

COMMITTEE OF THE WHOLE MEETING

The Common Council of the City of Ashland will meet as the Committee of the Whole on January 28, 2020 immediately following the City Council meeting which begins at 5:30 PM in the Ashland City Hall Council Chambers.

The following items will be considered:

1. Roll Call
2. Council President's Report
3. Administrator's Report
4. Approval of Agenda
5. Committee Updates
6. Discussion Items
 - A. Discussion Regarding the Vaughn Avenue Reconstruction Update (Public Works)
 - B. Discussion and Possible Action Regarding a Proposed Resolution in Support of Bad River Tribe Efforts to Remove the Line 5 Pipeline (*Ullman and Whitebird*)
 - C. Discussion and Possible Action Regarding a Proposed Ordinance Banning Coal Tar Products in the City of Ashland (*Ullman*)
7. Adjournment

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SUBJECT: Committee Updates

RECOMMENDATION: Updates from Council Members

DEPARTMENT OF ORIGIN:

CLEARANCES:

EXHIBITS:

FINANCIAL IMPACT:

SUMMARY STATEMENT:

HARBOR COMMISSION: Pufall

PLAN COMMISSION: MacKenzie

POLICE & FIRE COMMISSION: Lewis

LIBRARY BOARD: Jackson

HOUSING AUTHORITY: Franek

HOUSING COMMITTEE: Tochterman

PARKS & REC COMMITTEE: Haas

PUBLIC WORKS COMMITTEE: Moore

SUSTAINABILITY COMMITTEE: Ullman

HISTORIC PRESERVATION COMMISSION: Franek

DISABLED PARKING COMMITTEE: Whitebird

SOURCE WATER PROTECTION COMMITTEE: Ortman/Whitebird

SUBJECT: Discussion Regarding the Vaughn Avenue Reconstruction Update (Public Works)

RECOMMENDATION: Presentation and Discussion

DEPARTMENT OF ORIGIN:

CLEARANCES: City Administrator

EXHIBITS:

FINANCIAL IMPACT: Included in 2020 Capital Budget

SUMMARY STATEMENT:

The City's process for the planning, design, and administration of the Vaughn Avenue Reconstruction Project will be moving forward in the coming months, starting with special assessments for sidewalks.

The Public Works Department has scheduled a public meeting regarding the project for January 29, 2020 at 6:00 pm in the Council Chambers.

Public Works staff would like to take this opportunity to share information with the Council regarding the status of the design, potential collaboration with the City's ongoing lead service lateral program, on-street parking, the schedule for remaining work, and other issues.

Desired outcomes of the discussion are: (1) provide Councilors with a basic understanding of the project for reference on future agenda items, and (2) provide Public Works staff with Council input on issues related to the design and public outreach.

Public Works staff will provide exhibits for display and facilitate discussion at the time of the meeting.

SUBJECT: Discussion and Possible Action Regarding a Proposed Resolution in Support of Bad River Tribe Efforts to Remove the Line 5 Pipeline (*Ullman and Whitebird*)

RECOMMENDATION: Discussion and Possible Action

DEPARTMENT OF ORIGIN: Councilors Ullman and Whitebird

CLEARANCES: Council President

EXHIBITS: 1. Proposed Resolution

FINANCIAL IMPACT: None

SUMMARY STATEMENT:

The City of Ashland is engaged in numerous and varied efforts to preserve, protect and improve water quality in Lake Superior and surrounding tributaries. In July 2019 the Bad River Tribe filed a lawsuit against Enbridge to remove the Line 5 Pipeline from the Bad River Watershed due to concerns about the integrity of the pipeline and the risks associated with a spill. This resolution is a statement of support for their efforts.

After the first review of this resolution, a number of Councilors suggested changes or modifications to the language or content. While it was not possible to simultaneously incorporate all of these suggestions, citations were added to provide additional context for statements in the resolution, and some statements were modified or removed based on Council feedback.

RESOLUTION No. _____

A RESOLUTION of the City of Ashland SUPPORTING the efforts of the Bad River Band of Lake Superior Chippewa to remove the Enbridge Line 5 pipeline from the Bad River watershed.

WHEREAS tribal nations have sovereign authority over their territory^{1, 2};

AND WHEREAS the pipeline crosses Bad River tribal land, and traverses the Bad River watershed;

AND WHEREAS the Bad River Band has requested the removal of the Enbridge Line 5 pipeline from the Bad River watershed;

AND WHEREAS the Bad River ends in the Kakagon-Bad River Sloughs which are some of the most extensive and pristine coastal wetlands in the Great Lakes, supporting rare plants and animals, migratory birds, fish spawning habitat, and manoomin (wild rice) beds^{3, 4}.

AND WHEREAS during its operational lifetime Enbridge Line 5 has experienced at least 29 leaks and spills totaling over one million gallons of oil and natural gas liquids released into the environment⁵;

AND WHEREAS an oil spill in the Bad River watershed could irreparably damage natural and cultural resources of the region;

AND WHEREAS, The City of Ashland and the Bad River Band of Lake Superior Chippewa have shared and interdependent communities and economies that would further bear the costs of a pipeline failure;

¹ Executive Order #18 “Relating to an Affirmation of the Intergovernmental Relationships Among the State of Wisconsin and Tribal Nations Located Within the State”, Governor Tony Evers.

²<https://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?Volume=88&Issue=5&ArticleID=24068>

³ <https://dnr.wi.gov/files/PDF/pubs/er/ER0803.pdf>

⁴ <https://www.wisconsinwetlands.org/wp-content/uploads/2015/06/Kakagon-Bad-River-Sloughs.pdf>

⁵ <https://www.nwf.org/en/Latest-News/Press-Releases/2017/4-24-17-Line-5-Oil-Pipeline-System-Spanning-Michigan-Has-Had-29-Known-Spills>

NOW, THEREFORE, BE IT RESOLVED that the Ashland City Council SUPPORTS the efforts of the Bad River Band of Lake Superior Chippewa to remove the Enbridge Line 5 pipeline from the Bad River watershed.

Furthermore,
RESOLVED this _____ day of _____, 2019.

ATTEST:

By: _____,Chairman

By: _____,Secretary

SUBJECT: Discussion and Possible Action Regarding a Proposed Ordinance Banning Coal Tar Products in the City of Ashland (*Ullman*)

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Councilor Ullman

CLEARANCES: Council President

EXHIBITS:

1. DRAFT - Ordinance to Ban Coal Tar Sealant Products
2. FACTSHEET - Tar-Based Sealants
3. Public Health Briefing
4. Memo from B Kucera 01-22-20
5. Comparisons

FINANCIAL IMPACT: None

SUMMARY STATEMENT:

The Council considered this ordinance at a December Committee of the Whole meeting and recommended a few small changes to the penalties, along with a review by the City Attorney. It is being brought back for further review and a vote.

Coal tar-based pavement sealants have been banned by the states of Minnesota, Washington, and over a dozen Wisconsin municipalities. These products contain significant amounts of polycyclic aromatic hydrocarbons (PAHs), which are a known human carcinogen, and kill or cause mutations in aquatic organisms. PAHs can contaminate water and sediment through runoff, and dust can be tracked into homes increasing human exposure.

Testing by the non-profit organization Clean Wisconsin in 2019 indicated the presence of PAHs in our storm water outfalls, likely from Coal Tar sources. Municipalities have recently faced significant costs in disposing of sediment from storm water catchment basins that is contaminated with PAHs because the sediments are considered toxic waste.

In order to protect human health, aquatic ecosystems, and water quality, the Sustainability Committee and the Public Works Committee have recommended adopting an ordinance to ban the sale and use of Coal Tar based sealants in the City of Ashland. The Public Works Director has confirmed that the City does not use these products, the Planning Director has confirmed that the major contractors in the city do not use these products, and preliminary review indicates that the sealants sold locally are primarily the asphalt-based alternatives for pavement sealing. It is anticipated that this ordinance will be primarily a protective measure in order to prevent

use of these products by outside contractors or individuals bringing the product from out of town.

The attached exhibits provide some additional information about the human health and environmental risks of PAHs, as well as additional references if Councilors are interested in learning more.

Ordinance to Ban Coal Tar Sealant Products

Draft

AN ORDINANCE creating Section [] of the Municipal Code entitled “Coal Tar Sealant Products” regulating the application and sale of coal tar sealant products in the City of Ashland.

WHEREAS, the Common Council of the City of Ashland finds that the City’s water resources are a natural asset which enhance the environmental, recreational, cultural, and economic resources of the area and contribute to the general health and welfare of the public; and

WHEREAS, the Common Council finds that polycyclic aromatic hydrocarbons (PAHs), which are contained in coal tar sealants and other high PAH sealants, volatilize off sealed pavement and can be inhaled by humans and animals; are broken down by sunlight and abraded by vehicle and foot traffic; can be carried off sealed pavement as small particles by that same traffic and transported into homes and onto nearby soils; and can be carried by stormwater and other runoff into the water resources of the City; and

WHEREAS, PAHs are an environmental concern because they are toxic to aquatic life, resulting in a loss of species and a lower number of organisms; and

WHEREAS, PAH compounds have been proven to be carcinogenic, mutagenic, and teratogenic to humans according to the International Agency for Research on Cancer; individuals with lifelong exposure to coal tar sealant treated pavements and playgrounds have a 38-fold higher risk of cancer; and the American Medical Association therefore advocates for legislation to ban the use of pavement sealcoats that contain PAHs, or requires the use of sealcoat products that contain minimal PAH; and

WHEREAS, environmental impacts and human health risks can be minimized, and pavements can be maintained by utilizing alternative products or methods, absent PAHs; and

WHEREAS, the Common Council finds that regulating the amount of contaminants, including PAHs contained in coal tar sealant products and other high PAH sealant products, entering the water resources of the City will improve and protect public health and the water quality of the City and neighboring water resources.

THEREFORE, THE COMMON COUNCIL OF THE CITY OF ASHLAND DO ORDAIN AS FOLLOWS:

Section 1. Section [] of the Municipal Code is hereby created to read as follows:

“Sec. []. – Coal Tar Sealant Products.

(a) *Definitions.* As used hereinbelow, the following terms shall have the meanings indicated:

1. COAL TAR. A byproduct of the process used to refine coal. Coal tar contains high levels of polycyclic aromatic hydrocarbons (PAHs).
2. COAL TAR SEALANT PRODUCT. A pavement sealant product that contains coal tar, coal tar pitch, coal tar pitch volatiles, RT- 12, Refined Tar, or any variation

assigned the Chemical Abstracts Service (CAS) numbers 65996-92-1, 65996-93-2, 65996-89-6, or 8007-45-2 , or related substances.

3. HIGH PAH SEALANT PRODUCT. Any pavement sealant product that contains greater than 0.1% polycyclic aromatic hydrocarbons (PAHs) by weight, including, but not limited to coal tar sealant products and sealant products containing steam-cracked petroleum residues, steam-cracked asphalt, pyrolysis fuel oil, heavy fuel oil, ethylene tar, or any variation of those substances assigned the Chemical Abstracts Service (CAS) numbers 64742-90-1, 69013-21-4, or related substances.

4. PAVEMENT SEALANT PRODUCT OR SEALCOAT. Any substance that is typically applied as a coating on paved surfaces to protect the surfaces from water, oils, and/or damage from ultraviolet light. This may include but is not limited to sealant products that are coal tar-based or asphalt based.

5. POLYCYCLIC AROMATIC HYDROCARBONS (PAHs). A group of organic chemicals that are formed during the incomplete combustion of coal, oil, gas, or other organic substances, are present at high levels in coal tar, and are known to be harmful to humans, fish, and other aquatic life.

(b) Regulation of Application and Sale of Coal Tar and Other High PAH Sealant Products.

1. Except for those exemptions provided for in subsection (c), no person shall apply any coal tar sealant product or high PAH sealant product within the City limits.

2. No person shall sell, offer to sell, or display for sale any coal tar sealant product or high PAH sealant product within the City limits.

3. Any person who sells pavement sealant products shall prominently display, on the shelf, pallet, rack, display fixture or space where such pavement sealant products are sold, a legible written notice that contains the following language: "The application of coal tar sealant products or other high PAH sealant products on driveways, parking lots, and all other paved surfaces in the City is prohibited by Section [] of the Municipal Code. Polycyclic Aromatic Hydrocarbons (PAHs) are a group of organic chemicals that are known to cause cancer and are toxic to aquatic life. Coal tar and other high PAH sealant products are a major source of PAHs that can migrate into homes, buildings, and soils, or be carried by stormwater and other runoff into the water resources of the City."

4. No person shall allow a coal tar sealant product or other high PAH sealant product to be applied upon property that is under that person's ownership or control.

5. No person shall contract with a commercial applicator, residential or commercial developer, or any other person for the application of a coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the City.

6. No commercial applicator, residential or commercial developer, or other similar person or entity shall apply, or allow, cause or direct any employee, independent contractor, volunteer or other person to apply, a coal tar sealant

product or high PAH sealant product to any driveway, parking lot or other surface within the City.

(c) *Exemptions.* The Director of Public Works may exempt a person from the restrictions or prohibitions under subsection (b) if the Director makes either of the following determinations:

1. The person is conducting bona fide research concerning the effects of a coal tar sealant product or high PAH sealant product on the environment; and the use of the coal tar product or high PAH sealant product is required for said research; and the Director determines that such research will not cause significant contamination of the surrounding environment, including soils and aquatic ecosystems, nor unduly endanger human health.
2. The person does not intend to apply the sealant product within the City's boundaries.

(d) *Penalties.* In addition to other action or relief to which the City may be entitled to prevent or remove a violation, penalties assessed for convictions of violating this ordinance shall be as follows:

1. Any person who violates subsection (b) by applying a coal tar sealant product or high PAH sealant product upon property that is his or her residence shall be subject to a forfeiture of up to \$500.
2. Any commercial applicator, residential or commercial developer, industrial or commercial property owner or lessee, or any other person, other than a person identified under subsection (d) 1, who violates subsection (b) shall receive be subject to a forfeiture of up to \$1,000.
3. Each violation, and each day that a violation occurs or continues, constitutes a separate offense and shall be punishable as such.

Section 2. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, and this ordinance shall be in effect from and after its passage and publication.



DANGEROUS DRIVEWAYS TOXIC PAH POLLUTION FROM TAR-BASED SEALANTS



CHILDREN LIVING FROM BIRTH TO
AGE 6 NEAR PARKING LOTS WITH
TAR-BASED SEALANTS HAVE A
**14x HIGHER LIFETIME
CANCER RISK**

Tar-based pavement sealants are the primary source of toxic PAH pollution in urban landscapes. Those PAHs are harmful to human health and hurt fish and other aquatic life in our lakes and rivers.

What are pavement sealants?

Pavement sealants, also known as “sealcoats” or “sealers,” are the jet-black coatings homeowners and contractors apply to residential, commercial, and industrial driveways and parking lots. There are two main types of pavement sealants on the market today: tar-based sealants (also called “coal tar-based”), and asphalt-based sealants.

The problem with tar-based pavement sealants

Pavement sealants contain **polycyclic aromatic hydrocarbons** (PAHs), which are toxic compounds that can **cause cancer and developmental problems in children**. The American Medical Association and other public health groups have urged local and state governments to ban tar-based sealants due to their harmful health effects.

How are people exposed to PAHs from tar-based sealants?

PAHs accumulate in soils, household dust, and carpets when particles of tar-based sealants are blown or tracked into homes, schools, and other buildings. The particles come from those sealants being worn down over time by weather, tire abrasion, and foot traffic. The toxic sealant particles are also washed off by rain and spring meltwater, ending up in our local water bodies.

A recent study found that 77% of PAH pollution in Milwaukee streambeds came from tar-based sealants.

How significant is the health risk?

The coal tar pitch used in tar-based sealants is classified as a **hazardous waste**. Children living in homes where parking lots are coated with tar-based pavement sealants face a **14-fold increase in cancer risk** compared to those living next to unsealed lots, according to researchers at Baylor University and the U.S. Geological Survey. ***A lifetime of exposure can increase cancer risk by 38 times.***

Current Tar-Based Sealant Bans:

Ann Arbor, Michigan
Annapolis/Anne Arundel County, Maryland
Austin, Texas
Brown Deer, Wisconsin
Cwlth. of Massachusetts (use restriction)
Dane County, Wisconsin
Dexter, Michigan
Elm Grove, Wisconsin
Franklin, Wisconsin
Glendale, Wisconsin
Greendale, Wisconsin
Greenfield, Wisconsin
Hales Corners, Wisconsin
Milwaukee, Wisconsin
Montgomery County, Maryland
North Barrington, Illinois
Port Washington, Wisconsin
Prince George's County, Maryland
San Antonio, Texas
Sheboygan, Wisconsin
Shorewood, Wisconsin
South Barrington, Illinois
State of Minnesota
State of Washington
Suffolk County, New York
Van Buren Township, Michigan
Washington, D.C.
Wauwatosa, Wisconsin
West Allis, Wisconsin
Westwood, Massachusetts
Whitefish Bay, Wisconsin
Winnetka, Illinois
Ypsilanti, Michigan
... plus 30 others (and counting)



“Whether sending their children to a playground or repairing a driveway, Americans are potentially being exposed to harmful carcinogens in coal-tar-based sealcoats.”
– American Medical Assoc.

How to be PAH-safe:

Don't use tar-based pavement sealants

If you feel you must seal your driveway or parking lot, then use asphalt-based sealants, which have 1,000-times lower PAH levels.

Remove your shoes

If you don't have control over your parking lot or driveway, try to keep sealant dust and soil out of your home by taking off shoes before entering.

Look for hidden PAHs

Tar can have a lot of different names, and some other byproducts can have very high levels of PAHs. To be safe, check the “Material Safety Data Sheet” of the product (try searching online) and avoid anything including CAS #'s **64742-90-1, 65996-92-1, 65996-93-2, 65996-89-6, 69013-21-4, or 8007-45-2.**

Speak up

Become an advocate in your community against the use of tar-based pavement sealants. More at cleanwisconsin.org/our-work/pah.

Environmental impacts

PAHs **kill small organisms** living on the bottoms of rivers and streams and can **cause tumors in fish and other large aquatic animals**. This could result in costly impacts on the ecological balance of aquatic environments. Even three months or more after sealants are applied, the tar-sealed pavement runoff can kill fathead minnows and water fleas, two indicator species used to assess chemical toxicity to aquatic life.

Economic Impacts

PAH pollution from tar-based sealants can be a significant burden to taxpayers when municipalities are on the hook for cleaning up stormwater sediment ponds contaminated with PAH-laden sediment. In the Minneapolis metro area, the PAH cleanup from tar-based sealants is estimated to cost taxpayers hundreds of millions of dollars.

Are there alternatives?

Yes. Asphalt-based pavement sealants have up to 1,000-times lower PAH levels and are no more expensive than tar-based sealants. Alternatives such as acrylic sealants or gravel parking lots and driveways have minimal PAH levels. Studies of an early PAH ban in Austin, Texas, show significant PAH reductions in local waterbodies.

How do tar-based sealants compare to other PAH sources?

Other sources of environmental PAH pollution have significantly lower concentrations than tar-based sealants. Fresh asphalt, for example is about 1.5 parts per million (ppm) PAHs. Smoke from wood fires can range from 2 to 114 ppm, engine exhaust 102-370 ppm, and used motor oil around 440 ppm. **Tar-based sealants are hundreds to thousands of times worse**, at 50,000 – 100,000 ppm.

**WE IN WISCONSIN NEED TO FOLLOW THE LEAD OF OTHERS
AND END THE SALE AND USE OF HIGH-PAH SEALANTS TO
PROTECT OUR HEALTH AND ENVIRONMENT.**

Visit cleanwisconsin.org/our-work/pah for more information.

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PAVEMENT SEALANTS AND PAHS

PUBLIC HEALTH CONCERNS



SCIENCE BRIEFING, APRIL 2018

Background

- Polycyclic aromatic hydrocarbons (PAHs) are a widespread pollutant that are carcinogenic¹ and have been linked to cognitive development problems.²
- Coal tar is a known human carcinogen³ with half of its weight coming from PAHs.⁴
- Commonly-used pavement sealants are 15-35% coal tar, meaning that they are 7-18% PAHs by weight.⁴

Human Exposure

- House dust in apartments with sealed parking lots was found to contain 25x more PAHs than dust in apartments with unsealed parking lots.⁴
- Living adjacent to sealed parking lots from birth to age 6 is estimated to increase lifetime excess cancer risk estimated by 14x due to ingestion of PAH-contaminated house dust and soil.⁵
- Health Canada found that “the margins of exposures associated with ingestion of house dust by children is considered potentially inadequate to protect these susceptible subpopulations” as part of an evaluation concluding that coal tar poses a danger to human health.⁶

Examples of Health Care Entities Supporting Sealant Bans

- American Medical Association
“RESOLVED, That our American Medical Association advocate for national legislation to ban the use of pavement sealcoats that contain polycyclic aromatic hydrocarbons”
- Children’s Hospital of Wisconsin
“PAHs create a significant concern for children’s health and well-being. We believe the ordinance that was recommended by unanimous vote of the Milwaukee County Intergovernmental Cooperation Council is an effective way to control PAH contamination”
- New York City, Chicago, Texas and Maine chapters of Physicians for Social Responsibility
“There is significant evidence provided by peer-reviewed studies from independent sources, universities, and governmental agencies to illustrate that the use of coal tar sealants is detrimental to the environment and to human health.”⁸
- Chicago Department of Public Health
“The Chicago Department of Public Health supports the proposed ordinance to prohibit the sale and use of coal tar sealants. CDPH believes the research warrants the attention of policy makers and it provides a solid evidence base for the proposed ban or other measures to address the adverse health impact of coal tar sealants.”⁹

The Illinois chapter of the American Academy of Pediatrics, the Illinois State Medical Society, and the Respiratory Health Association all support a current bill to ban high PAH sealants in Illinois.¹⁰

References

- [1] United States Environmental Protection Agency. n.d. Integrated Risk Information System (IRIS). Available at: <https://www.epa.gov/iris>. Last accessed August 22, 2017.
- [2] See, e.g., Perrera FP, Zhigang L, Whyatt R, Hoepner L, Wang, S, Camann D, Rauh V. 2009. Prenatal Airborne Polycyclic Aromatic Hydrocarbon Exposure and Child IQ at Age 5 Years. *Pediatrics* 124: 195-202; Edwards SC, Jedrychowski W, Butscher M, Camann D, Kieltyka A, Mroz E, Flak E, Li Z, Wang S, Rauh V, Perera F. 2010. Prenatal exposure to airborne polycyclic aromatic hydrocarbons and children's intelligence at 5 years of age in a prospective cohort study in Poland. *Environmental Health Perspectives* 118: 1326-1331.
- [3] International Agency for Research on Cancer. 2012. IARC Monographs on the Evaluation of Carcinogenic Risks to Humans Volume 100F: Coal-Tar Pitch. Available at: <https://monographs.iarc.fr/ENG/Monographs/vol100F/> Last accessed August 22, 2017.
- [4] Mahler BJ, Van Metre PC, Wilson JT, Musgrove M. 2010. Coal-tar-based parking lot sealcoat: an unrecognized source of PAH to settled house dust. *Environmental Science & Technology* 44: 894-900.
- [5] Williams ES, Mahler BJ, Van Metre PC. 2013. Cancer risk from incidental ingestion exposures to PAHs associated with coal-tar-sealed pavement. *Environmental Science & Technology* 47: 1101-1109.
- [6] Environment Canada and Health Canada. 2015. Draft Screening Assessment: Coal tars and their distillates. Available at: <http://www.ec.gc.ca/esce-ees/default.asp?lang=En&n=E34B0A52-1>. Last accessed August 22, 2017.
- [7] American Medical Association. 2016. Resolution 919 (I-16): Coal-Tar-Based Sealcoat Threat to Human Health and the Environment. Available at: <https://assets.ama-assn.org/sub/meeting/documents/i16-resolution-919.pdf>; For a press release on the resolution's adoption see <https://www.ama-assn.org/ama-urges-legislation-ban-dangerous-coal-tar-sealcoats>. Last accessed August 22, 2017.
- [8] New York City Chapter of the Physicians for Social Responsibility. 2013. Letter to Assemblymember Linda Rosenthal entitled "Re: New York Assembly Bill A630-2013, Prohibition of the Sale and Use of Coal Tar Pavement Products."
- [9] Chicago Department of Public Health. 2013. Written testimony of Dr. Cortland Lohff, Medical Director for Environmental Health, Chicago Department of Public Health. Chicago City Council Committee on Finance, June 7, 2013.
- [10] Sierra Club of Illinois. n.d. Coal tar sealants: risks to health & environment. Available at: <https://illinois.sierraclub.org/sites/illinois.sierraclub.org/files/documents/2017/03/CoalTarSealant%20%281%29.pdf>. Last accessed August 22, 2017.

Memo

To: City Council

From: Brant Kucera, City Administrator 

Date: January 22, 2020

Re: Coal Tar Enforcement

This item was discussed at the Committee of the Whole meeting on December 3, 2019. At that meeting it was requested by Councilor Pufall that I research fines and enforcement in municipalities that currently have a Polycyclic Aromatic Hydrocarbons (PAH)/coal tar ban in place.

In the State of Wisconsin, most of the communities that have banned coal tar products are clustered on Lake Michigan. There about 15 communities that currently have such a ban. If an ordinance is passed, we would be the first community in Wisconsin on Lake Superior to enact such legislation.

As council discussed a proposed ordinance for the city, two questions came up that could not be answered at that time: 1) how much are fines and 2) who is responsible for enforcement. The attached spreadsheet was a quick sampling of a majority of the communities that have a ban. Below are a few observations

- Individual fines range anywhere from \$25 up to \$3,000 and commercial fines range from \$25 up to \$10,000. Please note, the highest fines are typically reserved for multiple offenses.
- Enforcement does not universally reside with any one department, some don't even identify a department. Depending on the size of the community, enforcement may reside in a department that the city does not have.

In the end, I think it's important to acknowledge that many communities have determined that banning coal tar is an important means of protecting water and natural resources and that punitive measures should enacted to ensure compliance.

Municipality	Individual Fine	Commercial Fine	Dept Responsible
City of Plymouth	\$200 - \$500	\$1000 - \$2000	Building Inspector
City of Oak Creek	up to \$500	\$1000 - \$10000	Public Health Officer
Village of Greendale	up to \$500	\$1000 - \$10000	Village
City of Greenfield	up to \$500	\$1000 - \$10000	City
City of Sheboygan	\$250 - \$500	\$1000 - \$2000	Unspecified
City of Port Washington	\$250 - \$500	\$1000 - \$2000	Building Inspector
Village of Brown Deer	\$25 - \$3000	\$25 - \$3000	Village Manager
City of West Allis	\$500 - \$1000	\$500 - \$1000	Health Department
County of Dane	\$25	\$500 - \$2000	Land & Water Resources Dept