Maintain and promote industrial development to achieve a balanced industrial base complementary to other areas of the community”. “Industrial development” is an inclusive term that encompasses a wide range of economic activity under the National Industrial Classification System. The creation of TID #12 will also help implement the city’s comprehensive housing plan. Specifically the project will assist with “Development of an adequate supply and a wide variety of housing types”; and with the creation of “Affordable home ownership opportunities”.

ECONOMIC FEASIBILITY

TID #12 is financially feasible. Table 2 shows that the tax increment generated by new development within the project area will equal projected TID expenditures in the year 2025, well within the permissible 20 year term of a mixed-use TID.

PROJECT FINANCING

A total of $11.35 million will be required to implement the TID #12 project plan. These project costs will be funded by tax increment generated by the project and the sale of city-owned lands. All improvement costs associated with this project are expected to be incurred within five years of establishing the district. Under the proposed TID #12 financing schedule (Table 2), the obligations for project costs will be paid from tax increments as depicted in the schedule. The amortization of land acquisition costs associated with the transfer of vacant city owned land to the Menasha Redevelopment Authority is shown in Table 3.

TID #12 has the capacity to generate $16.6 million in tax increment if it were kept open over the entire 20 year life of the district permitted by state statute. However, it is expected that TID #12 will be terminated at 15 years, when its expenditures are projected to have been met. The amount of accumulated tax increment in the 15 year period is $10.6 million. This increment would be generated by the projected net increase of $46.5 million in tax base using a property tax rate of $25.612 per $1,000 of value. The collection of tax increments will commence in 2012 based on the taxes levied on the January 1, 2011 property values. Increments generated by the district will be used to repay TID #12 project costs.

The property tax rate has been held constant over the life of the district for the purpose of projecting the increment that would be generated. Similarly, the value increment was calculated exclusive of any increases which may result from appreciation of property values. All increments generated by the district will be applied to the repayment of TID #12 project costs.
City of Menasha
Tax Incremental District #12
Proposed Land Use

Legend
- Commercial
- Single Family Residential
- Multi-Family Residential
City of Menasha
Tax Incremental District #12
Existing Zoning

Legend
- C-1 General Commercial
- R-1 Single Family Residential
- PUD Planned Unit Development
City of Menasha
Tax Incremental District #12
Proposed Zoning

Legend
- C-1 General Commercial
- R-1 Single Family Residential
- PUD Planned Unit Development
DISSOLUTION

Financial projections indicate that TID #12 revenues will match expenditures in the year 2025. Upon close-out after this date, the district will be dissolved and all remaining unencumbered increments will be distributed among the taxing entities. Beginning in the year 2026 the taxes generated by the land and improvements within the district will directly benefit all of the taxing entities.
<table>
<thead>
<tr>
<th>YEAR</th>
<th>TIF #12</th>
<th>TIF #12 NET</th>
<th>VALING</th>
<th>MILLRATE</th>
<th>TAXING</th>
<th>LANDSALES</th>
<th>DEVELOPER</th>
<th>INCENTIVES</th>
<th>LAND ACQUISITION</th>
<th>INFRASTRUCTURE AND AMENITIES</th>
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ATTORNEY’S OPINION

Pursuant to §66.1105(4)(f), Wis. Stats., I have reviewed the City of Menasha Tax Increment District #12 Project Plan and advise that the plan is complete and complies with this section.

Pamela A. Captain
City Attorney
DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF MENASHA, WISCONSIN,

AND

CYPRESS HOMES AND REALTY, INC.

DATED AS OF MARCH____, 2011
DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into as of the ___ day of March 2011, by and between the CITY OF MENASHA, Wisconsin, a Wisconsin municipal corporation with its principal offices located at 140 Main St., Menasha, Wisconsin 54952 (hereinafter "CITY"), and CYPRESS HOMES AND REALTY, INC., a Wisconsin corporation with its principal offices located at 1500 W. College Avenue, ste A, Appleton, WI 54914 (hereinafter "DEVELOPER").

RECITALS

The Project to be undertaken by the DEVELOPER, as described herein, is of particular importance to the CITY and provides special benefits to the CITY because it promotes the physical and economic development of the CITY, increases the range of choice in the CITY's housing stock, accelerates sales of CITY-owned property, and provides a means of paying the CITY's debt associated with land acquisition and improvements of the CITY-owned development known as Lake Park Villas.

ARTICLE I

SECTION 1.01 PURPOSE OF AGREEMENT. The parties hereto are entering into this Development AGREEMENT for the preparation and construction of a residential development within Lake Park Villas Project Area and proposed City of Menasha Tax Incremental District Number 12 (TID #12). The parties have worked cooperatively regarding initial planning, financing and feasibility of such a development. Further, the parties have reached an understanding regarding participation in the future development and intend to enter into this Development AGREEMENT to record the understandings and undertakings of the parties and to provide a framework within which the development may proceed.

SECTION 1.02 CERTAIN DEFINITIONS. As used in this AGREEMENT, the following terms shall have the meanings indicated:

"AVAILABLE TAX INCREMENT" – The amount of tax increment (as defined in Sec. 66.1105, Wis. Stats.) generated solely by the Development Property and Development Improvements as of January 1 of each calendar year.

"CONCEPT PLAN" – The conceptual plan, estimated schedule and value estimates for the contemplated development of the Development Property. It is attached as EXHIBIT [insert].

"DEVELOPMENT" – The Development Improvements and Infrastructure that constitute the planned development project that is the subject of this AGREEMENT.

"DEVELOPMENT AREA ‘D’" – An area consisting of approximately 5 acres located in the NW 1/4 of the NE 1/4 of Section 17, T29N, R17E and proposed CITY of Menasha Tax Incremental Financing District # 12 attached as EXHIBIT A, the actual area of which is to be determined via a Certified Survey Map pursuant to Section 3.02.1
"DEVELOPMENT IMPROVEMENTS" - Means structures, buildings and accoutrements constructed by DEVELOPER in compliance with Implementation Plans comprised of the following:

* Residential condominium development within Development Area “D” comprised of not less than 16 single family residential units with an estimated improved value of $2.8 million.

"DEVELOPMENT PROPERTY" - means Development Area “D.”

"DEVELOPMENT COSTS" — The hard and soft costs enumerated in the development budget set forth in EXHIBIT [insert].

"INFRASTRUCTURE" — Public and Private Infrastructure.

"IMPLEMENTATION PLAN" — Detailed plans, drawings, specifications and other information as required for the site plan review under CITY Ordinances regarding the construction of Private Infrastructure, Infrastructure and Development Improvements. A specific Implementation Plan must be submitted to and approved by the CITY prior to construction as provided by CITY Ordinance. Each specific Implementation Plan shall be attached to this AGREEMENT as an exhibit upon approval by the CITY.

"PERFORMANCE INCENTIVE" — Payment of Available Tax Increment to the DEVELOPER as provided in this AGREEMENT.

"PUBLIC IMPROVEMENTS" — The road improvements, curb and gutter, storm water drainage ponds and other public facilities normally provided by or required by local governments fronting the Development Property whether in place or to be constructed or upgraded in conjunction with the development contemplated in the Concept Plan, including storm water management ponds, but specifically excluding Infrastructure.

"PUBLIC INFRASTRUCTURE"— Those Public Improvements that will be the responsibility of the DEVELOPER as more particularly described in EXHIBIT [insert] (attached) and shall include, without limitation, improvements necessary to provide adequate access, sanitary sewer service, storm sewer, water mains and any appurtenances associated with these facilities, storm water drainage, street base course, temporary asphalt paving consisting of at least a two inch binder course, street lighting, pedestrian facilities, trails, sidewalks or other public utility improvements to the Development Property that have been constructed by DEVELOPER and dedicated to the CITY under this AGREEMENT.

"PRIVATE INFRASTRUCTURE" — Site grading in accordance with an approved grading and drainage plan, sanitary sewer laterals, potable water laterals and other facilities owned, constructed and maintained by DEVELOPER to service the Development Improvements from the Public Improvements or Private Infrastructure described more particularly in EXHIBIT [insert].

"TID # 12" means CITY of Menasha Tax Incremental District Number 12 and project plan created by CITY in accordance with Section 5.02.3 hereinafter.
ARTICLE II
OVERVIEW OF THE PROJECT

SECTION 2.01 The Project consists of residential condominium development resulting in the creation of not less than 16 single family residential units. Construction is to begin by June 1, 2011 with an expected completion date of December 31, 2017. Upon completion, the Development Improvements will have a value of at least $2.8 million.

ARTICLE III
DEVELOPER OBLIGATIONS

SECTION 3.01 Acquisition of Development Areas. Upon completion of the pre-closing conditions but in no case later than June 1, 2011, DEVELOPER shall acquire fee simple title to Development Area “D.”

SECTION 3.01.1 CITY shall transfer the Real Estate to DEVELOPER by warranty deed for $17,000 per acre subject to the terms and conditions of this AGREEMENT and a separate Real Estate Purchase Agreement to be executed by the parties [insert condition/date]. The Real Estate Purchase Agreement shall provide that DEVELOPER shall pay 8% of the purchase price at closing and DEVELOPER shall execute a Promissory Note in favor of CITY in the amount of the purchase price less the 8% paid at closing. The terms of the Promissory Note shall be zero percent (0%) interest until paid in full, except that in the event DEVELOPER fails to make any installment payment when due, then interest shall be paid at 5% per annum of the remaining balance assessed from the date of closing, with interest at 3.25% p.a. Equal installment payments on the Promissory Note shall be due 12/31/2011, 12/31/2012, 12/31/2013 and 12/31/2014.

SECTION 3.01.2 Title Insurance. The CITY shall obtain and pay for a title insurance commitment in the amount of the purchase price. A commitment by the title company agreeing to issue a title policy upon the recording of proper documents as agreed herein shall be deemed sufficient performance. DEVELOPER may obtain additional title insurance at its cost. The CITY shall provide to DEVELOPER a preliminary commitment for title insurance not less than fifteen (15) days prior to the closing.

SECTION 3.01.3 Title. The CITY shall cooperate with DEVELOPER to clear up any defect in title that may be pertaining to the property; provided, however, the Real Estate shall be conveyed subject to (1) reasonable and customary easements and restrictions of record; (2) a reversion of title in accordance with this AGREEMENT; (3) requisite public and private utility easements; (4) CITY covenants, none of which may be removed or modified without City’s approval; and (5) all other terms and conditions of this AGREEMENT.

SECTION 3.01.3 Closing Date. The closing date for the transfer of the Real Estate shall be on or before June 1, 2011 for Development Area “D” and shall be held at the office of the City Attorney, City Hall, 140 Main Street, Menasha, Wisconsin
or where the parties may otherwise agree.

SECTION 3.01.4 The Real Estate shall be conveyed "as is." The CITY is not responsible for any subsequent remediation, demolition, underground debris, or other clean up costs after conveyance.

SECTION 3.02 DEVELOPER's Covenant to Develop. DEVELOPER agrees and covenants to use its best efforts to proceed with due diligence to complete the Development substantially in accordance with the Concept Plan and Implementation Plans which plans and specifications shall be subject to such review and approved by the CITY as may be normal, customary or required in order to proceed with the Development in accordance with all applicable rules, codes, regulations, ordinances and laws. The DEVELOPER shall cause IMPROVEMENTS to the DEVELOPMENT AREAS to create a value of not less than $2.8 million. The cost for such improvements shall include Development hard and soft costs, site clearance and preparation and costs associated with the construction of single family condominium housing units. DEVELOPER shall be required to complete construction of the Development by December 31, 2017.

SECTION 3.03 Compliance with Codes, Plans and Specifications. DEVELOPER, at its own expense, shall obtain all approvals, permits and licenses as may be required by any governmental or non-governmental entity in connection with the Development. The building and other improvements to be constructed upon the Property, the construction thereof, and their uses shall be in compliance with all applicable codes and ordinances of the CITY, and with all pertinent provisions of this AGREEMENT, the Project Plan and the Plans and Specifications.

SECTION 3.04 Taxes. It is understood that the land, improvements and personal property resulting from the Development shall be subject to property taxes. DEVELOPER shall pay when due all federal, state and local taxes in connection with the Project and all operating expenses in connection with the Real Estate and Development.

SECTION 3.05 Public Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Development and shall be completed upon substantial completion of the Development. The Public Infrastructure shall be funded solely by the DEVELOPER. Improvements designed and constructed by the CITY such as curb and gutter and final paving may will be specially assessed or otherwise charged against the benefiting properties within the Development, including lots owned by the DEVELOPER, at the sole discretion of the CITY. DEVELOPER agrees to give notice to each subsequent owner/purchaser of any real estate in Development Area "D" of the existence of curb and gutter and final paving special assessment through a covenant recorded with the Calumet County register of deeds office.

SECTION 3.06 Private Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Private Infrastructure in accordance with the approved IMPLEMENTATION PLAN.

SECTION 3.07 Easements. DEVELOPER shall grant the CITY or any public utility such easements as reasonably necessary for public improvements, infrastructure, ingress or
egress, utilities, lighting or landscaping or any other need necessary to effectuate the Development in accordance with approved plans at no cost to the CITY.

SECTION 3.08 Record Retention. DEVELOPER understands and acknowledges that the CITY is subject to Public Records Law of the State of Wisconsin. As such, DEVELOPER agrees to retain all records as defined by Wisconsin Statute §19.35(2) applicable to this AGREEMENT for a period of not less than seven (7) years. DEVELOPER agrees to assist the CITY in complying with any public records request that they receive pertaining to this AGREEMENT. DEVELOPER agrees to indemnify and hold the CITY, their officers, employees and authorized representatives harmless for any liability, including without limitation, reasonable attorney fees relating to or in any way arising from DEVELOPER’s actions or omissions which contribute to the indemnified Party’s inability to comply with the Public Records Law. In the event DEVELOPER decides not to retain its records for a period of seven (7) years, then it shall provide written notice to the CITY whereupon the CITY shall take custody of said records assuming such records are not already maintained by the CITY. This provision shall survive termination of this AGREEMENT.

SECTION 3.09 Repair and/or Replacement of Infrastructure. DEVELOPER shall repair and/or replace any damaged CITY infrastructure or other CITY property that may occur as a result of the Development.

SECTION 3.10 Prevailing Wages. DEVELOPER shall pay all applicable prevailing wages as required by Wisconsin law.

ARTICLE IV

CITY OBLIGATIONS

SECTION 4.01 The CITY shall be responsible for the installation of curb and gutter and final paving, which will not be constructed earlier than one (1) winter season following completion of the development project. The CITY, in its sole discretion, may assess each property/lot owner the cost and expenses associated with these public improvements in accordance with CITY ordinances and state statutes.

SECTION 4.02 Provision of Tax Increment Financial Incentive. In order to induce DEVELOPER to undertake the DEVELOPMENT within proposed TID #12, the DEVELOPER has requested and the CITY may be required to make available financial incentive to the DEVELOPER in a total amount not to exceed $175,000, for the purpose of implementing the proposed TID #12 Project Plan and this AGREEMENT (the “CITY Contribution”). The CITY Contribution is made pursuant to Sections 66.1105(2)(f)1 of the Wisconsin Statutes, and shall be made available in the amount as follows:

SECTION 4.02.1 DEVELOPER agrees to advance funds for project costs, including costs associated with the installation of the Public Infrastructure. The CITY shall pay the DEVELOPER financial incentive under the terms of this AGREEMENT with funds to be made available upon verification of the Tax Increment increase as defined below.

SECTION 4.02.5 Earned financial incentive based on AVAILABLE TAX INCREMENT may be distributed to the DEVELOPER according to the schedule set forth herein when and only when the 10th residential unit in Development Area “D” is completed and certificate of occupancy have been issued: DEVELOPER to be paid annual payment made on or before September 1, commencing in
2013, equal to 75% of AVAILABLE TAX INCREMENT received by CITY until $175,000 is paid out or until 2018, whichever occurs first.

SECTION 4.02.6 CONDITIONS TO PAYMENT OF CITY CONTRIBUTION
If on or before December 31, 2017, the DEVELOPER has not met the Minimum Development or threshold value of $2.8 million, the CITY shall not be required to continue to pay DEVELOPER the City contribution.

SECTION 4.02.7 No City contribution to DEVELOPER provided for in this AGREEMENT shall be paid or deemed due and owing to DEVELOPER for any year in which any property tax pertaining to the Development Property or any portion thereof which is under the ownership and control of the DEVELOPER, is not timely paid. In the event of any delinquency the CITY may give the DEVELOPER 30 days to cure. If the DEVELOPER fails to cure, the City contribution shall be withheld in that year. Nothing in this AGREEMENT shall in any way affect the City’s right to enforce collection of property taxes in the manner provided by law.

SECTION 4.03 CERTIFICATION OF COMPLETION. Upon completion and review of the Development Improvements by the CITY, the CITY shall provide the DEVELOPER with an appropriate recordable instrument certifying that the improvements have been made in accordance with this AGREEMENT and the project plans and any amendment or modifications thereto.

SECTION 4.04 CITY PERFORMANCE SUBJECT TO REQUIRED GOVERNMENT APPROVALS. The DEVELOPER acknowledges that various of the specific undertakings of the CITY described in this AGREEMENT require approvals from the City’s Common Council and/or Planning Commission as well as from governmental bodies external to the CITY, some of which approvals may require public hearings and other legal proceedings as conditions precedent thereto. The City’s obligations are conditioned upon the obtaining of all such approvals in the manner required by law. The CITY cannot assure that all such approvals will be obtained; however, it agrees to use good faith efforts to obtain such approvals on a timely basis.

ARTICLE V
CONDITIONS PRECEDENT TO CLOSING

SECTION 5.01 Purpose. The parties acknowledge that the Development will require substantial financial resources. While each party is willing and prepared to perform its obligations hereunder, the parties recognize that each must begin its performance under this AGREEMENT and continue it up to the point of Closing without absolute assurance that the other will be able to raise and commit all the funds necessary for Closing.

SECTION 5.02 Conditions to DEVELOPER’s Obligation to Close. DEVELOPER’s obligation to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

SECTION 5.02.1 The CITY, at its expense, causing Development Areas “D” to be split from Lot 2 of the Lake Park Villas subdivision and that part, if any, of Parcel #7-
01722-00 comprising the Development Area via Certified Survey Map.

SECTION 5.02.2 Creation of a Mixed Use Tax Incremental Financing District - Proposed TID#12 sufficient to meet obligations under this Agreement.

SECTION 5.03 Pre-Closing Undertakings of the DEVELOPER. Prior to Closing, the DEVELOPER agrees that it shall:

SECTION 5.03.1 Financing Commitment. DEVELOPER shall obtain and provide to the CITY: (1) a written financial commitment from a conventional lender, (2) written construction contract to construct and finance the Development, (3) other written proof of financial resources to construct the Development, or (4) any combination thereof. Said documents shall be acceptable in all respects to the CITY, in the sole and absolute discretion of the CITY Comptroller or other agent for the CITY. DEVELOPER shall have closed the loan, which is the subject of the financing commitment and in connection therewith, DEVELOPER shall have provided copies of the documents to be executed in connection with the construction loan to the CITY Comptroller. DEVELOPER shall provide to the CITY copies of all appraisals and market studies prepared in connection with the financial commitment.

SECTION 5.03.2 Prepare conceptual lot layouts and restrictive covenants for the Development which are acceptable to the CITY.

SECTION 5.03.3 Financial Statements. DEVELOPER shall have provided to the City Comptroller, audited financial statements (if available, and if audited financial statements are not available, financial statements in a form reasonably acceptable to the City Comptroller) for fiscal years 2009 and 2010 plus two years complete tax returns, including all schedules for DEVELOPER and any successors or assigns or transferees of DEVELOPER and each of the members of any of the foregoing and each member of the Board of Directors (or equivalent) of any of the foregoing. The financial statements must show a financial condition acceptable to the CITY, in the judgment of the CITY Comptroller.

SECTION 5.03.4 DEVELOPER shall at its expense have obtained all necessary approvals and permits necessary to undertake the Development, including but not limited to, site plan review, zoning approvals, and any other local, state or federal approvals or permits.

SECTION 5.03.5 Within 120 days of the execution of this AGREEMENT, DEVELOPER will, at its own cost and expense, prepare and file with the appropriate City offices, a Condominium Plat or Preliminary Plat pursuant to Sec. 154-1-1 of the City of Menasha Code of Ordinances. DEVELOPER will prepare restrictive covenants regarding home and development standards for the Development Area subject to design and permitting requirements of the CITY.

ARTICLE VI

REPRESENTATIONS, WARRANTIES AND COVENANTS
DEVELOPER represents and warrants to and covenants with the CITY and the CITY represents and warrants to and covenants with DEVELOPER as respectively follows:

SECTION 6.01 Each of the parties will use its best efforts to take all action and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this AGREEMENT.

SECTION 6.02 Each party shall give any notices to, make any filings with, and use its best efforts to obtain any authorizations, consents, and approvals of governments and governmental agencies in connection with the matters referred to in this AGREEMENT.

SECTION 6.03 DEVELOPER shall not engage in any practice, take any action, or enter into any transaction outside the Ordinary Course of Business and shall at its own cost and expense, maintain and preserve its business in accordance with prudent business practices.

SECTION 6.04 DEVELOPER will permit representatives of CITY (including legal counsel, accountants, inspectors and consultants) to have full access at all reasonable times, and in a manner so as not to interfere with the normal business operations of DEVELOPER, to all premises, properties, personnel, books, records (including tax records), contracts, and documents of or pertaining to DEVELOPER’s business.

SECTION 6.05 CITY represents and warrants it is a municipality, duly organized and validly existing under the laws of the state of Wisconsin.

SECTION 6.06 DEVELOPER represents and warrants it is a corporation, duly organized and validly existing under the laws of the state of Wisconsin.

SECTION 6.07 CITY and DEVELOPER have full power and authority to execute and deliver this AGREEMENT and to perform their obligations hereunder.

SECTION 6.08 The execution and delivery of this AGREEMENT, the consummation of the transactions contemplated in this AGREEMENT, and the execution and delivery of the documents required to be executed, delivered or acknowledged by DEVELOPER at the closing will not violate any provision of DEVELOPER’s articles or bylaws or any applicable statute, rule, regulation, judgment, order or decree of the state of Wisconsin or a court having jurisdiction over DEVELOPER or its properties.

SECTION 6.09 DEVELOPER represents and warrants it has timely filed all tax returns required by law, all tax returns of DEVELOPER are true and correct in all material respects, DEVELOPER has paid all taxes due, except those, if any, currently being contested by it in good faith.

SECTION 6.10 DEVELOPER represents and warrants there is no action, suit, proceeding, claim, arbitration against DEVELOPER, its activities or assets before any court or governmental agency except as disclosed in writing to CITY.

SECTION 6.11 DEVELOPER represents and warrants its balance sheets and statements of income provided for review hereunder are true, correct and complete, and fairly represent the financial condition of DEVELOPER at the date or dates therein indicated and the
results of operations for the period or periods therein specified and that there has not been any Material Adverse Change since the Balance Sheet Date.

SECTION 6.12 The Representations and Warranties set forth herein shall be true and correct in all material respects as and as of the Closing Date.

SECTION 6.13 DEVELOPER shall have a continuing obligation to immediately report any material adverse changes in its financial condition to the CITY from the Date of Closing through completion of construction.

ARTICLE VII

POST-CLOSING OBLIGATIONS OF DEVELOPER

SECTION 7.01 DEVELOPER will, at its expense, cause the Development Area to be platted.

SECTION 7.02 Public Infrastructure. DEVELOPER shall in connection with and during the construction of the Development Area undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Development Area and shall be completed upon substantial completion of the Development Improvements. The Public Infrastructure shall be funded solely by the DEVELOPER. DEVELOPER agrees to provide either an Irrevocable Letter of Credit in favor of CITY or a separate or other restricted account to be maintained, acceptable to the CITY, in an amount sufficient to cover all expenses associated with the construction of public infrastructure. DEVELOPER shall be responsible to ensure that Contractors installing such infrastructure comply with and pay prevailing wage rates as set forth by the Wisconsin Department of Workforce Development. Other improvements constructed by the City, including sidewalks, curb and gutter and final paving will be specially assessed or otherwise charged against the benefitting properties within the Development, including lots owned by the DEVELOPER.

SECTION 7.03 DEVELOPER acknowledges that the costs of the public infrastructure contemplated by this AGREEMENT is approximately $150,000. DEVELOPER pledges that it shall complete the construction of the infrastructure shown on [insert plan name] on or before September 1, 2011. In the event the public infrastructure has not been completed by that date, the parties may either agree to an extension, or the CITY may complete the public infrastructure and assess the costs of the public infrastructure against those portions of the Development Area that are benefitted by the City may declare the DEVELOPER in default.

SECTION 7.04 Dedication of Public Infrastructure. The DEVELOPER shall dedicate the Public Infrastructure to the CITY without cost to the CITY under the following terms. The CITY shall accept dedication of Public Infrastructure upon (a) receipt of As-Built Drawings, and (b) inspection and satisfaction of CITY staff that the Public Infrastructure was constructed in accordance with the as-built drawings; and (c) DEVELOPER's contractors execute a guarantee, in the form normally required by the CITY for similar work, guaranteeing the workmanship, adequacy and fitness for purpose of the Public Infrastructure for at least 1 year(s) after conveyance to the CITY.

SECTION 7.05 Maintenance of Private Infrastructure. The DEVELOPER shall be responsible for the cost of maintenance of the Private Infrastructure and Development
SECTION 7.06 Failure to Dedicate Public Infrastructure. If the DEVELOPER does not timely dedicate the Public Infrastructure or the Public Infrastructure is not accepted by the CITY, the CITY shall give the DEVELOPER 30 days written notice to cure. Upon failure to cure the CITY may enter the Development Property and repair or reconstruct the Public infrastructure to the CITY's satisfaction and assess the cost of the repair or reconstruction against benefitted properties or bring an action for specific performance or to otherwise compel compliance with this AGREEMENT.

SECTION 7.07 Except as may be mutually agreed by the CITY and DEVELOPER, the DEVELOPER will participate in FVHB Parade of Home events. [Need specificity here.]

SECTION 7.08 DEVELOPER will initiate construction of at least one (1) home no later than June 1, 2011 in Development Area "D" with an expected completion date of November 1, 2011. All Development Improvements must be completed by December 31, 2017.

SECTION 7.09 Standards of Construction. DEVELOPER shall see to it that all infrastructure and improvements are constructed in a good and workmanlike manner and consistent with prevailing industry standards for high quality construction in the area of the CITY. DEVELOPER shall perform all work in compliance with applicable laws, regulations, ordinances and permits and DEVELOPER shall at its own cost and expense obtain all necessary permits and licenses for such development.

ARTICLE VIII

BUDGET AND BUDGET RECONCILIATION: FINANCIAL REPORTS

SECTION 8.01 Attached hereto as EXHIBIT [insert] is the DEVELOPER’s budget for the Development. The DEVELOPER agrees to maintain records such that its actual expenditures for the Development may be ascertained and reconciled against such budget. From time to time upon reasonable notice from the CITY, authorized representatives of the CITY, including the CITY Comptroller, shall be entitled to examine such records at the DEVELOPER’s offices to verify construction costs during and after construction.

ARTICLE IX

ASSIGNMENT

SECTION 9.01 The rights, duties and obligations of the DEVELOPER hereunder may not be assigned by DEVELOPER without the written consent of the CITY to the assignment, which consent shall not be unreasonably withheld. Any assignee or purchaser or transferee of any portion of the Real Estate shall be bound by the terms and conditions of this AGREEMENT, which shall run with the land and be binding upon all such assignees, purchasers and transferees. Written evidence satisfactory to the CITY that such assignee or entity has agreed in writing to be bound by the terms of this AGREEMENT must be provided to the CITY. Any such sale, transfer or conveyance of any portions of the Real Estate shall not relieve the DEVELOPER of its obligations hereunder.

ARTICLE X

INDEMNITY

SECTION 10.01 DEVELOPER shall indemnify and hold harmless the CITY, its officers, employees and authorized representatives (Indemnified Party) from and against any and all
liabilities, including, without limitation, remediation required by any federal or state agency having jurisdiction, losses, damages, costs and expenses, including reasonable attorney fees and costs, arising out of any third-party claims, causes of action, or demands made against or suffered by the Indemnified Party on account of this AGREEMENT, unless such claims, causes of action, or demands: (a) relate to the Indemnified Party failing to perform its obligations to DEVELOPER; or (b) arise out of any willful misconduct of the Indemnified Party. At the Indemnified Party's request, DEVELOPER shall appear for and defend the Indemnified Party, at DEVELOPER's expense, in any action or proceeding to which the Indemnified Party may be made a party by reason of any of the foregoing.

ARTICLE XI
NOTICES

SECTION 11.01 All notices, demands, certificates or other communications under this AGREEMENT shall be sufficiently given and shall be deemed given when hand delivered or when mailed by first class mail, postage prepaid, property addressed as indicated below:

To the DEVELOPER: Cypress Homes and Realty, Inc.
1500 W. College Ave., Ste A
Appleton, WI 54914

With a copy to:

To the CITY: City of Menasha, Wisconsin
City Hall
140 Main Street
Menasha, WI 54952
Attn: CITY Clerk

With a copy to: Greg Keil, Community Development Director
City Hall
140 Main Street
Menasha, WI 54952

Any party may, by written notice to the party (ies), designate a change of address for the purposes aforesaid.

ARTICLE XII
NONDISCRIMINATION

SECTION 12.01 In the performance of work under this AGREEMENT, the DEVELOPER agrees not to discriminate against any employee or applicant for employment nor shall the development or any portion thereof be sold to, leased or used by any party in any manner to permit discrimination or restriction on the basis of race, religion, marital status, age,
color, sex, sexual orientation, physical condition, disability, national origin or ancestry and that the construction and operation of the Development shall be in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

**ARTICLE XIII**

**MISCELLANEOUS PROVISIONS**

**SECTION 13.01 ENTIRE AGREEMENT.** This document contains the entire AGREEMENT between DEVELOPER and the CITY and it shall inure to the benefit of and shall be binding upon the parties hereto and the respective heirs, executors, successors and assigns. This AGREEMENT may be modified only by a written Amendment signed by the parties, which Amendment shall become effective upon the recording in the Office of Register of Deeds for the County.

**SECTION 13.02 SURVIVAL OF WARRANTIES, REPRESENTATIONS AND AGREEMENTS.** Any warranty, representation or AGREEMENT herein contained shall survive the Closing. Any provision of this AGREEMENT which has not been fully performed prior to transfer of possession shall not be deemed to have been terminate, but shall survive unless expressly waived in writing, and shall be in full force and effect until performed.

**SECTION 13.03 DEFAULT.** In addition to any remedies set forth within this AGREEMENT, the Parties shall have all rights and remedies available under law or equity with respect to said default. All remedies shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies.

**SECTION 13.04 FAILURE TO ENFORCE NOT A WAIVER.** Failure of the CITY to enforce any provision contained herein shall not be deemed a waiver of the City's right to enforce such provision or any other provision in the event of a subsequent default.

**SECTION 13.05 NO SUBORDINATION.** The CITY shall not subordinate any interest it has in this AGREEMENT for any reason, unless it is determined to be in the best interests of the CITY.

**SECTION 13.06 GOVERNING LAW.** This AGREEMENT shall be governed by, enforced and construed in accordance with the domestic laws of the State of Wisconsin.

**SECTION 13.07 COUNTERPARTS.** This AGREEMENT may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

**SECTION 13.08 AMENDMENTS AND WAIVERS.** No amendment of any provision of this AGREEMENT shall be valid unless the same shall be in writing and signed by CITY and DEVELOPER. No waiver by any party of any provision of this AGREEMENT or any default, misrepresentation, or breach of warranty shall be valid unless the same shall be in writing and signed by the parties making such a waiver, nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.
SECTION 13.09 SEVERABILITY. If any provisions of this AGREEMENT shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

SECTION 13.10 RECORDING OF AGREEMENT. The parties hereto agree that the CITY may record this AGREEMENT or a memorandum of this AGREEMENT on the record title to the Real Estate. The DEVELOPER shall upon request of the CITY execute and deliver any such memorandum or other document in connection with such recording.

SECTION 13.11 NO PARTNERSHIP. This AGREEMENT specifically does not create any partnership or joint venture between the parties, or render any party liable for any debts or obligations of the other party.

SECTION 17.12 CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this AGREEMENT. In the event an ambiguity or question of intent or interpretation arises, this AGREEMENT shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this AGREEMENT.

SECTION 13.13 INCORPORATION OF EXHIBITS. The EXHIBITS identified in this AGREEMENT are incorporated herein by reference and made a part hereof.

IN WITNESS WHEREOF, the parties have duly executed this AGREEMENT, or caused it to be duly executed, as of the ___ day of _____________, 2011

CYPRESS HOMES AND REALTY, INC.

By:______________________________

By:______________________________

CITY OF MENASHA

By:______________________________

Donald Merkes, Mayor

Attest:____________________________

Deborah Galeazzi, City Clerk
STATE OF WISCONSIN )

COUNTY OF WINNEBAGO )

Personally came before me this _____ day of March 2011, the above named

to me known to be the person who executed the foregoing instrument and acknowledged the
same in the capacity and the purposes therein intended.


Notary Public, State of Wisconsin
My Commission: ____________________________

STATE OF WISCONSIN )

COUNTY OF WINNEBAGO )

Personally came before me this _____ day of March 2011, the above named
Donald Merkes, Mayor, and Deborah Galeazzi, City Clerk, of the City of Menasha, to me known
to be the person who executed the foregoing instrument and acknowledged the same in the
capacity and the purposes therein intended.

Notary Public, State of Wisconsin
My Commission: ____________________________

Countersigned pursuant to §62.09(10) Wis. Stats.

City Comptroller

APPROVED AS TO FORM:

Pamela A. Captain, City Attorney
DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF MENASHA, WISCONSIN,

AND

THE PONDS OF MENASHA, LLC

DATED AS OF MARCH_____, 2011
DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT is made and entered into as of the ___ day of March 2011, by and between the CITY OF MENASHA, Wisconsin, a Wisconsin municipal corporation with its principal offices located at 140 Main St., Menasha, Wisconsin 54952 (hereinafter "CITY"), and The ponds of Menasha, LLC, a Wisconsin limited liability company with its principal offices located at 1300 N. Kimbs Ct., Green Bay, Wisconsin 54313 (hereinafter "DEVELOPER").

RECITALS

The Project to be undertaken by the DEVELOPER, as described herein, is of particular importance to the CITY and provides special benefits to the CITY because it promotes the physical and economic development of the CITY, increases the range of choice in the CITY's housing stock, accelerates sales of CITY-owned property, provides a means of paying the CITY's debt associated with land acquisitions and improvements of the CITY-owned development known as Lake Park Villas.

ARTICLE I

SECTION 1.01 PURPOSE OF AGREEMENT. The parties hereto are entering into this Development AGREEMENT for the preparation and construction of a residential development within Lake Park Villas Project Area and proposed City of Menasha Tax Incremental District Number 12 (TID #12). The parties have worked cooperatively regarding initial planning, financing and feasibility of such a development. Further, the parties have reached an understanding regarding participation in the future development and intend to enter into this Development AGREEMENT to record the understandings and undertakings of the parties and to provide a framework within which the development may proceed.

SECTION 1.02 CERTAIN DEFINITIONS. As used in this AGREEMENT, the following terms shall have the meanings indicated:

"AVAILABLE TAX INCREMENT" - The amount of tax increment (as defined in Sec. 66.1103, Wis. Stats.) generated solely by the Development Property and Development Improvements as of January 1 of each calendar year.

"CONCEPT PLAN" - The conceptual plan, estimated schedule and value estimates for the contemplated development of the Development Property. It is attached as EXHIBIT [insert].

"DEVELOPMENT" - The Development Improvements and infrastructure that constitute the planned development project that is the subject of this AGREEMENT.
"DEVELOPMENT IMPROVEMENTS" - Means structures, buildings and appurtenances constructed by DEVELOPER in compliance with Implementation Plans comprised of the following:

- PHASE I - A single family residential development within Development Area "A" comprised of not less than 70 units at a density not less than three units per acre with an estimated improved value of $11,900,000.

- PHASE II - A single family residential development within Development Area "B" comprised of not less than 50 units at a density not less than three units per acre with an estimated improved value of $8.5 million.

- PHASE III - A multi-family residential development within Development Area "C" comprised of not less than 54 units with an estimated improved value of $2.7 million (54 units @ $54,000 estimate = $2.5 million).

"DEVELOPMENT AREA A" - An area consisting of approximately 20 acres located in the NW ¼ of the NE ¼ of Section 17, T20N, R1E and proposed CITY of Menasha Tax Incremental Financing District # 12 attached as EXHIBIT A, the actual area of which is to be determined via a Certified Survey Map pursuant to Section 3.02.1.

"DEVELOPMENT AREA B" - An area consisting of approximately 26 acres, excluding the area designated as a regional storm water pond, located in the NW ¼ of the NE ¼ of Section 17 T20N R1E and proposed CITY of Menasha Tax Incremental Financing District # 12 attached as EXHIBIT B, the actual area of which is to be determined via a Certified Survey Map pursuant to Section 3.02.1.

"DEVELOPMENT AREA C" - An area consisting of approximately 2 acres, described as Lot 16 Lake Park Villas Plat and located in the proposed City of Menasha Tax Incremental Financing District # 12 attached as EXHIBIT C.

"DEVELOPMENT PROPERTY" - consists of Development Areas "A," "B," and "C"

"DEVELOPMENT COSTS" - The hard and soft costs enumerated in the development budget set forth in EXHIBIT D.

"EQUALIZED ASSESSED VALUE" - The value also known as "EAV" is defined as the estimated fair market value of land and buildings on the real estate tax bill for a particular parcel.

"INFRASTRUCTURE" - Public and Private Infrastructure.

"IMPLEMENTATION PLAN" - Detailed plans, drawings, specifications and other information as required for the site plan review under CITY Ordinances regarding the construction of Private Infrastructure, Infrastructure and Development Improvements. A specific Implementation Plan must be submitted to and approved by the CITY prior to construction as provided by CITY Ordinances. Each specific Implementation Plan shall be attached to this AGREEMENT as an exhibit upon approval by the CITY.

"PERFORMANCE INCENTIVE" - Annual payments of the Available Tax Increment, commencing in 2013 through 2017 to the DEVELOPER. Performance incentive shall be
payable to DEVELOPER as provided in this AGREEMENT.

"PUBLIC IMPROVEMENTS"—The road improvements including final roadway street base course and four inch asphalt pavement, concrete curbs and gutter, concrete sidewalks as well as sanitary sewer, water mains, storm water drainage, drainage ponds, and other public facilities normally provided by or required by local governments fronting the Development Property whether in place or to be constructed or upgraded in connection with the development contemplated in the Concept Plan, including storm water management ponds, but specifically excluding infrastructure.

"PUBLIC INFRASTRUCTURE"—Consists of those Public Improvements that will be the responsibility of the DEVELOPER as more particularly described in Exhibit ___ (attached) and shall include sanitary sewer services, storm sewers, water mains, and two (2) inch binder temporary asphalt paving, street lighting, that have been constructed by DEVELOPER and dedicated to the CITY under this AGREEMENT.

"PRIVATE INFRASTRUCTURE"—Site grading, in accordance with an approved grading and drainage plan, sanitary sewer laterals, peastile water laterals and other facilities owned, constructed and maintained by DEVELOPER to service the Development Improvements from the Public Improvements or Private Infrastructure described more particularly in EXHIBIT [insert].

"TID # 12" means CITY of Menasha Tax Incremental District Number 12 and project plan created by CITY.

ARTICLE II

OVERVIEW OF THE PROJECT

SECTION 2.01 The Project consists of residential development to take place in three phases resulting in the creation of not less than 120 single family residential units and 54 multi-family units. The construction of at least ten (10) homes within Phase I is to begin by September 1, 2011 with an expected completion date of May 1, 2012. Projected completion dates are January 1, 2016 for Phase I, January 1, 2020 for Phase II. For Phase III, the projected completion date shall be thirty-six (36) months after the DEVELOPER acquires the Property. Upon completion, the entire project is expected to have a value of $23 million.

ARTICLE III

DEVELOPER OBLIGATIONS

SECTION 3.01 Acquisitions of Development Areas. Upon completion of the pre-closing conditions but in no case later than June 30, 2011, DEVELOPER shall acquire fee simple title to Development Areas "A" and "B." Upon the City securing the purchase of Development Area "C" in accordance with Section 5.02.2 and before December 31, 2011, DEVELOPER shall acquire fee simple title to Development Area "C."
SECTION 3.01.1 CITY shall transfer the Real Estate for Phase I and Phase II to DEVELOPER by warranty deed for $2,000 per acre, subject to the terms and conditions of this AGREEMENT and a separate Real Estate Purchase AGREEMENT to be executed by the parties. The Real Estate Purchase AGREEMENT shall provide that DEVELOPER shall pay $2,000 down at date of closing and shall execute a Promissory Note in favor of CITY in the amount of the balance of the Purchase Price. The terms of the Note shall be ten percent (10%) interest until paid in full, except that in the even DEVELOPER fails to pay in full before June 5, 2011, then interest shall be paid at five percent (5%) per annum of the remaining balance commencing from the date of closing. DEVELOPER shall be required to make a payment of $5,794 to CITY toward the outstanding balance of the Promissory Note for each Lot sold or transferred by DEVELOPER or any successor in interest until paid in full. CITY may apply the proceeds for said payment. As security for said Promissory Note, the DEVELOPER shall give CITY a first mortgage position on the Real Estate Development Area “A”, the second mortgage position of the commercial lending institution approved by DEVELOPER at the approximate amount of $2,696,000 representing moneys necessary for DEVELOPER’s Public and Private Infrastructure obligations herein for Phase I and Phase II. Closing shall take place on or before June 5, 2011. Real estate shall be divided as the Development Area A and the Development Area B estimated to be approximately forty (40) acres of land. Purchase Price estimated to be $680,000 ($17,000 x 40). CITY shall be responsible for any and all transfers taxes as well as preparation of all final all Certified Survey Maps. CITY shall further be responsible for obtaining the two separate legal descriptions, one description for each Development Area. Certified Survey Map and legal description shall be provided to DEVELOPER by CITY, at CITY’s sole expense, at least thirty (30) days prior to closing. The AGREEMENT of sale shall also provide that the CITY shall issue all wetland studies for the Real Estate and provide a copy of said wetland studies to DEVELOPER at least fifteen (15) days prior to closing. The AGREEMENT shall further provide that the AGREEMENT is contingent upon the CSM mappings allowing for the development of one hundred twenty (120) or more residential real estate lots, as approved by DEVELOPER, within the real estate areas known as Development Area A and Development Area B.

SECTION 3.01.2 Title insurance. The CITY shall obtain and pay for a title insurance commitment in the amount of the purchase price. A commitment by the title company agreeing to issue a title policy upon the recording of proper documents as agreed herein shall be deemed sufficient performance. DEVELOPER may obtain additional title insurance at its own cost. The CITY shall provide to DEVELOPER a preliminary commitment for title insurance not less than fifteen (15) days prior to the closing.

SECTION 3.01.3 Title. The CITY shall cooperate with DEVELOPER to clear up any defect in title that may be pertaining to the property; provided, however, that the Real Estate shall be conveyed subject to (1) reasonable and customary easements and restrictions of record; (2) a reservation of title in accordance with this AGREEMENT.
(3) requisite public and private utility easements; (4) CITY covenants which are attached hereto and fully incorporated herein, none of which may be removed or modified without CITY's approval (ATTACH COVENANTS AS EXHIBIT ___); and (5) all other terms and conditions of this AGREEMENT.

SECTION 3.01.4 Closing Date. The closing date for the transfer of the Real Estate shall be on or before June 30, 2011 for Development Area "A" and "B" and shall be held at the office of the City Attorney. City Hall, 149 Main Street, Menasha, Wisconsin or where the parties may otherwise agree. The closing date for Development Area "C" shall be on or before December 31, 2011.

SECTION 3.01.5 The Real Estate shall be conveyed "as is." The CITY is not responsible for any subsequent remediation, demolition, underground debris, or other clean-up costs after conveyance.

SECTION 3.01.6 Listing Contract. CITY had previously engaged a broker for listing Development Areas A and B and the CITY may owe a brokerage fee to said listing broker as a result of the sale of real estate contemplated herein. Said CITY shall be responsible for the payment of any brokerage fees associated with the sale of the real estate.

SECTION 3.02 DEVELOPER's Covenant to Develop. DEVELOPER agrees and covenants to use its best efforts to proceed with due diligence to complete the Development substantially in accordance with the Concept Plan and Implementation Plans which plans and specifications shall be subject to such reasonable review and approval by the CITY as may be normal, customary or required in order to proceed with the Development in accordance with all applicable rules, codes, regulations, ordinances and laws. The DEVELOPER shall cause IMPROVEMENTS to the DEVELOPMENT AREAS to create a value of not less than $15 million including Phase III of Development Area C. The cost for such improvements shall include development hard and soft costs, site clearance and preparation and costs associated with the construction of single family and multi-family housing units. DEVELOPER shall be required to complete construction Phase I of the Development by January 1, 2016, Phase II by January 1, 2020 and Phase III within thirty-six (36) months after acquisition of Development Area C by DEVELOPER. DEVELOPER agrees to make the improvements and additions to the Real Estate which are good, all standard and new, or comparable to new, in accordance with the Development agreement with the City.

SECTION 3.03 Compliance with Codes, Plans and Specifications. DEVELOPER, at its own expense, shall obtain all approvals, permits and licenses as may be required by any governmental or non-governmental entity in connection with the Development. The building and other improvements to be constructed upon the Property, the construction thereof, and their uses shall be in compliance with all applicable codes and ordinances of the CITY, and with all pertinent provisions of this AGREEMENT, the Concept Plan and the Plans and Specifications.

SECTION 3.04 Taxes. It is understood that the land, improvements and personal property resulting from the Development shall be subject to property taxes. DEVELOPER shall pay when due all federal, state and local taxes in connection with the Project and all operating expenses in connection with the Real Estate and Development.

SECTION 3.05 Reversion of Undeveloped Portion of Development Property. Notwithstanding the foregoing, in the event that the DEVELOPER does not construct Phase I on or before January 1, 2016 or the Aggregate Increment does not reach $8.925 million by January
1. 2016, the CITY may, at its discretion demand the reversion of any property in the Development Areas that have not been improved by Development Improvements contemplated by the Concept Plan. Upon receipt of such demand, the DEVELOPER shall deliver by warranty deed the property identified by the CITY free and clear of any encumbrances within 60 days of the demand. The purchase price of the property so conveyed shall be $17,000 per acre. In the event that the DEVELOPER fails to timely deliver the property, the CITY may commence an action to enforce this provision without further cure.

SECTION 3.06 Public Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Development and shall be completed upon substantial completion of the Development. The Public Infrastructure shall be funded solely by the DEVELOPER. Improvements designed and constructed by the CITY such as sidewalks, curb and gutter and final street paving will be specially assessed or otherwise charged against the benefitting properties within the Development, including lots owned by the DEVELOPER, but as pertaining to Development Area A, not before at least eighty percent (80%) of the Development Improvements within Development Area A have been constructed on or before January 1, 2017, whichever occurs first, and as pertaining to Development Area B, not before at least eighty percent (80%) of the Development Improvements have been constructed on or before January 1, 2021, whichever occurs first. DEVELOPER agrees to provide notice to each subsequent current and future owner of each real estate in Development Area A and B of the expected curb and gutter and final paving special assessment through a covenant recorded with the Calumet County register of deeds office.

SECTION 3.07 Private Infrastructure. DEVELOPER shall in connection with and during the construction of the Development undertake at its expense, design and construction of Private Infrastructure in accordance with approved IMPLEMENTATION PLAN.

SECTION 3.08 Easements. DEVELOPER shall grant the CITY or any public utility such easements as reasonably necessary for public improvements, infrastructure, ingress or egress, utilities, lighting or landscaping or any other need necessary to effectuate the Development in accordance with approved plans at no cost to the CITY.

SECTION 3.09 Record Retention. DEVELOPER understands and acknowledges that the CITY is subject to Public Records Law of the State of Wisconsin. As such, DEVELOPER agrees to retain all records as defined by Wisconsin Statute §19.35(2) applicable to this AGREEMENT for a period of not less than seven (7) years. DEVELOPER agrees to assist the CITY in complying with any public records request that they receive pertaining to this AGREEMENT. DEVELOPER agrees to indemnify and hold the CITY, their officers, employees and authorized representatives harmless for any liability, including without limitation, reasonable attorney fees relating to or in any way arising from DEVELOPER’s actions or omissions which contribute to the Indemnified Party’s inability to comply with the Public Records Law. In the event DEVELOPER decides not to retain its records for a period of seven (7) years, then it shall provide written notice to the CITY whereupon the CITY shall take custody of said records assuming such records are not already maintained by the CITY. This provision shall survive termination of this AGREEMENT.

SECTION 3.10 Prevailing Wages. DEVELOPER shall pay all applicable prevailing
wages as required by Wisconsin law.

ARTICLE IV

CITY OBLIGATIONS

SECTION 4.01 The CITY shall be responsible for the installation of sidewalks, curb and gutter and final street paving, which will not be constructed earlier than one (1) winter season following completion of the development project. The CITY will assess each property/lot owner the cost and expenses associated with these public improvements in accordance with CITY ordinances and state statutes, but, as pertaining to Development Area A, not until at least eighty percent (80%) of the Development Improvements within Development Area A have been constructed or January 1, 2017, whichever occurs first and as pertaining to Development Area B, not until at least eighty percent (80%) of the Development Improvements have been constructed or January 1, 2021, whichever occurs first.

SECTION 4.02 Provision of Tax Increment Financial Incentive. In order to induce DEVELOPER to undertake the DEVELOPMENT within proposed TID #12, the DEVELOPER has requested and the CITY may be required to make available financial incentive to the DEVELOPER in a total amount not to exceed $4 million, for the purpose of implementing the proposed TID #12 Project Plan and this AGREEMENT (the “CITY Contribution”). The CITY Contribution is made pursuant to Sections 66.1105(1f) of the Wisconsin Statutes, and shall be made available in the amount as follows:

SECTION 4.02.1 DEVELOPER agrees to advance funds for project costs, which the CITY shall reimburse through financial incentive under the terms of this AGREEMENT, with funds to be made available upon verification of the Tax Increment increase as defined herein.

SECTION 4.02.2

* PHASE I
  
  o 16% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued at $170,000 or less.

  o 18% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued between $170,000 and $180,000.

  o 19% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued greater than $180,000.

SECTION 4.02.3

* PHASE II

  o 17% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued at $160,000 or less.

  o 18% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued between $160,000 and
$170,000.

- 19% of the Equalized Assessed Value (EAV) will be paid to the DEVELOPER for properties valued greater than $170,000.

SECTION 4.02.4

- PHASE III

- 19% of the EAV

SECTION 4.02.5 A total amount not to exceed $2 million of ACCUMULATED TAX INCREMENT may be distributed to the DEVELOPER according to the schedule set forth herein when and only when the threshold value of the Development Improvements reaches $2.5 million. The threshold value will be the equalized assessed value of the project on January 1, 2012.

- For four years beginning in 2013, 25% of the Available Tax Increment attributable to the Development Improvements will be distributed to the DEVELOPER payable on or before September 1 of each of the four years.

- Beginning in 2017 until termination of the City contribution, 90% of the Available Tax Increment attributable to the Development Improvements will be distributed to the DEVELOPER payable on or before September 1 of each year.

SECTION 4.02.6 CONDITIONS TO PAYMENT OF CITY CONTRIBUTION/SHORTFALL PROTECTION. If DEVELOPER has not completed Development Improvement of a threshold EAV value of $2.5 million on January 1, 2012, the CITY may delay the commencement of payment of the Performance Incentive until the year following the attainment of a threshold EAV of $2.5 million, said EAV being measured as of January 1 of any particular year.

SECTION 4.02.7 If on or before January 1, 2016, the DEVELOPER has not completed Phase I, the DEVELOPER shall be required to pay in full, monies owed to the CITY for the purchase of Development Area "B."

SECTION 4.02.8 No City contribution to DEVELOPER provided for in this AGREEMENT shall be paid or deemed due and owing to DEVELOPER for any year in which any property tax pertaining to any portion of the Development Property which is under the ownership of the DEVELOPER, is not timely paid. In the event of any delinquency, the CITY may give the DEVELOPER 30 days to cure. If the DEVELOPER fails to cure, the City contribution shall be withheld in that year. Nothing in this AGREEMENT shall in any way affect the City’s right to enforce collection of property taxes in the manner provided by law.

SECTION 4.03 CERTIFICATION OF COMPLETION. Upon completion and review of the improvements of each phase by the CITY, the CITY shall provide the DEVELOPER with an appropriate recordable instrument certifying that the improvements have been made in accordance with this AGREEMENT and the project plans for each said phase and any amendment or modifications thereto.
SECTION 4.04 CITY PERFORMANCE SUBJECT TO REQUIRED GOVERNMENT APPROVALS. The DEVELOPER acknowledges that various of the specific undertakings of the CITY described in this AGREEMENT require approvals from the City’s Common Council and/or Planning Commission as well as from governmental bodies external to the CITY, some of which approvals may require public hearings and other legal proceedings as conditions precedent thereto. The City’s obligations are conditioned upon the obtaining of all such approvals in the manner required by law. The CITY cannot assure that all such approvals will be obtained; however, it agrees to use good faith efforts to obtain such approvals on a timely basis. DEVELOPER shall receive a reasonable extension on all time requirement deadlines set forth within this AGREEMENT due to approval delays by CITY.

SECTION 4.05 CITY REMOVAL OF SILOS. As and for additional consideration to DEVELOPER with respect to this AGREEMENT, CITY agrees that within one (1) year from the date of signing this AGREEMENT, CITY shall arrange for the removal of the two (2) silos within parcel Outlot 6 which lies adjacent to Development Area B (“Silo Parcel”).

ARTICLE V

CONDITIONS PRECEDENT TO CLOSING

SECTION 5.01 Purpose. The parties acknowledge that the Development will require substantial financial resources. While each party is willing and prepared to perform its obligations hereunder, the parties recognize that each must begin its performance under this AGREEMENT and continue it up to the point of Closing without absolute assurance that the other will be able to raise and commit all the funds necessary for Closing.

SECTION 5.02 Conditions to DEVELOPER’s Obligation to Close. DEVELOPER’s obligation to consummate the transactions to be performed by it in connection with the Closing is subject to satisfaction of the following conditions:

SECTION 5.02.1 The CITY, at its expense, causing Development Areas “A” and “B” to be split from Lot 2 of the Lake Park Villas subdivision and that part, if any, of parcel #7-01722-00 comprising the Development Area via Certified Survey Map.

SECTION 5.02.2 As it relates to Development Area “C,” DEVELOPER is not required to DEVELOP Development Area “C” unless and until CITY arranges for DEVELOPER to acquire Development Area “C” for not more than $165,000.

SECTION 5.02.3 Creation of a Mixed Use Tax Incremental Financing District – Proposed TID#12 for twenty (20) years in duration.

SECTION 5.03 Pre-Closing Undertakings of the DEVELOPER. Prior to Closing, the DEVELOPER agrees that it shall:

SECTION 5.03.1 Financing Commitment. DEVELOPER shall obtain and provide to the CITY: (1) a written financial commitment from a conventional lender for Public and Private Infrastructure of Phase 1 / Development Area A of not less than $______________, (2) written construction contract to construct and finance the Development, (3) other written proof of financial resources to construct the Development, or (4) any combination thereof. Said documents shall be acceptable in all respects to the CITY, in the sole and absolute discretion of the
CITY Comptroller or other agent for the CITY. DEVELOPER shall have closed the loan, which is the subject of the financing commitment and is in connection therewith. DEVELOPER shall have provided copies of the documents to be executed in connection with the construction loan to the CITY Comptroller. DEVELOPER shall provide to the CITY copies of all appraisals and market studies prepared in connection with the financial commitment.

SECTION 5.03.2 Prepare conceptual lot layouts and restrictive covenants for the Development which are acceptable to the CITY and DEVELOPER.

SECTION 5.03.3 Financial Statements: Within five (5) business days of the execution of this Agreement, DEVELOPER, Lexington Homes and Jeffrey Marlow shall have provided to the City Comptroller, audited financial statements (if available, and if audited financial statements are not available, financial statements in a form reasonably acceptable to the City Comptroller) for fiscal years 2009 and 2010 plus three years complete tax returns, including all schedules. The financial statements must show a financial condition acceptable to the CITY, in the judgment of the CITY Comptroller.

SECTION 5.03.4 DEVELOPER shall at its expense have obtained all necessary approvals and permits necessary to undertake the Development, including but not limited to, site plan review, zoning approvals, and any other local, state or federal approvals or permits.

SECTION 5.03.5 Within 120 days of the execution of this AGREEMENT, DEVELOPER will, at its own cost and expense, prepare and file with the appropriate City offices, a Preliminary Plan pursuant to Sec. 14-1-4 of the City of Memphis Code of Ordinances. The Development Plan must allow for bike and pedestrian access to existing CITY bike trail systems per map at Exhibit ______.

ARTICLE VI

REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 6.01 DEVELOPER represents and warrants to and covenants with the CITY and the CITY represents and warrants to and covenants with DEVELOPER as respectively follows:

SECTION 6.02.1 Each of the parties will use its best efforts to take all action and to do all things necessary, proper, or advisable in order to consummate and make effective the transactions contemplated by this AGREEMENT.

SECTION 6.01.2 Each party shall give any notices to, make any filings with, and use its best efforts to obtain any authorizations, consents, and approvals of governments and governmental agencies in connection with the matters referred to in this AGREEMENT.

SECTION 6.01.3 DEVELOPER shall not engage in any practice, take any action, or enter into any transaction outside the Ordinary Course of Business and shall at its own cost and expense, maintain and preserve its business in accordance with prudent
business practices.

SECTION 6.01.4 DEVELOPER will permit representatives of CITY (including legal counsel, accountants, inspectors and consultants) to have full access at all reasonable times, and in a manner so as not to interfere with the normal business operations of DEVELOPER, to all premises, properties, personnel, books, records (including tax records), contracts, and documents of or pertaining to DEVELOPER's business.

SECTION 6.01.5 CITY represents and warrants it is a municipality, duly organized and validly existing under the laws of the state of Wisconsin.

SECTION 6.01.6 DEVELOPER represents and warrants it is a corporation, duly organized and validly existing under the laws of the state of Wisconsin.

SECTION 6.01.7 CITY and DEVELOPER have full power and authority to execute and deliver this AGREEMENT and to perform their obligations hereunder.

SECTION 6.01.8 The execution and delivery of this AGREEMENT, the consummation of the transactions contemplated in this AGREEMENT, and the execution and delivery of the documents required to be executed, delivered or acknowledged by DEVELOPER at the closing will not violate any provision of DEVELOPER's articles or bylaws or any applicable statute, rule, regulation, judgment, order or decree of the state of Wisconsin or a court having jurisdiction over DEVELOPER or its properties.

SECTION 6.01.9 DEVELOPER represents and warrants it has timely filed all tax returns required by law, all tax returns of DEVELOPER are true and correct in all material respects, DEVELOPER has paid all taxes due, except those, if any, currently being contested by it in good faith.

SECTION 6.01.10 DEVELOPER represents and warrants there is no action, suit, proceeding, claim, arbitration against DEVELOPER, its activities or assets before any court or governmental agency except as disclosed in writing to CITY.

SECTION 6.01.11 DEVELOPER represents and warrants its balance sheets and statements of income provided for review hereunder are true, correct and complete, and fairly represent the financial condition of DEVELOPER at the date or dates therein indicated and the results of operations for the period or periods therein specified and that there has not been any Material Adverse Change since the Balance Sheet Date.

SECTION 6.01.12 The Representations and Warranties set forth herein shall be true and correct in all material respects as of and as of the Closing Date.

SECTION 6.01.13 DEVELOPER shall have a continuing obligation to immediately report to the CITY Comptroller any material adverse changes in its financial condition to the CITY from the Date of Closing through completion of construction.
POST-CLOSING OBLIGATIONS OF DEVELOPER

SECTION 7.01 DEVELOPER will, at its expense, cause the Development Area to be platted.

SECTION 7.02 Public Infrastructure. DEVELOPER shall in connection with and during the construction of the Development Area undertake at its expense, design and construction of Public Infrastructure in accordance with City of Menasha specifications as furnished to the DEVELOPER by the Menasha Department of Public Works. The Public Infrastructure shall be undertaken consistent with the overall schedule of construction for the Development Area and shall be completed upon substantial completion of the Development Area. The Public Infrastructure shall be funded solely by the DEVELOPER. DEVELOPER is responsible for obtaining the necessary funds to complete the Public Infrastructure, to be maintained, according to the CITY. The Public Infrastructure shall be in accordance with the construction of public infrastructure. DEVELOPER shall be responsible to ensure that Contractors installing such infrastructure comply with and pay prevailing wage rates as set forth by the Wisconsin Department of Workforce Development.

SECTION 7.03 DEVELOPER pledges that it shall complete the construction of the Public Infrastructure shown on [insert plan name] on or before December 31, 2017. In the event the public infrastructure has not been completed by that date, the parties may either agree to an extension, or the CITY may complete the public infrastructure and assess the costs of the public infrastructure against those portions of the Development Area that are benefited.

SECTION 7.04 Dedication of Public Infrastructure. The DEVELOPER shall dedicate the Public Infrastructure to the CITY without cost to the CITY under the following terms. The CITY shall accept dedication of Public Infrastructure upon (a) receipt of As-Built Drawings, and (b) inspection and satisfaction of CITY staff that the Public Infrastructure was constructed in accordance with the as-built drawings; and (c) DEVELOPER's contractors execute a guarantee, in the form normally required by the CITY, for similar work, guaranteeing the workmanship, adequacy and fitness for purpose of the Public Infrastructure for at least one (1) year after conveyance to the CITY.

SECTION 7.05 Maintenance of Private Infrastructure. The DEVELOPER shall be responsible for the cost of maintenance of the Private Infrastructure and Development Improvements.

SECTION 7.06 Failure to Dedicate Public Infrastructure. If the DEVELOPER does not timely dedicate the Public Infrastructure or the Public Infrastructure is not accepted by the CITY, the CITY shall give the DEVELOPER 30 days written notice to cure. Upon failure to cure the CITY may enter the Development Property and repair or reconstruct the Public Infrastructure to the CITY's satisfaction and assess the cost of the repair or reconstruction against the benefited properties or bring an action for specific performance or to otherwise compel compliance with this AGREEMENT.

SECTION 7.07 Except as may be mutually agreed by the CITY and DEVELOPER, the DEVELOPER will participate in FVHB Parade of Home events.

SECTION 7.08 DEVELOPER will initiate construction of at least ten (10) homes no later than September 1, 2011 in Development Area "A," with an expected completion date of May 1, 2012. Projected completion dates are estimated to be January 1, 2016 for Phase I, January 1 and
SECTION 7.09 Standards of Construction. DEVELOPER shall see to it that all infrastructure and improvements are constructed in a good and workmanlike manner and consistent with prevailing industry standards for high quality construction in the area of the CITY. DEVELOPER shall perform all work in compliance with applicable laws, regulations, ordinances and permits and DEVELOPER shall at its own cost and expense obtain all necessary permits and licenses for such development.

SECTION 7.10 If the DEVELOPER has not completed improvements on at least 75% of the lots in Phase 1 by January 1, 2016, the CITY shall have the option to repurchase Development Area “B” (Phase II) for an amount of $17,000 per acre.

ARTICLE VIII

BUDGET AND BUDGET RECONCILIATION, FINANCIAL REPORTS

SECTION 8.01 Attached hereto as EXHIBIT [Insert] is the DEVELOPER’s budget for the Development. The DEVELOPER agrees to maintain records such that its actual expenditures for the Development may be ascertained and reconciled against such budget. From time to time upon reasonable notice from the CITY, authorized representatives of the CITY, including the CITY Comptroller, shall be entitled to examine such records at the DEVELOPER’s offices to verify construction costs during and after construction.

ARTICLE IX

ASSIGNMENT

SECTION 9.01 The rights, duties and obligations of the DEVELOPER hereunder may not be assigned by DEVELOPER without the written consent of the CITY to the assignment, which consent shall not be unreasonably withheld. Any assignee or purchaser or transferee of any portion of the Real Estate shall be bound by the terms and conditions of this AGREEMENT, which shall run with the land and be binding upon all such assignees, purchasers and transferees. Written evidence satisfactory to the CITY that such assignee or entity has agreed in writing to be bound by the terms of this AGREEMENT must be provided to the CITY. Any such sale, transfer or conveyance of any portions of the Real Estate shall not relieve the DEVELOPER of its obligations hereunder.

ARTICLE X

INDEMNITY

SECTION 10.01 DEVELOPER shall indemnify and hold harmless the CITY, its officers, employees and authorized representatives (Indemnified Party) from and against any and all liabilities, including, without limitation, remediation required by any federal or state agency having jurisdiction, losses, damages, costs and expenses, including reasonable attorney fees and costs, arising out of any third-party claims, causes of action, or demands made against or suffered by the Indemnified Party on account of this AGREEMENT, unless such claims, causes of action, or demands: (a) relate to the Indemnified Party failing to perform its obligations to DEVELOPER; or (b) arise out of any willful misconduct of the Indemnified Party. At the Indemnified Party's request, DEVELOPER shall appear for and defend the Indemnified Party, at DEVELOPER's expense, in any action or proceeding to which the Indemnified Party may be
ARTICLE XI

NOTICES

SECTION 11.01 All notices, demands, certificates or other communications under this AGREEMENT shall be sufficiently given and shall be deemed given when hand delivered or when mailed by first class mail, postage prepaid, properly addressed as indicated below:

To the DEVELOPER: The Ponds of Menasha, LLC
1500 N. Kimms Court
Green Bay, WI 54313

With a copy to:
To the CITY: City of Menasha, Wisconsin
City Hall
140 Main Street
Menasha, WI 54952
Att’l: CITY Clerk

With a copy to:
Greg Keil, Community Development Director
City Hall
140 Main Street
Menasha, WI 54952

SECTION 11.02 Any party may, by written notice to the party (ies), designate a change of address for the purposes aforesaid.

ARTICLE XII

NONDISCRIMINATION

SECTION 12.01 In the performance of work under this AGREEMENT, the DEVELOPER agrees not to discriminate against any employee or applicant for employment nor shall the development or any portion thereof be sold to, leased or used by any party in any manner to permit discrimination or restriction on the basis of race, religion, marital status, age, color, sex, sexual orientation, physical condition, disability, national origin or ancestry and that the construction and operation of the Development shall be in compliance with all effective laws, ordinances and regulations relating to discrimination on any of the foregoing grounds.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

SECTION 13.01 ENTIRE AGREEMENT. This document contains the entire AGREEMENT between DEVELOPER and the CITY and it shall be binding upon the parties hereto and the respective heirs, executors, successors and assigns. This AGREEMENT may be modified only by a written Amendment signed by the parties, which Amendment shall become effective upon the recording in the Office of Register of Deeds for the
SECTION 13.02 SURVIVAL OF WARRANTIES, REPRESENTATIONS AND AGREEMENTS. Any warranty, representation or AGREEMENT herein contained shall survive the Closing. Any provision of this AGREEMENT which has not been fully performed prior to transfer of possession shall not be deemed to have been terminate, but shall survive unless expressly waived in writing, and shall be in full force and effect until performed.

SECTION 13.03 DEFAULT. In addition to any remedies set forth within this AGREEMENT, the Parties shall have all rights and remedies available under law or equity with respect to said default. All remedies shall be cumulative and the exercise of one remedy shall not preclude the use of any other or all of said remedies.

SECTION 13.04 FAILURE TO ENFORCE NOT A WAIVER. Failure of the CITY to enforce any provision contained herein shall not be deemed a waiver of the City's right to enforce such provision or any other provision in the event of a subsequent default.

SECTION 13.05 NO SUBORDINATION. The CITY shall not subordinate any interest it has in this AGREEMENT for any reason, unless it is determined to be in the best interests of the CITY.

SECTION 13.06 MEDIATION OF DISPUTES REQUIRED. Except as expressly provided herein, prior to litigation and as a condition precedent to bringing litigation, any party deemed itself aggrieved under this AGREEMENT shall be obligated to request nonbinding mediation of this dispute. Mediation shall proceed before a single mediator. If the parties cannot agree, the aggrieved party may then commence an action. However, the parties will be bound to agree to alternative dispute resolution as ordered by the Court.

SECTION 13.07 GOVERNING LAW. This AGREEMENT shall be governed by, enforced and construed in accordance with the domestic laws of the State of Wisconsin.

SECTION 13.08 COUNTERPARTS. This AGREEMENT may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

SECTION 13.09 AMENDMENTS AND WAIVERS. No amendment of any provision of this AGREEMENT shall be valid unless the same shall be in writing and signed by CITY and DEVELOPER. No waiver by any party of any provision of this AGREEMENT or any default, misrepresentation, or breach of warranty shall be valid unless the same shall be in writing and signed by the parties making such a waiver, nor shall such waiver be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

SECTION 13.10 SEVERABILITY. If any provisions of this AGREEMENT shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.
SECTION 13.11 RECORDING OF AGREEMENT. The parties hereto agree that the CITY may record this AGREEMENT or a memorandum of this AGREEMENT on the record title to the Real Estate. The DEVELOPER shall upon request of the CITY execute and deliver any such memorandum or other document in connection with such recording.

SECTION 13.12 NO PARTNERSHIP. This AGREEMENT specifically does not create any partnership or joint venture between the parties, or render any party liable for any debts or obligations of the other party.

SECTION 13.13 CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this AGREEMENT. In the event an ambiguity or question of intent or interpretation arises, this AGREEMENT shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship or any of the provisions of this AGREEMENT.

SECTION 13.14 INCORPORATION OF EXHIBITS. The EXHIBITS identified in this AGREEMENT are incorporated herein by reference and made a part hereof.

IN WITNESS WHEREOF, the parties have duly executed this AGREEMENT, or caused it to be duly executed, as of the ______ day of __________, 2011

THE PONDS OF MENASHA, LLC

By: ________________________________

By: ________________________________

CITY OF MENASHA

By: ________________________________

Donald Merkes, Mayor

Attest: ________________________________

Deborah A. Galeazzi, City Clerk

STATE OF WISCONSIN  
COUNTY OF WINNEBAGO

Personally came before me this _____ day of January 2011, the above named ________________________________ to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and the purposes therein intended.

Notary Public, State of Wisconsin
My Commission: ________________________________

STATE OF WISCONSIN  

17
COUNTY OF WINNEBAGO

Personally came before me this ___ day of, the above named Donald Merkes, Mayor, and Deborah A. Galeazzi, City Clerk, of the City of Menasha, to me known to be the person who executed the foregoing instrument and acknowledged the same in the capacity and the purposes therein intended.

Notary Public, State of Wisconsin
My Commission: ________________________________

Countersigned pursuant to §62.09(10) Wis. Stats.

______________________________
City Comptroller

APPROVED AS TO FORM:

______________________________
Pamela A. Captain, City Attorney
Mayor Merkes, I would be pleased and honored to be appointed and serve on the Joint Fire Commission. Thank you for remembering me. Ken Kubiak