

PROCEEDINGS OF THE BROWN COUNTY BOARD OF SUPERVISORS
AUGUST 20, 2008

Pursuant to Section 19.84 and 59.14, Wis. Stats., notice is hereby given to the public that the REGULAR meeting of the **BROWN COUNTY BOARD OF SUPERVISORS** was held on **Wednesday, August 20, 2008, at 7:25 p.m.**, in the Legislative Room 203, 100 North Jefferson Street, Green Bay, Wisconsin.

The following matters will be considered:

Call to order at 7:18 p.m.

Invocation.

Pledge of Allegiance to the Flag.

Present: Warpinski, De Wane, Nicholson, Theisen, Krueger, Haefs, Erickson, Brunette, Zima, Evans, Vander Leest, Johnson, Dantine, La Violette, Andrews, Kaster, Knier, Williams, Fleck, Clancy, Langan, Scray, Hoeft, Lund, Fewell

Excused: Wetzell

Total Present: 25 Total Excused: 1

No. 1 -- Adoption of Agenda.

A motion was made by Supervisor Warpinski and seconded by Supervisor Nicholson **“to adopt the agenda.”** Supervisor De Wane requested **“to amend the Agenda by moving #10b (Resolution Honoring and Acknowledging Mark Kiar) after the adoption of the agenda”**. Voice vote taken **“on adoption of the agenda as amended.”** Motion carried unanimously with no abstentions.

No. 10b -- RESOLUTION HONORING AND ACKNOWLEDGING MARK KIAR

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
 BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the BROWN COUNTY BOARD OF SUPERVISORS honors and thanks Mark Kiar of the Parks Department for his dedicated service to Brown County from March 27, 2006 to July 14, 2008.

WHEREAS, Mark Kiar was hired as a full-time Park Ranger, initially working at the Brown County Fairgrounds for about six months, and then was stationed at the L. H. Barkhausen Waterfowl Preserve. Recently, he completed the trailhead kiosk which stands on the northwest side of the Interpretive Center; was involved with building the marsh overlook boardwalk; installation of memorial benches; reconstruction of the log cabin roof; installation of the exterior water fountain; and installation of the interpretive signs along the trail systems.

WHEREAS, Mark Kiar was a positive role model for many area students who participated in environmental education programs at the L. H. Barkhausen Waterfowl Preserve. He also worked at the Suamico Boat Landing, Fox River State Trail and the Mountain Bay State Trail.

WHEREAS, Mark Kiar was one of those employees that everyone wishes they had the opportunity to work with because of his excellent attitude and work ethic. He truly enjoyed the type of work he performed, and it showed through in the projects he completed. He used a methodical approach when working on projects, which resulted in quality work in the end. Mark possessed the skills and knowledge to truly be “jack of all” trades. He was an excellent team player and willing to offer an extra hand when needed. He knew when to be serious but at the same time, enjoyed putting a smile on the faces of the people he worked with. He is greatly missed by all the staff at the L. H. Barkhausen Waterfowl Preserve.

WHEREAS, Mark Kiar died unexpectedly on Monday, July 14, 2008 while working on a project for Brown County. A great employee who will be greatly missed.

part of the Brown County Code. It is also the intent of this communication to request that the Sheriff begin to bill the Village of Hobart for all of the open shifts that the Sheriff's Department has to fill including any and all overtime costs related to the Sheriff's Department providing this coverage.

Refer to Administration Committee, Public Safety Committee and Executive Committee.

No. 5d -- FROM SUPERVISOR SCRAY REGARDING: LOWER THE SPEED LIMIT ON "COUNTY J" FROM WOODDALE TO LINEVILLE AT SUAMICO VILLAGE LINE FROM 55 MPH TO 45 MPH.

Refer to Planning, Development and Transportation Committee.

No. 5e -- FROM SUPERVISOR VANDER LEEST REGARDING: REQUEST FOR THE AIRPORT DIRECTOR TO REVIEW POLICIES SO THAT ALLEGIANT AIR WILL RETURN SERVICE TO BROWN COUNTY.

Refer to Planning, Development and Transportation Committee.

No. 6 -- APPOINTMENTS BY COUNTY EXECUTIVE.

No. 6a -- APPOINTMENT/CONFIRMATION OF MARK SCHROEDER AS CORPORATION COUNSEL.

A motion was made by Supervisor La Violette and seconded by Supervisor Warpinski "to approve the above appointment". Voice vote taken. Motion carried unanimously with no abstentions.

No. 7a -- REPORT BY COUNTY EXECUTIVE.

County Executive Hinz thanked the County Board for the approval of Mark Schroeder as Corporation Counsel. Mr. Hinz expressed his confidence that Mark will represent the best interests of Brown County.

Executive Hinz stated the Brown County Fair was a huge success. He thanked Judy Knudsen and Dick Koltz for all their volunteers and hard work. Mr. Hinz also thanked Jack Krueger for a nice presentation for Veterans.

County Executive Hinz announced the Brown County Children's Golf Outing is September 10th and plans to double profits from last year and encouraged everyone to sign up for this event.

Mr. Hinz stated that he only has 2 more departments' budgets to go through for the 2009 Budget and will get his proposed budget to the Supervisors by October 1st. He informed the supervisors that it will be a tight budget.

Executive Hinz encouraged the County Board to approve the PMI land swap agreement that is before them tonight. He feels this will be in the best interests of Brown County and the community.

No. 7b -- REPORT BY BOARD CHAIRMAN.

Chairman Zima chastised the Green Bay Press Gazette for its editorial of trying to make it appear there is trouble with Tom Hinz for appointing Corporation Counsel for a cost of \$130,000; and legal counsel for the County Board in the amount of \$42,000. Mr. Zima explained the functions of both Mr. Mohr and Mr. Schroeder and stated that both attorneys should save the county on legal costs paid to outside firms.

Chairman Zima stated that there are too many last minute special committee meetings coming before the County Board. He recognized that sometimes they are necessary but he would like to see less last minute meetings.

No. 8 -- OTHER REPORTS. None.

No. 9 -- STANDING COMMITTEE REPORTS

No. 9a -- REPORT OF ADMINISTRATION COMMITTEE OF JULY 24, 2008

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The ADMINISTRATION COMMITTEE met in regular session on July 24, 2008, and recommends the following motions:

1. Review minutes of:
 - a. Housing Authority (6/16/08). Receive & place on file.
2. Human Resources - Monthly Committee Report (July 15, 2008). Receive & place on file.
3. Human Resources - Budget Status Financial Report (not available). (No action.)
4. Human Resources - Communication from Supervisor Williams re: The pay scales and steps for non-represented employees, supervisors and managers be reviewed and adjusted as dictated by market demands. (Held from previous meeting.) Hold for one month.
- #4a Communication from Supervisor Mary Scray re: Evaluate the possibility of changing workweek for Brown County Employees to 4 – 10 hour day for County Departments. (Referred from July County Board.) Hold for 30 days.
5. Dept. of Administration - Government Financial Officers Association Award for 2008 Annual Budget. Receive & place on file.
6. Dept. of Administration - 2008 Budget Transfer Log. Receive & place on file.
7. Dept. of Administration - Budget Status Financial Report (not available) (No action.)
8. Dept. of Administration - Information Services – Budget Status Financial Report (not available). (No action.)
9. Dept. of Administration - Communication from Supervisor Erickson re: Have each department that shares part of the county auto fleet review which autos are really needed and report to their committee. After looking at our inventory it appears we may be paying insurance and upkeep on vehicles that don't run or are in need of great repair. With today's fuel costs, let's rid the county of older expensive vehicles that put a strain on our budget. (From Executive Cmte of July 7, 2008: *Refer back to Administration committee to get a uniform rating system on vehicles.*) Hold until October.
- #9a County Clerk - Resolution re: Recognizing September 10 to October 10, 2008 as Voter Registration Month in Brown County. (Referred to Executive Committee.) Committee approved. See Resolutions, Ordinances August County Board.
- #9b County Clerk - Communication to Equal Rights Division from County Clerk's office requesting an increase in the fee for issuing student work permits. Refer to Corporation Counsel to draft a resolution. (This resolution will be on the September County Board.)
- #9c County Clerk - Information only re: comparison of cost for voting materials. Receive & place on file.
- #9d County Clerk - Budget Status Financial Report not available. (No action.)
- #9e County Clerk's - report. Receive & place on file.
10. Child Support Agency - Information report re: Change in Medical Support Liability Revenue for the Child Support Agency. (Held from previous meeting.) Hold for one month.
11. Child Support Agency - Budget Status Financial Report (not available). (No action.)
12. Facility Management - Communication from Supervisor Dave Kaster re: Review the vehicle take home policy; inventory of all vehicles by department; who takes them home and why and how that affects the insurance of the County. (Held from previous meeting.) To hold and have Bill Dowell bring specific usage of vehicles back.
13. Facility Management - Budget Status Financial Report (not available). (No action.)
14. Audit of bills. Pay the bills.

A motion was made by Supervisor Nicholson and seconded by Supervisor De Wane **“to adopt”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ _____ Tom Hinz, County Executive Date: 8/27/2008

No. 9b -- REPORT OF “SPECIAL” ADMINISTRATION COMMITTEE OF AUGUST 11, 2008

TO THE MEMBERS OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

The ADMINISTRATION COMMITTEE met in special session on August 11, 2008, and recommends the following motions:

1. Information Services - Approval of fiber optic bids (see attached). Approve the award for the Fiber Optic Network Installation Project #1298b to MP Nexlevel LLC at their "Best and Final Offer" of \$3,415,890.45 total with the Brown County portion being \$1,798,527.24 and the approval of the Fiber Optic Network Materials Project #1298A to Power and Tel supply for their total amount of \$399,333.61 with the Brown County portion being \$294,637.06.

A motion was made by Supervisor Nicholson and seconded by Supervisor Warpinski **"to adopt"**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ _____ Tom Hinz, County Executive _____ Date: 8/27/2008

ATTACHMENT TO ITEM #1
ON THE FOLLOWING PAGE.

BID TABULATION RECORD								
PROJECT: FIBER OPTICS MATERIALS FOR JOINT FIBER OPTICS PROJECT								
PROJECT #: 1298a								
DATE: 5/19/07 AT 11:00 A.M.								
VENDOR	Fiber Optic Cable Cost			Fiber Optic Apparatus Cost			GRAND TOTAL OF ALL COLUMNS	ADDENDUM #1
	BROWN COUNTY	GREEN BAY	MSD	BROWN COUNTY	GREEN BAY	MSD		
H&H Utility Excavators	\$392,803.05	\$60,176.95	\$28,327.20	\$39,053.12	\$44,104.36	\$9,279.84	\$573,744.42	No
KGP Telecommunications	\$361,773.87	\$61,362.36	\$31,433.17	\$30,934.62	\$19,216.82	\$4,205.08	\$508,925.92	No
Anixter	Bid was rejected due to use of incorrect forms for submittal - No prices were read at bid opening.							
Marlet	\$584,109.75	\$100,377.34	\$50,663.99	\$51,873.75	\$30,578.62	\$5,492.11	\$823,095.56	No
Power & Telephone Supply	\$341,919.02	\$57,993.66	\$29,669.24	\$28,974.59	\$18,241.29	\$3,035.83	\$479,833.63	No
Note: There was an addendum 1 issued for this project. Brown County inadvertently did not include an addendum acknowledgement sheet in the original bid package. Main requirement of addendum 1 is that all pricing is quoted FOB Destination.								
Power & Telephone Supply was contacted on May 19, 08 and their pricing is bid FOB Destination. They also acknowledged all changes as indicated in Addendum 1.								

**Brown County City of Green Bay Fiber Optic Network Bid \$1298B Bid Opening
Tuesday, July 29th, 2008 11:00 a.m.**

Contractor	East Side Construction Package				West Side Construction Package				Bid Bond Yes/No	Addendum Acknowledgment
	Total East Side	County Portion	City Portion	GBMSD Portion	Total West Side	County Portion	City Portion	GBMSD Portion		
H&H Utility	\$2,974,233.90	\$1,392,497.88	\$979,254.83	\$605,481.18	\$2,881,870.40	\$2,080,108.90	\$710,954.50	\$90,807.00	Yes	Yes
Henkles & Mc Coy	\$2,639,941.78	\$1,215,221.31	\$869,180.33	\$555,540.14	\$2,333,037.37	\$1,658,181.27	\$589,456.33	\$85,399.77	Yes	Yes
Holtger Bros.	NO BID.				\$2,215,354.78	\$1,516,177.33	\$612,160.06	\$87,017.39	Yes	Yes
Michel's Corp.	\$2,799,979.07	\$1,404,774.18	\$802,889.38	\$592,315.50	\$1,999,948.24	\$1,457,897.26	\$478,638.43	\$63,412.55	Yes	Yes
Kelso Burnett Co.	\$2,354,973.00	\$1,054,804.00	\$794,059.00	\$506,111.00	\$2,339,844.00	\$1,881,521.00	\$348,580.00	\$109,743.00	Yes	Yes
MP Nexlevel	\$2,393,499.27*	\$1,131,333.95	\$718,016.37	\$544,148.05	\$1,925,678.04	\$1,422,826.29	\$442,058.38	\$60,793.37	Yes	Yes
	* Note - MP Nexlevel erroneously included the total cost for all four river bore options instead of only the two 3" river bore options. The total costs above reflect the corrected price.									
NON RESPONSIVE BIDS										
BKC Group Inc.	\$1,741,393.46	\$794,939.29	\$711,341.97	\$235,112.20	\$1,966,086.40	\$1,522,365.80	\$389,293.10	\$54,427.50	No	Yes
This Bid is deemed Non-responsive because a Bid Bond was not included in the Bidding Documents.										

No. 9c -- REPORT OF EDUCATION AND RECREATION COMMITTEE OF AUGUST 14, 2008

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The EDUCATION & RECREATION COMMITTEE met in regular session on August 14, 2008 and recommends the following:

1. Review minutes of:
 - a) Library Board (6/19/08).
 - b) Museum Governing Board (6/23/08).Receive & place on file items a-b.
2. Resolution from Brown County Board of Supervisors re: Honoring Mark Kiar for his years of service to Brown County. Committee approved. See Resolutions, Ordinances August County Board.
3. Arena/Expo Centre - Event Attendance (June 2008). Receive & place on file.
4. Communication from Norbert Sell & Terry Rasmussen re: Opposition of Brown County taxpayers to sale of land owned by Brown County for the implementation of the Ashwaubenon Boulevard. (Referred from July County Board.) Receive & place on file.
5. Golf Course - Discussion of Golf Course fees and rates. (Requested from previous meeting.)
 - a) Approve suggested changes in the Junior passes.
 - b) Approve a change to the 18-22 age range rate from \$1000 to \$650.
 - c) Reduce weekend rates after 2 p.m.
 - d) Approve Senior Package rates on Mondays & Wednesdays.
 - e) Direct the superintendent to work with area high schools to develop a flat rate fee.
6. Golf Course - Update on irrigation software at golf course. (From previous meeting.) Receive & place on file.
7. Golf Course - Usage of Golf Course Vehicles. (Requested from previous meeting.) Receive & place on file.
8. Golf Course - Budget Financial Status Report for June 30, 2008. Receive & place on file.
9. Golf Course - Report through July 27, 2008. Receive & place on file.
10. Golf Course - Superintendent's report. Receive & place on file.
11. NEW Zoo - Usage of Zoo Vehicles. (Requested from previous meeting.) Receive & place on file.
12. NEW Zoo - Budget Status Financial Report for June 30, 2008. Receive & place on file.
13. NEW Zoo - Request for Budget Transfer (#08-45): Increase in Expenditures with Offsetting Increase in Revenue: Restricted Donation received from NEW Zoological Society for purpose of sponsoring the 1st Annual Bay Care Clinic SAFE and Wellness Day at NEW Zoo (\$4,000). Approve.

ord									
ted at to County	\$ 4,520.00	\$ 2,340.00	\$ 50,761.76	\$ 750.00	\$ 150.00	\$ 403.00	\$58,924.76		
Vendor acknowledged addendum 1 which would be considered an informality. Addendum had no affect on price, was only a map of the area to be									

ADDENDUM TO ITEM #26

<u>BID TABULATION RECORD</u>				
PROJECT NAME: Replacement of Doors at Veterans Memorial Arena				
PROJECT #1311				
DUE DATE/TIME: July 15, 2008, 11:00 a.m. local time				
OPENING DATE/TIME: July 15, 2008 at 11:00 a.m. local time				
<u>Contractor</u>	<u>Total Cost</u>	<u>Addendum 1</u>	<u>Addendum 2</u>	<u>Addendum 3</u>
Construction	\$ 91,725.00	Yes	Yes	Yes
Arch Construction	\$125,351.00	Yes	Yes	Yes
Plumbers	\$ 66,050.00	Yes	Yes	Yes
Electrical Construction	\$ 75,285.00	Yes	Yes	Yes
Painters Construction	\$ 70,547.00	Yes	Yes	Yes

No. 9c(i) REPORT OF "SPECIAL" EDUCATION AND RECREATION COMMITTEE OF AUGUST 20, 2008

TO THE MEMBERS OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

The EDUCATION & RECREATION COMMITTEE met in special session on August 20, 2008 and recommends the following:

1. Resolution re: Approving an Amendment to the Lease Agreement between Brown County and the Green Bay Area Visitor and Convention Bureau, Inc. of the Veterans Memorial Complex.
 - b) Approve the Second Amend with corrections to the first paragraph replacing the word "First" with the word "Second."
 - c) Approve with changes.
See Resolutions, Ordinances August County Board.
2. Resolution re: Approving an Amendment to the Lease Agreement between Brown County and the Green Bay Packers, Inc.
 - a) Add the language "March 15, 1994" (The "1994 Amendment") in the first paragraph of the third amendment to the Lease Agreement before January 12, 1997.
 - b) Amend Item 7B under the Third Amendment to Lease Agreement (Page 3, 7B, 4th line) replacing "Chairman of the Education and Recreation Committee" with "Brown County Board of Supervisors."
 - c) Approve with changes.
See Resolutions, Ordinances August County Board.

COMMITTEE ACTION:

ITEM #1 -- Resolution re: Approving an Amendment to the Lease Agreement between Brown County and the Green Bay Area Visitor and Convention Bureau, Inc. of the Veterans Memorial Complex. COMMITTEE ACTION: A motion was made by Supervisor Johnson and seconded by Supervisor Brunette to approve the Second Amendment with Corrections to the First Paragraph replacing the word "First" with the word "Second". Vote taken. Motion carried unanimously.

ITEM #2 -- Resolution re: Approving an Amendment to the Lease Agreement between Brown County and the Green Bay Packers, Inc. COMMITTEE ACTION: A motion was made by Supervisor Johnson and seconded by Supervisor Warpinski to add the language "March 15, 1994 (the "1994 Amendment") and" insert it in the first paragraph of the third amendment to the lease agreement before January 12, 1997. Vote taken. Motion

carried unanimously.

A motion was made by Supervisor Warpinski and seconded by Supervisor Johnson to amend Item #7b under the Third Amendment to Lease Agreement (Page 3, 7B, 4th line) replacing "Chairman of the Education and Recreation Committee" with "Brown County Board of Supervisors". Vote taken. Motion carried unanimously.

A motion was made by Supervisor Johnson and seconded by Supervisor Vander Leest to approve. Vote taken. Motion carried.

A motion was made by Supervisor Vander Leest and seconded by Supervisor Johnson "to adopt items #1 and #2 as amended by the Education & Recreation Committee". Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Tom Hinz, County Executive Date: 8/27/2008

No. 9d -- REPORT OF EXECUTIVE COMMITTEE OF AUGUST 11, 2008

TO THE MEMBERS OF THE BROWN COUNTY
BOARD OF SUPERVISORS

Ladies and Gentlemen:

The EXECUTIVE COMMITTEE met in regular session on August 11, 2008 and recommends the following motions:

1. Communication from Supervisor Mary Scray to evaluate the possibility of changing our work week to 4-10 hour days for County Departments. (Referred from July County Board.) Put this on the Internal Auditor's work plan to look at evaluating 4-10 hour work days; what the cost would be; and investigate what private companies have done.
2. Communication from Supervisor Carole Andrews re: Could the Board explore different procedural formats when considering new ordinances to allow for greater public input. (Referred from July County Board.) Explore different ways to communicate to the public on agenda items.
3. Communication from Norbert Sell & Terry Rasmussen re: Opposition of Brown County Tax payers to sale of land owned by Brown County for the implementation of the Ashwaubenon Boulevard. (Referred from July County Board.) Receive & place on file.
4. County Executive report.
 - a. Budget Status Financial report for June 30, 2008.
Receive & place on file.
5. Labor Negotiator Report. Receive & place on file.
6. Internal Auditor Report.
 - a. Budget Status Financial Report for June 30, 2008.
Receive & place on file.
 - b. Audit performed on Neville Public Museum Internal Controls by Internal Auditor.
Refer to Education & Recreation Committee in September for follow up on the completion of recommendations.
 - c. Other.
 - 1) Have the remaining recommendations for the Mental Health Center be followed through in 90 days or have Human Services department give a written explanation on why the recommendations have not been carried out and bring it forward to the County Board and County Executive Hinz.
 - 2) Receive & place on file the Internal Auditor's report.
7. Resolution re: Waiver of Fees for the Usage of Facilities and Property Owned or Maintained by Brown County. (Referred back to Committee from July County Board.) Receive & place on file. See Resolutions, Ordinances August County Board.
8. Resolution re: UW-Extension Department Change in Table of Organization (Addition of Limited Term Employees). (Referred from Planning, Development & Transportation Committee.) Committee approved. See Resolutions, Ordinances August County Board.
9. Resolution re: Recognizing September 10 – October 10, 2008 as Voter Registration Month in Brown County. (Referred from Administration Committee.) Committee approved. See Resolutions, Ordinances August County Board.
10. **Closed Session:** For the purpose of deliberating whenever competitive or bargaining reasons require a closed session pursuant to 19.85 (1)(e). In the alternative, the Executive committee is meeting for the purpose of collective bargaining and is not subject to the Wisconsin open meetings law pursuant to 19.82 (1) of the Wisconsin

State Statutes, and also for the purpose of conferring with legal counsel for Brown County as to legal advice concerning strategy as to litigation pending pursuant to sec. 19.85 (1) (g) of the Wisconsin State Statutes. (No Closed Session held.)

A motion was made by Supervisor Vander Leest and seconded by Supervisor Warpinski **“to adopt”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ _____ Tom Hinz, County Executive _____ Date: 8/27/2008

No. 9e -- REPORT OF HUMAN SERVICES COMMITTEE OF JULY 23, 2008

TO THE MEMBERS OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

The HUMAN SERVICES COMMITTEE met in regular session on July 23, 2008, and recommends the following motions:

1. Review minutes of:
 - a. Human Services Board (6/19/08).
 - b. Children with Disabilities Education Board (5/14/08).
 - c. Homeless Issues & Affordable Housing Sub Committee (6/17/08).
 - d. Community Options Program Appeals Committee (6/23/08 & 7/14/08).
 - e. Veterans’ Recognition Sub Committee (7/8/08).

Receive & place on file items a-e.
2. Presentation - By Family Services Association for a Child Advocacy Center. Receive & place on file.
3. Speaker from Catholic Charities regarding their Teen Parent Program. (Request from June 28, 2008 meeting.) Deleted from agenda.
4. Human Services Dept. - Report on Mental Health Center Internal Audit. (Request from June 25, 2008 meeting.) Receive & place on file.
5. Human Services Dept. - Mental Health Center Statistics. Receive & place on file.
6. Human Services Dept. - Nursing Home Licensed Bed Decertification. Receive & place on file.
7. Human Services Dept. - Bellin Psychiatric Monthly Report (June 2008). Receive & place on file.
8. Human Services Dept. - Approval for New Non-Continuous Vendor. Approve.
9. Human Services Dept. - Approval of New Contract Vendors. Approve.
10. Human Services Dept. - Monthly Contract Update. Approve.
11. Human Services Dept. - Budget Status Financial Report for Community Programs May 31, 2008. Receive & place on file.
12. Human Services Dept. - Budget Status Financial Report for Mental Health Center (May 2008). Receive & place on file.
13. Human Services Dept. - Family Care Discussion (Request from June 25, 2008 meeting.) Move forward with family care initiative.
14. Director’s report. Receive & place on file.
- #14a Communication from Supervisor Andy Nicholson re: To review Packerland’s odor complaints last two years. (Referred from July County Board.) Receive & place on file.
15. Health Dept. & Aging & Disability Resource Center - Budget Status Financial Report for May 31, 2008 & Veterans Dept. Budget Status Financial Report for May 2008. Receive & place on file..
16. Audit of bills. Pay the bills.

A motion was made by Supervisor Evans and seconded by Supervisor Warpinski **“to adopt”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ _____ Tom Hinz, County Executive _____ Date: 8/27/2008

No. 9f -- REPORT OF PLANNING, DEVELOPMENT & TRANSPORTATION COMMITTEE OF JULY 28, 2008

TO THE MEMBERS OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

The PLANNING, DEVELOPMENT & TRANSPORTATION COMMITTEE met in regular session on July 28, 2008, and recommends the following motions.

1. Review minutes of:
 - a) Solid Waste Board (4/21/08).
 - b) Veterans' Recognition Sub Committee (7/8/08).
 - c) Harbor Commission (5/12/08).

Receive & place on file items a-c.
2. Zoning - FEMA update. Receive & place on file.
3. Zoning - Director's report. Receive & place on file.
4. Zoning - Budget Status Financial report for June 30, 2008. Receive & place on file.
5. Airport - Budget Status Financial report for May 2008. Receive & place on file.
6. Airport - Director's report. Receive & place on file.
7. Highway - June 2008 Budget to Actual. Receive & place on file.
8. Highway - Communication from Supervisor Norbert Dantine re: To have Human Resources do a fiscal impact to change the Highway System from Highway Commission and six supervisors to Highway Commission with two supervisors and increase hourly rate by \$1 per hour for four working foremen. (Referred from July County Board.) Direct staff and bring back by September.
9. Highway - Communication from Supervisor Kaster re: Brown County should look into share cost operating asphalt plants in surrounding counties or purchasing from surrounding counties depending on location of project. (Held from previous meeting.) Have staff report back in September with alternative surfacing.
10. Highway - Communication for Discussion purposes only from Supervisor Bill Clancy re: Town of Holland requesting that Brown County give the communities the right to have the town roads and county roads available for ATV and golf cart use. Hold for 30 days.
11. Highway - Ordinance re: Dealing with Revision of Speed Zone on County Highway D, Village of Wrightstown, Brown County, State of Wisconsin. Committee approved. See Resolutions, Ordinances August County Board.
12. Highway - Commissioner's report. Receive & place on file.
13. Planning Commission - Draft MS4 Permit Storm Water Ordinance. (Held from previous meeting.) Approve.
14. Planning Commission - An Ordinance re: To Create Chapter 40 of the Brown County Code Entitled "Control of Construction Site Erosion Resulting from Land Disturbing Activities and the Control of Post Construction Storm Water management. Committee approved with corrections made. See Resolutions, Ordinances August County Board.
15. Planning Commission - An Ordinance re: To Create Chapter 41 of the Brown County Code entitled "S4 Permit Storm Water Ordinance" Relating to Illicit Discharge and Connection and Response Procedure. Committee approved with corrections made. See Resolutions, Ordinances August County Board.
16. Planning Commission - Budget Status Financial Report for June 30, 2008. Receive & place on file.
17. Planning Commission - Request for staff updates on recommendations and development options on land east of the current jail site (standing item). Receive & place on file.
18. Planning Commission - Director's report. Receive & place on file.
19. UW-Extension - Resolution re: UW-Extension Department Change in Table of Organization (Addition of Limited Term Employee). Referred to Executive Committee. Committee approved. See Resolutions, Ordinances August County Board.
20. UW-Extension - Request for Budget Transfer (#08-48): Increase in Expenditures with Offsetting Increase in Revenue: State Grants Revenue received from the University of Wisconsin-Madison School of Medicine Community Partnership Grant (Got Dirt) -- \$65,402. Approve.
21. UW-Extension - Director's report.
 - a) UW-Extension Budget Status Financial report for June 30, 2008. Approve.
 - b) Receive & place on file.
22. Port/Solid Waste - Resolution re: Adding a Subzone to the General Operating Zone of Brown County Foreign Trade Zone #167. Committee approved. See Resolutions, Ordinances August County Board.
23. Port/Solid Waste - Oconto Municipal Recycling Agreement. Approve.
24. Port/Solid Waste - Transfer Station Operation & Hauling Contract. Send back to staff, have an Addendum to allow salvaging with metal, etc., and have it reviewed by the County Board Chairman.
25. Port/Solid Waste - RFP for Hazardous Waste Disposal Contract for Household Hazardous Waste Facility. Approve.
26. Port/Solid Waste - Budget Status Financial Report for May 31, 2008. Approve.
27. Port/Solid Waste - Director's report. Receive & place on file.

28. **Closed Session:** The committee may entertain a motion and to enter into closed session for the purpose of considering performance evaluation date of employees over which it exercises jurisdiction and responsibility and for the purpose of considering certain work assignment issues where competitive and bargaining reasons require a closed session as provided at Wis. State Stats. Section 19.845 (1) (c). (No Closed Session Held.)
29. Register of Deeds Budget Status Financial Report for May 2008 & Property Listing for June 30, 2008. Receive & place on file.
30. Audit of bills. Pay the bills.

A motion was made by Supervisor Erickson and seconded by Supervisor Fleck **“to adopt.”** Supervisor Evans requested item #6 be taken separately. Voice vote taken on remainder of report. Motion carried unanimously with no abstentions.

Item #6 -- Airport - Director’s Report. COMMITTEE ACTION: Receive and place on file.

Supervisor Evans asked questions of Airport Director, Tom Miller, regarding airlines leaving Green Bay. Mr. Miller stated that airlines were making these changes in response to a distressed economy. Following discussion, a motion was made by Supervisor Evans and seconded by Supervisor Johnson **“to adopt item #6”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ _____ Tom Hinz, County Executive _____ Date: 8/27/2008

No. 9f(i) -- REPORT OF LAND CONSERVATION SUBCOMMITTEE OF JULY 28, 2008

TO THE MEMBERS OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

The LAND CONSERVATION SUB COMMITTEE met in regular session on July 28, 2008, and recommends the following motions.

1. Letter from Michael Best & Friedrich LLP to Jim Kalny. Receive & place on file.
2. Land and Water Plan materials for July 30, 2008 Local Advisory Committee meeting. Receive & place on file.
3. Land Conservation department budget update. Receive & place on file.
4. Director’s report. Receive & place on file.

A motion was made by Supervisor Lund and seconded by Supervisor Kaster **“to adopt.”** Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ _____ Tom Hinz, County Executive _____ Date: 8/27/2008

No. 9g -- REPORT OF PUBLIC SAFETY COMMITTEE OF AUGUST 6, 2008

TO THE MEMBERS OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

The PUBLIC SAFETY COMMITTEE met in regular session on August 6, 2008, and recommends the following motions:

1. Review minutes and reports of:
 - a) Fire Investigation Task Force Board of Directors (5/15/08).
 - b) Circuit Courts Security Committee (7/1/08).Receive & place on file items a-b.
2. Volunteers in Probation – Monthly Statistics (June 30, 2008). Receive & place on file.
3. Volunteers in Probation – Quarterly Statistics (April, May & June 2008). Receive & place on file.
4. Teen Court - June 2008 Teen Court Stats. Receive & place on file.
5. Emergency Management - Approval of the Mutual Radio Replacement Grant (Round 4). (From previous meeting.) Approve.
6. Emergency Management - Budget Status Financial Report for June 30, 2008. Receive & place on file.

over 80 percent of Brown County citizens are currently registered to vote, an additional 35,000 people are eligible to vote but have not yet registered; and

WHEREAS, if already registered to vote and there have been no changes to voter information, no further registration is required; but, if registered voters move or have a name change a new voter registration application must be filled out and filed with the jurisdictional clerk; and

WHEREAS, because of the large number of expected voters at the November 4, 2008 election with people casting their votes for President, members of Congress, state legislators, and county officials, registration lines at the polls could be long; but if voters are registered by October 10th, their names will appear on the poll list making the voting process faster and more efficient;

NOW, THEREFORE BE IT RESOLVED that the Brown County Board of Supervisors hereby recognizes September 10, 2008 through October 10, 2008 as

“VOTER REGISTRATION MONTH IN BROWN COUNTY”

and urges all eligible Brown County citizens to register to vote with their municipal clerk or the Brown County Clerk during this time; and that they exercise their right to vote at the November 4th General Election.

2008 Estimated Fiscal Impact: NONE

Respectfully Submitted,
ADMINISTRATION COMMITTEE
EXECUTIVE COMMITTEE

A motion was made by Supervisor Krueger and seconded by Supervisor Warpinski **“to adopt.”** Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____ \s\ Tom Hinz, County Executive _____ Date: 8/27/2008

No. 10b -- Taken out of order. See after item #1.

No. 10c-- RESOLUTION REGARDING: ADOPTING THE BROWN COUNTY PARK AND OUTDOOR RECREATION PLAN 2008-2013

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the Brown County Board of Supervisors adopted the Brown County Open Space and Outdoor Recreation Plan 2001 on September 19, 2001; and

WHEREAS, the provision of open space and recreation facilities is important to the quality of life of the residents of, and visitors to, Brown County; and

WHEREAS, county adoption of a current open space and recreation plan is required for Brown County to remain eligible for cost sharing aid programs administered through the State of Wisconsin; and

WHEREAS, the Brown County Planning Commission and Brown County Facility and Park Management have jointly prepared an update of the county’s open space and outdoor recreation plan; and

WHEREAS, the Brown County Park and Outdoor Recreation Plan 2008-2013 encompasses a general outline and plan for the recreational development of the county; and

WHEREAS; The Brown County Park and Recreation Citizens Advisory Committee completed a final review of the plan during after a public open house on June 26, 2008; and

WHEREAS, the Brown County Planning Commission Board of Directors recommended approval of the plan on

August 6, 2008; and

WHEREAS, the Brown County Education & Recreation Committee recommended approval of the plan on August 14, 2008; and

NOW, THEREFORE, BE IT RESOLVED that the Brown County Park and Outdoor Recreation Plan 2008-2013 is hereby adopted by the Brown County Board of Supervisors.

Respectfully submitted,
EDUCATION & RECREATION COMMITTEE

A motion was made by Supervisor Erickson and seconded by Supervisor Johnson **“to adopt.”**

A motion was made by Supervisor Andrews and seconded by Supervisor Lund **“to amend the Resolution so that the text of the Memorial to Mr. Mark Kiar be placed in the 2008-2013 Park and Outdoor Recreation Plan as a memorial to his dedication to Brown County”.**

A motion was made by Supervisor Vander Leest to hold for one month; no second to motion.

After discussion, a motion was made by Supervisor Lund and seconded by Supervisor Johnson **“to adopt as amended”.** Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: /s\ Tom Hinz, County Executive Date: 8/27/2008

No. 10c(i) -- RESOLUTION REGARDING: APPROVING AN AMENDMENT TO THE LEASE AGREEMENT BETWEEN BROWN COUNTY AND THE GREEN BAY AREA VISITOR AND CONVENTION BUREAU, INC. OF THE VETERANS MEMORIAL COMPLEX

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the Green Bay Area Visitor and Convention Bureau Inc. (VCB) wishes to enter into the attached Second Amendment to the Lease Agreement under the terms and conditions indicated therein.

NOW, THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that it hereby approves the attached Second Amendment to the Lease Agreement.

Respectfully submitted,
EDUCATION & RECREATION COMMITTEE

A motion was made by Supervisor Johnson and seconded by Supervisor Williams **“to adopt the resolution with the correction made to the first paragraph of the Lease Agreement where “first” was changed to “second”.**

After discussion, a motion was made by Supervisor Vander Leest and seconded by Supervisor Johnson **“to suspend the rules to allow interested parties to address the Board”.** Voice vote taken. Motion carried unanimously with no abstentions.

Jason Wied, Vice President, Green Bay Packers, 222 W. Mission Rd., Green Bay, spoke in favor of the resolution.

Ken Wachter, President, PMI, 510 St. Marys Blvd, Green Bay, spoke in favor of the resolution.

A motion was made by Supervisor Warpinski and seconded by Supervisor Dantine **“to return to the regular order of business”.** Voice vote taken. Motion carried unanimously with no abstentions.

After discussion, a vote was taken on the original motion **“to adopt the resolution with the correction made to the first paragraph of the Lease Agreement where “first” was changed to “second”.** Voice vote taken. Motion carried with Supervisors Zima and Haefs voting nay.

Approved by: /s\ Tom Hinz, County Executive Date: 8/27/2008

ATTACHMENT TO RESOLUTION #10C(i)

SECOND AMENDMENT TO LEASE AGREEMENT

This ~~First~~ Second Amendment to Lease Agreement (hereinafter the "~~First~~ Second Amendment") is made and entered into this 20th day of August, 2008, September 1st 2008, by and between Brown County, Wisconsin (hereinafter referred to as "Tenant") and Green Bay Area Visitor and Convention Bureau, Inc. (VCB), a Wisconsin nonstick corporation, with its offices located at 1901 South Oneida Street, Green Bay, Wisconsin (hereinafter referred to as "Subtenant").

WITNESSETH:

WHEREAS, Tenant and Subtenant did enter into a Lease Agreement dated August 1, 1999 (the "Lease Agreement") and subsequently amended in 2006 (the "First Amendment") wherein the Tenant did lease to Subtenant a set of properties referred to therein as the "Veterans Memorial Complex"; and

WHEREAS, pursuant to the First Amendment of the Lease Agreement the Youth Hockey Lot has been used for parking and controlled by the Subtenant; and

WHEREAS, pursuant to the First Amendment of the Lease Agreement the Subtenant conferred certain rights and obligations to Promotion Management, Inc. ("PMI"); and

WHEREAS, the Tenant has, on August 20th, 2008, entered into the Third Amendment to a lease with the Green Bay Packers, Inc., in which the property currently designated the Youth Hockey Lot will be exchanged for adjacent property and that pursuant to that same agreement the Green Bay Packers, Inc. have agreed to construct a new parking lot ("New Parking Lot") at their expense under the terms of that Amendment.

NOW THEREFORE, in consideration of mutual covenants, terms and conditions and the Lease Agreement and its First Amendment, the parties do hereby agree as follows:

1. On completion of the New Parking Lot, the Subtenant's right of use and control over the Youth Hockey Lot will transfer to the New Parking Lot.
2. Subtenant will maintain use and control over the Youth Hockey Lot under the terms of the Lease Agreement and the First Amendment of the Lease Agreement until the completion of the New Parking Lot.
3. Except for the modifications set forth in this Second Amendment, all other terms and conditions of the Lease Agreement and the First Amendment to the Lease Agreement remain in full force and effect until and unless they are modified by some other agreement between the parties.

IN WITNESS WHEREOF, the parties have signed this First Amendment to Lease Agreement the day and year first above written.

Attest:	Subtenant: Green Bay Area Visitor and Convention Bureau, Inc.
_____ \s\ Kari Ness	By: _____ \s\ Brad Toll Green Bay Visitor and Convention Bureau

_____ \s\ Kari Ness	By: _____ \s\ Ken Wachter P.M.I.
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Attest:	Tenant: Brown County, Wisconsin
_____ \s\ Kari Ness	By: _____ \s\ Tom Hinz County Executive

No. 10c(ii) -- RESOLUTION REGARDING: APPROVING AN AMENDMENT TO THE LEASE AGREEMENT BETWEEN BROWN COUNTY AND THE GREEN BAY PACKERS, INC.

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the Green Bay Packers (“Packers”) organization wishes to enter into the attached third Amendment to the Lease Agreement under the terms and conditions indicated therein.

NOW, THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that it hereby approves the attached Third Amendment to the Lease Agreement.

Respectfully submitted,
EDUCATION & RECREATION COMMITTEE

A motion was made by Supervisor De Wane and seconded by Supervisor Vander Leest **“to adopt the Third Amendment to Lease Agreement as amended previously”**.

A motion was made by Supervisor Kaster and seconded by Supervisor Dantine **“to amend Item #7 by adding #7d ‘The Packers agree to not charge a fee of any kind for individuals to view any practices or training camp for the duration of this agreement’”**.

A motion was made by Supervisor Lund and seconded by Supervisor Williams **“to suspend the rules to allow interested parties to address the Board”**. Voice vote taken. Motion carried.

Supervisor Kaster asked Jason Wied, Vice President, Green Bay Packers, 222 W. Mission Rd., Green Bay, if the Packers would agree to this motion to amend the Lease Agreement. Mr. Wied replied “yes.”

A motion was made by Supervisor Dantine and seconded by Supervisor Lund **“to return to the regular order of business”**. Voice vote taken. Motion carried unanimously with no abstentions.

Vote taken on Supervisor Kaster’s motion **“that the Packers agree to not charge a fee of any kind for individuals to view any practices or training camp for the duration of this agreement”**. Roll Call #10c(ii)1:

Ayes: Warpinski, De Wane, Nicholson, Theisen, Haefs, Brunette, Zima, Vander Leest, Dantine, Andrews, Kaster, Williams, Fleck, Clancy, Scray, Lund

Nays: Krueger, Erickson, Evans, Johnson, La Violette, Knier, Langan, Hoelt, Fewell

Excused: Wetzl

Total Ayes: 16 Total Nays: 9 Excused: 1

Motion carried.

A motion was made by Supervisor Vander Leest and seconded by Supervisor Johnson **“to adopt the resolution and agreement as amended”**. Voice vote taken. Motion carried with Supervisors Haefs and Zima voting nay.

Approved by: _____ \s\ Tom Hinz, County Executive _____ Date: 8/27/2008

ATTACHMENT TO RESOLUTION #10C(ii)

**THIRD AMENDMENT TO LEASE AGREEMENT
NITSCHKE FIELD EXCHANGE**

THIS THIRD AMENDMENT TO LEASE AGREEMENT (THE “Third Amendment to lease”) is made this ____ day of _____, 2008, by and between the **GREEN BAY PACKERS, INC.** (the “Packers”), a Wisconsin corporation and the **COUNTY OF BROWN** (“Brown County”), a Wisconsin body politic, for the purpose of amending that certain Lease Agreement between the parties dated April 22, 1957 (the “Original Lease”), as previously amended on March 15, 1994 (the “1994 Amendment”),* January 12, 1997 (the “1997 Amendment”), and further amended on December 17, 2003 (the “2003 Second Amendment”).

WITNESSETH:

WHEREAS, The Packers and Brown County executed the Original Lease on April 22, 1957, whereby Brown

County leased approximately five (5) acres of land to the Packers; and

WHEREAS, the Packers and Brown County entered into an Amendment to Lease Agreement dated January 12, 1997, and a Second Amendment to Lease Agreement dated December 17, 2003, pursuant to which additional area was added to the property described in the Original Lease, and the lease was extended; and

WHEREAS, the parties wish to exchange Nitschke Field with the adjacent Resch Center parking lot and extend the lease terms, as described below.

NOW, THEREFORE, the parties do agree as follows:

1. **Lease Land Exchange:** The Packers and Brown County agree to exchange Nitschke Field with the adjacent Resch Center parking lot. This exchange would increase the amount of land leased to the Packers by approximately .9 acres. The Packers will work with Brown County and the Resch Center’s operator to build a new parking lot of two-hundred five (205) spaces equipped with proper lighting, fencing and other improvements necessary for its purpose prior to construction of the new field. Any cost related to the exchange and improvements is the responsibility of the Packers.
2. **Leased Property Under Terms of This Third Amendment.** A legal description of the property leased under the terms of this amendment will be obtained by the parties prior to construction of the new field and parking lot described above. The property to be leased consists of approximately 3.47 acres of land approximately 309’ by 489’ immediately south of Armed Forces Drive and immediately east of the property described in the Original Lease. The property is further depicted in an attached overhead photograph which is incorporated by reference.
3. **Term.** The Packers shall have and hold a leasehold interest in said Nitschke Field for a period of fifteen (15) years (the “Lease Term”). The Lease Term for Nitschke Field herein described shall commence effective September 1, 2008, and shall expire on December 31, 2023. The Packers hereby agree to continue to hold preseason training camps at Nitschke Field during the Lease Term.
4. **Rent.** As and for the rental due hereunder, the Packers agree to pay Brown County, on or before January 15 of each lease year during the Lease Term, the annual rents set forth below for Nitschke Field described in this Amendment to Lease:

LEASE YEAR	ANNUAL RENT
2009	\$200,000
2010	\$206,500
2011	\$213,000
2012	\$219,500
2013	\$226,000
2014	\$232,500
2015	\$239,000
2016	\$246,500
2017	\$253,000
2018	\$259,500
2019	\$266,000
2020	\$272,500
2021	\$279,000
2022	\$285,500
2023	\$292,000

5. **Option to Renew.** Brown County hereby grants to the Packers the right and option to renew this Amendment to Lease for an additional term of fifteen (15) years (the “Renewal Term”), which Renewal Term, if said option is exercised, shall commence on January 1st, 2024, and shall expire on December 31st, 2038. In the event the Packers desire to exercise the option to extend the term of this Amendment to Lease, the Packers shall give written notice of such exercise of this renewal option to Brown County not later than October 31, 2018. The annual rent payable by the Packers to Brown County during the Renewal Term shall be paid on or before January 15 of each lease year during the Renewal Term as follows:

Date: 8/27/2008

BY: \s\ Darlene K. Marcelle
Darlene Marcelle, County Clerk

Date: 9/2/2008

* Amended as per the County Board on August 20, 2008.

No. 10d -- RESOLUTION REGARDING: WAIVER OF FEES FOR THE USAGE OF FACILITIES AND PROPERTY OWNED OR MAINTAINED BY BROWN COUNTY

A motion was made by Supervisor Nicholson and seconded by Supervisor Dantine "to remove from the agenda". Voice vote taken. Motion carried unanimously with no abstentions.

No. 10e -- ORDINANCE REGARDING: DEALING WITH REVISION OF SPEED ZONE ON COUNTY HIGHWAY D, VILLAGE OF WRIGHTSTOWN, BROWN COUNTY, STATE OF WISCONSIN

THE BROWN COUNTY BOARD OF SUPERVISORS DOES ORDAIN AS FOLLOWS:

Section 1: A traffic and engineering investigation having been made on the following described highway, the maximum permissible speed at which vehicles may be operated on said highway, which speed herewith established as reasonable and safe pursuant to Section 349.11, Wisconsin Statutes, shall be as set forth within, and upon the erection of standard signs giving notices thereof.

Section 2: Section 340.0003, Schedule A of the Brown County Code is hereby amended as follows:

County Trunk Highway D, Village of Wrightstown:

Remove: Thirty-five miles per hour from a point 0.10 of a mile north of Pine Street to a point 0.07 of a mile north of ~~Roskin Street~~ Rosin Road.

Add: Thirty-five miles per hour from a point 0.10 of a mile north of Pine Street to a point 0.12 of a mile (641 feet) north of Rosin Road.

Section 3: This ordinance shall take effect upon passage and publication. Adopted this 20th day of August 2008.

Fiscal Note: Minimal financial impact

Respectfully Submitted,
PLANNING, DEVELOPMENT &
TRANSPORTATION COMMITTEE

A motion was made by Supervisor Kaster and seconded by Supervisor Clancy "to adopt." Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Tom Hinz, County Executive Date: 8/27/2008
Approved by: \s\ Darlene K. Marcelle, County Clerk Date: 8/28/2008
Approved by: \s\ Guy Zima, Board Chairman Date: 8/28/2008

No. 10f -- ORDINANCE REGARDING: TO CREATE CHAPTER 40 OF THE BROWN COUNTY CODE ENTITLED "CONTROL OF CONSTRUCTION SITE EROSION RESULTING FROM LAND DISTURBING ACTIVITIES AND THE CONTROL OF POST CONSTRUCTION STORM WATER MANAGEMENT

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

The Brown County Board of Supervisors does ordain as follows:

Section 1:

Ch. 40 of the Brown County Code is hereby created to provide construction site erosion control and to reduce the amount of post-construction storm water and associated pollutants reaching waters of the state. Use of this ordinance by Brown County will foster the consistent statewide application of post-construction performance standards for new development and redevelopment contained in subchapters III and IV of chapter NR 151, Wis. Adm. Code.

Section 2:

40.01 AUTHORITY.

- (1) This ordinance is adopted under the authority granted by s. 59.693, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 59.69 Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s. 59.693 Wis. Stats., s. 59.69 Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the County.
- (3) Brown County hereby designates the County Highway Commissioner to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements and storm water management requirements that may be imposed by any of the following:
 - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

40.02 FINDINGS OF FACT.

The Brown County Board finds that runoff from land disturbing construction activity and uncontrolled post-construction runoff carries a significant amount of sediment and other pollutants to the waters of the state in Brown County., and has a significant impact upon water resources and the health, safety and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, runoff from land disturbing construction activity and uncontrolled post-construction runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.
- (2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- (3) Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- (4) Reduce the quality of groundwater by increasing pollutant loading.
- (5) Threaten public health, safety, property and general welfare by overtaxing storm sewers, drainage ways, and other minor drainage facilities.
- (6) Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- (7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

40.03 PURPOSE AND INTENT.

- (1) **PURPOSE.** The purpose of this ordinance is to establish long-term, construction site erosion requirements and post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. Specific purposes are to:
 - (a) Further the maintenance of safe and healthful conditions.
 - (b) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
 - (c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
- (2) **INTENT.** It is the intent of the Brown County Board that this ordinance regulates construction site erosion requirements and post-construction storm water discharges to waters of the state. This ordinance may be applied on a site-by-site basis. The Brown County Board recognizes, however, that the preferred method of achieving the

storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by Brown County, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

40.04 JURISDICTION AND APPLICABILITY

(1) JURISDICTION.

This ordinance applies to land disturbing construction activity and/or post construction sites on Brown County owned highways and properties located within the boundaries and jurisdiction of the urbanized areas of Brown County.

(2) APPLICABILITY.

(a) This ordinance applies to the following land disturbing construction activities and post construction storm water management sites except as provided under sub. (b):

1. A construction site, which has 4,000 square feet or greater of land disturbing construction activity.
2. A construction site, which has 100 cubic yards or greater of excavation volume, filling volume, or some combination of excavation and filling volume.
3. A construction site, which has 100 linear feet or greater of land disturbance to a highway, street, driveway, swale, ditch, waters of the state, wetland, protective area, or other non-agricultural drainage facility which conveys concentrated flow. Wetlands shall be delineated in accordance with s. NR 103.08(1m).

(b) This ordinance does not apply to the following:

1. Construction sites and post construction storm water management sites where land disturbing construction activity includes the construction of 1- and 2-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than 1 acre of disturbance. These construction sites are regulated by the Wisconsin Department of Commerce under s. COMM 21.125 Wis. Adm. Code.
2. Construction sites exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
3. Nonpoint discharges from agricultural activity areas.
4. Nonpoint discharges from silviculture activities.
5. Mill and crush operations.

(c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to construction sites and post construction sites of any size that, in the opinion of the County Highway Commissioner, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(3) EXCLUSIONS.

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

40.05 DEFINITIONS.

(1) “Administering authority” means the governmental employee designated by the Brown County Board to

administer this ordinance: the Brown County Highway Commissioner's Office or designees of the Brown County Highway Commissioner.

- (2) "Agricultural activity area" means the part of a farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.
- (3) "Agricultural production area" means the part of a farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.
- (4) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this ordinance, average annual rainfall means measured precipitation in Brown County, Wisconsin between March 29 and November 25, 1969.
- (5) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.
- (6) "Business day" means a day the office of the County Highway Commissioner is routinely and customarily open for business.
- (7) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (8) "Combined sewer system" means a system for conveying both sanitary sewage and storm water runoff.
- (9) "Common plan of development or sale" means a development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.
- (10) "Connected imperviousness" means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.
- (11) "Construction site" means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development.
- (12) "Design storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The TR-55, Type II, 24-hour design storms for Brown County are: 1-year, 2.2 inches; 2-year, 2.5 inches; 5-year, 3.3 inches; 10-year, 3.8 inches; 25-year, 4.4 inches; and 100-year, 5.3 inches.
- (13) "Development" means residential, commercial, industrial, institutional, or other land uses and associated roads.
- (14) "Division of land" means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5 year period.
- (15) "Effective infiltration area" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (16) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (17) "Erosion and sediment control plan" means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- (18) "Exceptional resource waters" means waters listed in s. NR 102.11, Wis. Adm. Code.
- (19) "Extraterritorial" means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.
- (20) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.
- (21) "Financial guarantee" means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the County Highway Commissioner and/or Brown County Senior Environmental Planner by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (22) "Governing body" means county board of supervisors, town board of supervisors, city council, village board of trustees or village council.
- (23) "Highway" has the meaning given in s. 340.01 (22), Wis. Stats.

- (24) "Highway reconditioning" has the meaning given in s. 84.013 (1)(b), Wis. Stats.
- (25) "Highway reconstruction" has the meaning given in s. 84.013(1)(c), Wis. Stats.
- (26) "Highway resurfacing" has the meaning given in s. 84.013(1)(d), Wis. Stats.
- (27) "Impervious surface" means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious. Gravel surfaces are considered impervious, unless specifically designed to encourage infiltration.
- (28) "In-fill area" means a new development area less than 5 acres in size that is located within existing urban sewer service areas, surrounded by already existing development or existing development and natural or man-made features where development cannot occur..
- (29) "Infiltration" means the entry of precipitation or runoff into or through the soil.
- (30) "Infiltration system" means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (31) "Karst feature" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.
- (32) "Land disturbing construction activity" (or "disturbance") means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.
- (33) "Maintenance agreement" means a legal document that provides for long-term maintenance of storm water management and best management practices.
- (34) "MEP" or "maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.
- (35) "Minor reconstruction of a highway" means reconstruction of a highway that is limited to 1.5 miles in continuous or aggregate total length of realignment and that does not exceed 100 feet in width of roadbed widening.
- (36) "New development" means that portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the pre-development condition is classified as new development. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.
- (37) "Off-site" means located outside the property boundary described in the permit application.
- (38) "On-site" means located within the property boundary described in the permit application.
- (39) "Ordinary high-water mark" has the meaning given in s. NR 115.03(6), Wis. Adm. Code.
- (40) "Outstanding resource waters" means waters listed in s. NR 102.10, Wis. Adm. Code.
- (41) "Percent fines" means the percentage of a given sample of soil, which passes through a # 200 sieve.
- (42) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (43) "Permit" means a written authorization made by the County Highway Commissioner to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (44) "Permit administration fee" means a sum of money paid to the County Highway Commissioner and/or Brown County Senior Environmental Planner by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (45) "Pervious surface" means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.
- (46) "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.
- (47) "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.
- (48) "Post-construction site" means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (49) "Post-development" means the extent and distribution of land cover types present after the completion of land disturbing construction activity and final site stabilization.
- (50) "Pre-development" means the extent and distribution of land cover types present before the initiation of land

disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.

- (51) "Preventive action limit" has the meaning given in s. NR 140.05(17), Wis. Adm. Code.
- (52) "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface as set forth and more particularly defined at 40.12 (3) (d). However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.
- (53) "Redevelopment" means that portion of a post-construction site where impervious surfaces are being reconstructed, replaced, or reconfigured. Any disturbance where the amount of impervious area for the post-development condition is equal to or less than the pre-development condition is classified as redevelopment. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.
- (54) "Responsible party" means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.
- (55) "Routine maintenance" means that portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower 1/2 of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower 1/2 of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.
- (56) "Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (57) "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (58) "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
 - (a) Is designed or used for collecting water or conveying runoff.
 - (b) Is not part of a combined sewer system.
 - (c) Is not draining to a storm water treatment device or system.
 - (d) Discharges directly or indirectly to waters of the state.
- (59) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
- (60) "Stop work order" means an order issued by Brown County which requires that all construction activity on the site be stopped.
- (61) "Storm water management plan" means a comprehensive plan designed to reduce the discharge of pollution from storm water after the site has under gone final stabilization following completion of the construction activity.
- (62) "Storm water management system plan" is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (63) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (64) "Top of the channel" means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (65) "TR-55" means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.
- (66) "Transportation facility" means a public street, a public road, a public highway, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under s. 85.095(1)(b), Stats.
- (67) "Type II distribution" means a rainfall type curve as established in the "United States Department of Agriculture,

Soil Conservation Service, Technical Paper 149, published 1973". The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

- (68) "Urbanized Area" means a place and the adjacent densely settled surrounding territory that together have a minimum population of 50,000 people, as determined by the U.S. bureau of the census on the latest decennial federal census.
- (69) "Waters of the state" has the meaning given in s. 281.01 (18), Wis. Stats.

CONSTRUCTION SITE EROSION CONTROL & MAINTENANCE PROCEDURE

40.06 TECHNICAL STANDARDS.

- (1) **DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS.** All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:
- (a) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
 - (b) For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.
- (2) **OTHER STANDARDS.** Other technical standards not identified or developed in sub. (1), may be used provided that the methods have been approved by Brown County.

40.07 PERFORMANCE STANDARDS.

- (1) **RESPONSIBLE PARTY.** The responsible party shall implement an erosion and sediment control plan, developed in accordance with 40.09 that incorporates the requirements of this section.
- (2) **PLAN.** A written erosion and sediment control plan shall be developed in accordance with 40.09 and implemented for each construction site.
- (3) **REQUIREMENTS.** The erosion and sediment control plan shall meet the following minimum requirements to the maximum extent practicable:
- (a) BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the construction site as follows.
 1. For construction sites with 1 acre or greater of land disturbing construction activity, reduce the total suspended solids load by 80%, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.
 2. For construction sites with less than 1 acre of land disturbing construction activity, reduce the total suspended solids load using Wisconsin BMPs. These sites are not required to satisfy a numeric performance standard.
 - (b) Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.
 - (c) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:
 1. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
 2. Prevent the discharge of sediment as part of site de-watering.
 3. Protect the separate storm drain inlet structure from receiving sediment.
 - (d) The use, storage and disposal of building materials, chemicals, cement, concrete truck washout, litter, sanitary waste, and other compounds and materials used on the construction site shall be

managed during the construction period, to prevent their entrance into storm sewers and waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

- (4) LOCATION. The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.
- (5) ALTERNATE REQUIREMENTS. The County Highway Commissioner may establish requirements more stringent than those set forth in this section if the County Highway Commissioner determines that an added level of protection is needed for sensitive resources.

40.08 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

- (1) PERMIT REQUIRED. No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the County Highway Commissioner.
- (2) PERMIT APPLICATION AND FEES. At least one responsible party desiring to undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of 40.09 and shall pay an application fee of \$100.00 to the County Highway Commissioner. By submitting an application, the applicant is authorizing the County Highway Commissioner to enter the site to obtain information required for the review of the erosion and sediment control plan.
- (3) REVIEW AND APPROVAL OF PERMIT APPLICATION. The County Highway Commissioner shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:
 - (a) Within 20 business days of the receipt of a complete permit application, as required by sub. (2), the County Highway Commissioner shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.
 - (b) If the permit application and plan are approved, the County Highway Commissioner shall issue the permit.
 - (c) If the permit application or plan is disapproved, the County Highway Commissioner shall state in writing the reasons for disapproval.
 - (d) The County Highway Commissioner may request additional information from the applicant. If additional information is submitted, the County Highway Commissioner shall have 20 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
 - (e) Failure by the County Highway Commissioner to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) SURETY BOND. As a condition of approval and issuance of the permit, the County Highway Commissioner may require the applicant to deposit a surety bond, cash escrow, or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.
- (5) PERMIT REQUIREMENTS. All permits shall require the responsible party to:
 - (a) Notify the County Highway Commissioner within 48 hours of commencing any land disturbing construction activity.
 - (b) Notify the County Highway Commissioner of completion of any BMPs within 10 business days after their installation.
 - (c) Obtain permission in writing from the County Highway Commissioner prior to any modification pursuant to 40.09 (3) of the erosion and sediment control plan.
 - (d) Install all BMPs as identified in the approved erosion and sediment control plan.
 - (e) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
 - (f) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in weekly inspection reports.
 - (g) Conduct construction site inspections at least once per week and within 24 hours after a precipitation event of 0.5 inches or greater. Repair or replace erosion and sediment control BMPs as necessary within 24 hours of an inspection or notification that repair or replacement is needed. Maintain, at the construction site, weekly written reports of all inspections. Weekly inspection reports shall include all of the following: date, time and location of the construction site inspection; the name of individual who performed the inspection; an assessment of the condition of erosion and sediment controls; a description of any erosion and sediment control BMP implementation and maintenance performed; and a description of the present phase of land disturbing construction activity at the construction site.
 - (h) Allow the County Highway Commissioner to enter the site for the purpose of inspecting compliance with

the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan. Keep a copy of the erosion and sediment control plan, storm water management plan, amendments, weekly inspection reports, and permit at the construction site until permit coverage is terminated.

- (i) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.
- (6) PERMIT CONDITIONS. Permits issued under this section may include conditions established by the County Highway Commissioner in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in 40.07.
- (7) PERMIT DURATION. Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The County Highway Commissioner may extend the period one or more times for up to an additional 180 days. The County Highway Commissioner may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.
- (8) MAINTENANCE. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.
- (9) ALTERNATE REQUIREMENTS. The County Highway Commissioner may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.

40.09 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS.

- (1) PLAN REQUIREMENTS. The erosion and sediment control plan required under 40.07 (2) shall contain at a minimum the following information:
 - (a) Name, address, and telephone number of the landowner and responsible parties.
 - (b) A legal description of the property proposed to be developed.
 - (c) A site map with property lines, disturbed limits, and drainage patterns.
 - (d) Total area of the site and total area of the construction site that is expected to be disturbed by construction activities.
 - (e) Performance standards applicable to site.
 - (f) Proposed best management practices.
- (2) EROSION AND SEDIMENT CONTROL PLAN STATEMENT. For each construction site identified under 40.04 (2)(c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the County Highway Commissioner. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.
- (3) AMENDMENTS. The applicant shall amend the plan if any of the following occur:
 - (a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
 - (b) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.
 - (c) The County Highway Commissioner notifies the applicant of changes needed in the plan.
- (4) ALTERNATE REQUIREMENTS. The County Highway Commissioner may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.

40.10 ENFORCEMENT.

- (1) The County Highway Commissioner may post a stop-work order if any of the following occurs:
 - (a) Any land disturbing construction activity regulated under this ordinance is being undertaken without a permit.
 - (b) The erosion and sediment control plan is not being implemented in a good faith manner.
 - (c) The conditions of the permit are not being met.
- (2) If the responsible party does not cease activity as required in a stop-work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the County Highway Commissioner may revoke the permit.
- (3) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the County Highway Commissioner, or if a responsible party violates a stop-work order posted under sub. (1), the County Highway Commissioner may request the Brown County Corporation Counsel to obtain a cease and desist order in any court with jurisdiction.

- (4) The County Highway Commissioner may retract the stop-work order issued under sub. (1) or the permit revocation under sub. (2).
- (5) After posting a stop-work order under sub. (1), the County Highway Commissioner may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The County Highway Commissioner may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the County Highway Commissioner, plus interest at the rate authorized by the County Highway Commissioner shall be billed to the responsible party or recovered from the surety bond, cash escrow, or irrevocable letter of credit. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.
- (6) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$500.00 nor more than \$5,000 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
- (7) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

POST CONSTRUCTION STORM WATER MANAGEMENT & MAINTENANCE PROCEDURE

40.11 TECHNICAL STANDARDS.

The following methods shall be used in designing and maintaining the water quality, peak discharge, infiltration, protective area, and fueling / vehicle maintenance components of storm water practices needed to meet the water quality standards of this ordinance:

- (1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
- (2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the County Highway Commissioner.
- (3) In this ordinance, the following year(s) and location(s) have been selected as average annual rainfall (s): Brown County, 1969 (Mar. 29-Nov. 25).

40.12 PERFORMANCE STANDARDS.

- (1) RESPONSIBLE PARTY. The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.
- (2) PLAN. A written storm water management plan in accordance with 40.09 shall be developed and implemented for each post-construction site.
- (3) REQUIREMENTS. The storm water management plan shall meet the following minimum requirements to the maximum extent practicable:
 - (a) TOTAL SUSPENDED SOLIDS. BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows. The total suspended solids reduction shall be based on the average annual rainfall, as compared to no runoff management controls.
 - 1. For post-construction sites with 20,000 square feet or more of impervious surface disturbance and post-construction sites with 1 acre or more of land disturbance, the following is required:
 - a. Reduce the total suspended solids load by 80% for new development.
 - b. Reduce the total suspended solids load by 40% for redevelopment.
 - c. No total suspended solids load reduction is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed water quality BMP.
 - 2. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce the total suspended solids load using Wisconsin BMPs. These sites are not required to satisfy a numeric performance standard.

3. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date of this ordinance are required to satisfy the performance standards within 40.12 (3)(a)1.a, b, and c.
 4. The amount of total suspended solids control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
 5. Notwithstanding subds. 1. to 4 of this section., if the design cannot achieve the applicable total suspended solids reduction specified, the storm water management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.
- (b) PEAK DISCHARGE. BMPs shall be designed, installed and maintained to control peak discharges from the post-construction site as follows:
1. For post-construction sites with 20,000 square feet or more of impervious surface disturbance and post-construction sites with 1 acre or more of land disturbance, the following is required:
 - a. The peak post-development discharge rate shall not exceed the peak pre-development discharge rate for the 2-year, 10-year, and 100-year, 24-hour design storms. These peak discharge requirements apply to new development and redevelopment areas. No peak discharge control is required for routine maintenance areas, unless runoff from the routine maintenance area discharges into a proposed peak flow control facility.
 - b. TR-55 methodology shall be used for peak discharge calculations, unless the administering authority approves an equivalent methodology. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. Peak pre-development discharge rates shall be determined using the following "meadow" runoff curve numbers:

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Maximum Pre-Development Runoff Curve Numbers - Meadow				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	30	58	71	78

2. For post-construction sites with less than 20,000 square feet of impervious surface disturbance, reduce peak post-development discharge rates using Wisconsin BMPs. These sites are not required to satisfy a numeric performance standard.
 3. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date of this ordinance are required to satisfy the performance standards within 40.12 (3)(b)1.a and b.
 4. The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
 5. An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of non-erosive discharge velocities and reasonable downstream conveyance.
 6. Exemptions. The following transportation facilities are not required to meet the peak discharge requirements of this paragraph (b) provided the transportation facility is not part of a larger common plan of development or sale:
 - a. A transportation facility where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving surface water by more than 0.01 of a foot for the 2-year, 24-hour storm event.
 - b. A highway reconstruction site.
 - c. A transportation facility that is part of a redevelopment project.
- (c) **INFILTRATION.** BMPs shall be designed, installed, and maintained to infiltrate runoff in accordance with the following, except as provided in subds. 8. through 11.
1. For residential developments with 20,000 square feet or more of impervious surface disturbance and residential developments with 1 acre or more of land disturbance, one of the following shall be met:
 - a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
 - b. Infiltrate 25% of the post-development runoff from the 2 year -24 hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
 2. For non-residential developments with 20,000 square feet or more of impervious surface disturbance and non-residential developments with 1 acre or more of land disturbance, including commercial, industrial and institutional development, one of the following shall be met:
 - a. Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
 - b. Infiltrate 10% of the runoff from the 2 year - 24 hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.

3. Pre-development condition shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology approved by the administering authority. The meaning of "hydrologic soil group" and "runoff curve number" are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the following runoff curve numbers shall be used:

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Maximum Pre-Development Runoff Curve Numbers - Cropland				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

4. For residential and non-residential developments with less than 20,000 square feet of new impervious surfaces, infiltrate runoff volume using Wisconsin BMPs. These sites are not required to satisfy a numeric performance standard.
5. Sites with a cumulative addition of 20,000 square feet or greater of impervious surfaces after the adoption date of this ordinance are required to satisfy the performance standards within 40.12 (3)(a)1, 2, and 3.
6. The amount of infiltration previously required for the site shall not be reduced as a result of the proposed development or disturbance.
7. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 11. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
8. Exclusions. Infiltration of runoff from the following areas are prohibited from meeting the infiltration requirements of this paragraph (c):
 - a. Areas associated with tier 1 industrial facilities identified in s. NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
 - b. Storage and loading areas of tier 2 industrial facilities identified in s. NR 216.21(2)(b), Wis. Adm. Code.
 - c. Fueling and vehicle maintenance areas.
 - d. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.
 - e. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subd. 8.e. does not prohibit infiltration of roof runoff.
 - f. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
 - g. Areas within 400 feet of a community water system well as specified in s. NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in s. NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
 - h. Areas where contaminants of concern, as defined in s. NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.
 - i. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10% fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subd. 8.i. does not prohibit infiltration of roof runoff.
9. Exemptions. Infiltration of runoff from the following areas are not required to meet the infiltration requirements of this paragraph (c):
 - a. Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
 - b. Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
 - c. Redevelopment and routine maintenance areas.
 - d. In-fill areas less than 5 acres.
 - e. Infiltration areas during periods when the soil on the site is frozen.

- f. Roads in commercial, industrial and institutional land uses, and arterial residential roads.
 - g. Highways provided the transportation facility is not part of a larger common plan of development or sale.
 - 10. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.
 - 11. a. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
 - b. Notwithstanding subd. par. a., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.
- (d) PROTECTIVE AREAS.
- 1. Protective areas shall be measured as follows.
 - a. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in s. NR 103.04, 75 feet.
 - b. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, 50 feet.
 - c. For lakes, 50 feet.
 - d. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins.
 - e. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
 - f. In subd. 1.a., d. and e., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in s. NR 103.03.
 - g. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
 - 2. Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with s. NR 103.08(1m). This paragraph (d) does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
 - 3. This paragraph (d) applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. 6 below.
 - 4. The following requirements shall be met:
 - a. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The storm water management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
 - b. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap,

may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

- c. Best management practices such as filter strips, swales, or wet detention basins, that are designed to control pollutants from non-point sources may be located in the protective area.
- 5. A protective area established or created after the adoption date of this ordinance shall not be eliminated or reduced, except as allowed in subd. 6.b, c, or d below.
- 6. Exemptions. The following areas are not required to meet the protective area requirements of this paragraph (d):
 - a. Redevelopment and routine maintenance areas provided the minimum requirements within in subd. 5 above are satisfied.
 - b. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - c. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.
 - d. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.
- (a) FUELING AND VEHICLE MAINTENANCE AREAS. Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMPs designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen.
- (f) SWALE TREATMENT FOR TRANSPORTATION FACILITIES. 40.12 (3)(f) is not applicable to transportation facilities that are part of a larger common plan of development or sale.
 - 1. Applicability. Except as provided in subd. 2., transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:
 - a. Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams.
 - b. Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a 2-year, 24-hour design storm or a 2-year storm with a duration equal to the time of concentration as appropriate. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable.
 - 2. Exemptions. The County Highway Commissioner may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:
 - a. An outstanding resource water.
 - b. An exceptional resource water.
 - c. Waters listed in s. 303(d) of the federal clean water act that are identified as impaired in whole or in part, due to nonpoint source impacts.
 - d. Waters where targeted performance standards are developed under s. NR 151.004, Wis. Adm. Code, to meet water quality standards.
- (g) EXEMPTIONS. The following areas are not required to meet the performance standards within 40.12 (3):
 - 1. Agricultural production areas with less than 100,000 square feet of impervious surface disturbance.
 - 2. Underground utility construction such as water, sewer, gas, electric, telephone, cable television, and fiber optic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
 - 3. The following transportation facilities are exempt, provided the transportation facility is not part of a larger common plan of development or sale.
 - a. Reconditioning or resurfacing of a highway.

- b. Minor reconstruction of a highway. Notwithstanding this exemption, the protective area requirements within NR 151.24(6) Wisconsin Administrative Code apply to minor reconstruction of a highway.
 - c. A redevelopment transportation facility with no increase in exposed parking lots or roads.
 - d. A transportation facility with less than 10% connected imperviousness based on complete development of the transportation facility, provided the cumulative area of all parking lots and rooftops is less than one acre.
 - e. Routine maintenance for transportation facilities if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (4) GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORM WATER MANAGEMENT MEASURES. The following considerations shall be observed in managing runoff:
- (a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.
 - (b) Emergency overland flow for all storm water facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (5) LOCATION AND REGIONAL TREATMENT OPTION.
- (a) The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.
 - (b) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction BMPs may be located in non-navigable surface waters.
 - (c) Except as allowed under par. (d), post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.
 - (d) Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this ordinance if:
 - 1. The BMP was constructed prior to the effective date of this ordinance and the BMP either received a permit issued under ch. 30, Stats., or the BMP did not require a ch. 30, Wis. Stats., permit; and
 - 2. The BMP is designed to provide runoff treatment from future upland development.
 - (e) Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.
 - 1. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.
 - 2. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.
 - (b) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.
 - (g) The County Highway Commissioner may approve off-site management measures provided that all of the following conditions are met:
 - 1. The County Highway Commissioner determines that the post-construction runoff is covered by a storm water management system plan that is approved by the Brown County and that contains management requirements consistent with the purpose and intent of this ordinance.
 - 2. The off-site facility meets all of the following conditions:
 - a. The facility is in place.
 - b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.
 - c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
 - (h) Where a regional treatment option exists such that the County Highway Commissioner exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the County Highway Commissioner. In determining the fee for post-construction runoff, the County Highway Commissioner shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

- (6) **ALTERNATE REQUIREMENTS.** The County Highway Commissioner may establish storm water management requirements more stringent than those set forth in this section if the County Highway Commissioner determines that an added level of protection is needed to protect sensitive resources. Also, the County Highway Commissioner may establish storm water management requirements less stringent than those set forth in this section if the County Highway Commissioner determines that less protection is needed to protect sensitive resources and provide reasonable flood protection. However, the alternative requirements shall not be less stringent than those requirements promulgated in rules by Wisconsin Department of Natural Resources under NR 151 Wisconsin Administrative Code.

40.13 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

- (1) **PERMIT REQUIRED.** No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the County Highway Commissioner prior to commencing the proposed activity.
- (2) **PERMIT APPLICATION AND FEES.** Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the County Highway Commissioner a permit application made on a form provided by the County Highway Commissioner for that purpose.
- (a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance agreement and a non-refundable permit administration fee.
- (b) The storm water management plan shall be prepared to meet the requirements of 40.12 and 40.14, the maintenance agreement shall be prepared to meet the requirements of 40.15, the financial guarantee shall meet the requirements of 40.16, and fees shall be those established by the Brown County as set forth in 40.18.
- (3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The County Highway Commissioner shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:
- (a) Within 20 business days of the receipt of a complete permit application, including all items as required by sub. (2), the County Highway Commissioner shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.
- (b) If the storm water permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the County Highway Commissioner shall issue the permit.
- (c) If the storm water permit application, plan or maintenance agreement is disapproved, the County Highway Commissioner shall detail in writing the reasons for disapproval.
- (d) The County Highway Commissioner may request additional information from the applicant. If additional information is submitted, the County Highway Commissioner shall have 20 business days from the date the additional information is received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.
- (e) Failure by the County Highway Commissioner to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) **PERMIT REQUIREMENTS.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The County Highway Commissioner may suspend or revoke a permit for violation of a permit condition, following written notification to the responsible party. An action by the County Highway Commissioner to suspend or revoke this permit may be appealed in accordance with 40.20.
- (a) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
- (b) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan and this permit.
- (c) The responsible party shall notify the County Highway Commissioner at least 10 business days before commencing any work in conjunction with the storm water management plan, and within 10 business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the County Highway Commissioner so that practice installations can be inspected during construction.
- (d) Practice installations required as part of this ordinance shall be certified "as built" by a licensed professional engineer. Completed storm water management practices must pass a final inspection by the County Highway Commissioner or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The County Highway Commissioner or its designee shall notify the

responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit.

- (e) The responsible party shall notify the County Highway Commissioner of any significant modifications it intends to make to an approved storm water management plan. The County Highway Commissioner may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.
 - (f) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of Brown County, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
 - (g) The responsible party authorizes the County Highway Commissioner to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under 40.16.
 - (h) If so directed by the County Highway Commissioner, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan.
 - (i) The responsible party shall permit property access to the County Highway Commissioner or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
 - (j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the County Highway Commissioner may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
 - (k) The responsible party is subject to the enforcement actions and penalties detailed in 40.17, if the responsible party fails to comply with the terms of this permit.
 - (l) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.
- (5) PERMIT CONDITIONS. Permits issued under this subsection may include conditions established by County Highway Commissioner in addition to the requirements needed to meet the performance standards in 40.12 or a financial guarantee as provided for in 40.16.
 - (6) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the County Highway Commissioner notifies the responsible party that all storm water management practices have passed the final inspection required under 40.13 (4)(d).
 - (7) ALTERNATE REQUIREMENTS. The County Highway Commissioner may prescribe alternative requirements for applicants seeking an exemption to on-site storm water management performance standards under 40.12 (5) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

40.14 STORM WATER MANAGEMENT PLAN.

- (1) PLAN REQUIREMENTS. The storm water management plan required under 40.13 (2) shall comply with at a minimum the following information:
 - (a) Name, address, and telephone number of the landowner and responsible parties.
 - (b) A legal description of the property proposed to be developed.
 - (c) Pre-development site map with property lines, disturbed limits, and drainage patterns.
 - (d) Post-development site map with property lines, disturbed limits, and drainage patterns.
 - 1. Total area of disturbed impervious surfaces within the site.
 - 2. Total area of new impervious surfaces within the site.
 - 3. Performance standards applicable to site.
 - 4. Proposed best management practices.
 - 5. Groundwater, bedrock, and soil limitations.
 - 6. Separation distances. Storm water management practices shall be adequately separated from wells to prevent contamination of drinking water.
- (2) ALTERNATE REQUIREMENTS. The County Highway Commissioner may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under 40.12 (5) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

40.15 MAINTENANCE AGREEMENT.

- (1) **MAINTENANCE AGREEMENT REQUIRED.** The maintenance agreement required under 40.13 (2) for storm water management practices shall be an agreement between the County Highway Commissioner and the responsible party to provide for maintenance of storm water practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.
- (2) **AGREEMENT PROVISIONS.** The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by 40.13 (2) and 40.13 (4)(f):
 - (a) Identification of the storm water facilities and designation of the drainage area served by the facilities.
 - (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under 40.13 (2).
 - (c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under 40.13 (2).
 - (d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. (b).
 - (e) Authorization for the County Highway Commissioner to access the property to conduct inspections of storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - (f) A requirement on the County Highway Commissioner to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the storm water management practice into proper working condition.
 - (g) Agreement that the party designated under par. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the County Highway Commissioner of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the County Highway Commissioner.
 - (h) Authorization of the County Highway Commissioner to perform the corrected actions identified in the inspection report if the responsible party designated under par. (c) does not make the required corrections in the specified time period. The County Highway Commissioner shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.
- (3) **ALTERNATE REQUIREMENTS.** The County Highway Commissioner may prescribe alternative requirements for applicants seeking an exemption to on-site storm water management performance standards under 40.12 (5) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

40.16 FINANCIAL GUARANTEE.

- (1) **ESTABLISHMENT OF THE GUARANTEE.** The County Highway Commissioner may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the County Highway Commissioner. The financial guarantee shall be in an amount determined by the County Highway Commissioner to be the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the County Highway Commissioner the authorization to use the funds to complete the storm water management practices if the responsible party defaults or does not properly implement the approved storm water management plan, upon written notice to the responsible party by the County Highway Commissioner that the requirements of this ordinance have not been met.
- (2) **CONDITIONS FOR RELEASE.** Conditions for the release of the financial guarantee are as follows:
 - (a) The County Highway Commissioner shall release the portion of the financial guarantee established under this section, less any costs incurred by the County Highway Commissioner to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The County Highway Commissioner may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - (b) The County Highway Commissioner shall release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, less any costs incurred by the County Highway Commissioner, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.
- (3) **ALTERNATE REQUIREMENTS.** The County Highway Commissioner may prescribe alternative requirements

for applicants seeking an exemption to on-site storm water management performance standards under 40.12 (5) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

40.17 ENFORCEMENT.

- (1) Any land disturbing construction activity or post-construction runoff initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- (2) The County Highway Commissioner shall notify the responsible party by certified mail of any non-complying land disturbing construction activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (3) Upon receipt of written notification from the County Highway Commissioner under sub. (2), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the County Highway Commissioner in the notice.
- (4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the County Highway Commissioner may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the County Highway Commissioner plus interest and legal costs shall be billed to the responsible party.
- (5) The County Highway Commissioner is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the corporation counsel to obtain a cease and desist order in any court with jurisdiction.
- (6) The County Highway Commissioner may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.
- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the County Highway Commissioner or by a court with jurisdiction.
- (8) The County Highway Commissioner is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the Brown County Corporation Counsel for the commencement of further legal proceedings in any court with jurisdiction.
- (9) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$500.00 dollars or more than \$5,000 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (10) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (11) When the County Highway Commissioner determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the County Highway Commissioner or a party designated by the County Highway Commissioner may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The County Highway Commissioner shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to 40.16 of this ordinance. Where such a security has not been established, or where such a security is insufficient to cover these costs, the costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon.

FEE SCHEDULE, INSPECTION, APPEALS, SEVERABILITY AND EFFECTIVE DATE

40.18 FEE SCHEDULE.

The fees referred to in this ordinance shall be established by the Brown County Board upon recommendation of the County Highway Commissioner and may from time to time be modified by resolution. A schedule of the fees established by the County Highway Commissioner shall be available for review at the Brown County Highway Department.

40.19 INSPECTION.

If land disturbing construction activities are being carried out without a permit required by this ordinance, the County Highway Commissioner may enter the land pursuant to the provisions of ss. 66.0119(1), (2), and (3), Wis. Stats.

40.20 APPEALS.

- (1) BOARD OF ADJUSTMENT. The Board of Adjustment created pursuant to s. 59.694 Wis. Stats.:
 - (a) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the County Highway Commissioner in administering this ordinance except for cease and desist orders obtained under 40.10 (3) for construction site erosion control and 40.17 (3) for post construction storm water management.
 - (b) Upon appeal, may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
 - (c) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (2) WHO MAY APPEAL. Appeals to the Board of Adjustment may be taken by any aggrieved person or by any office, department, board, or bureau of Brown County affected by any decision of the County Highway Commissioner.

40.21 SEVERABILITY.

If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment.

Section 3:

This ordinance shall become effective upon passage and publication.

Respectfully submitted,

PLANNING, DEVELOPMENT &
TRANSPORTATION COMMITTEE

A motion was made by Supervisor Warpinski and seconded by Supervisor Krueger **“to adopt”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: _____	\s\ Tom Hinz, County Executive	Date: 8/27/2008
Approved by: _____	\s\ Darlene K. Marcelle, County Clerk	Date: 8/28/2008
Approved by: _____	\s\ Guy Zima, Board Chairman	Date: 8/28/2008

No. 10g -- ORDINANCE REGARDING: TO CREATE CHAPTER 41 OF THE BROWN COUNTY CODE ENTITLED “MS4 PERMIT STORM WATER ORDINANCE” RELATING TO ILLICIT DISCHARGE AND CONNECTION AND RESPONSE PROCEDURE

TO THE HONORABLE CHAIRMAN AND MEMBERS
OF THE BROWN COUNTY BOARD OF SUPERVISORS

Ladies & Gentlemen:

The Brown County Board of Supervisors does ordain as follows:

Section 1: Ch. 41 of the Brown County code entitled “MS4 Permit Storm Water Ordinance” relating to illicit discharge and connection and response procedure is hereby created to provide control over illicit discharges, connections and associated pollutants reaching waters of the state. Use of this ordinance by Brown County will foster the consistent statewide application of illicit discharge and connection standards in NR 151, Wis. Adm. Code.

Section 2: Section 41.01 of the Brown County Code is hereby created to read as follows:

41.01 AUTHORITY.

- (1) This ordinance is adopted under the authority granted by s. 59.693, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 59.69 Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s. 59.693 Wis. Stats., s. 59.69 Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the County.
- (3) Brown County hereby designates the County Highway Commissioner or designee of that office to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent illicit discharge and connection requirements that may be imposed by any of the following:
 - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources.

Section 3: Section 41.02 of the Brown County Code is hereby created to read as follows:

41.02 PURPOSE AND INTENT.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Brown County through the regulation of non-storm water discharges to the MS4 to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the Wisconsin Pollutant Discharge Elimination System (WPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the MS4 by storm water discharges by any user.
- (2) To prohibit illicit connections and discharges to the MS4.
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

Section 4: Section 41.03 of the Brown County Code is hereby created to read as follows:

41.03 DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

- (1) “Authorized Enforcement Agency” means the governmental employee designated by the Brown County Board to administer this ordinance: the Brown County Highway Commissioner’s Office or designees of the Brown County Highway Commissioner.
- (2) Best Management Practices (BMPs). Structural or non–structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.
- (3) “Contaminated storm water” means storm water that comes into contact with material handling equipment or activities, raw materials, intermediate products, final products, waste materials, byproducts or industrial machinery in the source areas listed in NR 216(effective August 1, 2004).
- (4) “Department (DNR)” means the Wisconsin Department of Natural Resources.
- (5) “Discharge” when used without qualification includes a discharge of any pollutant.
- (6) “Discharge of pollutant or discharge of pollutants” means any addition of any pollutant to the waters of this state from any point source including into an MS4.
- (7) “Hazardous Materials” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (8) “Illicit Discharge” means any discharge to a municipal separate storm sewer system that is not

- composed entirely of storm water except discharges authorized by a WPDES permit or other discharge not requiring a WPDES permit such as landscape irrigation, individual residential car washing, fire fighting, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, flows from riparian habitats and wetlands, and similar discharges.
- (9) “Illicit Connections” means an illicit connection is defined as either of the following:
- i. Any drain or conveyance, whether on the surface or subsurface that allows an illicit discharge to enter the MS4 including but not limited to any conveyances that allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or;
 - ii. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.
- (10) “Industrial Activity” means activities subject to WPDES Industrial Permits per NR 216 (effective August 1, 2004) and Wisconsin Statute 283 (November 1, 2005)
- (11) “Municipality” means any city, town, village, county, county utility district, town sanitary district, town utility district, school district or metropolitan sewage district or any other public entity created pursuant to law and having authority to collect, treat or dispose of sewage, industrial wastes, storm water or other wastes.
- (12) “Municipal Separate Storm Sewer System (MS4)” means a conveyance or system of conveyances including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all the following criteria:
- i. Owned or operated by a municipality.
 - ii. Designed or used for collecting or conveying storm water.
 - iii. Which is not a combined sewer conveying both sanitary and storm water.
 - iv. Which is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
- (13) “Non-Storm Water Discharge” means any discharge to the MS4 that is not composed entirely of storm water.
- (14) “Owner” means any person holding fee title, an easement or other interest in property.
- (15) “Outfall” means the point at which storm water is discharged to waters of the state or to a storm sewer.
- (16) “Person” means an individual, owner, operator, corporation, partnership, association, municipality, interstate agency, state agency or federal agency.
- (17) “Pollutant” means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.
- (18) “Pollution” as defined in Wisconsin Statute 283 (November 1, 2005), n-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.
- (19) “Pollution prevention” means taking measures to eliminate or reduce pollution.
- (20) “Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (21) “Storm Water” means runoff from precipitation including rain, snow, ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (22) “Storm Water Management Plan/ Stormwater Pollution Prevention Plan” (SWPPP) means a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
- (23) “Urbanized Area” means a place and the adjacent densely settled surrounding territory that together have a minimum population of 50,000 people, as determined by the U.S. bureau of the census on the

latest decennial federal census.

- (24) "Wastewater" means any water or other liquid, other than uncontaminated storm water, discharged from a facility.
- (25) "Watercourse" means a natural or artificial channel through which water flows. These channels include: all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils maps in the NRCS soils book for Brown County, all channels identified on the site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.
- (26) "Waters of the state" as defined in Wisconsin Statute 283 (November 1, 2005), means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.
- (27) "Wisconsin Pollutant Discharge Elimination System (WPDES) Storm Water Discharge Permit" means a Wisconsin pollutant discharge elimination system permit issued pursuant to Wisconsin Statute 283 (November 1, 2005).

Section 5: Section 41.04 of the Brown County Code is hereby created to read as follows:

41.04 APPLICABILITY.

- (1) APPLICABILITY This ordinance applies to all water or discharges entering the Brown County MS4 generated on any lands within the boundaries and jurisdiction of the urbanized areas of Brown County unless explicitly exempted by an authorized enforcement agency.

Section 6: Section 41.05 of the Brown County Code is hereby created to read as follows:

41.05 RESPONSIBILITY FOR ADMINISTRATION.

- (1) The County Highway Commissioner shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the County Highway Commissioner may be delegated in writing by the Director of the County Highway Commissioner to persons or entities acting in the beneficial interest of or in the employ of the agency.

Section 7: Section 41.06 of the Brown County Code is hereby created to read as follows:

41.06 COMPATIBILITY WITH OTHER REGULATIONS

- (1) This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.

Section 8: Section 41.07 of the Brown County Code is hereby created to read as follows:

41.07. SEVERABILITY.

- (1) The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

Section 9: Section 41.08 of the Brown County Code is hereby created to read as follows:

41.08 ULTIMATE RESPONSIBILITY.

- (1) The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.

Section 10: Section 41.09 of the Brown County Code is hereby created to read as follows:

41.09 DISCHARGE PROHIBITIONS.

(1) PROHIBITION OF ILLICIT DISCHARGES.

- a. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants, other than storm water.

(2) ALLOWED DISCHARGES.

- a. Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
- b. Discharges or flow from firefighting, and other discharges specified in writing by the County Highway Commissioner as being necessary to protect public health and safety.
- c. Discharges associated with dye testing, however this activity requires a verbal notification to the County Highway Commissioner and the Department of Natural Resources a minimum of one day prior to the time of the test.
- d. Any non-storm water discharge permitted under an WPDES permit, or a NPDES permit for tribal lands, waiver, or waste discharge order issued to the discharger and administered under the authority of the Wisconsin Department of Natural Resources, or the Environmental Protection Agency for tribal lands. Any person subject to such an WPDES storm water discharge permit, or NPDES storm water discharge permit for tribal lands, shall comply with all provisions of such permit.

(3) PROHIBITION OF ILLICIT CONNECTIONS.

- (1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.
- (4) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the County Highway Commissioner.
- (5) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the County Highway Commissioner requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the County Highway Commissioner.

Section 11: Section 41.10 of the Brown County Code is hereby created to read as follows:

41.10 WATERCOURSE PROTECTION.

- (1) Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

Section 12: Section 41.11 of the Brown County Code is hereby created to read as follows:

41.11 COMPLIANCE MONITORING

- (1) Right of Entry: Inspecting and Sampling.
 - a. The County Highway Commissioner shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.
 - (1) If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the County Highway Commissioner.
 - (2) Facility operators shall allow the County Highway Commissioner ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records.
 - (3) The County Highway Commissioner shall have the right to set up on any facility such devices as are necessary in the opinion of the County Highway Commissioner to conduct monitoring and/or sampling of the facility's storm water discharge.
 - (4) The County Highway Commissioner has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.
 - (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the County Highway Commissioner and shall not be replaced. The costs of clearing such access shall be borne by the operator.
 - (6) Unreasonable delays in allowing the County Highway Commissioner access to a facility is a violation. A person who is the operator of a facility commits an offense if the person denies the County Highway Commissioner reasonable access to the facility for the purpose of conducting any activity authorized or required by this ordinance.
- (2) Special Inspection Warrant.
 - a. If the County Highway Commissioner has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the County Highway Commissioner may seek issuance of a special inspection warrant per state statute 66.0119.

Section 13: Section 41.12 of the Brown County Code is hereby created to read as follows:

41.12 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS

BY THE USE OF BEST MANAGEMENT PRACTICES.

- (1) The owner or operator of any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the MS4, or waters of the State shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal MS4 or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an illicit discharge may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid WPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a Storm Water Management Plan (SWMP)/Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance.

Section 14: Section 41.13 of the Brown County Code is hereby created to read as follows:

41.13 NOTIFICATION OF SPILLS.

- (1) Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illicit discharges or pollutants discharging into storm water, the MS4, or waters of the State, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the County Highway Commissioner in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the County Highway Commissioner within 3 business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least 7 years.
- (2) Failure to provide notification of a release as provided above is a violation of this ordinance.

Section 15: Section 41.14 of the Brown County Code is hereby created to read as follows:

41.14 VIOLATIONS, ENFORCEMENT, AND PENALTIES.

- (1) Violations.
 - a. It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this ordinance, may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise abated in a manner provided by law.
 - b. In the event the violation constitutes an immediate danger to public health or public safety, the County Highway Commissioner is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation. The County Highway Commissioner is authorized to seek costs of the abatement as outlined in 41.16.
- (2) Warning Notice.
 - a. When the County Highway Commissioner finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the County Highway Commissioner may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in the subsection shall limit the authority of the County

Highway Commissioner to take action, including emergency action or any other enforcement action without first issuing a Warning Notice.

(3) Notice of Violation.

a. Whenever the County Highway Commissioner finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, the County Highway Commissioner may order compliance by written notice of violation to the responsible person.

b. The Notice of Violation shall contain:

- (1) The name and address of the alleged violator;
- (2) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (6) A statement that the determination of violation may be appealed to the County Highway Commissioner by filing a written notice of appeal within 3 days of service of notice of violation; and;
- (7) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or contractor and the expense thereof shall be charged to the violator.

c. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of BMPs.

(4) Suspension of MS4 Access.

a. Emergency Cease and Desist Orders

1. When the County Highway Commissioner finds that any person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation (s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the County Highway Commissioner may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

- (a) Immediately comply with all ordinance requirements; and
- (b) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.

2. Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the County Highway Commissioner may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The County Highway

Commissioner may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the County Highway Commissioner that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the County Highway Commissioner within 10 days of receipt of the prerequisite for, taking any other action against the violator.

b. Suspension due to Illicit Discharges in Emergency Situations

1. The County Highway Commissioner may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the State. If the violator fails to comply with a suspension order issued in an emergency, the County Highway Commissioner may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to persons.

c. Suspension due to the Detection of Illicit Discharge

1. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The County Highway Commissioner will notify a violator of the proposed termination of its MS4 access. The violator may petition the County Highway Commissioner for a reconsideration and hearing.
2. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the County Highway Commissioner.

(5) Prosecution and Penalties.

- a. Any person that has violated or continues to violate this ordinance shall be liable to prosecution to the fullest extent of the law. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within the set time period specified by Brown County, after the County Highway Commissioner has taken one or more of the actions described above, the County Highway Commissioner may impose a penalty not to exceed \$5,000 (depending on the severity of the violation) for each day the violation remains unremedied after receipt of the notice of violation, plus the cost of prosecution per violation per day, and/or imprisonment not to exceed 90 days.
- b. The County Highway Commissioner may impose upon a violator additional compensatory actions, such as storm drain stenciling, attendance at compliance workshops, and cleanup of a creek or waterway of the state.

Section 16: Section 41.15 of the Brown County Code is hereby created to read as follows:

41.15 APPEAL OF NOTICE OF VIOLATION.

- (1) Any person receiving a Notice of Violation may appeal the determination of the County Highway Commissioner. The notice of appeal must be filed with Brown County Planning Development & Transportation Committee within 30 days from the date of the Notice of Violation. Hearing on the appeal before the appropriate authority or his/her designee shall take place within 60 days from the date of receipt of the notice of appeal.

Section 17: Section 41.16 of the Brown County Code is hereby created to read as follows:

41.16 ENFORCEMENT MEASURES AFTER APPEAL.

- (1) If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, the municipal authority upheld the decision of the County

Highway Commissioner, then representatives of the County Highway Commissioner are authorized to enter upon the subject private property and authorized to take any and all measures necessary to abate the violation. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

Section 18: Section 41.17 of the Brown County Code is hereby created to read as follows:

41.17 COST OF ABATEMENT OF THE VIOLATION.

- (1) Within 60 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid by the date determined by the municipal authority, the charges shall become a special charge against the property and shall constitute a lien on the property.

41.18 VIOLATIONS DEEMED A PUBLIC NUISANCE.

- (1) Any condition in violation of any of the provisions of this ordinance and declared and deemed a nuisance, may be summarily abated or restored at the violator's expense.

41.19 REMEDIES NOT EXCLUSIVE.

- (1) The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the County Highway Commissioner to seek cumulative remedies.
- (2) The County Highway Commissioner may recover all attorney's fees court costs and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Section 19. This ordinance shall become effective upon passage and publication.

Respectfully submitted,
PLANNING, DEVELOPMENT &
TRANSPORTATION COMMITTEE

A motion was made by Supervisor Krueger and seconded by Supervisor Warpinski **"to adopt"**. Voice vote taken. Motion carried with Supervisor Dantine voting nay.

Approved by: \s\ Tom Hinz, County Executive Date: 8/27/2008
Approved by: \s\ Darlene K. Marcelle, County Clerk Date: 8/28/2008
Approved by: \s\ Guy Zima, Board Chairman Date: 8/28/2008

No. 10h -- RESOLUTION REGARDING: ADDING A SUBZONE TO THE GENERAL OPERATING ZONE OF BROWN COUNTY FOREIGN TRADE ZONE #167

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, on September 21, 1988 the Brown County Board adopted a resolution agreeing to pursue establishment of a Foreign Trade Zone in Brown County including boundaries of the general zone in Ashwaubenon Industrial park including Austin Straubel International Airport; and

WHEREAS, to date no activity has ever taken place within the boundaries of the original general zone or general zone expansion in 2005 in Oshkosh, Wisconsin; and

WHEREAS, FTZ #167 has activity in two approved subzones, located Osceola, WI and Hudson, WI and another subzone in Marinette, WI has been applied for; and

WHEREAS, existing properties within the general zone are completely occupied by companies not involved in international commerce; and

WHEREAS, the GE Oil & Gas Operations, LLC, in Oshkosh, Wisconsin has contacted Brown County requesting subzone status of the FTZ #167 and are willing to pay for the subzone application and provide revenues to Brown County for FTZ activities upon activation by the US Foreign Trade Zone Board.

WHEREAS, the FTZ revenues will be dependent upon the amount of merchandise moved through the FTZ and is expected to range from \$150-\$1250/month; and

WHEREAS, the GE Oil & Gas Operations, LLC subzone will include 17.08 acres on parcel 1413650000 located at 3300 Medalist Drive in Oshkosh, WI; and

WHEREAS, Brown County authorizes, the Port Manager as the "Grantee Official" with the legal authority to sign the application; and

WHEREAS, Port and Solid Waste Department is hereby authorized to submit an application to the Foreign Trade Zone Board for authority to establish, operate, and maintain a special-purpose subzone for the exclusive use by GE Oil & Gas Operations, LLC in Oshkosh, Wisconsin, and said application is hereby approved by the County Board of Supervisors. Any subsequent administrative actions, minor modifications to the Foreign Trade Zone Board's Order, or expansion of the subzone project to be filed at the Foreign Trade Zone Board are also specifically authorized; and

NOW THEREFORE, BE IT RESOLVED by the Brown County Board of Supervisors that it hereby approves the submittal of application to the U.S. Dept. of Commerce to add a subzone to FTZ #167's general zone as provided herein.

Respectfully submitted,
PLANNING, DEVELOPMENT AND
TRANSPORTATION COMMITTEE

CERTIFICATION

I, Darlene Marcelle, Clerk of Brown County, Wisconsin, do hereby certify that the foregoing is a correct copy of a Resolution introduced at a County Board Meeting of the County Board Supervisors on August 20, 2008, adopted by a majority vote, and recorded in the minutes of said meeting.

 \s\ Darlene K. Marcelle
County Clerk

SEAL

A motion was made by Supervisor Warpinski and seconded by Supervisor Kaster "to adopt". Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Tom Hinz, County Executive

Date: 8/27/2008

No. 10i -- RESOLUTION REGARDING: UW-EXTENSION DEPARTMENT CHANGE IN TABLE OF ORGANIZATION (ADDITION OF LIMITED TERM EMPLOYEE)

TO THE HONORABLE CHAIRMAN AND MEMBERS OF THE
BROWN COUNTY BOARD OF SUPERVISORS

Ladies and Gentlemen:

WHEREAS, the UW-Extension has received a grant from the University of Wisconsin – Madison Medical School for the time period of July 1, 2008, through June 30, 2011; and

WHEREAS, the grant funds will allow the addition of a Limited Term Employee (LTE) Got Dirt? Education Coordinator to their Table of Organization. The Education Coordinator will provide educational support for the Got Dirt?

grant project. This position is 100% grant funded with no benefits; and

WHEREAS, the Human Resources Department with UW Extension is recommending the addition of a LTE Got Dirt? Education Coordinator to the UW Extension Table of Organization for the time period of July 1, 2008, through June 30, 2011; and

WHEREAS, the Planning, Development & Transportation Committee and Executive Committee concur with the above proposed change to the UW Extension Table of Organization.

NOW, THEREFORE, BE IT RESOLVED, by the Brown County Board of Supervisors, that the addition of a LTE Got Dirt? Education Coordinator be added to the UW Extension Table of Organization for the time period of July 1, 2008 through June 30, 2011.

BE IT FURTHER RESOLVED, that the position is 100% grant funded with no benefits resulting in no fiscal impact to the budget.

Fiscal Impact: NONE

Respectfully submitted,
 PLANNING, DEVELOPMENT AND
 TRANSPORTATION COMMITTEE
 EXECUTIVE COMMITTEE

A motion was made by Supervisor Warpinski and seconded by Supervisor Lund **“to adopt”**. Voice vote taken. Motion carried unanimously with no abstentions.

Approved by: \s\ Tom Hinz, County Executive Date: 8/27/2008

No. 11 -- SUCH OTHER MATTERS AS AUTHORIZED BY LAW.

A motion was made by Supervisor Lund and seconded by Supervisor Warpinski **“to allow Supervisor Haefs to change his vote on Item #9g(i) from “aye” to “nay”**. Voice vote taken. Motion carried unanimously with no abstentions.

No. 12 -- BILLS OVER \$5,000 FOR PERIOD ENDING JULY 1, 2008

A motion was made by Supervisor Clancy and seconded by Supervisor Nicholson **“to pay the bills over \$5,000 for period ending July 1, 2008”**. Voice vote taken. Motion carried unanimously with no abstentions.

No. 13 -- CLOSING ROLL CALL:

Present: Warpinski, De Wane, Nicholson, Theisen, Krueger, Haefs, Erickson, Brunette, Zima, Evans, Vander Leest, Johnson, Dantine, La Violette, Andrews, Kaster, Knier, Williams, Fleck, Clancy, Langan, Scray, Hoeft, Lund, Fewell

Excused: Wetzel

Total Present: 25 Total Excused: 1

No. 14 -- ADJOURNMENT TO WEDNESDAY, SEPTEMBER 17, 2008 AT 7:00 P.M. LEGISLATIVE ROOM, #203, CITY HALL, 100 NORTH JEFFERSON STREET, GREEN BAY, WISCONSIN.

A motion was made by Supervisor Johnson and seconded by Supervisor Clancy **“to adjourn to the above date and**

time". Voice vote taken. Motion carried unanimously with no abstentions.

Meeting adjourned at 10:55 p.m.

_____\s\ Darlene K. Marcelle
Brown County Clerk