

City Council and Committee of the Whole Meetings
Tue, Sep 29, 2020 5:30 PM - 8:30 PM

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ASHLAND CITY COUNCIL MEETING
Tuesday, September 29, 2020 – **5:30 PM**

Please silence all cell phones during the meeting

1. CALL TO ORDER

A. Roll Call, Moment of Silence and Pledge of Allegiance

2. APPROVAL OF AGENDA

3. APPROVAL OF MINUTES

A. September 8, 2020 City Council and Committee of the Whole Meeting Minutes

4. CITIZEN PARTICIPATION PERIOD

5. MAYOR'S REPORT

A. Announcements

B. Appointments

6. CONSENT AGENDA

A. Approve to Apply to the Xcel Partners in Energy Program (*Mayor*)

B. Approval to Apply for Chequama-Care COVID-19 Response Fund (*Parks*)

C. Approve a Resolution to Submit an Application to the Wisconsin Department of Natural Resources Urban Forestry Grant and Urban Forestry Catastrophic Storm Grant Programs (*Parks*)

D. Approve to Accept Assistance to Firefighters Grant and Required Matching Funds (*Fire*) Roll

E. Approve a Class B Combination Alcohol Beverage License Application for BPOE No. 137(Ashland Elks Lodge), 3000 Golf Course Road, Ashland, WI, and Agent Jeff Muse (Clerk)

F. Miscellaneous Meeting Minutes

7. OLD BUSINESS

A. Approve Resolution to Approve the School District of Ashland Resource Officer (SRO) Contract for Working Agreement-2020-2021 School Year (Police Chief) Roll

8. NEW BUSINESS

A. Approve to Waive the Advertisement Requirement Set Forth in Chapter 194.04, Ashland City Ordinance, and Award a Contract to Energenecs, Inc for Supervisory Data and Acquisition Control (SCADA) Upgrades at the 6th Avenue West Lift Station (Public Works) Roll

B. Approve a Resolution to Approve an Offer to Purchase Two (2) Parcels of City-Owned Land, Parcels #201-01061-0000 and #201-01406-0000, Located on the Southeastern Corner of US Highway 2 and Stuntz Avenue, Applicant: Lucy Koivisto and Michael Tuttle on behalf of MI Copper Cup LLC (DBA Copper Cup) (Planning) Voice

C. Approve a Resolution to Approve a Conditional Use Permit to Allow a Veterinary Clinic for Small and Large Animals on Parcel #201-04896-0000, Zoned: Future Development (FD), Applicant: Trevor Provost and Tim Dykstra on Behalf of FMK Properties, LLC (Planning) Voice

D. Approve a Resolution to Issue a Conditional Use Permit to Allow a Clinic Use for an Ultrasound Machine and Associated Services at 522 Chapple Avenue, Zoned Mixed Residential/Commercial (MRC). Applicant: Eva Thewis on Behalf of Chequamegon Pregnancy Center (Planning) Voice

9. ADJOURNMENT

The City of Ashland does not discriminate on the basis of sex, race, creed, color, national origin, sexual orientation, age or disability in employment or provision of services, programs or activities.

NOTE: Upon reasonable notice, the City of Ashland will accommodate the needs of disabled individuals or individuals with limited English proficiency through auxiliary aids or services. For additional information or to request this service, contact Denise Oliphant at 715-682-7071 (not a TDD telephone number) or FAX: 715-682-7048

September 8, 2020 City Council and Committee of the Whole Meetings
5:30 PM - 8:30 PM (CDT)

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ASHLAND CITY COUNCIL MEETING MINUTES

Tuesday, September 8, 2020 – 5:30 PM

Ashland City Hall Council Chambers

Please silence all cell phones during the meeting

1. CALL TO ORDER

The Tuesday, September 8, 2020 Ashland City Council meeting was called to order by Mayor Debra Lewis, virtually via GoTo Meetings at 5:30 p.m.

A. Roll Call, Moment of Silence and Pledge of Allegiance

Roll call was taken, a Moment of Silence was held, and the Pledge of Allegiance was recited.

PRESENT: Matthew MacKenzie, Kevin Haas, Kate Ullman, Charlie Ortman, Liz Franek, Jackie Moore, Wahsayah Whitebird, Sarah Jackson, Dick Pufall, Ana Tochterman, Holly George

ABSENT: (None)

ALSO PRESENT: Mayor Deb Lewis, City Clerk Denise Oliphant, City Administrator Brant Kucera, City Attorney Tyler Wickman, Public Works Director John Butler, Interim Police Chief Bill Hagstrom, Mainstreet Manager/Assistant Planner Lucas Phillips, Planning Director Megan McBride, Vaughn Library Director Sarah Adams, Deputy Clerk Sarah Szymaniak, and other concerned citizens.

2. APPROVAL OF AGENDA

Jackie Moore moved, seconded by Kevin Haas to approve the agenda as presented. The motion carried unanimously by voice vote.

3. APPROVAL OF MINUTES

A. August 25, 2020 City Council and Committee of the Whole Meeting Minutes

Liz Franek moved, seconded by Kevin Haas to approve the minutes. The motion passed unanimously by voice vote.

4. CITIZEN PARTICIPATION PERIOD

The Clerk read the Rules for Citizen Participation, and the following offered their comments to the Council:

Elise Kehle, 218 MacArthur Ave, expressed concerns regarding a resolution to approve a contract for a School Resource Officer working in the School District of Ashland.

Dani OBrien, 615 Vaughn Ave, spoke in opposition to a resolution to approve a contract for a School Resource Officer working in the School District of Ashland.

David Buenneke, resident of Ashland, also spoke in opposition to a resolution to approve a contract for a School Resource Officer working in the School District of Ashland.

5. MAYOR'S REPORT

A. Announcements

Lewis noted that the Source Water Protection Plan meeting time and date will be finalized by 9/9/20. Lewis reported that the Ashland Oredock has been repaired and fence has been removed. She noted that Ashland County has 44 confirmed cases of COVID-19 and that the City of Ashland needs to maintain its efforts to control COVID-19.

B. Appointments

The Mayor requested approval of the following appointments:

Ashland Beautification Council

Christine Oreskovich, replacing Donna Lanni. Term expires February 15, 2023

Economic Development - Revolving Loan Fund Advisory Board

Daryl Jolma, re-appointment, term expires April 15, 2023

Haas moved, seconded by Franek to approve. The motion passed unanimously by voice vote.

6. CONSENT AGENDA

A. Miscellaneous Meeting Minutes

B. July 2020 Planning and Development Report

Wahsayah Whitebird moved, seconded by Jackie Moore to approve the Consent Agenda. The motion passed unanimously by voice vote.

7. NEW BUSINESS

A. Update by Northland College President Dr. Solibakke

Dr. Karl Solibakke, President of Northland College, shared updates regarding Northland College opening for students.

B. Public Hearing and Approve the Vacation of that Part of 44th Avenue East Lying between Lot 8 Block 3 and Lot 1 Block 4, All in Lake View Addition, City of Ashland, Ashland County, Wisconsin (*Planning*) Roll

Kevin Haas moved, seconded by Jackie Moore to enter into Public Hearing. The motion passed unanimously by voice vote. Kevin Haas moved, seconded by Jackie Moore to move out of Public Hearing. The motion passed unanimously by voice vote. Kevin Haas moved, seconded by Jackie Moore to approve the proposed vacation. The motion passed unanimously by roll call vote.

C. Approve a Proclamation Recognizing the Week of September 21, 2020 through September 27, 2020 as National Rail Safety Week (*Administration*) Voice

Holly George moved, seconded by Sarah Jackson to approve the proclamation. The motion passed unanimously by voice vote.

D. Approve a Resolution by the Common Council for the City of Ashland, Wisconsin, Approving the School District of Ashland School Resource Officer (SRO) Contract for Working Agreement - 2020-2021 School Year (*Police Chief*) Roll

Charlie Ortman requested to recognize Elise Kehle to speak to Council. Motion passed unanimously by voice vote. Interim Police Chief Bill Hagstrom answered Council questions. Kate Ullman moved, seconded by Wahsayah Whitebird to table the resolution to the next Council meeting (September 29, 2020). The motion passed by a 6-5 roll call vote; opposed were George, MacKenzie, Haas, Pufall, Moore.

E. Approve the State Municipal Agreement (SMA) Dated June 22, 2020 for the Prentice Avenue (6th Street East-11th Street East) Reconstruction Project (*Public Works*) Roll

Kevin Haas moved, seconded by Jackie Moore to approve the State Municipal Agreement. The motion passed unanimously by roll call vote.

F. Approve to Award Contract to Next Energy Solutions for the Ashland Police Station Solar Array (*Planning*) Roll

Kevin Haas moved, seconded by Wahsayah Whitebird to approve the contract for a total project cost of \$133,200.00. The motion passed unanimously by roll call vote.

G. Approve to Create Chapter 5 Municipal Board of Absentee Canvassers, Ashland City Ordinances, for Absentee Ballot Processing (*Clerk*) Roll

Jackie Moore moved, seconded by Matthew MacKenzie to approve the proposed ordinance. The motion passed unanimously by roll call vote.

H. Approve to Waive Bid Requirements as Outlined in Chapter 194.03, Ashland City Ordinances, and Approve to Purchase New Election Tabulation Machines from ES&S (*Clerk*) Roll

Charlie Ortman moved, seconded by Liz Franek to approve to waive bid requirements and approve the purchase for \$13,520.56. The motion passed unanimously by roll call vote.

I. Approve the Reduced Rate for Registered 501(c)3 Organizations for Vaughn Library Building Third Floor Office Spaces (*Administration, Library Director*) Voice

Charlie Ortman moved, seconded by Wahsayah Whitebird to approve the revised lease agreement. The motion passed unanimously by voice vote.

8. ADJOURNMENT

Kevin Haas moved, seconded by Wahsayah Whitebird to adjourn. The motion carried unanimously by voice vote.

Respectfully Submitted,

Denise Oliphant,
City Clerk

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COMMITTEE OF THE WHOLE MEETING MINUTES

The Common Council of the City of Ashland will meet as the Committee of the Whole on September 8, 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

The Tuesday, September 8, 2020 Ashland Committee of the Whole meeting was called to order by Kevin Haas via GoTo Meeting at 7:42 pm.

PRESENT: Matthew MacKenzie, Kevin Haas, Kate Ullman, Charlie Ortman, Liz Franek, Jackie Moore, Wahsayah Whitebird, Sarah Jackson, Dick Pufall, Ana Tochtermann, Holly George

ABSENT: (None)

ALSO PRESENT: Mayor Deb Lewis, City Clerk Denise Oliphant, City Administrator Brant Kucera, Public Works Director John Butler, Deputy Clerk Sarah Szymaniak, and other concerned citizens.

2. Council President's Report

Haas commented on political yard signs and asked residents to respect one another.

3. Administrator's Report

Kucera stated the City of Ashland CDBG grant was denied on a technicality. Kucera urged the Ashland community to continue to follow practices that prevent the spread of COVID-19: physically distance. Kucera responded to questions from Council.

4. Approval of Agenda

Jackson moved, seconded by Pufall to approve the agenda as presented. The motion carried unanimously by voice vote.

5. Discussion Items

A. **Presentation, Discussion and Possible Action Regarding Xcel Partners in Energy Program** *(Mayor)*

Ullman moved, seconded by George, to pursue the Xcel program. The motion carried unanimously by voice vote.

B. **Presentation, Discussion and Possible Action Regarding City Priorities for**

Paving of Roads and Paving Costs (*Councilor Moore*)

Moore moved, seconded by Tochtermann, to table discussion to the September 29, 2020 Committee of the Whole meeting due to time constraints. This motion carried 10-1 by voice vote; MacKenzie opposed.

6. Adjournment

Whitebird moved, seconded by Moore to adjourn. The motion carried unanimously.

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SUBJECT: Appointments**RECOMMENDATION:** Approval**DEPARTMENT OF ORIGIN:** Mayor**CLEARANCES:** Mayor**EXHIBITS:****EXPENDITURES REQUIRED:** NA**AMOUNT BUDGETED:** N.A.**APPROPRIATION REQUIRED:** N.A.**TREASURER'S CERTIFICATE:** NA**COMPLIANCE WITH ORDINANCE 51:** N.A.**STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD:** N.A.**SUMMARY STATEMENT:**

The Mayor is requesting Council's approval of the following committee appointment(s):

Disabled Parking Enforcement Assistance Council

Waysayah Whitebird (Council Rep.), Expires: April 16, 2021

Mary Jane Grande, Reappointment; Expires: August 11, 2023

Donna Griffiths, Reappointment, Expires: August 13, 2022

Cheryl Wiezorek, Reappointment, Expires: August 11, 2023

Economic Development-Revolving Loan Fund Advisory Board

Daryl Jolma, Reappointment, Expires: April 15, 2023

Housing Committee

Kaas Baichtal, City Landlord Representative, reappointment, expires: October 1, 2022

Kathy Beeksma, City Housing Authority Representative, reappointment, expires: October 1, 2022

Liz Franek, Renter Representative, reappointment, expires: October 1, 2022

Megan McBride, City Staff Representative, reappointment, expires: October 1, 2022

Public Works Committee

Edward Calahan, Reappointment, Expires: September 30, 2025

****Member information will be made available at the time of the meeting for:**
Municipal Board of Absentee Canvass - 2 members, term expiring January 1, 2021

SUBJECT: Approve to Apply to the Xcel Partners in Energy Program (*Mayor*)

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Mayor

CLEARANCES: Approved Unanimously by Committee of the Whole, September 8, 2020

EXHIBITS: 1. Partners in Energy FAQ

EXPENDITURES REQUIRED: \$30,000

AMOUNT BUDGETED: \$0

APPROPRIATION REQUIRED: \$15,000 (to be paid in two installments in 2021 and 2022 budget)

TREASURER'S CERTIFICATE: N.A.

COMPLIANCE WITH ORDINANCE 51: N.A.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD:

SUMMARY STATEMENT:

Xcel Energy will be offering a Partners in Energy (PIE) program in Wisconsin in 2021 to two communities and the City of Ashland has been approached by Xcel to consider participation in the program. This discussion is intended to have Council members learn more about this program and give a sense of the interest of the Council in having the City apply.

Attached is a program description and FAQ for your information. In addition, there are examples from two communities in MN that have participated in the program. Approximate cost of the program is \$30,000 but Xcel Energy would cover half the cost up to \$15,000.

At the September 8, 2020 Committee of the Whole meeting Council voted 11-0 to approve the application.

PARTNERS IN ENERGY

FREQUENTLY ASKED QUESTIONS



1. What is Partners in Energy?

Xcel Energy's Partners in Energy is an offering to help communities identify and reach their unique energy goals. Partners in Energy supports the development of energy action plans formed by a team of community stakeholders and will provide resources for the first 18 months of implementation. If you already have goals or a plan, we can customize our resources to match your needs.

We also provide additional resources to help the communities we serve achieve their goals around energy. These include webinars, topic specific toolkits, and resources on Xcel Energy's programs and services.

Partners in Energy is Xcel Energy's program to support the communities we serve in achieving their energy goals their way, while leveraging our tools and resources to the greatest extent possible.

2. How can it benefit my community?

Partners in Energy offers flexibility, expertise and resources to develop and launch your energy planning. We supplement your local resources with our team of experts to guide you through the planning process by developing your plan document and supporting delivery of your unique strategies and tactics to achieve your energy goals. If you're aiming to add renewable energy, reduce electric and natural gas consumption, or lower CO₂ emissions, developing a robust Energy Action Plan will provide the first step to charting your energy course. Our team can help you outline actionable strategies that may include promotional outreach, education, events, PR and more. We help guide project implementation and bring tools and resources to help your community overcome implementation barriers. Community engagement is a key component - it provides ownership, ensures goals reflect local priorities, and positions your community as an energy-savvy, environmentally conscious trendsetter.

3. What resources are expected from a community?

Ideally, you will assign a champion from your community who will serve as our primary contact point and local lead. If you're working with us on developing an Energy Action Plan, it may require up to 100 hours of time from this person over the process of developing that plan. We will leverage your local resources such as your existing communications channels, your community website, social media, press media, newsletters or cable channels as we work together to develop and implement your plan.

Xcel Energy resources are there to support and provide tools and help throughout the process — but it is the community that ultimately owns the plan.

4. Is there a cost associated with Partners in Energy?

The cost to participate in Partners in Energy varies by state. Please contact us for information specific to your location. The amount you need to invest in implementation is driven by your needs or outreach strategies within your plan. The tactics in your Energy Action Plan may be within your current budget, or you may identify needs for a more robust energy management program.

PARTNERS IN ENERGY

5. Who is involved?

In addition to your community contributors, the Xcel Energy team will be at the table to provide resources, data and support during planning and implementation. In addition, you will have access to energy planning experts and the ability to brainstorm with representatives from other communities participating in Partners in Energy. This is done through a series of webinars and in-person and virtual workshops and summits delivered through our Exchange option.

6. How do we contact Partners in Energy?

To find out more about when additional communities can join, or to download an application to work with us on developing an Energy Action Plan, visit xcelenergy.com/PartnersInEnergy. If you have specific questions or want to request a presentation, email us at PartnersInEnergy@xcelenergy.com.



SUBJECT: Approval to Apply for Chequama-Care COVID-19 Response Fund (*Parks*)

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Parks & Recreation

CLEARANCES: City Administrator

EXHIBITS: 1. Duluth Superior Area Community Foundation - Chequame-Care Fund Guidelines

EXPENDITURES REQUIRED: \$3,000 Ionizer Sprayers
\$2,000 Portable Hand Washing Stations
\$5,000 = Request Total

AMOUNT BUDGETED: \$0

APPROPRIATION REQUIRED: \$0 (No match required)

TREASURER'S CERTIFICATE: NA

COMPLIANCE WITH ORDINANCE 51: The proposed development conforms to the goals and community values identified in the City of Ashland's Comprehensive Plan.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD: The Mayor and/or Clerk has consented to placement of this agenda item on the Council agenda as timely action is needed.

SUMMARY STATEMENT:

City Staff is seeking approval to apply for three portable hand washing stations and two ionizer sprayers from the Chequama-Care COVID-19 Response Fund. The hand washing stations would be used for APR outdoor programming, the Ashland Area Farmers Market, and at other community events and local parks/beaches. The ionizing sprayers would be used at the Bretting Community Center and other City building open for the public to assist the facilities staff with cleaning.

The Chequama-Care Fund was created to respond with efficiency to the needs identified in our communities and deploy resources to nonprofit organizations at the frontlines of the coronavirus outbreak. To be eligible for the Chequama-Care Fund organizations need to be located in or provide service to residents of the Town of La Pointe, Red Cliff Reservation, Town of Russell, City of Bayfield, Town of Bayfield, and the boundaries of the Washburn School District and Ashland School District including Odanah, the central community of the Bad River Reservation.

DULUTH SUPERIOR AREA COMMUNITY FOUNDATION

“CHEQUAMA-CARE” COVID-19 RESPONSE FUND GUIDELINES

FUND MISSION

The mission of the Chequama-Care COVID-19 Response Fund is to respond with efficiency to the needs identified in our communities and deploy resources to nonprofit organizations at the frontlines of the coronavirus outbreak.

Please note: the COVID-19 Response Fund does not grant directly to individuals and families but to the nonprofit organizations that serve individuals and families. Individuals and families should contact local agencies for immediate help.

The Chequama-Care Fund focuses on the following priorities:

- Providing emergency essentials of food, housing, medical care, safety, transportation, and income assistance for individuals and families.
- One-time operating support for organizations experiencing increased demand for services, diminishing volunteer support, and those serving vulnerable populations, including children, the elderly, people with physical and mental disabilities, and people experiencing homelessness, joblessness, or with low incomes
- Addressing the needs of staff of nonprofit organizations impacted by reduced or lost employment or benefits, as well as program providers such as contractors and volunteers.
- Supporting adaptations necessary to continue organizational functioning; including protective equipment for staff and volunteers and technology upgrades.
- Developing community wellbeing for coping and healing; including youth development, mental health services, and activities focused on the arts, culture, and the great outdoors.

Grants generally range from \$1,000 to \$5,000.

This funding must not duplicate other federal or state funding the organization or individuals served have received or are eligible to receive.

ELIGIBILITY

To be eligible to apply for funding, an organization must:

- be classified as a charitable organization under Section 501(c)(3) of the Internal Revenue Code; or classified as an organization under Section 170(c)(1) of the Internal Revenue Code; and
- be located in or provide service to residents of the Town of La Pointe, Red Cliff Reservation, Town of Russell, City of Bayfield, Town of Bayfield, and the boundaries of the

Washburn School District and Ashland School District including Odanah, the central community of the Bad River Reservation.

APPLICATION PROCEDURES

Potential applicants should first submit a Letter of Intent, via the Community Foundation's website at <http://www.dsacommunityfoundation.com/apply-for-a-grant>. Inquiries will be reviewed daily, Monday to Friday, during normal business hours. Staff will contact applicants within 24 hours of receipt and provide direction on next steps within 48 hours.

Based on the outcome of the pre-application, an organization may be encouraged to submit a full proposal through the online portal. Please note: if an applicant cannot meet all of these application requirements because of COVID-19-related limitations, please contact the Community Foundation.

RESPONSE TIMELINE

Because of the urgency of the COVID-19 crisis, proposals will be accepted and reviewed on a rolling basis beginning immediately. Proposals for these funds begin with a very brief "letter of intent" through the online application portal, as described above. Proposals submitted by noon on Thursday will be included in the next review of proposals. Applicants who are awarded grant funds will receive a notification letter and grant agreement.

FOR MORE INFORMATION OR ASSISTANCE:

Ruth Oppedahl
Apostle Islands/Chequamegon Bay Community Funds
715-449-8080

roppedahl@dsacommunityfoundation.com

OR

Department of Community Philanthropy
Duluth Superior Area Community Foundation
324 West Superior Street, Suite 700
Duluth, Minnesota 55802
218-726-0232

grantsinfo@dsacommunityfoundation.com

www.dsacommunityfoundation.com

SUBJECT: Approve a Resolution to Submit an Application to the Wisconsin Department of Natural Resources Urban Forestry Grant and Urban Forestry Catastrophic Storm Grant Programs (*Parks*)

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Parks & Recreation

CLEARANCES: Parks and Recreation Committee
City Administrator

EXHIBITS: 1. Proposed Resolution
2. Regular Urban Forestry Grants , Wisconsin DNR

EXPENDITURES REQUIRED: \$11,000 - Regular Urban Forestry Grant

AMOUNT BUDGETED: \$0

APPROPRIATION REQUIRED: Fund 480 Urban Forestry Fund (50/50 Match)

TREASURER'S CERTIFICATE: NA

COMPLIANCE WITH ORDINANCE 51: Section 51.26 (b) of Chapter 51, Ashland City Ordinances, permit the Mayor and/or Clerk to schedule items directly for Council action when a timely decision is needed by the City. The City Clerk has chosen to direct this item directly to Council pursuant to the authority granted to her in Chapter 51, Ashland City Ordinances.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD: The proposed development conforms to the goals and community values identified in the City of Ashland's Comprehensive Plan and Forest Management Plan.

SUMMARY STATEMENT:

The City is seeking Council approval of a resolution to submit an application for Wisconsin Department of Natural Resources (WDNR) Urban Forestry Urban Forestry Grant and Catastrophic Storm Grant Programs.

The Regular Grant would assist in sending a staff member to the Wisconsin Community Tree Management Institute. Funds awarded will also be used in updating and creating a more robust and realistic Emerald Ash Borer Management Plan, and funding the Historical Tree Replacement Plan. The City's Tree Management Plan was last updated in 2018, but staffing nor budget has been prioritized for implementation.

The grant will also be used to assist with urban reforestation along 7th Street West and Vaughn Avenue to pay for approximately 15 blocks to be reforested. The Parks and Recreation Committee discussed planting a maximum of six trees per block at approximately 50 feet apart for 5 blocks for a total of 90 trees. Each tree is estimated to cost \$100 each.

These grants would also help the City's ability to once again become a Tree City USA. Four standards need to be met for this recognition:

- 1) Tree Board - The Parks and Recreation Committee has been designated the City's Tree Board by Ordinances 47 and 454
- 2) Tree Care Ordinance - Ordinance 454
- 3) A Community Forestry Program with an annual budget of at least \$2 per capita (~\$16,000)
- 4) An Arbor Day observance and proclamation

More information about Tree City USA can be found here <https://www.arborday.org/programs/treecityusa/>

Both grants are due October 1.

**RESOLUTION AUTHORIZING TO APPLY FOR THE WISCONSIN
DEPARTMENT OF NATURAL RESOURCES URBAN FORESTRY GRANT
AND URBAN FORESTRY CATASTROPHIC STORM GRANT PROGRAMS**

WHEREAS, the applicant, the City of Ashland, is interested in obtaining a cost-share grant from Wisconsin Department of Natural Resources for the purpose of funding urban and community forestry projects or urban forestry catastrophic storm projects specified in s. 23.097(1g) and (1r), Wis. Stats.; and,

WHEREAS, the applicant attests to the validity and veracity of the statements and representations contained in the grant application; and,

WHEREAS, the applicant requests a grant agreement to carry out the project.

NOW, THEREFORE, BE IT RESOLVED the applicant, The City of Ashland, will comply with all local, state, and federal rules, regulations and ordinances relating to this project and the cost-share agreement.

BE IT FURTHER RESOLVED, the applicant will budget a sum sufficient to fully and satisfactorily complete the project and hereby authorizes and empowers Sara Hudson, Parks and Recreation Director, its official or employee, to act on its behalf to:

1. Sign and submit the grant application
2. Sign a grant agreement between applicant and the DNR
3. Submit interim and/or final reports to the DNR to satisfy the grant agreement
4. Submit grant reimbursement request to the DNR
5. Sign and submit other required documentation

THEREFORE, BE IT RESOLVED that the Common Council for the City of Ashland hereby approves the resolution to submit application to the Wisconsin Department of Natural Resources Urban Forestry Grant Program on behalf of the City.

PASSED: September 29, 2020

Councilperson

ATTEST: _____
Denise Oliphant, City Clerk

Debra S. Lewis, Mayor

APPROVED AS TO FORM:

Tyler W. Wickman, City Attorney

REGULAR URBAN FORESTRY GRANTS

Regular urban forestry grants support projects that improve a community's capacity to manage its trees. Cities, villages, towns, counties, tribes and 501(c)(3) nonprofit organizations in or conducting their project in Wisconsin may apply for a regular urban forestry grant.

Application deadline is Oct. 1 for projects to be completed between Jan. 1 and Dec. 31 of the coming year. Resolution required with application.

ABOUT

Grants range from \$1,000 to \$25,000 and require a 50–50 match (total project cost range is \$2,000 to \$50,000).

The project sponsor must initially fund 100% of project costs with cash, in-kind contributions and/or donations. Upon completion, the project sponsor requests reimbursement for 50% of eligible costs (501(c)(3) nonprofit organizations may request an advance when a grant is awarded).

Projects begin Jan. 1 and must be completed within one calendar year.

ELIGIBLE PROJECTS AND COSTS

Projects must relate to community tree management, maintenance or education within Wisconsin cities, villages or other areas of concentrated development.

Eligible project components include, but are not limited to:

- tree inventory or canopy assessment;
- urban forestry strategic or management plan;
- urban forest pest response, storm response or risk reduction plan;
- tree ordinance development/revision;
- public outreach;
- staff or volunteer training;
- tree board or volunteer group development; and
- tree planting, maintenance and removal.

Ineligible projects include, but are not limited to:

- construction projects (such as trails, fences, shelters, buildings and site grading) not directly related to planting;
- land clearing or stump removal projects not directly related to tree planting or removal; and
- land or boundary surveys or title search, appraisal, sale or exchange of real property.

Eligible costs are those necessary for completing the project and incurred during the project period. Costs must be documented, reasonable and consistent with the project scope. Examples include:

- salaries and fringe benefits of people working directly on the project;
- cost of services, supplies, equipment or facilities used on the project; and

- value of labor, services, supplies, equipment or facilities donated to the project by third parties.

SUBJECT: Approve to Accept Assistance to Firefighters Grant and Required Matching Funds (*Fire*) Roll

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Fire & EMS Department

CLEARANCES: Fire Chief
Administrator
Finance Director

EXHIBITS: 1. Award Letter from FEMA
2. Agenda Bill February 25, 2020

EXPENDITURES REQUIRED: \$180,885.64

AMOUNT BUDGETED: NA

APPROPRIATION REQUIRED: \$172,272.04 Assistance to Firefighters Grant
\$ 8,613.60 Match required, Fund 100 Fire/EMS
\$180,885.64

TREASURER'S CERTIFICATE:

COMPLIANCE WITH ORDINANCE 51:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD: A goal of the Utilities and Community Facilities chapter (Chapter 5) of the City's Comprehensive Plan of Record is *"to provide a well-maintained infrastructure that provides health, education, telecommunication and safety and security services for all residents and visitors."* Objective 1.3 of the chapter notes that the community needs to *"ensure that City fire, police, and emergency services equipment adequately provides for the personal safety of all persons and for preservation of property."*

SUMMARY STATEMENT:

The Fire Department's EMS ambulance cots have reached the end of their reliable service life. Four of the five EMS ambulance cots are over ten years old and are experiencing multiple problems. The Fire Chief obtained approval from the City Council in February 2020 to apply for a Federal Assistance to Firefighters Grant in an attempt to obtain grant funding for four replacement EMS ambulance cots. In August, the fire department was notified that we were awarded \$172,272.00 in Federal funding to purchase four new EMS ambulance cots and four new ambulance cot power-lifts to be installed in each ambulance.

The local required grant match is 5% or \$8,613.60 for a total amount to \$180,885.64. This grant match amount will be obtained from Fund "100" of the Fire/EMS budget, which will not create any additional unplanned budget shortfalls. This will allow the department to replace four EMS ambulance cots and power-load systems using federal grant monies therefore reducing future department capital expenditures greatly.

This grant award will significantly affect the future capital expenditures of the department. This grant will reduce the future purchase costs of several ambulances by nearly \$44,000 each as the cots have generally been replaced when a new ambulance is purchased. By obtaining the EMS ambulance cots through the Federal grant, new cots will not be needed when a new ambulance is purchased. The new EMS ambulance cots and power-load system(s) will also help reduce common back injuries and workers compensation claims related to EMS work.

The Fire Chief recommends Council's approval to accept the Assistance to Firefighters Grant in the amount of \$172,272.04 and the \$8,613.60 grant match from Fund 100 Fire/EMS.

Award Letter

U.S. Department of Homeland Security
Washington, D.C. 20472

David Wegener
ASHLAND, CITY OF
215 6TH ST
ASHLAND, WI 54806

EMW-2019-FG-04192



Dear David Wegener,

Congratulations on behalf of the Department of Homeland Security. Your application submitted for the Fiscal Year (FY) 2019 Assistance to Firefighters Grant (AFG) Grant funding opportunity has been approved in the amount of \$172,272.04 in Federal funding. As a condition of this grant, you are required to contribute non-Federal funds equal to or greater than 5.00% of the Federal funds awarded, or \$8,613.60 for a total approved budget of \$180,885.64. Please see the FY 2019 AFG Notice of Funding Opportunity for information on how to meet this cost share requirement.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award through the FEMA Grants Outcomes (FEMA GO) system. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Summary Award Memo - included in this document
- Agreement Articles - included in this document
- Obligating Document - included in this document
- 2019 AFG Notice of Funding Opportunity (NOFO) - incorporated by reference

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bridget Bean", is written over a light blue horizontal line.

Bridget Bean
Assistant Administrator
Grant Programs Directorate

Summary Award Memo

Program: Fiscal Year 2019 Assistance to Firefighters Grant

Recipient: ASHLAND, CITY OF

DUNS number: 627835358

Award number: EMW-2019-FG-04192

Summary description of award

The purpose of the Assistance to Firefighters Grant program is to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards. After careful consideration, FEMA has determined that the recipient's project or projects submitted as part of the recipient's application and detailed in the project narrative as well as the request details section of the application - including budget information - was consistent with the Assistance to Firefighters Grant Program's purpose and was worthy of award.

Except as otherwise approved as noted in this award, the information you provided in your application for FY2019 Assistance to Firefighters Grants funding is incorporated into the terms and conditions of this award. This includes any documents submitted as part of the application.

Amount awarded

The amount of the award is detailed in the attached Obligating Document for Award.

The following are the budgeted estimates for object classes for this award (including Federal share plus your cost share, if applicable):

Object Class	Total
Personnel	\$0.00
Fringe benefits	\$0.00
Travel	\$0.00
Equipment	\$180,885.64
Supplies	\$0.00
Contractual	\$0.00
Construction	\$0.00
Other	\$0.00
Indirect charges	\$0.00
Federal	\$172,272.04
Non-federal	\$8,613.60
Total	\$180,885.64
Program Income	\$0.00

Approved scope of work

After review of your application, FEMA has approved the below scope of work. Justifications are provided for any differences between the scope of work in the original application and the approved scope of work under this award. You must submit scope or budget revision requests for FEMA's prior approval, via an amendment request, as appropriate per 2 C.F.R. § 200.308 and the FY2019 AFG NOFO.

Approved request details:

Equipment

Additional funding

DESCRIPTION

Installation, materials, and labor costs for installation of power lift system and required underbody plates in ambulances.

	QUANTITY	UNIT PRICE	TOTAL	BUDGET CLASS
Cost 1	4	\$2,191.36	\$8,765.44	Equipment

Power Lift System

DESCRIPTION

Power Lift Systems in ambulances. The current ambulance cot securing devices do not meet current NFPA 1917 or KKK-A-1822 standards. The power load systems provide a cot retention system consistent with these standards.

	QUANTITY	UNIT PRICE	TOTAL	BUDGET CLASS
Cost 1	4	\$23,280.05	\$93,120.20	Equipment

Power Lift Cot

DESCRIPTION

Power Lift Cots

	QUANTITY	UNIT PRICE	TOTAL	BUDGET CLASS
Cost 1	4	\$19,750.00	\$79,000.00	Equipment

Agreement Articles

Program: Fiscal Year 2019 Assistance to Firefighters Grant

Recipient: ASHLAND, CITY OF

DUNS number: 627835358

Award number: EMW-2019-FG-04192

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Article 1 Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

Article 2 DHS Specific Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. 1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS. 2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance. 3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports. 4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance. 5. Recipients of federal financial assistance from DHS must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award or, for State Administering Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. Recipients are required to provide this information once every two (2) years, not every time an award is made. After the initial submission for the first award under which this term applies, recipients are only required to submit updates every two years, not every time a grant is awarded. Recipients should submit the completed tool, including supporting materials to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>. 6. The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

Article 3	Acknowledgement of Federal Funding from DHS Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.
Article 4	Activities Conducted Abroad Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.
Article 5	Age Discrimination Act of 1975 Recipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (1975) (codified as amended at Title 42, U.S. Code, § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.
Article 6	Americans with Disabilities Act of 1990 Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101–12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.
Article 7	Best Practices for Collection and Use of Personally Identifiable Information (PII) Recipients who collect PII are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.
Article 8	Civil Rights Act of 1964 – Title VI Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

Article 9 Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. § 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

Article 10 Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

Article 11 Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

Article 12 Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106).

Article 13 Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Article 14	Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. No. 92-318 (1972) (codified as amended at 20 U.S.C. § 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.
Article 15	Energy Policy and Conservation Act Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. No. 94- 163 (1975) (codified as amended at 42 U.S.C. § 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.
Article 16	False Claims Act and Program Fraud Civil Remedies Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. §§ 3729-3733, which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made.)
Article 17	Federal Debt Status All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)
Article 18	Federal Leadership on Reducing Text Messaging while Driving Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.
Article 19	Fly America Act of 1974 Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.
Article 20	Hotel and Motel Fire Safety Act of 1990 In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a, recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, (codified as amended at 15 U.S.C. § 2225.)

Article 21 Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

Article 22 Lobbying Prohibitions

Recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

Article 23 National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969 (NEPA), Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq.) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Article 24 Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Article 25 Non-supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

Article 26 Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

Article 27	Patents and Intellectual Property Rights Recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.
Article 28	Procurement of Recovered Materials States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.
Article 29	Rehabilitation Act of 1973 Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (1973), (codified as amended at 29 U.S.C. § 794,) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
Article 30	Reporting of Matters Related to Recipient Integrity and Performance If the total value of any currently active grants, cooperative agreements, and procurement contracts from all federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this federal award, then the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.
Article 31	Reporting Subawards and Executive Compensation Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.
Article 32	SAFECOM Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article 33	Terrorist Financing Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.
Article 34	Trafficking Victims Protection Act of 2000 (TVPA) Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. § 7104. The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated here by reference.
Article 35	Universal Identifier and System of Award Management (SAM) Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.
Article 36	USA Patriot Act of 2001 Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Pub. L. No. 107-56, which amends 18 U.S.C. §§ 175–175c.
Article 37	Use of DHS Seal, Logo and Flags Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.
Article 38	Whistleblower Protection Act Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.
Article 39	Acceptance of Post Award Changes In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@dhs.gov if you have any questions.

Article 40 Prior Approval for Modification of Approved Budget

Before making any change to the DHS/FEMA approved budget for this award, you must request prior written approval from DHS/FEMA where required by 2 C.F.R. § 200.308. DHS/FEMA is also utilizing its discretion to impose an additional restriction under 2 C.F.R. § 200.308(e) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the Federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from DHS/FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget DHS/FEMA last approved. You must report any deviations from your DHS/FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

Article 41 Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its subrecipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. § 200.313.

Article 42 Environmental Planning and Historic Preservation

DHS/FEMA funded activities that may require an EHP review are subject to FEMA's Environmental Planning and Historic Preservation (EHP) review process. This review does not address all Federal, state, and local requirements. Acceptance of Federal funding requires recipient to comply with all Federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize Federal funding. DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/FEMA grant funds, through its EHP Review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and, any other applicable laws and Executive Orders. To access the FEMA's Environmental and Historic Preservation (EHP) screening form and instructions go to the DHS/FEMA website at: <https://www.fema.gov/media-library/assets/documents/90195>. In order to initiate EHP review of your project(s), you must complete all relevant sections of this form and submit it to the Grant Programs Directorate (GPD) along with all other pertinent project information. Failure to provide requisite information could result in delays in the release of grant funds. If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered, applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.

Obligating document

1. Agreement No. EMW-2019-FG-04192	2. Amendment No. N/A	3. Recipient No. 396005387	4. Type of Action AWARD	5. Control No. WX02929N2020T		
6. Recipient Name and Address ASHLAND, CITY OF 215 6TH ST E ASHLAND, WI 54806		7. Issuing FEMA Office and Address Grant Programs Directorate 500 C Street, S.W. Washington DC, 20528-7000 1-866-927-5646		8. Payment Office and Address FEMA, Financial Services Branch 500 C Street, S.W., Room 723 Washington DC, 20742		
9. Name of Recipient Project Officer David Wegener		9a. Phone No. 715-6827052	10. Name of FEMA Project Coordinator Assistance to Firefighters Grant Program		10a. Phone No. 1-866-274-0960	
11. Effective Date of This Action 07/24/2020	12. Method of Payment OTHER - FEMA GO	13. Assistance Arrangement COST SHARING		14. Performance Period 07/31/2020 to 07/30/2021 Budget Period 07/31/2020 to 07/30/2021		
15. Description of Action a. (Indicate funding data for awards or financial changes)						
Program Name Abbreviation	Assistance Listings No.	Accounting Data(ACCS Code)	Prior Total Award	Amount Awarded This Action + or (-)	Current Total Award	Cumulative Non-Federal Commitment
AFG	97.044	2020-F9-GB01 - P431-xxxx-4101-D	\$0.00	\$172,272.04	\$172,272.04	\$8,613.60
Totals			\$0.00	\$172,272.04	\$172,272.04	\$8,613.60
b. To describe changes other than funding data or financial changes, attach schedule and check here: N/A						
16. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address) This field is not applicable for digitally signed grant agreements						

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title)	DATE
David Wegener	08/03/2020
18. FEMA SIGNATORY OFFICIAL (Name and Title)	DATE
Bridget Bean, Assistant Administrator Grant Programs Directorate	07/24/2020

SUBJECT: Approve to Apply for a Assistance to Firefighters Grant for the Purchase of Power-Load Systems and Cots for the Fire Department/EMS (*Fire Department*) Voice

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Fire & EMS Department

CLEARANCES: City Administrator

EXHIBITS:

EXPENDITURES REQUIRED: \$180,885.64 Total Grant Request

\$ 9,044.28 5% Match Required

AMOUNT BUDGETED: \$0

APPROPRIATION REQUIRED: \$ 9,044.28 Fund TBD

TREASURER'S CERTIFICATE: TBD

COMPLIANCE WITH ORDINANCE 51:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD:

SUMMARY STATEMENT:

The Ashland Fire Department is requesting approval to write the Assistance to Firefighters Grant for (4) replacement EMS cots and power-loading systems for our ambulances.

We wrote for these items last year and the grant was denied due to limited federal funds. We are hopeful for a reward this year, as it would assist the Fire Department for many years into the future.

Four of our EMS cots range from 11-14 years old and are due for replacement as they are reaching the end of their usable life. If awarded, this grant would reduce the large capital expenditure to replace the cots as well as needed power-loading system(s).

The cost of the cots and power-load systems are \$45,221.41 each. The total grant request is for \$180,885.64, with a 5% match of \$9,044.28. The grant match would be required to come from the city general fund, as there are no funds in the fire department budget for the match amount. This is a great opportunity to reduce our capital expenditures in the very near future.

SUBJECT: Approve a Class B Combination Alcohol Beverage License Application for BPOE No. 137(Ashland Elks Lodge), 3000 Golf Course Road, Ashland, WI, and Agent Jeff Muse (Clerk)

RECOMMENDATION: Approval upon contingencies met

DEPARTMENT OF ORIGIN: City Clerk

CLEARANCES: Clerk

EXHIBITS:

1. Original Alcohol Beverage Retail License Application, Schedule for Appointment of Agent and Auxiliary Questionnaire, BPOE #137 (Ashland Elks Lodge)
2. Letter of Surrender, Niblick Bar & Grille

EXPENDITURES REQUIRED: NA

AMOUNT BUDGETED:

APPROPRIATION REQUIRED: NA

TREASURER'S CERTIFICATE: The Treasurer's office will verify compliance to Chapter 923 upon receiving payment of an outstanding utility bill.

COMPLIANCE WITH ORDINANCE 51:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD:

SUMMARY STATEMENT:

Ashland's BPOE #137 (Elks Lodge), 3000 Golf Course Road, Ashland, has applied for a Class B Combination Alcohol Beverage and Intoxicating Liquor license. Niblick's Bar and Grille has been operating at this location, renting from the Elks organization until a recent decision of closing. The current owner of this license has signed a Surrender of License, making it available for the Club to apply.

As a familiar and popular golf course in the City of Ashland, the Elks has historically combined its recreation destination with fine dining and a full bar. The organization has been a cornerstone of support for other area clubs through fundraising events. They offer their facility for banquets and receptions to all members of the community. The benefit of having a full bar at this location enables the Club to remain attractive for scheduling events.

The Treasurer's office recognized an outstanding utility account at the property of the requested license of \$194.80. The Agent has been made aware of this contingency to approval and understands that this payment needs to be made on or before picking up the license.

The Clerk's office is recommending approval upon contingencies being met, of the Class B Combination

Alcohol Beverage and Intoxicating Liquor license application for the BPOE #137 (Ashland Elks Lodge) at 3000 Golf Course Road, Ashland and its Agent, Jeff Muse.

Original Alcohol Beverage Retail License Application

(Submit to municipal clerk.)

For the license period beginning: 10/01/2020 ending: 06/30/2021
(mm dd yyyy) (mm dd yyyy)

To the Governing Body of the: ☐ Town of } Ashland
☐ Village of }
☒ City of }

County of Ashland Aldermanic Dist. No. _____
(if required by ordinance)

Check one: ☐ Individual ☐ Limited Liability Company
☐ Partnership ☒ Corporation/Nonprofit Organization

Applicant's Wisconsin Seller's Permit Number	
FEIN Number	
TYPE OF LICENSE REQUESTED	FEE
☐ Class A beer	\$
☐ Class B beer	\$
☐ Class C wine	\$
☐ Class A liquor	\$
☐ Class A liquor (cider only)	\$ N/A
☐ Class B liquor	\$
☐ Reserve Class B liquor	\$
☐ Class B (wine only) winery	\$
Publication fee	\$
TOTAL FEE	\$

Name (individual / partners give last name, first, middle; corporations / limited liability companies give registered name)
Benevolent and Protective Order of Elks Lodge 137 (Ashland Elks Lodge)

An "Auxiliary Questionnaire," Form AT-103, must be completed and attached to this application by each individual applicant, by each member of a partnership, and by each officer, director and agent of a corporation or nonprofit organization, and by each member/manager and agent of a limited liability company. List the full name and place of residence of each person.

President / Member Last Name Hulmer	(First) Matthew	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code) 49911 State Hwy 112, Ashland, WI 54806
Vice President / Member Last Name Hudson	(First) Dylan	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code) 1508 11th Avenue West, Ashland, WI 54806
Secretary / Member Last Name Muse	(First) Jeff	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code) 701 Willis Avenue, Ashland, WI 54806
Treasurer / Member Last Name Anderson	(First) Colleen	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code) 419 Chapple Avenue, Ashland, WI 54806
Agent Last Name Schraufnagel	(First) Stephen	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code) 811 Chapple Avenue, Ashland, WI 54806
Directors / Managers Last Name Trudeau	(First) Thomas	(Middle Name)	Home Address (Street, City or Post Office, & Zip Code) 419 Chapple Avenue, Ashland, WI 54806

1. Trade Name Ashland Elks Business Phone Number 715-682-5215
2. Address of Premises 3000 Golf Course Rd Post Office & Zip Code Ashland, WI 54806

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

Lodge Bar located on main level of main structure. Also during the golf season,
beer may be sold and/or consumed on the deck of the building right next (adjacent)
to the bar room. There is also a dining room adjacent to the bar where alcohol may
be consumed.

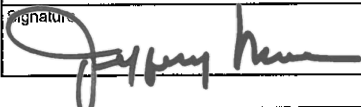
4. Legal description (omit if street address is given above): _____

5. (a) Was this premises licensed for the sale of liquor or beer during the past license year? ☒ Yes ☐ No

(b) If yes, under what name was license issued? The Niblick

6. Is individual, partners or agent of corporation/limited liability company subject to completion of the responsible beverage server training course for this license period? **If yes, explain** ☒ Yes ☐ No
This is to be completed upon approval of license
7. Is the applicant an employee or agent of, or acting on behalf of anyone except the named applicant? ☐ Yes ☒ No
If yes, explain.
8. Does any other alcohol beverage retail licensee or wholesale permittee have any interest in or control of this business? **If yes, explain** ☐ Yes ☒ No
9. (a) **Corporate/limited liability company applicants only:** Insert state _____ and date _____ of registration.
- (b) Is applicant corporation/limited liability company a subsidiary of any other corporation or limited liability company? **If yes, explain** ☐ Yes ☒ No
- (c) Does the corporation, or any officer, director, stockholder or agent or limited liability company, or any member/manager or agent hold any interest in any other alcohol beverage license or permit in Wisconsin? **If yes, explain.** ☐ Yes ☒ No
10. Does the applicant understand they must register as a Retail Beverage Alcohol Dealer with the federal government, Alcohol and Tobacco Tax and Trade Bureau (TTB) by filing (TTB form 5630.5d) before beginning business? [phone 1-877-882-3277] ☒ Yes ☐ No
11. Does the applicant understand they must hold a Wisconsin Seller's Permit? [phone (608) 266-2776] ☒ Yes ☐ No
12. Does the applicant understand that they must purchase alcohol beverages only from Wisconsin wholesalers, breweries and brewpubs? ☒ Yes ☐ No

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the applicant states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000. Signer agrees to operate this business according to law and that the rights and responsibilities conferred by the license(s), if granted, will not be assigned to another. (Individual applicants, or one member of a partnership applicant must sign; one corporate officer, one member/manager of Limited Liability Companies must sign.) Any lack of access to any portion of a licensed premises during inspection will be deemed a refusal to permit inspection. Such refusal is a misdemeanor and grounds for revocation of this license.

Contact Person's Name (Last, First, M.I.) Jeff Muse	Title/Member Secretary	Date 09/21/2020
Signature 	Phone Number 715-292-1592	Email Address jmuse@nwcep.org

TO BE COMPLETED BY CLERK

Date received and filed with municipal clerk	Date reported to council / board	Date provisional license issued	Signature of Clerk / Deputy Clerk
Date license granted	Date license issued	License number issued	

Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of: ☐ Town
☐ Village of Ashland County of Ashland
☒ City

The undersigned duly authorized officer/member/manager of Ashland Elks Lodge #137
(Registered Name of Corporation / Organization or Limited Liability Company)

a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as
Ashland Elks Lodge #137

(Trade Name)

located at 3000 Golf Course Rd

appoints Jeff Muse
(Name of Appointed Agent)

701 Willis Avenue, Ashland, WI 54806

(Home Address of Appointed Agent)

to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?

☐ Yes ☒ No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course? ☒ Yes ☐ No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? lifetime 65 years

Place of residence last year Ashland, WI 54806

For: Benevolent and Protective Order of Elks #137 (Ashland Elks Lodge)

(Name of Corporation / Organization / Limited Liability Company)

By: Jeffery Muse, Secretary

(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than \$1,000.

ACCEPTANCE BY AGENT

I, _____, hereby accept this appointment as agent for the
(Print / Type Agent's Name)

corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

(Signature of Agent)

(Date)

Agent's age _____

Date of birth _____

(Home Address of Agent)

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY (Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on _____ by _____ Title _____
(Date) (Signature of Proper Local Official) (Town Chair, Village President, Police Chief)

Auxiliary Questionnaire Alcohol Beverage License Application

Submit to municipal clerk.

Individual's Full Name (please print)		(last name)	(first name)	(middle name)
		Muse	Jeffery	Richard
Home Address (street/route)	Post Office	City	State	Zip Code
701 Willis Avenue	Ashland	WI	54806	
Home Phone Number	Age	Date of Birth	Place of Birth	
715-292-1592	65	01/23/1955	Ashland, WI	

The above named individual provides the following information as a person who is (check one):

☐ Applying for an alcohol beverage license as an **individual**.

☒ A member of a **partnership** which is making application for an alcohol beverage license.

☒ **Secretary** of **Ashland Elks Lodge #137**
(Officer / Director / Member / Manager / Agent) (Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

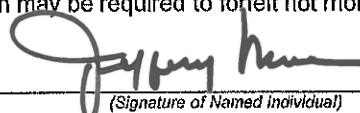
The above named individual provides the following information to the licensing authority:

1. How long have you continuously resided in Wisconsin prior to this date? 65 Years (lifetime)
2. Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? ☐ Yes ☒ No
 If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)
3. Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality? ☐ Yes ☒ No
 If yes, describe status of charges pending.
4. Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit? ☐ Yes ☒ No
 If yes, identify. (Name, Location and Type of License/Permit)
5. Do you hold and/or are you an officer, director, stockholder, agent or employee of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin? ☐ Yes ☒ No
 If yes, identify. (Name of Wholesale Licensee or Permittee) (Address By City and County)

6. Named individual must list in chronological order last two employers.

Employer's Name	Employer's Address	Employed From	To
Northwest Wisconsin CEP	422 Third Street W Suite 200	7/01/2016	present
Employer's Name	Employer's Address	Employed From	To
Great Lakes Inter-Tribal	P.O. Box 9, Lac du Flambeau, WI	7/1/1998	7/01/2016

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the undersigned states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. The signer agrees that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application. Any person who knowingly provides materially false information on this application may be required to forfeit not more than \$1,000.


 (Signature of Named individual)

LETTER OF SURRENDER OF ALCOHOL BEVERAGE LICENSE

I/WE CJ WHITE INC
Name of Individual/Partnership/Limited Liability Company/Corporation/Organization

Do hereby surrender my/our current Alcohol Beverage license, which has been
issued to me/us by the City of Ashland to the City of Ashland.

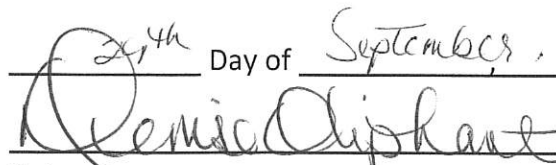
Effective Date 9/29/2020

Signatures 

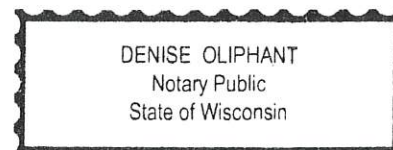
Date signed 9-29-2020

County of Ashland, State of WI

Subscribed and sworn to before me this

29th Day of September, 2020

Notary

Commission Expires 12-16-2021



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Present were Dinny Bolka, Sarah Adams, Jim Crandall, Mary Asbach and Sarah Jackson, Janna Levings, Clarence Campbell

Meeting called to order - 5:30

Approval of agenda - Motion to approve agenda made by Michelle, seconded by Jim. Passed

Approval of June minutes will be postponed until August, not available.

Public participation – None.

Continuing business – Discussed reopening library under state guidelines. Mask using has been very good among patrons. 2nd floor meeting room participants limited to 10 or less with one group a day to allow for cleaning at Library director's discretion regarding use. Not much demand at present.

New Business – Strategic plan – vision created.

Directors report, statistical and financial report.

Meeting adjourned 6:34.

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Present were Dinny Bolka, Sarah Adams, Jim Crandall, Mary Asbach and Sarah Jackson, Janna Levings, Clarence Campbell, Michelle Jardine

Meeting called to order - 5:34

Approval of agenda - Motion to approve agenda made by Michelle, seconded by Jim. Passed

Approval of June minutes motion made by Clarence and seconded by Jim. July minutes not available.

Public participation – None.

Continuing business –

- a. Pandemic policy – regarding closure of library. If employee is positive or community members infected and reports library as place visited. Remote work policy. Motion to approve policy made by Clarence and seconded by Michelle.
- b. Reopening 2nd floor meeting rooms. Maximum of 10 in large room 1x a week. Smaller rooms 1-2 people. Several requests to use meeting rooms and internet for studying/classes. Should further explore hotspots to check out . One meeting per room a day. Keep policy as it is and possibly reevaluate in September if needed.

New Business - Motion to increase limits of dvd's and music CD's to 24 at the present time. Clarence made motion and Mary seconded it.

Exemptions to city travel ban requested by two employees.

Directors report, statistical and financial report.

Strategic plan budget will be looked at next month.

Meeting adjourned 7:07

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Find yourself next to the water.



City of Ashland, Wisconsin ~ Parks and Recreation Department
400 4th Ave West Ashland ~ WI 54806 ~ www.ashlandparks.org

PARKS & RECREATION COMMITTEE MEETING MINUTES

Wednesday August 19, 2020 5:00 pm

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/249259693>

You can also dial in using your phone.

United States (Toll Free): 1 877 309 2073 ; United States: +1 (646) 749-3129

Access Code: 249-259-693

I. Call to Order

- a. Roll Call

In attendance: Dave Ullman, Mike Amman, Sarah Jackson, Meghan Salmon-Tumas, Dawayne Lampson, Nancy Szttyndor, Kevin Haas

- b. Agenda Modification

- c. Approval of Minutes

- i. Approval of July 27, 2020

Motion by: Dave Ullman

Second by: Mike Amman

Motion carries unanimously

II. Public Comment Period

III Information Items

- Parks Projects Updates
 - PW crew working on trails at Prentice Park
 - Wisconsin Waterways Commission is to be held on Tuesday August 18, 2020. Discussion and a decision about the 2020 Recreational Boating Facilities Grant will be made. The City of Ashland is asking for a \$601,000 at a 68/32 split for the Kreher Park Redevelopment (new boat launch at the Superfund Site)
 - Update: WWC did approve, it will go to Joint Finance Committee this fall
 - If approved, it will be planned for 2021 (asphalting req'd by Sept by EPA) and 2022 (complete)
 - 90% of the work on Oredock 151 Lookout is complete
 - Bees/wasps have been a big problem at City Parks this summer
- Recreation Updates
 - Last week of Day Camp is this week. Program has been successful, good reviews from kids and parents
 - APR Staff working on Fall programming.
 - APR is happy to announce Rowan will be staying on thru the fall as a rec coordinator. Donna Kurilla is on FMLA
 - Organized and Presented at the Wisconsin Coastal Beaches Working Group Webinar: Beach Management during a Pandemic on August 12.
 - The Drive Thru Bike Rodeo and School Supply Give Away was a huge success on Saturday August 15 at the BCC. 100 helmet were given away by 11am. School Supplies and shoes were gone by 11:30. Bike raffles will be happening via Facebook Live on Tuesday August 19. Thru

City of Ashland, Wisconsin ~ Parks and Recreation Department
400 4th Ave West Ashland ~ WI 54806 ~ www.ashlandparks.org

donations and Thrivent program support 12 bikes will be raffles off, 10 of which were purchased from local bike shops.

- 2021 Budget
 - o Work on the 2021 budget has begun.
 - Typically ~280,000 for parks and similar for rec
 - Will bring to Sept meeting to discuss
 - Mike hopes to add items for reforestation and bikes; we will discuss where the belong

VI. Business Items:

- Discussion and Approval to apply for Hydro Flask Parks for All Grant
 - o Sara is working with Cathy Techtman from UW-Extension and Town of Pence to write this grant to assist in the potential installation of lights in the light towers, Oredock Memorial Chute and interpretive signage about Wisconsin mining linking Ashland to Iron County. This seems to be a no match grant up to \$15,000. Grant is due Sept 11.
 - Motion to apply for grant by Sarah J
 - Second by Nancy S
 - Motion carries unanimously
- Discussion and Approval to apply for a WDNR Urban Wildlife Damage Abatement and Control Grant
 - o Geese have become a big problem in the City Parks and at the beaches this summer. This grant would assist with expenses associated with approved methods to manage goose populations and the creation of a Goose Management Plan. Grant is due
 - Motion by Meghan to apply
 - Second by Nancy
 - Motion carries unanimously
- Discussion City of Ashland Vaughn Ave Reforestation Plan
 - o This summer the City removed approximately 40 trees along 7th St W and Vaughn Ave during a total road reconstruction project. The PRC is tasked with creating a urban reforestation plan for these City street blocks. Attached is the construction plan showing which trees were removed (trees with X and highlighted in yellow) and a list of desirable and salt tolerant trees found in the City of Ashland Forest Management Plan. The blue highlighted species are native to Wisconsin and Green Highlights are salt tolerant (high to moderate). The first task is to create a list of species to plant along the boulevards. Second task (future meeting) is location of the trees. I believe this should be done after the project is complete.
 - Plan to use variety of species, about 4 per block and more per street
 - One city block is ~300 ft based on GIS measure and given needed spacing we can plan for ~ 6 per block
 - While we do need to consider coming changes in climate (zone 4 to zone 5 in 30 yrs), more important will be to get the trees established. Mike A says that established trees can withstand changes
 - Planning for future, not this year. Need to apply to grants for funding for this.
 - In addition to Vaughn Ave replacement, city has a waiting list of residents who have requested trees. We should acquire trees for both groups.
 - After the grant, we need to start budgeting to follow the forest management plan
 - We should send a Public Works employee to the DNR urban forestry training and grant should focus on this

City of Ashland, Wisconsin ~ Parks and Recreation Department
400 4th Ave West Ashland ~ WI 54806 ~ www.ashlandparks.org

- Brad Johnson, regional urban forestry coordinator out of Spooner, could assist in writing the grant application
- Plan: in September, discuss list of trees that are native, salt-tolerant, and tolerant in zone 5
- Discussion and Approval to apply for the WDNR Urban Forestry Grants
 - The City would like to apply for two WDNR Urban Forestry Grants. The Start Up Grant would assist the City in kick starting its Urban Forestry Program and assist with urban reforestation along 7th St W and Vaughn Ave. The Regular Grant would assist with updating and creating an Emerald Ash Borer Management Plan and tree replacement plan. Grants are due October 1.
 - Motion by Mike A to apply
 - Second by Sarah J
 - Discussion: should work with Brad, include staff training and getting trees
 - Need to be prepared for 50/50 match and identify staff individual
 - Budget will be approved by City Council by late December
 - Motion carries unanimously

V. Next Meeting Date

September 16, 2020 at 5pm (more than 1 hr)

Motion carries unanimously

VI. Comments and Questions

VII. Adjourn

Move to adjourn by Mike

Second by Sarah

Motion carries unanimously

It is possible that members of and a possible quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information or speak about a subject, over which they have decision-making responsibility. Any governmental body at the above stated meeting will take no action other than the governmental body specifically referred to above in this notice. The City of Ashland does not discriminate based on race, color, national origin, sex, religion, age or disability in employment or provision of services, programs or activities. NOTE: Upon reasonable notice, the City of Ashland will accommodate the needs of disabled individuals through auxiliary aids or services. For additional information or to request this service, contact Sara Hudson at (715) 685-1644.

SUBJECT: Approve Resolution to Approve the School District of Ashland Resource Officer (SRO) Contract for Working Agreement-2020-2021 School Year (*Police Chief*) Roll

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Police Department

CLEARANCES: Interim Police Chief

EXHIBITS:

1. Proposed Resolution
2. School Resource Office Contract for Working Agreement - 2020-2021 School Year
3. School Resource Officer Informational Publication
4. SRO final letter from Hagstrom

EXPENDITURES REQUIRED: Approval

AMOUNT BUDGETED: N.A.

APPROPRIATION REQUIRED: N.A.

TREASURER'S CERTIFICATE: The Treasurer's Office has certified that the School District of Ashland is in compliance with the provisions of Ordinance 923.10 Ashland City Ordinances.

COMPLIANCE WITH ORDINANCE 51: N.A.

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD: N.A.

SUMMARY STATEMENT:

For many years, at the request of the School District of Ashland, the City of Ashland and the School District of Ashland have had an agreement for the City Police Department to provide an officer from the department to serve as a School Resource Officer. For the past few years, Officer Curtis Greene has served in this position. Officer Greene has chosen to go back on patrol

With the start of the 2020-21 school year, Council is being asked to renew an agreement to provide an officer to be accessible to staff and students of the school system. The Agreement for the 2020-2021 school year is unchanged from previous years except for the dates. The agreement has already been approved by the Ashland School Board.

The School Resource Officer works within the facilities of the School District during the school year and is available for scheduling on traditional patrol duties when school is not in session. The School District reimburses the City for the personnel costs of this position for those periods of time in which the Officer is available to the District.

At the September 8, 2020 City Council meeting, the Council voted to postpone action on this item until the September 28, 2020 meeting, in order to allow more time for clarification and information to be provided to address concerns expressed by the Council.

Representatives of the School District of Ashland as well as the Police Chief and the officer selected by the school to serve in this role in 2020-21 are expected be present to answer questions.

RESOLUTION

No. 17588

**RESOLUTION BY THE COMMON COUNCIL FOR THE CITY OF ASHLAND,
WISCONSIN AUTHORIZING THE RENEWAL OF THE ANNUAL SCHOOL
RESOURCE OFFICER (SRO) AGREEMENT WITH THE SCHOOL DISTRICT
OF ASHLAND**

WHEREAS, the School District of Ashland and the Common Council for the City of Ashland, Wisconsin have jointly determined that the presence of a School Resource Officer (SRO) is mutually beneficial; and,

WHEREAS, the SRO duties include law enforcement, serving as a liaison for District staff, and serving as an educational resource to students and parents during the school year and performing general law enforcement duties with the Police Department when school is not in session; and,

WHEREAS, the School District and the City have jointly provided for an SRO within the facilities of the School District of Ashland for a number of years; and,

WHEREAS, the School District and the City desire to renew the annual SRO Agreement through the end of the 2020-2021 school year.

NOW, THEREFORE, BE IT RESOLVED that the Common Council for the City of Ashland hereby approves the renewal of the School Resource Officer (SRO) Agreement and authorizes the Mayor and Police Chief to enter into the new SRO Agreement on behalf of the City.

Councilperson

PASSED: September 29, 2020

ATTEST: _____
Denise Oliphant, City Clerk

Debra S. Lewis, Mayor

APPROVED AS TO FORM:

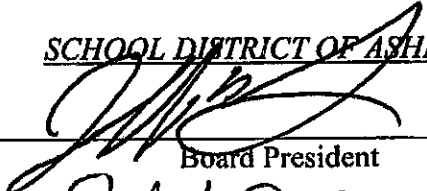
Tyler W. Wickman, City Attorney

SCHOOL DISTRICT OF ASHLAND - CITY OF ASHLAND
School Resource Officer
Contract for Working Agreement – 2020-2021 School Year

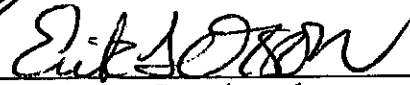
1. The School Resource Officer (SRO) shall be employed by the City of Ashland and is covered by the Police Officer's Collective Bargaining Agreement with the City of Ashland. The SRO will be assigned to the School District of Ashland for a total of 182 days. Those days include the calendar worked by the professional teaching staff beginning with the first day of the regular school year [9/1/20]. The ending date of this contract shall be the last school day of 2021 [6/09/21]. These dates may be modified in the event of a school closure order, other than weather related, or other circumstances that results in change to the academic year. The SRO is subject to be called away for police emergencies; a log of such emergencies shall be attached to the monthly billing. The District shall not be charged for such time when a SRO is called away from the building for emergencies to fulfill other police matters. In the event of a school closure order, other than weather related, the District will not be charged for the SRO during the period of such closure.
2. The SRO is an employee of the City, and will report to the Police Department Lieutenant of Police or designee. The day to day direction of PLSO activities will be the responsibility of the High School and Middle School Principals or designee, subject to overriding consideration as determined by the Lieutenant of Police.
3. The hours of work for the SRO shall include a duty-free lunch period. The SRO shall report for duty at the School District at 7:30 AM and the regular work day shall end at 3:30 PM.
4. The Lieutenant of police or designee shall notify the High School and Middle School Principal or designee on any day the SRO is not available to work because of illness or for any other reason. The SRO shall notify the high school and middle school principals or designee at least two weeks or as soon as practicable prior to any planned absences.
5. The Lieutenant of Police or designee and the High School and Middle School Principals and/or designee will meet at least monthly to review and discuss the SRO program and expectations.
6. The High School Principal or designee may provide a performance evaluation of the SRO to the Lieutenant of Police or designee. The evaluation will be completed twice during the school year; once at the end of the fall semester, and once at the end of the spring semester. Notwithstanding this paragraph, the City expects the District to promptly notify the Chief of Police or designee of the facts involving any performance-related problem involving the SRO. The SRO will have an opportunity to speak with the superintendent to express progress or concerns with the program.
7. During the school year, the District shall be responsible for the overtime incurred because of school functions and will be covered as per the Police Officer's Collective Bargaining Agreement. A log shall be attached to the monthly billing. The vacation incurred by the SRO shall be divided between the School District of Ashland and the City of Ashland Police Department at a 75/25 % split. The SRO shall be entitled to a two-week prime time vacation during the summer months. Any training required to fulfill the duties of the SRO program will be the responsibility of the District and all costs associated with this training shall be paid for by the District.
8. The District shall be billed by the City of Ashland for a total of 100% of the salary, fringe benefits, and all other associated costs for this position while the officer is assigned to the school. This billing shall occur at the end of each month while the officer is working at the school. Final billing must be received by the District by June 15th.
9. The District shall have one (1) School Resource Officer assigned to the School District of Ashland. The District shall provide a site for the SRO which will include a desk, telephone, locking file cabinet, and a computer. A cell phone shall be provided by the District.

10. This position will be filled with a sworn police officer and therefore the officer will carry a weapon at all times while on duty with the District. These weapons will be carried in a concealed manner whenever possible.
11. The estimated budget shall be approved in advance of contract signing by both parties.
12. Variations from the budget will require the approval of both parties.
13. Overtime shall have prior approval of building level supervisors.
14. The SRO essential duties and responsibilities are outlined in the Ashland Police Department School Resource Officer job description.
15. This agreement may be modified by the mutual written agreement of the parties. This agreement may be terminated for any reason by either party giving the other party sixty (60) days written notice.

SCHOOL DISTRICT OF ASHLAND:



Board President

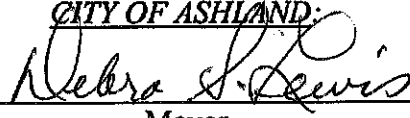


Superintendent

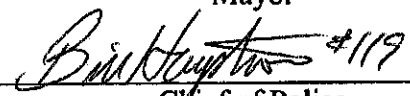
8/25/2020

Date

CITY OF ASHLAND:



Mayor



Chief of Police

8/26/20

Date



TO PROTECT & EDUCATE:

The School Resource Officer and the Prevention of Violence in Schools



NASRO's Mission

The mission of the National Association of School Resource Officers (NASRO) is to provide the highest quality of training to school-based law enforcement officers in order to promote safer schools and safer kids. NASRO is an organization for school-based law enforcement officers, school administrators, and school security/safety professionals working as partners to protect students, faculty and staff, and their school community. NASRO, the world's leader in school-based policing, is a not-for-profit organization founded in 1991 with a solid commitment to our nation's youth.

NASRO was founded on the "triad" concept of school-based policing which is the true and tested strength of the School Resource Officer (SRO) program. The triad concept divides the SRO's responsibilities into three areas: *Educator, Informal Counselor, and Law Enforcement Officer*. By training law enforcement to educate, counsel, and protect our school communities, the men and women of NASRO continue to lead by example and promote a positive image of law enforcement to our nation's youth.

SRO programs across the nation are founded as collaborative efforts by police agencies, law enforcement officers, educators, students, parents, and communities. The goal of NASRO and SRO programs is to provide safe learning environments in our nation's schools, provide valuable resources to school staff, foster a positive relationship with our nation's youth, and develop strategies to resolve problems affecting our youth with the objective of protecting every child so they can reach their fullest potential.

School-based policing is one of the fastest growing area of law enforcement. With thousands of NASRO members around the globe, NASRO takes great pride in being the first and most recognized organization for law enforcement officers assigned in our school communities. NASRO is available to assist communities and schools districts around the world that desire safe schools and successful community partnerships in developing the most effective program for their community.

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Department’s Special Response Team. Mo was appointed as an instructor for the National Association of School Resource Officers in 2001 and a NASRO board member in 2005. He is a past President of the Alabama Association of School Resource Officers. On February 1, 2011, Mo became the Executive Director for the National Association of School Resource Officers.



Bernard James is a professor of law at Pepperdine University School of Law in Malibu, California, where he specializes in Civil Rights, Constitutional Law, and Education Law. He joined the Pepperdine faculty in 1984 after serving in Michigan as a judicial clerk for the Honorable Judge Myron Wahls on the Court of Appeals. Professor James is author of the textbook *Education Policy and the Law: Cases and Commentary* and numerous articles on law, education and religion. He is a contributing editor to the *NASRO Journal of School Safety* where he writes on school safety reform and student rights.



Dr. Janet Nease has been a member of NASRO’s Board since 2002 serving as SRO/administrator relations advisor, curriculum development and conference planning. In addition to these roles, Dr. Nease has served as the Editorial Chair for NASRO’s quarterly training publication, *Journal of School Safety*. Dr. Nease’s earned her doctorate at St. Louis University in Educational Leadership. Her professional background includes 34 years in public education as a teacher, mentor, grant author/supervisor, instructional trainer, school principal and district level administrator. She successfully led many school-level and district level reforms, established the district’s safe schools program including the

district’s first school resource officer, as well as supervised numerous federal programs, student wellness programs, career and technical education programs and guidance counseling programs. During her tenure, she additionally served on many state education committees focused on statewide instructional improvement. Dr. Nease’s many responsibilities prepared her to present at state and national conferences and to assist NASRO in its on-going efforts to design and deliver nationally-recognized training. Dr. Nease is now an independent curriculum consultant and trainer often requested by Dr. Grant Wiggins’ consulting organization, Authentic Education, to provide national and international consulting and training.



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Summary

"Overwhelmingly, individuals in the law enforcement community got into this profession to help people; there is no greater opportunity to help someone than in the role of school resource officer. These law enforcement officers are presented with opportunities on a daily basis to help a child out of a bad situation or to help a child turn their lives around." ¹

This Report, *To Protect and Educate: The School Resource Officer and the Prevention of Violence in Schools*, addresses recent criticism of policies by public school officials to fashion campus safety plans around interagency partnerships, not the least of which involve the use of law enforcement personnel known as school resource officers (SRO). This aspect of education law, now commonly known as “school safety law,” has been the subject of considerable and thoughtful development over the last thirty years. However, recent criticism has called into question the fairness and effectiveness of this type of interagency collaboration in the school context. By focusing on child welfare reform, student rights, victim’s rights, and liability, the Report corrects misimpressions about the purpose and use of school resource officers as an integral part of school safety teams, primarily by documenting the success of public educators maintaining a safe campus climate using the team approach.

The goal of the Report is to provide uncluttered reference points for school policymakers as they conduct needs-assessments in response to legitimate, local safety incidents. The arguments set forth by the critical commentary muddle policymaking, suffering from an inherently superficial and flawed methodology. Therefore, the focus of this Report is to more accurately explain school resource officers and the role they play in supporting educational objectives. School resource officers experience a distinctive and welcomed role in the campus community and enjoy an effective relationship with the school officials with whom they serve. The main points addressed are straightforward:

- Educators are succeeding in maintaining a safe campus climate;
- Local interagency partners are all in on the goal of balancing campus safety alongside student rights and the rights of victims;
- Attacks against the school resource officer are superficial and polemical; and
- SROs are effective in reducing campus disruptions while enhancing feelings of school safety by educators, parents, and students.

The emphasis herein is pragmatic: public educators are too purposeful and committed to child welfare to confuse juvenile justice with the education mission. Therefore, campus safety policies are dependent on and interactive with the education mission. The collaborative approach to campus safety is a proven means to fulfill the statutory and constitutional duty to maintain a safe and effective learning environment.

The language of the Report is evidentiary: it presents the history of community-oriented, collaborative reform as a context for seeing its school-based component as a successful model, tailored to preserve the educational climate while looking after the needs of all students. The interagency model is not itself a substantive policy. Rather, it combines core competencies logically and proactively, enhancing both assessments and decision-making. Seen in this way, the effective use of the school resource officer is an object lesson in the public school context: merging information and resources to eliminate disruptions, reduce victimization, increase school attendance, and improve the learning environment.

This school safety law model does not foster a “school-to-jail pipeline.” Interagency teamwork does not divest any participating agency of functions and duties given by law that enable its specific mission. Nor does it foster aggrandizement of the authority of other agencies. This criticism of school resource officers reflects a fundamental misunderstanding of comprehensive interagency reform.

The “school-to-jail pipeline” rhetoric is also misled as to juvenile law and victims’ rights, giving insufficient weight to the truth that as the gravity of a campus incident increases, the authority of collaborating agencies to exercise discretion decreases sharply. Therefore, future discussions of school safety policy reform should proceed along two predictable, but separate branches of inquiry. The first branch looks at the degree to which the campus team applies the interventions, remedies, and consequences required by law for serious misconduct on campus. This is a ministerial duty of the highest order. Should this branch fail to hold its weight, then the campus safety enterprise collapses for lack of sincerity, commitment, and goodwill. The second branch looks to the firm science of child-welfare reform law: how well the team collaborates to produce outcomes that balance the duty to preserve the campus from disruptive forces while nurturing and protecting youth who are compelled to attend school. The welfare of children compelled to attend public schools is not compromised by school resource officers, but is at-risk without them.

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Introduction

"Our nation's schools should be safe havens for teaching and learning, free of crime and violence. Any instance of crime or violence at school not only affects the individuals involved, but also may disrupt the educational process and affect bystanders, the school itself, and the surrounding community."²

Over the past two decades, America's public schools have become safer and safer. All indicators of school crime continue on the downward trend first reported when data collection began around 1992. In 2011, incidences of school-associated deaths, violence, nonfatal victimizations, and theft all continued their downward trend.³ This trend mirrors that of juvenile arrests in general, which fell nearly 50% between 1994 and 2009—17% between 2000 and 2009 alone.⁴

This period of time coincides with the expansion of School Resource Officer programs as part of a comprehensive, community-oriented strategy to address the range of real and perceived challenges to campus safety. The "school resource officer," (SRO) also known as a "school safety liaison," or "campus police," refers to commissioned law-enforcement officers selected, trained, and assigned to protect and serve the education environment. The first SRO program was instituted in 1953 in Flint, Michigan,⁵ and later spread, in 1968, to Fresno, California.⁶ Programs expanded slowly at first, then more quickly during the 1990s. For some school officials, this expansion was prompted by the 15 deadly, highly-publicized campus rampages that occurred from 1993–1999.⁷ Other educators had equally compelling data in hand to influence the decision: their own campus incident reports and the perceptions of school personnel, students, and parents.

In the year of this Report, school resource officers have become a vital component in school safety planning. The SROs are seen as effective resources in reducing campus disruptions and in enhancing educators' and students' feelings of safety while at school. Today, the school



safety team is an established partnership that is expanding its focus beyond low-probability/high-consequence shootings, to new data that highlight the current challenges to preserving the educational climate.⁸

- There were 33 school-associated violent deaths during the 2009-10 school year. In 2010, among students ages 12–18, there were about 828,000 nonfatal victimizations at school, including 470,000 victims of theft, and 359,000 victims of violence. In 2009–10, about 74% of public schools recorded one or more violent incidents of crime, 16% recorded one or more serious violent incidents, and 44% recorded one or more thefts.⁹ The National School Safety Center reports that as to violent deaths on campus from 1999–2008, no clear trend up or down is evident.¹⁰
- The Centers for Disease Control reports that in 2009, the most recent year for which statistics are available, 5.6% of children nationwide carried a weapon on to school property at least one day in the 30 days before the survey, 7.7% were threatened or injured with a weapon on school property during the 12 months before the survey, 11.1% were in a physical fight on school property during the 12 month period, 19.9% were bullied, 5% did not go to school at least one day in the month before the survey because they felt it was unsafe to be at school or to travel to and from school, 4.5% drank alcohol and 4.6% used pot on school property at least once in the 30 days before the survey, and 22.7% were offered, sold, or were given illegal drugs on school property in the 12 months before the survey.¹¹
- The National Center for Education Statistics reports that 28% of 12 to 18 year-old students reported having been bullied at school during the previous 6 months.¹² This compliments an independent study that reports a 50% increase in the percentage of youth who were victims of online harassment from 2000 to 2005.¹³

It is the thesis of this Report that a proper assessment of school resource officers and the implications of their participation on the campus safety team is dependent on a knowledge of comprehensive interagency reform, now deeply-rooted at the state and local level. Since 1980, public policies on child welfare and juvenile justice have been carefully studied and revised around the collaborative theme, including:

- Interstate compacts and intrastate agency collaboration on missing, endangered, and exploited children;¹⁴
- State and local multi-jurisdictional and multi-disciplinary teams on delivery of services to children and families;¹⁵
- Local jurisdictional interagency agreements on juvenile delinquency and at-risk youth;¹⁶ and
- Collaborative campus safety plans for public schools and universities.¹⁷

The successes of interagency collaboration, in all of its applications, are well-documented, including its downstream effect on reform in other areas of law. Most notable in this regard are the changes in federal and state records-privacy laws, amended to authorize and promote more effective communication by agencies with a common interest in child protection.¹⁸ The school safety team is an object lesson of this collaborative approach. By now, all 50 states as well as local authorities authorize—and often mandate—a version of the team approach to insure that public schools are safe, secure environments where educators can teach and students can learn.¹⁹

In recent years, criticism has called into question the fairness and effectiveness of interagency collaboration in the school context. The sole focus of much of the analysis has been the school resource officer.²⁰ The SRO has been impugned for being ill-suited to the education environment, a source of confusion and intimidation on campus, and responsible for an increase in the number of referrals from schools to the juvenile justice system. Critics dispute any correlation between the presence of an SRO on campus and crime reduction and go so far as to associate the presence of the SRO with an increase in crime on campus.

Representative of this commentary is a 2011 report by the Justice Policy Institute (JPI) in which it is argued that use of the SRO is a failed enterprise that has resulted in a “school-to-prison pipeline” that is a direct result of SRO programs.²¹ JPI’s specific criticisms of public educators’ use of school resource officers include charges that “SROs directly send youth into the justice system, which carries with it a lifetime of negative repercussions and barriers to education and employment”²² and “SROs create the fearful environment that they are supposed to prevent.”²³

It is the intention of the Report to address commentary of this type. Seen as a cohort, the commentaries suffer, as does the JPI report, from an inherently superficial and flawed methodology. The proposition that a dozen randomly selected cities can render conclusive evidence on decades of policymaking by thousands of school districts in 50 States strains credulity. Not



only does this methodology raise questions of statistical significance, it also reveals a latent assumption by critics that the safety needs of local school districts are basically fungible.

In the case of the JPI commentary, this methodological flaw is evident in its choice of a single school district in one state, Philadelphia, Pennsylvania, to represent the diversity of all school districts when it concludes that SRO's foster violent crime.²⁴ Its conclusion that three urban school districts, New York City, Philadelphia, and Los Angeles can effectively rep-

resent all school districts for the assertion that there are too many police in schools is surpassed in reductionism only by JPI's assumption that five selected factors can account for all school safety variations among the states.²⁵ Additionally, it is somewhat incongruous that the JPI commentary ignores correlations and perceptions in studies and reports that attempt to objectively measure the impact of the current interagency school safety model, while JPI, at the same time, presents no data showing that its alternative school safety approaches are incompatible with SRO programs.²⁶ Finally, JPI's assertions are counterproductive to the policy debate when it levels charges of race-biased, disparate juvenile arrests only to admit to lacking data that correlates this to SROs.²⁷

This Report addresses this and other weaknesses in the critical commentary by letting the data speak for itself, in detail, in order to demonstrate numerous rebuttals to the ultimate conclusion that the use of school resource officers is a failure. By examining court decisions and legislation, along with the correlations and perceptions of published reports and studies, the materials contained within this Report will demonstrate that school resource officers are more likely to experience a distinctive and welcomed role in the campus community and enjoy an effective relationship with the school officials with whom they serve. The Report will illustrate that the team model of school safety is a positive development in which dedicated professionals are engaged in a balanced discourse about student rights and the education mission in the public schools. It will accomplish this objective by examining four areas of education law reform: interagency child welfare reform, student rights, victim's rights, and liability.

Part I of the Report is historical. It traces the deep roots of child-welfare interagency reform and points forward to the branch that pertains to school safety and the school resource officer. It defends the premise that any discussion about reform in school-safety law has to take into proper account the model by which communities and institutions share their duties and responsibilities to children, right down to the public school campus and the school resource officer. Part I proves the truth that child-welfare reform law has fundamentally changed the

nature of the juvenile-justice and child-welfare systems from a solitary task to a collaborative process that improves assessments and outcomes.

Part II of the Report analyzes the scope of involvement by the school resource officer in campus safety, as a matter of law and policy, and science. Of particular significance is the relationship between courts and legislators, whose scrutiny of the school resource officer has sped its acceptance as a best practice that enhances good results. The science is reflected in the studies on school safety, the critical mass of which reinforces the views held by judges and policymakers. Part II also introduces the NASRO triad of SRO responsibility in which officers ensure a safe and secure campus, educate students about law-related topics, and mentor students as counselors and role models.

Part III of the Report concludes that the policy reforms under consideration in school safety law are dynamic and deserve more than a superficial attack on school resource officers as the lower-hanging fruit in a perennial debate on law and order in America. The proper starting point for making assessments should focus on the fairness of outcomes in light of legitimate, concurrent interests in which the welfare of all children—both victims and actors—is paramount. For example, research has identified a legitimate issue regarding the training of teachers and administrators on the uses to which an SRO should be put in the resolution of subjective disorderly conduct incidents, to which an arrest is not the only option. The scholarship on this matter suggests that the school safety team must exercise better discretion for these offenses given the wide range of interventions that the education mission and resources of other local agencies place in-hand.

The Report does not attempt to resolve this matter, nor other policy debates on the numerous legitimate local issues confronting our public schools. Instead, the Report concludes that coherent solutions to unique, local needs should emerge from the existing interagency model in which the school resource officer is an essential asset. Child welfare on campus is not compromised by school resource officers, but is at-risk without them. Erection of the ancient barriers would be catastrophic and debilitating to the interests of children: creating the appearance of deliberate indifference to student victims, formalizing selective enforcement of conduct codes, violating the right of students to an education, and inducing obstruction of justice whenever crimes are covered up on campus.





Interagency Collaboration:

From Child Welfare Reform Law to the School Safety Team

"Community policing and the presence of school resource officers on school campuses serve a vital role fostering a safe learning environment for pupils, faculty and staff."²⁸

The major experience of public schools in the last quarter-century in America has been about relationships—from isolation to involvement—through interagency reform. The integration of this model of assessing and providing for the needs of students, including their safety, is a version of comprehensive child welfare reform law. When critics of school disciplinary policies attempt to link their criticism to the mere inclusion of an interagency partner, it reflects a fundamental misunderstanding of both child welfare law and education law. Therefore, any discussion about reform in school safety law has to take into proper account the model by which communities and institutions share their duties and responsibilities to children, right down to the public school campus and the school resource officer.

Evolution of the Collaborative Model of Child-Welfare Law

Early development of the interagency model focused on child victimization, neglect and abuse. In 1984, the United States Department of Justice began to encourage coordination of units of state and local government.²⁹ Shortly thereafter, Congress added its voice by passing The Child Abuse Prevention and Treatment Act, which conditioned federal funding on the effective use by states of multidisciplinary teams and coordinating councils.³⁰ The focus of collaborative programs on child victimization, abuse and endangerment remains the most compelling feature of child welfare reform law and, understandably, heavily influence school safety programs.³¹

SECTION I: TO PROTECT & EDUCATE

State legislators quickly embraced this focus to expand reform to the juvenile justice and child welfare systems, creating a comprehensive model for improving assessments. First, concepts and terminology began to change. Terms like “child victimization,” “abuse,” “at-risk,” and “neglect” broadened to empower the efforts of a wider range of public and private community-based, interagency programs.³² In this manner, agencies were encouraged to overcome barriers that separated the juvenile-justice and child-welfare systems. In place of barriers, state legislation authorized collaboration with the goal of improving outcomes in light of the risk factors and the protective factors of children.³³

By now, the collaborative emphasis in child welfare reform law is comprehensive in the sense that few, if any, area of child welfare is left unaffected. Interagency collaboration is expressed through:

- Interstate compacts and intrastate agency collaboration on missing, endangered, and exploited children;³⁴
- State and local multi-jurisdictional and multi-disciplinary teams on delivery of services to children and families;³⁵
- Local jurisdictional interagency agreements on juvenile delinquency and at-risk youth;³⁶ and
- Collaborative campus safety plans for public schools and universities.³⁷

The various branches of this reform have a common root: to improve the lives of children through a continuum of alternatives based on communication across the child welfare and juvenile justice systems. The focus on appropriate outcomes is the bridge that merges different traditions and interests, particularly between juvenile justice and child welfare agencies.³⁸



The Child-Welfare Team's Focus on Collaborative Assessments and Improving Outcomes

Child-welfare reform law has fundamentally changed the nature of the juvenile-justice and child-welfare systems from solitary ritual to an integrated process based on collaborative assessments. If ever an approach to protecting children has fallen from grace, it is the idea of autonomous, self-directed agency action. Two decades of scholarship before and after 9/11 underscore the connection between the failure of agencies to collaborate and adverse outcomes.³⁹

Today, in place of isolation and barriers, the collaborative model thrives in the numerous statutory provisions relating to the welfare of children. These laws authorize or require some aspect of interagency teamwork in providing services to children and their families. While each public or private agency on the “team” remains distinct as to its statutory obligations, each operates upon the science that, when collaborating, children have much better outcomes.⁴⁰

The shift occurred after years of debate about the benefits and harms of interagency collaboration, agency accountability, and privacy of youth records.⁴¹ Its success is reflected everywhere: in the revisions of program titles, mission statements, and daily procedures, shifting the focus to the quality of assessments by local agencies that share an active and common interest in improving outcomes.⁴²

Interagency collaboration should not be confused with substantive policy. It is a proven, effective procedure by which policymakers gather information as a means to improve assessments and outcomes. Therefore, perfect outcomes are not self-executing because of interagency cooperation. However, the science of improving outcomes through multi-disciplinary assessments is, by now, so well established that all studies and reports assessing the merits of government performance presume it to be a best practice.⁴³ Autonomous, self-directed agency action is so soundly discredited, that it would be odd, if not fatal, for a policymaker—for any reason—to reject the proven, community-oriented approach to serving and protecting children.

A recent study notes:

The biggest variance between the juvenile justice and child welfare systems rests in each system’s view of the young person and whose interest the agency seeks to serve. In the juvenile justice system, the young person is often seen as a perpetrator or someone who puts society at risk, and historically, the services provided seek to remediate the delinquent behavior. On the other hand, the child welfare system views the young person as a victim and works to nurture and protect him or her. This difference in views often translates into the organizational culture—affecting how an agency functions, how youth and families are engaged, and how services are provided. The reality is that [children] need to be protected and their behavior needs to change so that they do not harm others. At issue is not how we label the youth—as “victim” or “perpetrator”—but how we serve the youth both to protect them and effect behavioral change.⁴⁴

The success of this merger of interests is well documented.⁴⁵ It has prompted significant downstream reform, most notably in amendments to federal and state records-privacy laws.⁴⁶ The significance of privacy law reform-mandated interagency reporting and disclosure requirements is difficult to overstate and impossible to ignore. The information sharing provisions operate as exceptions to the typical confidentiality of agency records, enacted solely for the purpose of improving multi-disciplinary needs assessments. Records-privacy laws continue to serve as the fuel for on-going development of child welfare reform law.⁴⁷

The School-Safety Team: A Collaboration That Protects Child Welfare and Supports Public Schools' Education Mission



School-safety law represents an object lesson on the successes of the child welfare reform model. Using collaborative tools, today's safe-schools team avoids the demise that befell their isolated predecessors. Previous educators found themselves stuck in the middle of the juvenile-justice and child-welfare systems' efforts to serve and protect children. Without collaboration, these secluded educators accepted the risk of rampages by, and victimization of, students without any hope of prior notice. Even the identities of children purposefully placed into classrooms by juvenile-justice and child-welfare officials were routinely kept private from school officials. With collaboration, the cloud that forced school officials to peer into the dark and assume risks without information has been removed. Today's educators have the tools to implement a version of the child welfare reform model that nurtures and protects students as well as prevents disruptive behavior.

The school safety law model evolved quickly during the 1990s, prompted by 15 deadly, highly publicized campus rampages from 1993–1999.⁴⁸ Most public educators had equally compelling data in-hand to recommend the model: their own campus incident reports and the perceptions of school personnel, students, and parents. This period of time coincides with the addition of school resource officers as part of a comprehensive, community-oriented strategy to address the range of real and perceived challenges to campus safety. The school safety law model is designed to adapt to the unique variety of special needs on the local campus. Today, the school resource officer is an established partner on the campus safety team whose focus has broadened well beyond the low probability/high consequence shootings, to the array of challenges to the educational climate.

Critics of school safety who disagree with specific policy outcomes are mistaken when the interagency model is selected as the lower-hanging fruit in the debate. This is particularly true when critics who traditionally target law enforcement for criticism stumble upon the school resource officer. Child welfare on campus is not compromised by school resource officers, but is at-risk without them. Erection of the ancient barriers would be catastrophic and debilitating to the interests of children: creating the appearance of deliberate indifference to student victims, formalizing selective enforcement of conduct codes, violating the right of students to an education, and inducing obstruction of justice when crimes are covered up on campus.

School resource officers assist educators in protecting students and the education mission by being an active part of at least three educator-initiated strategies:

- **Safe School Crisis Training:** Planning and implementing procedures that (1) train and drill all campus personnel to respond to crisis events; (2) control access to the school during the school day; and (3) close or partially close the campus after students arrive.
- **Purposeful Use of Technology:** Integration of metal detectors, surveillance video, and other devices to cover and document more real-time activities. This policy lawfully enhances supervision of events occurring in parking lots, hallways, classrooms, auditoriums, and open areas that do not involve reasonable expectations of privacy.
- **Effective Use of Interagency Partners:** Sharing information to (1) identify risk and protective factors of students (2) coordinate nurturing, intervention, and prevention efforts; and (3) designate “first” and “primary” responders to incidents and threats to school safety.

The weight of the evidence show that collaboration between school officials and school resource officers is an example of these strategies put to effective use in preserving the campus from disruptive forces while nurturing and protecting youth who are compelled to attend school. When critics accuse educators of being indifferent to, or hostile toward, the rights of students under the banner of school safety, it is not surprising that the data fail to support the assertion. This is not because of an absence of data. Data on school safety are inherent in the activity. School safety is incident-driven. The record speaks for itself. What the data of school discipline under the school-safety model reflect is the exercise of discretion by educators in light of both their heightened legal duties and broadened legal authority. And while there are many uses to which the data may be put in assessing the correctness of outcomes in light of this discretion, one assertion has been taken away from the debate by the data itself: collaboration between school officials and school resource officers is an effective component to preserving the right of boys and girls to attend schools that are secure and peaceful.





The SRO's Role on Campus:

Keeping Students Safe and Supporting the Education Mission as Law Enforcement Officer, Teacher and Counselor

“Sometimes when kids grow up they are taught cops aren’t there to help them, but having school resource officers like Bill Rosario in the schools makes it really easy to see they are there to give us guidance and show that you can change your life.”⁴⁹

The Triad of SRO Responsibility

Effective SRO programs recognize and utilize the special training and expertise law-enforcement officers possess that is well suited to effectively protect and serve the school community. SROs contribute to the safe-schools team by ensuring a safe and secure campus, educating students about law-related topics, and mentoring students as counselors and role models. This is the Triad Model of SRO responsibility: *educator, informal counselor, and law enforcer*.

Just as it would be difficult to describe all the tangible and intangible ways an experienced, caring teacher or administrator contributes to his or her school; it is also difficult to inventory all that an SRO can do for a campus and its surrounding community. Law enforcement's specialized knowledge of the law, local and national crime trends and safety threats, people and places in the community, and the local juvenile-justice system combine to make them critical members of schools' policy-making teams when it comes to environmental safety planning and facilities management, school-safety policy, and emergency response preparedness.

Officers' law-enforcement knowledge and skill combine with specialized SRO training for their duties in the education setting. This training focuses on the special nature of school campuses, student needs and characteristics, and the educational and custodial interests of school personnel. SROs, as a result, possess a skill set unique among both law enforcement and education personnel that enables SROs to protect the community and the campus while supporting the educational mission. In addition to traditional law-enforcement tasks, such as searching a student suspected of carrying a weapon or investigating whether drugs have been

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brought onto campus, SROs' activities can include a wide range of supportive activities and programs depending upon the type of school to which an SRO is assigned:

- Meeting with principals each morning to exchange information gathered from parents, community members, and social media to detect potential spill-over of threats, drug activity, and other behavior onto campus.
- Meeting with campus and community social workers to understand when and how at-home issues may be motivating a student's disruptive behavior in order to work with school staff to ensure effective and supportive responses.
- Carrying two radios: one for school and one for the sheriff's department to watch for spill-over onto campus and be a familiar face if one of their students is involved in an incident off campus.
- Listening to students' concerns about bullying by other students and taking those problems to school administrators to help develop solutions.
- Providing counseling and referrals when sex-abuse victims turn to them for help because of the relationship of trust officers have built with the students.
- Coordinating additional law enforcement resources to assist with large public events on school campuses such as athletic events, dances and community functions.
- Working with school administrators to keep the Schools Emergency Management Plan updated.
- Scheduling emergency drills in conjunction with other local agencies.
- Coordinating a Crime Scene Investigator to speak to Biology classes.
- Instructing students on technology awareness, domestic violence, traffic-stop education, and bullying.
- Developing intervention, skills-development, and healthy-lifestyle programs for elementary and middle-school students so they are prepared to succeed in high school.
- Conducting home visits to contact parents of at-risk students and assisting those families.
- Helping students with their homework, playing basketball, and sharing dinner together during extended school-day programs.
- Creating and conducting a distracted driving course for students in the school district.
- Hosting summer "bike rodeos" for students that includes the donation of bicycles by local merchants and the police department.
- Implementing a "Doing the Right Thing" program where educators select one student each month for lunch with the SRO and a photo in the local paper in recognition of their leadership skills.

- Hosting summer “Jr. Police Academies”: free programs that give students something positive to do after the school day and during their summer vacation, including camping, bull riding, archery, baseball, life-skills, and musical theatre.
- Conducting intervention programs for the purpose of counseling victims and friends of victims of campus violence.
- Providing unique classroom instruction to students in programs such as the “Eddie Eagle Gun Safe” Program, the “Too Good for Drugs & Violence Program,” and the “Protecting Kids Online” Program.
- Coordinating and funding programs for students-in-need that provide rides to school, school uniforms, school lunches, supplies for the home, food, and holiday gifts.
- Coordinating a variety of community service activities with students that include spending time with the elderly at local nursing homes, running soup kitchens for the needy, hosting dances with student groups, and weekend field trips.

The SRO's Role in Creating A Safe and Secure School Environment and Community

Bringing Specialized Skills to Bear on School Safety

SROs are sworn police officers trained to serve and protect the community. As such, they have a duty to serve and protect schools within their jurisdiction as part of a total community-policing strategy. This duty persists and remains paramount when an officer is assigned to a school.

Most of an SRO's time is typically spent on school-safety and law-enforcement activities, from assisting with their school's emergency-response plan to arresting students selling illegal drugs on campus to monitoring the school entrance and parking lot before and after school. As to school discipline, the particulars of the essential Memorandum of Understanding between the local law-enforcement agency and school district defines the role the SRO will play in assisting school personnel with discipline issues that do not involve law violations or threaten campus security. A best practice for discipline issues has emerged nationally over the past decade and has been endorsed by the courts: an SRO who observes a violation of the school code of conduct, preserves a safe and orderly environment by taking the student(s) to where school discipline can be determined solely by school officials.⁵⁰



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As law-enforcement specialists, SROs bring a level of expertise to the school setting that promotes effective and efficient investigation and resolution of crimes occurring on campus. For example, when rumors spread that a student is carrying a weapon, the SRO puts his or her investigative expertise to use to recognize any suspicious behavior the student may be engaged in, interview staff and students who might have knowledge of the situation, and check the student's record. The SRO's training in searches and weapons-neutralization then allows the weapon to be confiscated in the safest way possible, protecting the student, classmates, and staff. Additionally, the SRO's familiarity with the law allows the search, seizure, and any corresponding interrogation and arrest to be conducted according to applicable legal standards, thereby protecting the students' rights and the school from liability.

The SRO's coordination of community resources can be invaluable when threats larger than an isolated fight or theft threaten a school. As a conduit for information sharing between social services agencies, juvenile justice departments, and community organizations, the SRO stays apprised of a student's activities and challenges in a variety of settings and can step in when a pattern of suspicious behavior emerges—a pattern that would not be seen by a social worker or teacher alone. This early identification of safety threats is the key to preventing both small and large-scale incidences on campus.

The presence of an SRO, as a result of their law-enforcement activities and day-to-day visibility to and interaction with students and staff, supports a safe and orderly environment where students can feel safe and educators can feel supported in their determination to protect their students during the school day. As opportunities for violence are greater in disorderly environments, the SRO's contributions to the general order of the school cannot be overlooked.

Reducing Crime and Disciplinary Infractions on Campus and Beyond

Drops in the number of school-based arrests and disciplinary infractions have paralleled the establishment of SRO programs in school districts around the country. Varied structures of SRO programs and the inconsistency in local record-keeping practices prevent review of the impact of every SRO program nationwide; however, national juvenile-crime and school-based crime statistics, as well as state statistics and studies of county and local SRO programs show how dramatically SROs can reduce crime on campus and beyond.

As SRO programs came to prominence in the early 2000s, juvenile arrests declined 17% across-the-board between 2000–2009 (the most recent year for which data was available).⁵¹ The violent-crime index fell 13% and the property-crime index fell 19% during this period.



And other assaults, vandalism, weapons, drug, DUI, and curfew and loitering offenses all fell as well. In 2011, incidences of school-associated deaths, violence, nonfatal victimizations, and theft all continued their downward trend that began in 1992.⁵²

Supporting these national statistics is a 2009 study by Matthew T. Theriot, comparing 13 high and middle schools that had an SRO and 15 schools without an SRO within one school district in the Southeastern United States over a three-year period—2003-04, 2004-05, and 2005-06.⁵³ When the results were controlled for economic disadvantage, the presence of an SRO led to a 52.3% decrease in the arrest rate for assaults and a 72.9% decrease in arrests involving possession of a weapon on school property.

Theriot observed that these dramatic reductions in assaults and weapons offenses may be attributable to SROs' deterrence of delinquent behaviors and because SROs may make students feel safer so they don't feel the need to carry a weapon. He opines, "These enhanced feelings of safety also might contribute to better feelings about school in general, a stronger sense of connection to the school, and a better school environment that could lead to decreased aggression and fewer fights among students."⁵⁴ In fact, when significant in the analyses, regression coefficients for the interaction showed that arrest rates declined as poverty increased at schools with an SRO.⁵⁵

Beyond issues of statistical significance, other studies and reports confirm a range of positive outcomes when school safety programs actively involve SROs. At Kettering Fairmont High School in Ohio, disruptive behavior, expulsions, suspensions, office referrals, and arrests all decreased over two-year study relative to pre-SRO data. Further, the SRO program's development of better relationships with students resulted in more attention being paid to crime and more tips being reported by young people outside of school—leading to more arrests in the community.⁵⁶ In a southern city, intermediate and major offenses in high and middle schools decreased, as well as suspensions between the 1994-95 and 1995-96 school years after an SRO was permanently assigned to the schools.⁵⁷

A study that interviewed police chiefs and SROs in 16 Massachusetts school districts during 2008-2009 found that placement of officers in school rather than keeping them on-call, in the opinion of law enforcement, will reduce the number of school-based arrests over time because it allows the SRO, students, and administrators to become more familiar and comfortable with one another.⁵⁸ Law enforcement officials have found this decreases school-based arrests, sometimes dramatically. The SROs found that referral to clerk-magistrate hearings or other diversion programs were more effective in changing student behavior than referrals to juvenile court.⁵⁹

In North Carolina, 98% of Local Education Agencies have SRO programs in at least one of their schools as of the 2008-09 school year, which represents a 4.42% increase over the 2007-08 year. At the same time, school-based offenses have fallen every year since 2007.⁶⁰ In Kentucky, 128 principals surveyed believed that SROs reduced the amount of misbehavior on their campuses, making them important parts of their school-safety plans. The principals found that the SROs had the greatest impact on reducing fighting in their schools, followed by reducing the presence of marijuana and occurrences of theft.⁶¹ Student perceptions are, in the main consistent with these reports.⁶²

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Collaboration between school officials and school resource officers is an essential component to preserving the right of boys and girls to attend schools that are secure and peaceful. The personal experience of SROs working the school beat reinforce these findings: "'The greatest impact? The bonds and friendships we've formed with these students,' says [Mel] Ray [Klamath County SRO coordinator]. 'There is just no way to measure that. I think we prevented a tremendous amount of crime. Everyone here has the same goal—to see these kids graduate.'"⁶³ Another SRO reported:

"As far as South Charleston High School goes, we have noticed a decrease in violence and disturbances since I was assigned here. We have developed a relationship with most students allowing them to now feel comfortable coming to the office before a problem escalates."⁶⁴

Reductions in school-based crime, as well as the other aspects of the SRO's triad of responsibility, benefit the larger law-enforcement community as well. Strong SRO programs have been found to reduce the workload of patrol officers, including preventing problems that would have escalated to 911 calls from schools, improving law enforcement's image with juveniles, which leads to increased crime reporting, creating and maintaining better relationships with schools, and enhancing the law-enforcement agency's reputation in the community. As the SRO serves both law-enforcement and educational interests, the officer's work benefits both communities.

The SRO's Role in Teaching Students About Safety and the Law

While an SRO's primary responsibility is safety, his or her regular duties can and should include service as a teacher of law-related topics. Through regular teaching, the SRO imparts valuable, specialized knowledge to students and staff, builds relationships with students as they come to understand and respect the officer's knowledge and commitment, and improves students' perceptions of law enforcement in general. Indeed, even when an SRO program's initial focus is on law enforcement, programs often evolve to include formal teaching and counseling as the value of the SRO as a resource for education and mentoring becomes clear.



SROs regularly teach classes on a broad range of topics: bullying, aggression, dating violence, gang violence, driving safety, underage drinking, drinking and driving, drug use, peer pressure, fingerprint evidence, Internet safety, search and seizure laws, sex crimes, the rights of victims of crime, and more. These topics compliment standard classroom subjects by providing "real world" information and advice to help students understand and confront issues common to their childhood experience. As students are better able to deal with issues outside the classroom, they are better prepared to excel inside the classroom. And while teachers appreciate the importance of these topics, they often lack the training to provide more than a standard curriculum. With SROs in the lead, these topics are brought to life through tales from the SRO's personal experience and their nuanced understanding of the threats and consequences confronting students every day.

The SRO's Role as Informal Counselor and Role Model

Everyone involved in children's services agrees that the presence of responsible, caring adults in a child's life is critical to his or her ability to avoid destructive behaviors, make good choices, and survive the challenges that family, socio-economic, racial, and other circumstances can present. An SRO is one of these adults, and students and educators are well-aware of how much they help students navigate challenging situations on and off campus.

SROs maintain "open-door" policies towards students, engage in counseling sessions, and refer students to social-services, legal-aid, community-services, and public-health agencies as part of their role as counselor and mentor. Like the educators, administrators, nurses, social workers, coaches, and counselors they work with on campus, SROs work to establish rapport with students by keeping up with their academic and extra-curricular activities, chatting about mutual interests, and providing an attentive ear for whatever is on the student's mind. In this role, the SRO functions much as a community police officer would on his or her beat—getting to know the locals and getting involved with their daily lives. At schools, as in the community, this is a mutually beneficial relationship. Students come to understand that someone cares and will listen, and SROs come to understand where students' concerns lie and what might be threatening their and others' safety.



Community-Wide Recognition of the Importance of SRO Programs

In communities across America, all stakeholders—educators, parents, students, lawmakers, courts, and community organizations—welcome the SRO onto the child-welfare team to provide unique expertise in service of school and community safety.

Educators' Duty to Provide a Safe and Secure Learning Environment Motivates Their Collaboration with SROs



Educators have a compelling interest in maintaining a safe and effective learning environment as a part of the total strategy of achieving the educational mission.⁶⁵ The modern range of foreseeable misconduct by students and others on campus makes a clear relationship with local law enforcement essential. Educators who desire to avoid liability collaborate with law enforcement to implement triad-model SRO programs that utilize law enforcement's expertise and experience to complement the educational mission by establishing order and quickly responding to threats.

Fulfillment of the duty to provide a safe learning environment requires educators to keep students safe while respecting their constitutional rights. A failure to fulfill either component of the duty results in injury to students and legal liability for the school. Because the line between securing a campus and protecting student rights can be difficult to walk, trained SROs are a vital component in school-safety plans.

As law-enforcement officers trained and experienced in community protection through appropriate techniques that respect individual rights, SROs are well-prepared to walk that line. When they collaborate with educators, SROs' law-enforcement expertise supports school officials' roles as keepers of the peace. As explained above, SROs' specialized knowledge in investigative techniques, search-and-seizure procedures, weapons neutralization, facilities security, and the like make them the preferred personnel for addressing safety threats on campus.

Threats to school safety can also be bigger than the schools themselves. Community issues such as gang-violence and drug-trafficking manifest on campus in the form of assaults, theft, drug sales and possession, and many other disruptions. Disruptive youths can be placed back onto campuses and into classrooms as a condition of court-ordered supervision. Notice of their presence and a proper assessment of their needs, which can involve problems far beyond the expertise found in the traditional curriculum, is essential to a safe campus and orderly learning environment. The SROs service as an information-sharing link between law-enforcement and juvenile-justice agencies and educators is a key component of school safety. And the SRO's knowledge of how to identify and respond to these threats as they manifest on campus is critical.

Teachers and school administrators welcome the addition of law-enforcement expertise and support to campus as part of the school-safety team. Administrators find that collaborating with an SRO protects them in situations that may be dangerous, brings an expertise they do not have to potentially dangerous situations, and provides a quick response time in dangerous situations. Further, administrators report that SROs routinely prevent crimes and violence, which can help reduce their school's legal liability, and that SROs help students feel safe. Of principals surveyed in Kentucky, over 98% felt that high schools should have an SRO and over 93% felt middle schools should have an SRO. Administrators see SROs as effective in their law-enforcement, as well as their teaching and counseling, roles. "The SRO possesses the specific training that school administrators lack related to properly responding to possible threats. As a result, schools with an SRO appear to be better equipped to effectively address any threatening situation that might arise in the course of the day."⁶⁶ As a national best practice, the National Education Association recognizes that relationships are key to school safety and advises its members to foster safe schools by creating partnerships with law enforcement and social-services agencies.⁶⁷

Teachers overwhelmingly recommend SRO programs to other schools. Teachers perceive school safety as accomplished through the collaboration between administrators, teachers, and SROs, and find that the collaboration has a positive effect on the educational environment. They report that SROs have a positive effect on: school climate, teacher and student morale, safety and security, and creating an atmosphere of caring, respect, and trust. In a study of 19 schools, diversified for size of school and age of SRO program, the vast majority of schools expressed satisfaction with their SRO programs.⁶⁸

Modern threats to school safety and an orderly educational process, coupled with our understanding of how important community-wide collaboration is to the welfare of all young people, particularly at-risk youth, make an effective SRO program critical to educators' ability to fulfill their duty to educate children in a safe and secure environment. Educators' positive experiences with their SROs is a testament to these officers' unique ability to effect positive change in the school environment.

Parents Share Educators' Interest in the SRO's Protection of Their Children

Educators' custodial interest in their students' welfare is a derivative of the parental interest in their children's safety and education. The interest of parents is woven throughout public education. The range of activities, from policymaking to the implementation of the education mission reflects what has been called "democracy in a microcosm," in which the "school board is not a giant bureaucracy far removed from accountability for its actions."⁶⁹ Educators are responsible for fulfilling parents' custodial and tutelary interests when children are entrusted to educators' care. The duty of school officials to take reasonable steps to protect students is firmly linked to notions of *in loco parentis*.

Prior to the late-twentieth century, educators were deemed to stand *in loco parentis* in an absolute sense. However, this carried with it two unintended consequences. First, students had no

rights on campus unless parents and educators agreed. Second, school officials were subject to few, if any legal limits, receiving immunity from liability because they were seen as acting on behalf of parents. This type of *in loco parentis* was repudiated in the landmark student search case of *New Jersey v. T. L. O.*⁷⁰ In *T.L.O.*, the Court summarized the common law notion and declared it inconsistent with the Bill of Rights: “In carrying out searches and other disciplinary functions pursuant to such policies, school officials act as representatives of the State, not merely as surrogates for the parents, and they cannot claim the parents’ immunity from the strictures of the Fourth Amendment.”⁷¹

However, the modern version of *in loco parentis*—the duty to take reasonable steps to provide for the safety of students—remains very broad. The U.S. Supreme Court announced the new version in the landmark suspicionless drug testing case, decided in favor of educators. The Court ruled that: “[a]lthough public school officials do not stand entirely [*in loco parentis*] with respect to the students, they do exercise a ‘custodial and tutelary’ authority that permits ‘a degree of supervision and control that could not be exercised over free adults’ and that cannot be ignored in conducting a ‘reasonableness’ inquiry.”⁷²

As part of the school safety team, SROs support the educational mission and custodial responsibilities of educators as the team makes assessments in the best interest of children as would their parents. In the limited research on the opinions of adults, it is no surprise that parents who have been surveyed approve of SRO programs. Brad Myrstol examined the extent that adults were aware of an SRO program and surveyed their opinions. The results suggest that parental interests are aligned with the goals and outcomes of SRO programs. Clear majorities of adults reported their belief that the SRO would improve community relations with police (75%), improve students’ attitudes toward police (70.4%), reduce crime/delinquency, and improve the environment within schools (80%).⁷³

When parents and educators agree on school policy courts tend to give weight to the result of the “democracy in a microcosm.” This judicial deference is consistently expressed by the courts in the following manner: “education of the Nation’s youth is primarily the responsibility of parents, teachers, and state and local school officials, and not of federal judges.”⁷⁴

SROs' Role in Protecting the Rights of Others to Be Free From Victimization at School

Victimization in schools is a prominent basis for resisting the removal or marginalizing of collaborative SRO programs. School resource officer programs are part of a community-oriented, collaborative strategy tailored to preserve the educational climate while looking after the needs of all students. It is not incidental that the growth of the Safe Schools Movement coincides with the Crime Victims’ Rights Movement in both time and urgency. Both are deeply rooted in human rights. The National Center for Education Statistics and Bureau of Justice Statistics made these findings in 2011:

“For both students and teachers, victimization at school can have lasting effects. In addition to experiencing loneliness, depression, and adjustment difficulties, victim-

ized children are more prone to truancy, poor academic performance, dropping out of school, and violent behaviors. For teachers, incidents of victimization may lead to professional disenchantment and even departure from the profession altogether."⁷⁵

The law on the role of school officials to protect victims is grounded in these statistics. Courts in America follow the lead of the U.S. Supreme Court on the authority of educators to protect the rights of others to be free from victimization at school. The standard has been consistently rigorous since its announcement in the 1985 decision of *New Jersey v. T.L.O.*⁷⁶

"Without first establishing discipline and maintaining order, teachers cannot begin to educate their students. And apart from education, the school has the obligation to protect pupils from mistreatment by other children, and also to protect teachers from violence by the few students whose conduct in recent years has prompted national concern."⁷⁷

The Victims Rights Movement has surpassed its education reform twin in prominence and this urgency goes all the way to the public school campus; 33 states have enacted constitutional amendments codifying the right. Although each states' victims' rights amendments (VRAs) differ in scope, substance, and length, the constitutional changes made by these states evidence the importance of the right. There is no federal VRA, but Congress has passed a number of legislative acts aimed at protecting victims' rights, including: the Victims of Crime Act of 1984⁷⁸, the Victim's Rights and Restitution Act of 1990⁷⁹, the Victims Rights Clarification Act of 1997⁸⁰, and the Crime Victims' Rights Act of 2004.⁸¹

As for students, victims' rights laws simply formalize what is already assumed—a human right to be free from abuse on campus. This right extends to children because they are compelled by state law to attend public schools. Some state constitutions specifically protect student victims of harassment and violence through both VRAs and other legislation. For example, in Alabama, victims of harassment, intimidation, violence or threats of violence on school property may file a complaint on an authorized form and submit the form to the official of the designated local board. Arkansas and California have expanded these rights to protect victims from cyber bullying, in response to technological changes and the growth of social networking.⁸² Although these states are careful not to impede students' constitutional rights to free speech,⁸³ policy makers recognize the importance of protecting the rights of student victims.⁸⁴

In addition to state VRAs, state law firmly establishes that educators are liable when students are not protected from routine and foreseeable risks of harm. Today, lawsuits brought by student-victims are successful upon a showing of deliberate indifference under rules similar to that which applies to claims brought against educators for intentional and maliciously inflicted injuries.⁸⁵ Federal and state legislatures are now clarifying these rules to encourage student-victim claims. The theme for this emerging liability law for failure to protect victims is called "selective enforcement."

Selective enforcement liability focuses squarely on the failure of educators to implement campus safety rules fairly. Victimized students may challenge either a discriminatory policy

or the flawed manner in which an evenhanded policy is implemented. In other words, in the selective enforcement lawsuit, the student accuses the school of indifference or of playing favorites among the student body such that the disciplinary process creates a bias in favor of some students and against others.

There is nothing but trouble for educators who implement policies that expose students to greater risks of victimization. Juveniles who commit crimes on campus in self-defense or who inflict harm on themselves, often speak of the selective enforcement as a factor in their desperation to have school rules enforced fairly for the benefit of all students. The expansion of the selective enforcement lawsuit to include claims beyond historical race and gender is designed to protect all students from discrimination. The U.S. Supreme Court says about such cases that, “the purpose ...is to [protect] every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.”⁸⁶ A variety of federal statutes (and an equal number of state laws) may be brought to bear against school officials and SROs.

Section 1981 Lawsuits

Selective enforcement lawsuits brought under 42 U.S.C. § 1981 involve race discrimination. Educators will be liable to a student-victim when a racial bias is intentional and involves the selective application of a school policy. Proof of the bias may be shown by direct evidence or through circumstantial evidence. For example, statements made to a student by an educator that contain racial invective will support such a claim. In addition, a disparity in discipline establishes an unlawful bias if a student identifies arbitrary, undeserved, or unreasonable punishment of students based on race, or the failure to discipline students for similar misconduct based on race. When this is shown the burden shifts to the school or the police to explain what happened. The explanation must be a legitimate, non-discriminatory reason for the challenged action. However, even when such a reason is offered, the student can rebut it by convincing the court that the explanation is a pretext for unlawful racial discrimination. Courts are allowed to impose liability when the explanation by the educator appears to be a cover-up for a discriminatory act.

Section 1983 Lawsuits

Selective enforcement claims under 42 U.S.C. §1983 are lawsuits based on violations of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Like the section 1981 claim, the student must show that he was treated differently from similarly situated pupils and that the unequal treatment can only be explained by discriminatory intent.

Unlike section 1981 claims, students have three ways of establishing improper intent in selective enforcement claims based on the Equal Protection Clause. First, the student can link the discrimination to race, gender, alienage, national origin, illegitimacy or show that selective enforcement of school policies denied him a fundamental right. This is not as difficult to do as one might suppose. For example, a student can point to an official school policy or a re-

peated practice that is so common as to constitute a custom of the school. When proven, courts apply strict judicial scrutiny and quickly impose liability on school officials. Second, a student can prove discriminatory intent without pointing to a policy if a single discriminatory act is committed by a principal, teacher, or staff member who has final policymaking authority over discipline. When proven, courts apply strict judicial scrutiny and quickly impose liability on school officials.

Title VI of the Civil Rights Act

Title VI of the Civil Rights Act (42 U.S.C.A. § 2000d), represents another claim that may be brought against schools for selective enforcement. Title VI forbids discrimination by any person or institution that receives federal funds on the basis of race, color, or national origin. Students who successfully assert a claim under Title VI are entitled to money damages from the school district by showing that educators intentionally discriminated against them. In this type of action, intent can be inferred by deliberate indifference to an environment hostile to students based on race, color, or national origin. Title VI is a fertile tool for students in schools where a racially hostile environment exists or has been allowed to fester with foreseeable consequences.⁸⁷ The student-victim will succeed by showing that educators had actual or constructive notice of pervasive racial discrimination at the school and allowed these conditions to persist creating a hostile environment.⁸⁸ Moreover, where a school district has actual knowledge that its corrective measures are ineffective, and it continues to use those same methods to no avail, the educators have violated Title VI.

Title IX Claims

Title IX claims are identical to Title VI lawsuits for selective enforcement, except that it prohibits gender discrimination, not race, color, or national origin discrimination. It applies to all education programs receiving federal funds. The law declares that, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”⁸⁹ Under Title IX, a school’s deliberate indifference to a hostile environment, teacher-on-student or, student-on-student harassment, is a violation of the law.⁹⁰

The U.S. Supreme Court has held that Title IX lawsuits cover, “intentional sex discrimination in the form of a [school official’s] deliberate indifference to a teacher’s sexual harassment of a student, or to sexual harassment of a student by another student.”⁹¹ As with Title VI, a student in a Title IX selective enforcement case must prove that severe, pervasive, and objectively offensive harassment occurred; that the harassment deprived her of educational opportunities or benefits; that the educational institution had actual knowledge of the harassment; and, finally, that the institution’s deliberate indifference caused the student to be subjected to the harassment. Title IX protects students against same-sex harassment.⁹² Finally, Title IX also allows parents to file retaliation claims against schools.⁹³

“Class of One” Lawsuit

Finally, the courts are beginning to permit a new kind of section 1983 claim that is specifically useful for students who believe they are victims of selective enforcement. Under a “class of one” lawsuit, a student does not claim that he is a member of a “suspect” class or that he was denied any fundamental right. Instead, the student must only show that (1) educators intentionally treated him differently from others similarly situated; and (2) this different treatment was not rationally related to a legitimate educational objective. The courts have created this type of claim to allow a student to show that an educator’s official reasons given for selectively enforcing a school policy is a pretext for an irrational bias. A student will establish such a case when he presents evidence that other students, who are identical or comparable to him/her, have been treated more favorably. The U.S. Supreme Court explained the reason for such a lawsuit by stating, “[o]ur cases have recognized successful equal protection claims brought by a ‘class of one,’ where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment.”⁹⁴

Selective Enforcement and Disciplinary Reform

Critics of SRO programs encourage schools to selectively enforce disciplinary policies in a good-faith attempt to convert some violations of law and school rules into teachable moments and educational opportunities. Under such a policy, no student is similarly situated to another. Unwittingly, the seeds of selective enforcement are planted. Without proper training and frequent assessments, this type of disciplinary policy will create the appearance of deliberate indifference to student victims. Educators will find themselves at-risk of a lawsuit.

Selective enforcement of the school code of conduct may also lead to criminal liability for obstruction of justice. For example, as the gravity of student misconduct increases, affirmative duties to report the incident to various agencies for investigation and intervention are triggered. Therefore, even though school officials maintain independent authority to address even these offenses through their disciplinary process, the failure to comply with their statutory duties not only violate the rights of victims, but is itself a violation of the law.

School resource officers are an important element in meeting statutory obligations and creating expectations by student for consistent enforcement. In response, students report positive perceptions of the SRO as consistency creates trust and feelings of safety and decreased victimization. One study concludes that as students’ contact with the SRO increases, so does positive perceptions of SROs and likelihood of taking more ownership for maintaining a safe campus by reporting a crime.⁹⁵

State Legislatures’ Incorporation of the SRO Into the School-Safety Team

State legislatures across the country incorporate the SRO into school-safety legislation, recognizing the importance of the educator-SRO collaboration to ensure a safe learning environ-

ment. These statutory provisions show that legislatures appreciate that SROs are an important component in school-safety planning and the day-to-day protection of schoolchildren. How this recognition takes shape varies from state-to-state.

Many states define what a school resource officer is, codify parameters for SRO programs, set requirements for SRO training, promote or require inclusion of SROs in school-safety planning, and/or treat SROs as school officials in various situations.⁹⁶ Arizona, for example, requires applicants for its school-safety programs to incorporate an SRO into their plans.⁹⁷ The District of Columbia's Gang and Crew Intervention Joint Working Group is required to coordinate community resources, including SROs, in its response to high-profile youth violence.⁹⁸ Tennessee includes an SRO representative on the state-level safety team charged with establishing templates for district- and building-level emergency response teams.⁹⁹

The Courts' Approval of the SRO/Educator Collaboration

For over forty years, the United States Supreme Court has recognized and respected the unique position in which educators find themselves—in charge of teaching students how to be citizens in a free society and, at the same time, maintaining the order and discipline that a safe and productive learning environment requires.

In *Tinker v. Des Moines Independent School District*,¹⁰⁰ the Court found that while students retain their constitutional rights when in school, those rights must be balanced with educators' duty to provide a safe and orderly learning environment. And in *New Jersey v. T.L.O.*, the Supreme Court relaxed Fourth Amendment standards to allow educators to search based not on probable cause, but on the suspicion "that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school."¹⁰¹

Under this line of cases, the Constitution allows educators to set aside the probable-cause standard and focus instead on individual students and group juvenile behavior that is incompatible with the educational mission. In some cases the educator must have reasonable suspicion before acting, as in *T.L.O.*, and in other situations no suspicion is required, as in many drug-testing cases involving categories of students and an educator's special interest in health and safety.¹⁰² This lower standard applies even when the code-of-conduct violations the educator is investigating are also violations of the law that may result in arrest.

When an SRO acts in routine-response mode, he or she engages in routine law-enforcement activities indistinguishable from duties performed off campus. The SRO may respond to events and persons who are on campus that would involve members of law enforcement had they not happened on a public-school campus, such as an auto collision, an assault, property theft, or drug sale. The SRO might be responding to a crisis situation that occurs on campus requiring the expertise of law enforcement in restoring the peace, conducting an investigation, and determining whether crimes have been committed.

In routine-response mode, the legal standards to which a police officer must conform are no different than they are anywhere in the community. Standard Fourth Amendment requirements govern how an investigation is conducted, how custodial stops proceed, when searches are initiated, and when persons are subject to arrest.

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When the SRO assists in activities that are initiated by the educator and primarily involve efforts to apply the school's code of conduct to maintain a safe campus, the SRO acts in educator-support mode. In these situations, the educator's special constitutional standard from the *T.L.O.* line of cases applies.

Under the direction of the educator, the SRO may join the team of specialists that work together to achieve the education mission. These tasks may include enforcing the code of conduct and referring serious violators to the juvenile-justice system. "[W]hen school officials, who are responsible for the welfare and education of all of the students within the campus, initiate an investigation and conduct it on school grounds in conjunction with police, the school has brought the police into the school-student relationship."¹⁰³

The courts recognize that law-enforcement officials' training and expertise is better suited to investigating and quelling behavior that threatens campus safety and is often dangerous. State and federal courts agree that educators may delegate their special authority and ask the SRO to perform an act, be present as a witness when the educator acts, and generally lend support and provide assistance in maintaining a proper learning environment. For example, in *State of Wisconsin v. Angelia D.B.*,¹⁰⁴ a student told a school administrator that Angelia had a knife in her backpack. Another administrator and the SRO confronted Angelia and the SRO searched her backpack and conducted a pat-down search of her clothing. The administrator searched her locker. When nothing was found, the administrator and SRO brought Angelia to the SRO's office. The SRO searched Angelia and found a knife tucked in the waistband of her pants. Finding that the *T.L.O.* reasonable-suspicion standard applied, the Wisconsin Supreme Court recognized that a dangerous weapon at school poses a significant and imminent threat of danger to staff and students compelled to be at school.

"Were we to conclude otherwise, our decision might encourage teachers and school officials, who generally are untrained in proper pat down procedures or in neutralizing dangerous weapons, to conduct a search of a student suspected of carrying a dangerous weapon on school grounds without the assistance of [an SRO] While the *T.L.O.* court adopted the less stringent reasonable grounds standard in part because of the need of teachers to 'maintain swift and informal disciplinary procedures,' it could be hazardous to discourage school officials from requesting the assistance of available trained police resources."¹⁰⁵

The court in *In re William* similarly focused on the SRO's function at the school and the special nature of the public-school environment to determine whether the SRO would be considered a school official to whom the reasonable-suspicion standard applied.¹⁰⁶ In that case, the SRO, while walking the school saw a student standing alone in the hallway displaying a red bandanna from the back pocket of his pants. Possession of a bandanna on campus was a violation of school rules because colored bandannas commonly indicated gang affiliation. The SRO approached the student and asked him to remove the bandanna. The SRO then decided to take the student to the principal's office for the violation. Before doing so, the officer conducted a patdown for weapons and discovered a knife. Adopting the *T.L.O.* rationale, the

court validated the search as reasonably related to the educators' interests in school safety and appropriate in scope given the facts of the case.

The legal issue in these cases is simply whether the team employed proper techniques and responses to the safety concerns at hand, and whether the SRO action stemmed from educational and school-safety interests or purely law-enforcement interests.¹⁰⁷ When an SRO acts in collaboration with educators, at their direction and in the interests of school safety, the educator's standard applies. The consistency of the courts' adoption and approval of this approach demonstrates that the SRO is a proper and important component of the school-safety collaboration.

SRO Programs Are Not Tracks to the Juvenile Justice System

Critics of modern juvenile-justice reforms and of the school-safety movement since the late 1990s are now setting their sights on SRO programs. Ignoring the importance and widespread success of the SRO's role on the child-welfare team, advocacy groups pluck inflammatory anecdotes and vague statistics from the headlines to allege that there is an epidemic of juvenile arrests in this country, which disproportionately affect minority students, for which SROs' presence on campus is responsible.¹⁰⁸

But there is no epidemic of juvenile arrests. Critics can point to few modern connections between local bumps in arrest rates and SRO programs. And the demographics of school-based arrests mirror those of juvenile arrests generally.

Significant Declines in School-Based and Juvenile Arrest Rates Have Accompanied the Proliferation of SRO Programs Across the Country

As previously explained, two parallel trends have continued during the last decade of school-safety reform—falling rates of juvenile arrests and proliferation of SRO programs across the country. If the entry of SROs onto America's campuses built a track to juvenile arrests, where are all the arrests? How can all indicators of school-based crime continue to fall and juvenile arrest rates fall 17% since 2000 if the presence of SROs on campus has opened up a pipeline to the juvenile-justice system?¹⁰⁹

Further, national statistics show that far fewer incidents of school-based crime are reported to the police than occur. In school year 2009-10, only 15 of every 40 school-based crimes per 1,000 students, for example, were reported to the police.¹¹⁰ If SROs are criminalizing student



behavior that educators once dealt with on their own, how can school-based crime remain so significantly underreported? Even "lesser" crimes that critics allege should be handled by educators without law enforcement involvement fail to support the track allegations as all crimes are on the decline. For example, a crime critics decry as mere prank playing that is now improperly criminalized—disorderly conduct—fell 17% between 2005-09. In California, juvenile arrest rates fell 22% between 2007–2010.¹¹¹ In Georgia, juvenile arrest rates fell 19% between 2008–2010.¹¹²

SRO Programs Are Not Connected to Persistent Increases in Local Arrest Rates, Nor Do SRO Arrest Demographics Differ from Those of Juvenile Arrests Overall

Analysis of the critics' most-often-cited reports shows that they cannot clearly link SRO programs with persistent increases in local arrest rates or demographic disparities in arrest rates. The 2009 paper by Matthew T. Theriot discussed above, for example, is frequently cited for its finding that disorderly conduct arrests rose with the initiation of SRO programs in one Southeastern school district. He found also, however, that SROs' presence decreased arrests for assault and weapons charges and, overall, after controlling for economic disadvantage "having an SRO ceases to be a significant predictor of arrests."¹¹³ Further, the data "did not support that SROs discriminate against lower socioeconomic status students. . . . [A]rrest rates declined as poverty increased at schools with an SRO."¹¹⁴ Theriot concluded that the findings that SROs did not cause an increase in total arrests "are contrary to the criminalization hypothesis."¹¹⁵

A 2010 paper "Juvenile Court Referrals and the Public Schools: Nature and Extent of the Practice in Five States," by Michael P. Krezmien and others, found small increases in juvenile-justice referrals originating in schools between 1995 and 2004.¹¹⁶ Four of the states surveyed saw referrals increase, by 6% at most over the nine-year period, and the fifth state found a decrease in referrals.¹¹⁷ The data did not account for SROs at all—it makes no conclusions regarding the effect of SRO programs on referrals. "[I]t is possible that the reliance on zero-tolerance policies for school misbehavior and the increased use of SROs to manage school misbehavior may also be related to the increases in [school-based referrals] to juvenile courts. However, these interpretations should be accepted with considerable caution. The variability



in the states may suggest that state education and juvenile justice policies and practices may have important implication for understanding the referral rates."¹¹⁸

Two widely cited articles published by advocacy groups opposed to zero-tolerance legislation fail to make any statistical connection between the initiation and/or ongoing activities of SRO programs and increases in arrests. In 2003, Judith A. Browne, in "Derailed! The Schoolhouse to Jailhouse Track,"¹¹⁹ chronicled the rise of zero-tolerance legislation and accompanying district-level policies. Her report acknowledges that states and local school districts followed federal mandates to enact the school-safety laws the article argues against. Nowhere does she attempt to show that SROs were somehow responsible for the policy decisions that increased the severity of punishment for certain school-based offenses that she opposes. Relying on data from 1995, Browne offers statistics on the increase in juvenile arrests in two Florida counties, Baltimore City Public Schools, and Houston Independent School District.

Over 10 years old, the Florida statistics do not state whether the arrests were all made by SROs at school or officers arresting juveniles in general, nor does the article explain whether the changes in data paralleled the initiation of new school-safety laws, school district policies, and/or an SRO program.¹²⁰ And, as presented above and repeated below, Florida is currently experiencing a significant decrease in school-based and juvenile arrests.

Browne's statistics from Baltimore City Public Schools and the Houston Independent School District are also over ten years old and fail to specify the origins of the arrests as school-based, linked to changes in SRO policies, or otherwise.¹²¹ Even so, these statistics show marked decreases in arrests during the three years of data assessed in both counties—lending no support to SRO critics.¹²²

Current data also shows declining arrests rates in Baltimore. Juvenile justice referrals for Baltimore City were down a total of 15.7% between 2008 and 2010, which was characteristic of Maryland as a whole, whose total decreased 15.9% in those years.¹²³ Juvenile justice referrals also declined in Texas in 2010, where the state saw an 8% decrease from 2009 in referrals for delinquent offenses.¹²⁴

Finally, Browne admits that the disparate impact on racial minorities of school-based arrests follows that of the overall juvenile arrest rate.¹²⁵ She presents no evidence of any increase in disparate racial impact at the hands of SRO programs.¹²⁶

A more recent anti-zero-tolerance article often-cited by SRO critics is "Zero Tolerance in Philadelphia" by Youth United for Change and the Advancement Project.¹²⁷ This policy paper takes aim at the implementation and ramifications of zero-tolerance and other disciplinary measures in Philadelphia schools by legislators and school personnel and the high number of SROs assigned to Philadelphia schools.

The paper makes no empirical connection between the higher arrest rates in Philadelphia schools, relative to other Pennsylvania schools, and the implementation of SRO programs or the number of SROs assigned to schools. The arrest data used does not specify whether SROs are making the arrests or whether the changes in arrest rates coincide with implementation or expansion of SRO programs. Indeed, all of the report's SRO-related conclusions are couched in speculative terms of what "may be due in significant part," "may be the case," and that "[i]t

appears that both of these dynamics may be at work in Philadelphia."¹²⁸ Finally, the paper's assertion that SROs create a hostile environment and a negative impression of law enforcement in the schools is based on one unpublished survey of one unnamed school and focus-group interviews in the district conducted by the Youth United for Change advocacy group.¹²⁹

The weakness in the critical commentary is not in its point of view. Rather, its flaw is in refusing to let the data speak for itself. The data demonstrate at least one clear exception to the conclusion that the use of school resource officers is a failure. In fact, a list of model states could easily be presented.¹³⁰ For purposes of this rebuttal, the state of Florida represents that one clear exception. The School Resource Officer (SRO) program in Florida encompasses 100 percent of the state with some form of interagency collaboration with schools in every county.

The Florida Attorney General's Office, in 1985, developed the first 40-hour Basic Training Course that has been formalized by the Florida State Department of Law Enforcement (FDLE) to train SRO's, "with the basic knowledge and skills necessary to implement crime prevention programming in a school setting."¹³¹ The SRO training curriculum is a collaborative venture, involving the Attorney General's Office, the Florida Association of School Resource Officers (FASRO), the Florida Department of Law Enforcement (FDLE), and the Florida Department of Education (FDOE). The strategic vision for the use of the SRO in campus safety has three elements: "law enforcement, education, and counseling, which is a pro-active approach to law enforcement through positive role modeling. These three components allow the SRO to promote positive relations between youth and law enforcement, which encourages school safety and deters juvenile delinquency."¹³²

In Florida, over a seven-year period ending in 2010-11, statewide delinquency on school grounds in Florida fell 42%. During that period, 39% fewer youth were arrested in schools.¹³³ Further, school-related delinquency referrals that were ultimately dismissed, not filed, or received some type of diversion service totaled 67% in 2011—44% were referred to diversion services.¹³⁴ The City of Miami, Florida lays claim to the first use of the title "school resource officer,"¹³⁵ and each jurisdiction promotes and utilizes the SRO within the team concept. The City of Cocoa, Florida illustrates this:

"One of the most important aspects of the SRO program is the ability of the officer to develop teamwork in fighting many problems that students of today are facing. The SRO works with many agencies such as school based-youth programs, HRS, Crosswinds, the Department of Juvenile Justice, and others to provide teen health services, substance abuse counseling, mental health counseling, and parent, student, and staff counseling.

The basic outline of duties for the SRO includes investigating crimes that occur within the school and on school property, creating a positive role model for students, creating a link between law enforcement and the students, and being a resource for parents, staff, administration, and students in regards to law enforcement and community problems.

Today, with two SROs, the program has become a valuable asset to the police department, school district, and the community.

The SRO program works much the same way with each school in Cocoa. At Cocoa High School and Clearlake Middle School, the SROs work with the administration, educators, and counselors. The role each plays is dependent on the needs of the situation. Cocoa High School and Clearlake Middle School are dedicated to providing an education to all of their students. With this goal in mind, all assets and services are pledged to this end.

A student with a suspected substance abuse problem is a different concern than a student being harassed or a student suspected of being involved in gang activity.

No one person has the "final" say as to the solution to a situation, as each has a differing role, authority, and approach. The primary concern is that of the student."¹³⁶

In sum, these sources do not support the critics' assertion that SRO programs have created a track to the juvenile-justice system or a unique impact on minority students. The academic studies find no widespread association between SROs and increased arrests and caution against concluding otherwise. The policy papers simply fail to present statistical evidence of any causal relationship between SRO programs and increased arrests or any demographic arrest patterns unique to the school setting.

Educators, As Members of the Child Welfare Team, Have A Duty to Report Crime on Campus

Those who decry SROs' presence on campus would prefer that educators deal with dangerous and disruptive students on their own, calling in law enforcement only for what critics would deem serious offenses. These arguments forget, however, educators' legal duty to report evidence of abuse and neglect and other crimes that they witness as part of their daily interaction with students. Removing SROs from campus would not relieve educators of their duty to report crime, and so would not somehow prevent students from being arrested for illegal behavior on campus.

State law requires all members of the child-welfare team to report incidents of suspected abuse and neglect. Many states go beyond this traditional duty to require reporting of campus





crime to district and law-enforcement officials.¹³⁷ For example, Arkansas requires educators to report any crime or threat of crime they observe directly to law enforcement.¹³⁸ California requires reporting of drug-related crimes and all crimes and probation violations by serious habitual offenders to law enforcement.¹³⁹ And Illinois requires reporting of all batteries against school officials.¹⁴⁰

SROs Are But One Component of School Discipline and the Juvenile Justice System

While it may be easy to blame school-based arrests, suspensions, and expulsions on SROs because of their highly visible role in campus protection and the investigation of misconduct, they are but one component in a community-wide response to juvenile crime and misbehavior. SROs do not draft and ratify juvenile-justice laws. They do not decide whether a juvenile should be charged as delinquent. They do not force educators to allow them onto campus, and they do not decide whether a student should be suspended or expelled from school.

Much venom is directed at zero-tolerance laws. Because they oppose punishment according to these policies, critics oppose SROs' presence on campus. This position forgets, however, that

zero-tolerance policies prohibit certain conduct and prescribe certain penalties independent of who the investigating or arresting party is. Whether or not a school operates under a zero-tolerance policy has nothing to do with whether or not that school also has an SRO program.

Legislators and educators decide what conduct is permissible and when a student will be disciplined for it. SROs collaborate with educators, at the educators' invitation and discretion, in investigating campus behavior—not in punishing it.

SROs do not determine the consequences of illegal behavior that occurs on campus. The Juvenile Offenders and Victims 2011 report shows that, in 2009, juvenile arrests were referred as follows: 22% were handled by law enforcement and released, 67% were referred to juvenile court, 9% were referred to criminal court, and the rest were referred to welfare or other police agencies.¹⁴¹ When an SRO arrests a student, the entire juvenile-justice team works together to determine the child's placement.

As experienced law-enforcement officers specially trained to serve and protect the educational environment, SROs can be helpful components of whatever kind of disciplinary approach a particular district or school determines is best for its students. For example, critics of zero-tolerance legislation and SRO programs often propose restorative-discipline models to deal with student misconduct.¹⁴² These kinds of programs have been found to be compatible with SRO programs that incorporate the triad approach to campus safety.¹⁴³ Because restorative-justice techniques involve members of the child-welfare team in a collaborative approach to redirect offending students and make victims whole, SROs' relationships of trust with students, experience with the juvenile justice system, and understanding of conflict-resolution techniques make them valuable members of the team.





Moving Forward:

Affirming the Value of SROs on the Child Welfare Team & Ensuring the Effectiveness of SRO Programs in Our Schools

“Through the activities they carry out and the roles they fill, School Resource Officers become an additional resource to which everyone associated with the school can turn. Those who are familiar with what they are doing see them not only as a resource, but as a fundamental resource which schools will not be able to do without in the future.”¹⁴⁴

SROs are critical components of modern school-safety plans, as instances of terrible violence on a scale unknown before the late 1990s remain rare but real threats to school communities. There are fewer school-associated violent deaths on record today, but these incidents always have defining consequences for children, families and communities. The number of nonfatal victimizations at school, including theft and violence are increasing.¹⁴⁵ The perceptions of students on the safety of the campus climate, is on the brink. As stated above, the Centers for Disease Control reports that in 2009, the most recent year for which statistics are available, 5.6% of children nationwide carried a weapon on to school property at least on day in the 30 days before the survey, 7.7% were threatened or injured with a weapon on school property during the 12 months before the survey, 11.1% were in a physical fight on school property in the last 12 months, 19.9% were bullied on school property in the last 12 months, 5% did not go to school at least one day in the 30 before the survey because they felt it was unsafe to be at school or to travel to and from school, 4.5% drank alcohol and 4.6% used pot on school property at least once in the 30 days before the survey, and 22.7% were offered, sold, or were given illegal drugs on school property in the 12 months before the survey.¹⁴⁶

How are we keeping our schoolchildren safe in the face of these persistent threats? The new norm is a child-welfare team, providing a thorough, community-based response to school safety. The team is comprised of educators, law enforcement, parents, juvenile-justice agencies,

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social-services agencies, and community organizations. Each agency serves its own part of the behavioral puzzle that it is specially suited to solve for at-risk and delinquent children. School boards, legislatures, and courts recognize—and often mandate—that the team function to insure that public schools are safe, secure environments where educators can teach and students can learn. Committed to the state's care for the majority of each school day, the child-welfare team cannot turn a blind eye to what happens on school campuses.

The school safety law model does not foster a “school-to-jail pipeline.” Interagency teamwork does not divest any participating agency of the functions and duties given by the law that enables its specific mission. Nor does it allow aggrandizement of the authority to exercise discretion by other agencies in a manner that would have to occur to prove the claims of the critics. This criticism of school disciplinary policies reflects a fundamental misunderstanding of interagency teamwork. In the child-welfare context, the term “exercising discretion” is code for the duty of each agency to manage the relationship with its partners in a manner that distinguishes the legitimate, concurrent interests in determining outcomes for children. For the public educator, this translates into a goal to make decisions in the best interest of a child in light of the incident and the education mission. The goal is the same for each member agency in light of its legal duties. The interests do not compete. But rather, they compliment the compilation of a complete assessment of (1) the needs of a child, (2) the nature of the incident, and (3) the best outcome(s) in light of the services at-hand.

The “school-to-jail pipeline” rhetoric is misled by reason of giving insufficient weight to the fact that as the gravity of a campus incident increases, the ability of all partner agencies to exercise discretion decreases as a matter of law. Therefore, competent discussions of school safety policy reform proceed along two predictable, but separate branches of inquiry. The first branch looks at the degree to which the campus team applies interventions, remedies, and consequences required by law for serious misconduct on campus. This is a ministerial duty of the highest order. Should this branch fail to hold its weight, then the campus safety enterprise collapses for lack of sincerity, commitment, and goodwill. The second branch is the broader inquiry that the science of child-welfare reform law dictates: how well the team collaborates to produce outcomes that balance the duty to preserve the campus from disruptive forces while nurturing and protecting youth who are compelled to attend school. The data, laws, court decisions, and campus perceptions speak for themselves on school safety and the role of school resource officers: School resource officers do not micromanage the school disciplinary function under pretense as a collaborator.

Modern SRO programs implementing a triad approach represent essential pathways to safer schools, not pipelines to the juvenile-justice system. Recent criticisms of school disciplinary policies that utilize the SRO reflect a fundamental misunderstanding of the interagency teamwork. Arguing against SRO programs because they promote school safety and contribute to effective outcomes of student misconduct on campus is like arguing against great police work because it stops crime on the street. School resource officers do not micromanage the school disciplinary function under pretense as a collaborator. School resource officers assist educators in protecting students and the education mission by being an active part of educator-imple-

mented strategies to assess the needs of children for which an arrest is not the only, or preferred, outcome.

The Interagency Agreement

A commitment to proper training is the key to success in SRO programs. The campus child-welfare team must insure that each member is operating within clearly defined parameters so that each party's resources are effectively utilized and outcomes are seen as a reasonable, evenhanded implementation of the safe schools plan. An interagency agreement is essential, specifying the role of the SRO in enforcing the law, making referrals to administrators for school discipline, teaching, counseling, and mentorship responsibilities.

The memorandum of understanding (MOU) is sometimes called the "interagency agreement" or the partnership guide. Its chief utility is to provide structure to, and contact persons for, routine cooperation between agencies that share a common interest on a particular theme.

The MOU serves as both a liability insurance policy for local government agencies as well as a policy instrument. The interagency agreement provides a basis for on-going assessments and helps maintain a clear understanding of what is working and what is not. The cooperative structure carved into an MOU has a better opportunity to be understood, consistently implemented, and passed down to future personnel. As a policy instrument, the MOU operates within the context created by federal and state laws, setting boundaries to avoid liability by helping the interagency team maintain an awareness of what the law allows and what it forbids.

The case for an MOU in a safe schools program is easy to state. It sets forth the nature of the tasks to be performed by the SRO when assisting school officials in providing a safe and effective learning environment. It allows both the schools and law enforcement to find balance and a zone of comfort in the unique tasks that are performed when an SRO works on a public school campus. For example, it is assumed that SROs are already operating within the scope of their legal duties as a sworn law enforcement officer. What additional roles, if any, will the SRO fill as the safe schools plan is implemented? Will the SRO assist in enforcing the school code of conduct? Will the SRO teach classes or supervise school-sponsored



events? Will the SRO be an extension of the police department when assigned to the school, or considered an independent contractor? To whom will the SRO report, the school administrator, or the law enforcement commander? These issues must be clearly spelled out in the MOU so that legal rules can be rigorously applied to protect the rights of students and other school personnel.

The courts now take the contents of the MOU very seriously when resolving the issues that arise from the presence of a SRO on campus. Every jurisdiction with a school-law enforcement partnership should have such an agreement. The key to the resolution of many of the legal disputes has been found in the language of the MOU itself. As a result, it is also wise for agencies to reassess the contents of a pre-existing interagency agreement to make sure the document does not compromise the effectiveness of the safe schools plan.

Model Provisions in the MOU

Judges look for evidence in the language of the MOU for clear intent by both the police department and the school district as to specific role of the SRO. Emerging from recent court decisions is a checklist:

- ❶ Does the MOU clearly describe the tasks that require the SRO to be fully engaged in the lawful execution of his legal duty as a law enforcement officer and those situations that require the SRO to act as or perform the duties of a school official?
- ❷ Is it clear when, if at all, the SRO will be acting at the direction of educators who are attempting to enforce a school policy?
- ❸ Does the MOU spell out the circumstances when, if at all, the SRO should immediately intervene in potential campus disruptions as they occur without waiting first for direction by either the police or school officials?
- ❹ Is the SRO working as a police officer working in his off-time as a security guard for a school district, or has the school district contracted directly with a law enforcement body to assign an officer assigned to the school?

A flawed MOU is either one that does not accurately state the intentions of the safe schools team, or one that has not kept up with the changing duties of the SRO after its original implementation. Both instances can create liability for the team or the individuals implementing the plan. For example, an MOU that states, "the SRO is at the school as a law enforcement presence and is not responsible for discipline at the school," has been held to prevent the SRO from being considered a "school official" and assisting educators under the lower standards of reasonableness under the Fourth Amendment.¹⁴⁷ In another case, the court held that the tasks performed by the school safety team that were not written in the MOU would not be treated as part of the agreement.¹⁴⁸ In addition, under the clear terms of an MOU, courts extend deference to school resource officers in the performance of day-to-day duties, even decisions based in the initiative of the SRO without the presence of educators.¹⁴⁹

The following court decision sets forth the importance of the MOU:

School resource officers perform a unique mission. They are certified law enforcement officers who are assigned to work at schools under cooperative agreements between their law enforcement agencies and school boards. They [may be] bound to abide by district school board policies and consult with and coordinate activities through the school principal. In this capacity, resource officers are called upon to perform many duties not traditional to the law enforcement function, such as instructing students, serving as mentors and assisting administrators in maintaining decorum and enforcing school board policy and rules.¹⁵⁰

One of the lessons that emerge from these cases is that a well-written MOU will focus on duties with specific outcomes as the controlling theme. The intervention that results when implementing this language will make the SRO and educators more effective.

Safe Schools as a Duty and Human Right

The public school campus is a unique place, “in which serious and dangerous wrongdoing is intolerable. The state, having compelled students to attend school and thus associate with the criminal few-or perhaps merely the immature and unwise few-closely and daily, thereby owes those students a safe and secure environment.”¹⁵¹ Threats to school safety are bigger than the schools themselves because they are manifestations of community issues, such as gang violence and drug culture, from which children must be protected during the significant portion of their lives spent on campus.¹⁵²



The misconduct on campus, now called by various new terms, is well known by prior generations of educators and law enforcement as merely delinquency in its traditional forms, often involving groups or enhanced by technology. The current victims of harassment, assaults, and property destruction are as desperate for help as those of prior generations. These students do not care what label is given to the misconduct as long as the local officials monitor and prevent it. The focus should be on preventing the violation of the rights of those who become targets in an unsafe climate.

SECTION III: TO PROTECT & EDUCATE

The term "school safety" is not a complex legal issue. The term adds nothing to long-standing prohibitions against the many forms of campus misconduct. Courts and local child-welfare agencies stand ready to serve the needs of children. Educators, students, parents, law-enforcement, social-services agencies, legislators, and courts recognize the unique role SROs play in improving community safety and educational quality across the country.

However, as a matter of policy, "school safety" presents an enormous challenge to educators to find the right formula for preserving campus in a manner that protects students and the school climate without making every disruption a criminal case. Legislators, federal and state, have recently begun to show impatience with educators by passing laws that dictate rules for addressing misconduct such as bullying, cyber bullying, suspensions, and expulsions. This reform suggests that if campuses are to be free from an unsafe climate (the primary mission of the school safety movement), then misconduct in all forms should be treated as a violation of the rights of students to a public education and trigger a prompt, consistent, documented response.

When campus threats and violence thrive, it is usually because the safe schools team has lost its resolve to intervene or has become timid about its assessments in the face of debates about what the laws allows. But the right to a safe school is a human rights issue, not to be trivialized by polemics that have forgotten what it is like to be a child in school without protection. Delaying or interfering with a response to nurturing a child—even one at-risk or involved in delinquency—is itself a criminal matter. It should be seen as an abuse of discretion at best and, at worst, obstruction of justice and a violation of the victim's right to an education.

The decision to place SROs on campus is a community-based response to the need to keep our children safe and provide an orderly learning environment. Educators, students, parents, legislators, and courts all welcome the collaboration, which has proven successful across the country. And good school safety is based on trust and positive relationships including those between faculty, school administrators, parents, and law enforcement.¹⁵³

As public-school budgets shrink, communities must not lose sight of the value of SRO programs in their schools. The long-term costs of discontinuing SRO programs far outweigh the savings. It goes without saying that a cost cannot be placed on keeping children safe and secure at school. Improvements in campus-safety and juvenile-crime statistics that have accompanied the proliferation of SRO programs must be kept in mind when valuing every local SRO program. Eliminating or marginalizing SRO programs merely shift the burden and raise the risk of victimization; significant staff time must still be dedicated to safety planning, investigations of misconduct, student discipline, and campus security. And the efficiency of a trained law-enforcement professional familiar with the school and engaged with its students is lost when an SRO is lost. Significant, costly liability issues can also arise; there is nothing but trouble for educators who implement policies that expose students to greater risks of victimization.

The weight of the evidence show that collaboration between school officials and school resource officers is an example of these strategies put to effective use in preserving the campus from disruptive forces while nurturing and protecting youth who are compelled to attend school. Collaboration between school officials and school resource officers is an essential component to preserving the right of boys and girls to attend schools that are secure and peaceful.



Endnotes

Summary

- 1 Debbit Vaught, *School Resource Officers Make a Difference*, HERALD AND NEWS (March 31, 2012), available at http://www.heraldandnews.com/members/forum/guest_commentary/article_2c4c7532-7b9f-11e19b27001a4bcf887a.html (quoting Klamath County Sheriff's Detective, former SRO, and juvenile justice specialist Bill Rosario).

Introduction

- 2 NATIONAL CENTER FOR EDUCATION STATISTICS & BUREAU OF JUSTICE STATISTICS, *Indicators of School Crime and Safety: 2011* (2011), <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2012002> [hereinafter *Indicators*].
- 3 *Id.*
- 4 U.S. DEPT. OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, *Juvenile Offenders and Victims: National Report Series, Juvenile Arrests 2009* (Dec. 2011), <http://www.ojjdp.gov/pubs/236477.pdf> [hereinafter *Juvenile Offenders and Victims*].
- 5 Connie Mulqueen, "School Resource Officers More Than Security Guards," *American School & University*, July 1999, v71 i11 pS17.
- 6 Marty L. West & John M. Fries, *Campus-Based Police/Probation Teams -- Making Schools Safer*, *CORRECTIONS TODAY*, Aug. 1995, at 144.
- 7 During the 1990s the trial of campus rampages included: Grayson, Kentucky (1993), Lynnville, Tennessee (1995), Blackville, South Carolina (1995), Redlands, California (1995), Moses Lake, Washington (1996), Bethel, Alaska (1997), Pearl, Mississippi (1997), West Paducah, Kentucky (1997), Jonesboro, Arkansas (1998), Edinboro, Pennsylvania (1998), Fayetteville, Tennessee (1998), Springfield, Oregon (1998), Richmond, Virginia (1998), Deming, New Mexico (1999), and Littleton, Colorado (1999). See Robert C. Cloud, *Federal, State, and Local Responses to Public School Violence*, 120 ED. LAW REP. 877 (1997). See also, Landra Ewing, *When Going to School Becomes an Act of Courage: Students Need Protection from Violence*, 36 BRANDEIS J. FAM. L. 627 (1997-98).
- 8 See generally, *Ten Years after Columbine: 1999 – 2009, School Violence-Prevention Report Card*, COMMUNITY MATTERS (2009), <http://www.community-matters.org/downloads/ColumbineSchoolViolenceReportCardExecutiveSummary.pdf>.
- 9 *Juvenile Offenders and Victims*, *supra* note 4.
- 10 NATIONAL SCHOOL SAFETY CENTER, *Report on School Associated Violent Deaths* (2009), <http://www.schoolsafety.us/media-resources/school-associated-violent-deaths>.
- 11 *Youth Risk Behavior Surveillance--United States 2009*, MORBIDITY AND MORTALITY WEEKLY REPORT (June 4, 2010), www.cdc.gov/mmwr/pdf/ss/ss5905.pdf.
- 12 *Indicators*, *supra* note 2.
- 13 David-Ferdon C, Hertz MF. "Electronic Media, Violence, and Adolescents: An Emerging Public Health Problem." *Journal Adolesc Health*, 2007, v41(6 Suppl 1):S1–5.
- 14 See *infra* citations and text accompanying note 34.
- 15 See *infra* citations and text accompanying note 35.
- 16 See *infra* citations and text accompanying note 36.

17 See *infra* citations and text accompanying note 37.

18 See *infra* citations and text accompanying notes 46 and 47.

19 See *infra* citations and text accompanying notes 45.

20 See *Education Under Arrest: The Case Against Police in Schools*, JUSTICE POLICY INSTITUTE (Nov. 2011), <http://www.justice-policy.org/research/3177>, at 17-20 [hereinafter *The JPI Report*]; *Zero Tolerance in Philadelphia*, YOUTH UNITED FOR CHANGE & ADVANCEMENT PROJECT (2011), <http://www.advancementproject.org/digital-library/publications/zero-tolerance-in-philadelphia-denying-educational-opportunities-and-cr>, [hereinafter “Zero Tolerance in Philadelphia”]; *Reclaiming Michigan's Throwaway Kids: Students Trapped in the School-to-Prison Pipeline*, ACLU OF MICHIGAN (2009), <http://aclumich.org/issues/student-rights/2009-06/1379>, accessed 5/31/2012.

21 *The JPI Report* at 17.

22 *Id.*

23 *Id.* at 19.

24 *Id.* at 19-20 (relying on Zero Tolerance in Philadelphia).

25 The branches of the JPI whipping stick contain only the following assessment themes: (1) There are too many police in schools; (2) SROs result in increased referral rates to the juvenile justice system; (3) School crime is lower without SROs; (4) SROs foster a violent climate; and (5) School violence will improve without SROs.

26 See *The JPI Report* at 9-12 (focusing on models that promote high structure and reliance on supportive adults, both of which SRO programs provide, as discussed in Part II below).

27 *Id.* at 21 (“No data exists showing that SROs arrest youth of color more often than white students.”).

Part I: Interagency Collaboration: From Child Welfare Reform Law to the School-Safety Team

28 See R.I. Gen Laws §16-21.5-1 (2012). This section contains the intent of the legislature on encouraging a balanced use of school resource officers in maintaining school safety. Subsection (b) of the law states that; “it is the intent of the legislature to encourage [SROs] to form positive relationships with both parents and pupils who are part of the school community.”

29 “Intervention in family violence cases cannot be limited to the criminal justice system. There must be a strong, coordinated effort by the criminal justice system, victim assistance agencies and the entire community....the efforts of health facilities, educational institutions and service providers from numerous fields must be carefully coordinated.” Hart, et. al., *Family Violence: Attorney General's Task Force Final Report*, U.S. DEP'T OF JUSTICE, 14-15 (1984).

30 See, 42 U.S.C. § 5106a(b)(3)(E) (2010). The Child Abuse Prevention and Treatment Act (CAPTA) was enacted in 1974. See P.L. 93-247 (1974). The interagency emphasis has prompted successive amendments, beginning in the Child Abuse Prevention, Adoption and Family Services Act of 1988. P.L.100-294 (1988). It has been reauthorized and expanded over time. Congressional findings state: “The problem of child abuse and neglect requires a comprehensive approach that:

- A. integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;
- B. strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;
- C. emphasizes the need for abuse and neglect prevention, assessment, investigation, and treatment at the neighborhood level;
- D. ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and
- E. is sensitive to ethnic and cultural diversity.

31 See, Sedlak, A.J., Gragg, F., Schultz, D.J., and Wells, S.J. (1996): *Detailed case tracking study. In Justice System Processing of Child Abuse and Neglect Cases: Final Report* (Prepared under a grant from the National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice). Washington, DC: American Bar Association. See also, Zellman, G. L. (1990). *Child Abuse Reporting and Failure to Report Among Mandated Reporters: Prevalence, Incidence, and*

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Reasons. Journal of Interpersonal Violence, 5, 3-22. As to the impact of this reform on public school Mission Statements, see, this example in the Robert Abbott Accelerated Middle School in Waukegan, IL:

The multi-ethnic community, parents, business partners, administrators, students, and staff work together to create an academic, physical, emotional, social, and safe environment where everyone can learn and respect one another. We Care about ourselves and others to create, support and maintain powerful, engaged learning in the Arts and Sciences. We Dare to use innovative techniques to enhance lifelong learning through technology, the multiple intelligences, varied instructional strategies, and interdisciplinary units. We Share our cultural backgrounds to nurture growth, responsibility, and productivity by celebrating our diversity within a positive school-wide atmosphere and by promoting sportsmanship, school spirit, and pride in ourselves through our daily studies and our educational accomplishments.

School Mission, ROBERT ABBOTT MIDDLE SCHOOL (July 7 2012), <http://schools.wps60.org/abbott/mission.html>. Another example of a child welfare-focused Mission Statement is from the Freeport Maine Public Schools:

The Freeport Middle School exists to serve the unique academic, physical, social, and emotional needs of students who are in a special and critical period of their lives as they change from childhood to adolescence. The staff of Freeport Middle School is committed to creating and maintaining an orderly, trusting, and caring environment where teaching and learning are exciting and students are assisted as they develop responsibility. All aspects of the school's organization, curricular, and cocurricular activities are child centered and designed to accommodate individual learning styles so that all may experience success.

FREEMONT MIDDLE SCHOOL, <http://fms.rsu5.org/> (last visited July 7, 2012).

- 32 See, Sedlak, A.J., Gragg, F., Schultz, D.J., and Wells, S.J., *supra* note 4. Every state now addresses child welfare on the broadest possible terms. For example, California law, defines “child abuse” broadly enough to support the efforts of a wide range of community based, interagency programs. The term “child abuse” includes: Serious physical injury inflicted upon the child by other than accidental means; harm by reason of intentional neglect or malnutrition or sexual abuse; going without necessary and basic physical care; willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services; and any condition which results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child's present or future health, opportunity for normal development or capacity for independence. CAL WEL & INST CODE § 18951(e) (2012). The term “abuse” as used in the Texas law includes: “(A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning; (B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning; (C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm; (D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child; (E) sexual conduct harmful to a child's mental, emotional, or physical welfare; (F) failure to make a reasonable effort to prevent sexual conduct harmful to a child; (G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code; (H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic; (I) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child; or (J) causing expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code.” Tex. Fam. Code § 261.001 (2012).

- 33 For example, see, REV. CODE WASH. § 43.70.545:

The department of health shall develop, based on recommendations in the public health services improvement plan and in consultation with affected groups or agencies, comprehensive rules for the collection and reporting of data relating to acts of violence, at-risk behaviors, and risk and protective factors. The data collection and reporting rules shall be used by any public or private entity that is required to report data relating to these behaviors and conditions. The department may require any agency or program that is state-funded or that accepts state funds and any licensed or regulated person or professional to report these behaviors and conditions. To the extent possible the department shall require the reports to be filed through existing data systems. The department may also require reporting of attempted acts of violence and of nonphysical injuries. For the purposes of this section

"acts of violence" means self-directed and interpersonal behaviors that can result in suicide, homicide, and nonfatal intentional injuries. "At-risk behaviors," "protective factors," and "risk factors" have the same meanings as provided in RCW 70.190.010. A copy of the data used by a school district to prepare and submit a report to the department shall be retained by the district and, in the copy retained by the district, identify the reported acts or behaviors by school site.

See also, *The California Gang, Crime, and Violence Prevention Partnership Program*, CAL PEN CODE §13825.4:

[I]n carrying out a program of prevention and intervention services and activities with funds received under this chapter, community-based organizations and nonprofit agencies shall... (1) Collaborate with other local community-based organizations, nonprofit agencies or local agencies providing similar services, local schools, local law enforcement agencies, residents and families of the local community, private businesses in the local community, and charitable or religious organizations, for purposes of developing plans to provide a program of prevention and intervention services and activities,...(3) Follow the public health model approach in developing and carrying out a program to prevent, deter or reduce youth gangs, crime or violence by (A) identifying risk factors of the particular population to be targeted, (B) implementing protective factors to prevent or reduce gangs, crime or violence in the particular community to be serviced, and (C) designing community guidelines for prevention and intervention.

Finally, see A.I. Melaville & M.J. Blank, Washington, DC: Education and Human Services Consortium, *"What It Takes: Structuring Interagency Partnerships To Connect Children and Families With Comprehensive Services."* (1991).

34 An interstate compact is a congressionally approved agreement between two or more States. See U.S. CONST. Art. I, § 10. The compact serves as memorandum of understanding and administrative guide to coordinate activities between the officials of the agencies of the member States. The Interstate Compact for Juveniles, enacted in 1955 and reauthorized in 2000 and 2008, coordinates interstate and interagency activities for all 50 states and the territories. Each state has passed legislation to formalize its collaboration. The Council of State Governments, in cooperation with the U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention, supervises the compact. Its scope includes (1) the monitoring, supervision, and return of juveniles who have run away from home, (2) delinquents and status offenders who are on probation or parole and who have absconded, escaped, or run away. The National Center for Missing & Exploited Children (NCMEC) is authorized by Congress to coordinate much of this activity. See 42 U.S.C. § 5773.

35 Jurisdictions in all 50 states have implemented child and family welfare programs under the multi-disciplinary theme. For example, see Massachusetts child welfare law reform emphasis in its Office of the Child Advocate:

The comprehensive plan shall examine the status of and address the following issues:-- (6) the identification, assessment, and treatment of physical abuse, sexual abuse, neglect, emotional abuse and neglect and factitious illness by proxy; multi-disciplinary training with law enforcement, state and local agencies and child advocacy centers; collection of forensic evidence; court testimony; research; and child advocacy.

Mass. Ann. Laws ch. 18C sec. 11 (d).

See also, Tennessee child welfare law reform:

All recipients of funding from the child abuse fund and its subsidiary funds, the child advocacy centers fund, the CASA fund and the child abuse prevention fund, shall collaborate with each other and also with the department of children's services, the department of children's services' child abuse prevention advisory committee, the child sexual abuse task force established by § 37-1-603(b)(1), the commission on children and youth, the governor's office of children's care coordination, and other appropriate state and local service providers in the planning and implementation of multi-disciplinary, multi-agency approaches to address child abuse, including primary, secondary and tertiary child abuse prevention, investigation and intervention in child abuse cases, and needed treatment and timely permanency for victims of child abuse.

TENN. CODE ANN. § 39-13-530(i).

For a compelling proposal to extend the collaborative model to elderly care law reform, see, Senator John B. Breaux & Senator Orrin G. Hatch, *Confronting Elder Abuse, Neglect, and Exploitation: The Need for Elder Justice Legislation*, 11 ELDER L.J. 207 (2003).

[B]ecause each state has its own distinct way of approaching ... mistreatment issues, it is equally important that there be coordination at the state level, and often at the local level as well.

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.... Cross-training or multi-disciplinary training permits individuals from a variety of fields to learn together. Cross-training also fosters communication and coordinated efforts and lays the foundation for collaboration among diverse individuals and groups.

See also, Marcia Sprague, Mark Hardin, *Coordination Of Juvenile And Criminal Court Child Abuse And Neglect Proceedings*, 35 U. of Louisville J. of Fam. L. 239 (1996/1997). See, Victor I. Vieth, *When the Child Abuser is a Child: Investigating, Prosecuting and Treating Juvenile Sex Offenders in the New Millennium*, Fall, 25 Hamline L. Rev. 47 (2001). See, Nancy Ver Steegh, *Differentiating Types of Domestic Violence: Implications for Child Custody*, 65 La. L. Rev. 1379 (2005). See, Patrick Geary, *Juvenile Mental Health Courts and Therapeutic Jurisprudence: Facing the Challenges Posed by Youth with Mental Disabilities in the Juvenile Justice System*, 5 Yale J. Health Pol'y L. & Ethics 671 (2005). Finally, see B. Kahn, P. O'Donnell, J. Wernsman, L. Bushell, and A. Kavanaugh, *The American Bar Association's Youth At Risk Initiative: Making The Connection: Legal Advocacy and Mental Health Services*, 45 Fam. Ct. Rev. 486 (2007).

36 For example, see the Kentucky Local juvenile delinquency prevention council statute:

The duties and responsibilities of a juvenile delinquency prevention council shall include but not be limited to: (a) Developing a local juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department for Community Based Services, the Administrative Office of the Courts, and others in a cooperative and collaborative manner to prevent or discourage juvenile delinquency and to develop meaningful alternatives to incarceration; (b) Entering into a written local interagency agreement specifying the nature and extent of contributions that each signatory agency will make in achieving the goals of the local juvenile justice plan; (c) Sharing of information as authorized by law to carry out the interagency agreements.

KY. REV. STAT. ANN. §15A.300 (LexisNexis 2012).

See also, the Louisiana Juvenile Delinquency and Gang Prevention Council:

Each gang prevention council shall have the following powers and duties: (1) Develop and implement a delinquency prevention plan for the provision and coordination of delinquency programs and services to meet the needs of the communities represented in the district. (2) Advise and assist the judicial administrators or other local officials in the provision of optional, innovative delinquency services in the district to meet the unique needs of delinquent children. (3) Develop, in consultation with the Law Enforcement Planning District Advisory Council, funding sources external to the commission for the provision and maintenance of additional programs and services in the district for delinquent children and their families in consultation with the Juvenile Justice and Delinquency Prevention and Advisory Board. The Juvenile Delinquency and Gang Prevention Advisory Board may apply for and receive funds, under contract or other funding arrangement, from federal, state, parish, city, and other public agencies, and from public and private foundations, agencies, and charities for the purpose of funding optional, innovative prevention, diversion, or treatment services in the district to meet the unique needs of delinquent children."

LA. REV. STAT. ANN. § 15:1426 (2012).

See finally, the New Jersey Juvenile Justice Commission:

The commission shall have the following powers, duties and responsibilities: (4) To enter into contracts and agreements with State, county and municipal governmental agencies and with private entities for the purpose of providing services and sanctions for juveniles adjudicated or charged as delinquent and programs for prevention of juvenile delinquency.

N.J. REV. STAT. §§ 52:17B-170 (2012).

See, G. Resnick & M.R. Burt, *Youth at-Risk: Definitions and Implications for Service Delivery*. 66 AM. J. OF ORTHOPSYCHIATRY 172-88 (1996). See also, B. James, *School Violence and the Law: The Search for Suitable Tools*, 23(2) SCH. PSYCHOL. REV. 190-203 (1994).

37 For examples, see Alabama: ALA. CODE § 16-1-44 (2012); Arizona: ARIZ. REV. STAT. § 15-154 (2012); California: CAL ED CODE § 32281 (2012); Colorado: COL. REV. STAT. §§ 22-32-109.1 and 24-33.5-1213.4 (2012); District of Columbia: D.C. CODE § 5-132.02 (2012); Georgia: GA. CODE ANN. § 20-2-1185 (2012); Illinois: 105 ILL. COMP. STAT. 128/25 (2012); In-

diana: IND. CODE § 5-2-10.1-10 (2012); Kentucky: KY. REV. STAT. ANN. § 158.445 (2012); Louisiana: LA. REV. STAT. ANN. 17:416.16 (2012); Michigan: MICH. COMP. LAWS § 380.1310a (2012); Mississippi: MISS. CODE ANN. § 37-3-83 (2012); New York: N.Y. EDUC. LAW § 2801-a (McKinney 2012); Rhode Island: R.I. GEN. LAWS § 16-21-24 (2012); South Carolina: S.C. CODE ANN. § 59-5-65; Tennessee: TENN. CODE ANN. § 49-6-804; Virginia: Va. Code Ann. § 22.1-279.8; Washington: ARCW § 28A.320.125; Wisconsin: Wis. Stat. § 118.07.

See also, Washington State law on campus safety plans for higher education:

The campus safety plan shall include, for the most recent academic year: (i) A description of programs and services offered by the institution and student-sponsored organizations that provide for crime prevention and counseling. (4) (a) Each institution shall enter into memoranda of understanding that set forth responsibilities for the various local jurisdictions in the event of a campus emergency. (b) Each institution shall enter into mutual aid agreements with local jurisdictions regarding the shared use of equipment and technology in the event of a campus emergency. (c) Memoranda of understanding and mutual aid agreements shall be updated and included in campus safety plans.

WASH. REV. CODE § 28B.10.569 (2012).

See California Welfare and Institution Code § 830.1, which authorizes collaboration by a community safety multi-disciplinary team. School administrators legally exchange information with other agencies in the prevention, identification, control of juvenile crime or criminal street gang activity for the purpose of school safety.

See finally, the San Jose, California Safe School Campus Initiative - a city-wide collaborative effort to assist schools in the prevention, the identification and the control of juvenile crime and criminal street gang activities. Joe M. Nguyen, *Safe School Campus Initiative: A Collaborative Effort On-line at Hamilton Fish Institute* (July 9, 2012), <http://gwired.gwu.edu/hamfish/AnnualConference/2007/>.

- 38 See J.K. Wiig, with J.A. Tuell, *Guidebook for Juvenile Justice and Child Welfare System Coordination and Integration: Framework for Improved Outcomes*, CHILD WELFARE LEAGUE OF AMERICA (2008). See John A. Tuell, *Promoting a Coordinated and Integrated Child Welfare and Juvenile Justice System: An Action Strategy for Improved Outcomes*, CHILD WELFARE LEAGUE OF AMERICA (2003). See also, Herz et al, *Addressing the Needs of Multi-System Youth: Strengthening the Connection between Child Welfare and Juvenile Justice*, GEORGETOWN PUBLIC POLICY INSTITUTE'S CENTER FOR JUVENILE JUSTICE REFORM (2012).
- 39 See Harland & Harris, *Prison Crowding: Developing and Implementing Alternatives to Incarceration: A Problem of Planned Change In Criminal Justice*, 1984 U. ILL. L. REV. 319 (1984) ("Clear preference is given for broad participation in initiating the change process, deciding the characteristics of the innovation, and controlling the changes to be made. [C]ollaborative decision making leads to more effective implementation."). See also, Waugh Jr., *The Political Costs of Failure in the Katrina and Rita Disasters*, 604 ANNALS 10,11 (2006) ("Poor implementation of emergency plans, poor communication, and poor decision processes were evident in the lack of congruence between conditions "on the ground" in the disaster areas and local, state, and national decision making."); Rosenzweig, *Civil Liberty and the Response to Terrorism*, 42 DUQ. L. REV. 663, 687 (2004) ("[Collaboration] in effect, tear[s] down an artificial "wall" that existed between law enforcement and intelligence agencies and permit their cooperation. ... The wall had some very negative real-world consequences."); McCarthy-Brown & Waysdorf, *Katrina Disaster Family Law: The Impact of Hurricane Katrina on Families and Family Law*, 42 IND. L. REV. 721, 765 (2009) ("[I]n the future courts and judges across the nation should aim to be deliberate and empathetic in flexibly applying existing family laws in the wake of a disaster. They should plan on closely collaborating with social service and relief agencies during and after the disaster. Legislatures should also plan ahead for such a crisis that necessarily will involve the judicial system."); Moore & Tonry, *Youth Violence in America*, 24 CRIME & JUST. 1, 24 (1998) ("It is also discouraging to learn how crippled and uncertain are two social institutions that should be on the front line of the battle: namely, schools and the juvenile justice system."); D. Mendonca & W. Wallace, *Studying Organisationally-Situated Improvisation in Response of Extreme Events*, 22 Int. J. of Mass Emergencies and Disasters 2 (2004); A. Dantas et al., *Information Sharing During Disaster: Can We Do Better?*, FOUNDATION FOR RESEARCH SCIENCE AND TECHNOLOGY (2006).
- 40 P.H. Tolan et al., *A Developmental-Ecological Perspective On Antisocial Behavior in Children and Adolescents: Toward a Unified Risk and Intervention Framework*, 63 J. of Consulting and Clinical Psy. 4 (1995). John J. Wilson & James C. Howell, *Serious and Violent Juvenile Crime: A Comprehensive Strategy*, 45 JUV. & FAM. CT. J. 2 (1994). MICHAEL D. NEWCOMB & PETER M. BENTLER, CONSEQUENCES OF ADOLESCENT DRUG USE: IMPACT ON THE LIVES OF YOUNG ADULTS (1988). D. Prothrow-Stith & S. Quaday, *Hidden Casualties: The Relationship Between Violence and Learning*, WASHINGTON, DC: NATIONAL HEALTH & EDUCATION CONSORTIUM AND NATIONAL CONSORTIUM FOR AFRICAN AMERICAN CHILDREN, INC. ED 390, 552 (1995).
- 41 JAMES Q. WILSON, BUREAUCRACY: WHAT GOVERNMENT AGENCIES DO AND WHY THEY DO IT (2006). I.J. Sagatun & L. P. Edwards, *The Disposition of Juvenile Records: An Interagency Comparison*, 39 JUV. & FAM. CT. J. 37-45. (1988).

HAROLD SEIDMAN, COORDINATION: THE SEARCH FOR THE PHILOSOPHER'S STONE, POLITICS, POSITION, AND POWER: THE DYNAMICS OF FEDERAL ORGANIZATION (5th ed. 1998). John M. Kamensky, *Regulatory Partnerships: Good or Bad?*, THE BUSINESS OF GOVERNMENT (2010). UNLOCKING THE POWER OF NETWORKS: KEYS TO HIGH-PERFORMANCE GOVERNMENT (Goldsmith et al., eds., 2009). Allen Schick, The Coordination Option, FEDERAL REORGANIZATION: WHAT HAVE WE LEARNED? 85-113 (Peter Szanton, ed., 1981). David G. Twitchell et al., Overcoming Challenges to Successful Interagency Collaboration, 46 PERFORMANCE IMPROVEMENT 8-15 (2007).

- 42 See *Mission Statement*, MASSACHUSETTS EDUCATIONAL COLLABORATIVE OF GREATER BOSTON (July 6, 2010), http://www.edcollab.org/about_us/about_edco.html ("Improving education through interdistrict and interagency collaboration; Providing high quality education and related services to students-at-risk; and Enhancing equity, intercultural understanding and equal opportunity in education."). See *Mission Statement*, OREGON SALEM-KEIZER PUBLIC SCHOOLS STUDENT SERVICES TEAM (July 7, 2012), <http://ssc.salkeiz.k12.or.us/Prevent/YST.htm> ("[t]he Salem-Keizer Youth Services Team provides a coordinated, community-based delivery system of crisis intervention, counseling, consultation, referral and training to youth, their families and community. The Team also promotes cooperation and understanding among different agencies. The system is directed toward aiding in prevention and early intervention of delinquency and social problems among students"). See *Mission Statement*, NEW JERSEY SALEM COUNTY "BRIDGING THE GAP" COLLABORATIVE (July 7, 2012), <http://www.sc-iac.org/39001/39022.html> ("The mission of the 'Bridging the Gap' collaborative is to develop and enhance service delivery between the schools, mental health, juvenile justice, behavioral health, child protective services, and parents/guardians to improve the well being of the children in Salem County"). See *Mission Statement*, MINNESOTA CHILDREN'S MENTAL HEALTH RESOURCE CENTER OF ROCHESTER (July 7, 2012), <http://www.co.olmsted.mn.us/cs/cfs/cmh/Pages/default.aspx> ("The Children's Mental Health Resource Center is an interagency team that offers comprehensive, innovative, family focused services in order to support, empower and preserve families who have children with severe emotional and behavioral issues. The Resource Center was formed to support and preserve families and is committed to providing child-centered, family focused community based services in the least restrictive setting possible."). See also, *Mission Statement*, FLORIDA INTERAGENCY COUNCIL OF BREVARD COUNTY (July 6, 2010), <http://www.DisabilityBrevard.org> ("Through interagency collaboration, enhance the quality of life for all individuals with disabilities in Brevard County." Four task forces and their members facilitate the main goal setting and goal attainment for the council. The task force committees are: • Legislative, • Transition, • Employment, and • Marketing and Membership."). See *Mission Statement*, VIRGINIA SHENANDOAH VALLEY JUVENILE CENTER (July 6, 2010), <http://www.svjcc.org/Home.aspx> ("The Mission of Shenandoah Valley Juvenile Center is to provide a safe, secure, and clean environment for youth placed in our temporary care. SVJC will provide an environment with an emphasis on continuing and expanding the youth's education and providing proper physical and mental health services and support. The youth will have an opportunity to participate in daily physical fitness activities and be provided with nutritional meals. In meeting its mission objectives SVJC will encourage and foster interagency collaboration in support of transitioning the youth to their community or appropriate placement."). See *Mission Statement*, CALIFORNIA SAN BERNARDINO COUNTY HOMELESS PARTNERSHIP (July 6, 2010), <http://www.sbcounty.gov/SBCHP/> ("The mission of the San Bernardino County Homeless Partnership is to provide a system of care that is inclusive, well planned, coordinated and evaluated and is accessible to all who are homeless or at-risk of becoming homeless. The Partnership consists of community and faith-based organizations, educational institutions, non profit organizations, private industry, and federal, state, and local governments."). See *Mission Statement*, MINNESOTA HENNEPIN COUNTY CHILDREN'S MENTAL HEALTH COLLABORATIVE (July 6, 2010), <http://www.hccmhc.com/> ("The Children's Mental Health Collaborative (HCCMHC) is a catalyst for improving children's lives by serving as convener, coordinator, advisor and advocate for community efforts to increase access to and resources for high quality mental health services for children and families."). See Georgia local Interagency Children's Committees statute (GA. CODE ANN. § 49-5-221(2) (2012)): "As used in this article, the term: ...'Case management' means assuring continuity of services for the child and family, coordinating of services for the child and family, coordinating the interagency assessment of the child and family's needs, arranging for needed services, and linking various services and agencies." See Illinois County Juvenile Justice Councils statute (705 ILL. COMP. STAT. 405/6-12(2) (2012)): "The purpose of a county juvenile justice council is to provide a forum for the development of a community-based interagency assessment of the local juvenile justice system, to develop a county juvenile justice plan for the prevention of juvenile delinquency, and to make recommendations to the county board, or county boards, for more effectively utilizing existing community resources in dealing with juveniles who are found to be involved in crime, or who are truant or have been suspended or expelled from school. The county juvenile justice plan shall include relevant portions of local crime prevention and public safety plans, school improvement and school safety plans, and the plans or initiatives of other public and private entities within the county that are concerned with dropout prevention, school safety, the prevention of juvenile crime and criminal activity by youth gangs." See Tennessee Children's Mental Health Initiative (TENN. CODE ANN. §33-1-308 (2012)): "The commissioner shall initiate the development of and enter into interagency agreements on services and supports for children. ...The agreements shall include, without limitation: the intersection of services and supports among all state agencies that have any responsibility for mental health, developmental disabilities, alcohol dependence, drug dependence, education, health, social services, housing, transportation, employment, justice, habilitation, rehabilitation, correction, or public funding of services and supports; transition between services to different age groups; information sharing, including records, data, and service; and interagency training."

43 See Deborah Prothrow-Stith, *Strengthening the Collaboration Between Public Health and Criminal Justice to Prevent Violence*, 32 J.L. MED. & ETHICS 82, 85 (2004). ("More effective collaboration beyond the existing silos of activity and competitive strategies would greatly improve society's capacity to save children from the devastating impact of interpersonal violence. ... This tension between public health and criminal justice is unproductive. It threatens effective collaboration and frustrates the opportunity to pool resources and expertise at a time when resources are seriously inadequate and the problem is increasing. Healing this rift requires a more collaborative spirit"). See Barbara J. Zabawa, *Making the Health Insurance Flexibility and Accountability (HIFA) Waiver Work Through Collaborative Governance*, 12 ANN. HEALTH L. 367 (2003). ("Health system stakeholders have a wealth of information to offer each other in a collaborative scheme. The HIFA waiver's flexibility and emphasis on public-private coordination offers states a perfect opportunity to learn with other stakeholders and the best chance of closing the health coverage gap."). See, Hurtz et al., *Addressing the Needs of Multi-System Youth: Strengthening the Connection between Child Welfare and Juvenile Justice*, CENTER FOR JUVENILE JUSTICE REFORM AT GEORGETOWN UNIVERSITY AND ROBERT F. KENNEDY CHILDREN'S ACTION CORPS (2012). See also JUVENILE LAW CENTER *Innovation Brief: Using Diversion Fairly, Consistently, and Effectively, Models for Change* (2011).

44 *Id.*, See Herz et al., at 18.

45 See Janet K. Wiig & John A. Tuell, *supra*, note 38. See also, OREGON SCHOOL SAFETY COALITION, *How safe are Oregon schools?* (2001). See A. W. Todd et al., *Effective Behavior Support: Strengthening School-Wide Systems Through a Team-Based Approach*, EFFECTIVE SCHOOL PRACTICES 17(4) (1999). See also, Centers for Disease Control and Prevention, *The Effectiveness of Universal School-Based Programs for the Prevention of Violent and Aggressive Behavior: A Report on Recommendations of the Task Force on Community Preventive Services*, MMWR 56, RR-7 (2007).

46 All 50 states have amended the provisions on juvenile records to compliment the comprehensive reform. The declaration of the California legislature is typical:

While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, and other forms of delinquency.

CAL WEL & INST CODE § 827 (b)(1) (1999)).

See also, Illinois law:

(a) The General Assembly finds that a substantial and disproportionate amount of serious crime is committed by a relatively small number of juvenile offenders, otherwise known as serious habitual offenders. By this amendatory Act of 1992, the General Assembly intends to support the efforts of the juvenile justice system comprised of law enforcement, state's attorneys, probation departments, juvenile courts, social service providers, and schools in the early identification and treatment of habitual juvenile offenders. The General Assembly further supports increased interagency efforts to gather comprehensive data and actively disseminate the data to the agencies in the juvenile justice system to produce more informed decisions by all entities in that system; (b) The General Assembly finds that the establishment of a Serious Habitual Offender Comprehensive Action Program throughout the State of Illinois is necessary to effectively intensify the supervision of serious habitual juvenile offenders in the community and to enhance current rehabilitative efforts. A cooperative and coordinated multi-disciplinary approach will increase the opportunity for success with juvenile offenders and assist in the development of early intervention strategies.

ILL. REV. STAT. 405/1-8.1.

47 Significantly, federal law has kept pace with juvenile records reform. The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C.S. §1232g, has been amended to broaden the role of educators as information providers on interagency teams. See the Improving America's School Act of 1994 and the State law exception to FERPA, (34 CFR 99.31(a)(5) and 34 CFR 99.38). See also, J. Slayton, *Establishing and Maintaining Interagency Information Sharing*, JUVENILE ACCOUNTABILITY INCENTIVE-JAIBG BULLETIN, BLOCK GRANTS PROGRAM (2000). See M.L. Medaris et al., *Sharing Information: A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs*, PROGRAM REPORT (1997). See also, B. James, *School Violence and the Law: The Search For Suitable Tools*. 23(2) School Psy. Rev. 190–203 (1994).

48 During the 1990s the trial of campus rampages included Grayson, Kentucky (1993), Lynnville, Tennessee (1995), Blackville, South Carolina (1995), Redlands, California (1995), Moses Lake, Washington (1996); Bethel, Alaska (1997), Pearl, Mississippi (1997), West Paducah, Kentucky (1997), Jonesboro, Arkansas (1998), Edinboro, Pennsylvania (1998),

Fayetteville, Tennessee (1998), Springfield, Oregon (1998), Richmond, Virginia (1998), Deming, New Mexico (1999), and Littleton, Colorado (1999). See Robert C. Cloud, "Federal, State, and Local Responses to Public School Violence," 120 ED. LAW REP. 877 (1997). See also, Landra Ewing, *When Going to School Becomes an Act of Courage: Students Need Protection from Violence* 36 BRANDEIS J. FAM. L. 627 (1997-98).

Part II: The SRO's Role on Campus: Keeping Students Safe and Supporting the Education Mission as Law-Enforcement Officer, Teacher, and Counselor

49 Debbie Vought, *supra* note 1 (quoting Danielle Bilderback, a Klamath County Mazama High School graduate).

50 This best practice is a modest step toward the more generous collaboration that State and Federal courts now allow between educators and school resource officers. Courts have been less concerned about the issue of agency (whether collaboration makes the educator an agent of law enforcement). Instead, the controlling factor is whether "school officials" are acting to further legitimate educational interests when supervising student activity. In all but two States, the SRO is now seen as a "school official" - having been brought into the safe school environment, not as an outsider, but as a core part of the educational family. A police officer on assignment to the school as a resource officer is a school official when furthering legitimate educational interests. For example, a search of a student on school grounds by an SRO, either at the request of educators or on the officer's own initiative, is deemed an act by a school official. The courts have made it clear that this assistance neither makes the school the agent of law enforcement, nor does it violate student rights of any kind. See *Wilson v. Cahokia Sch. Dist.* # 187, 470 F. Supp. 2d 897, 910 (S.D. Ill. 2007) ("[T]he weight of authority holds... that a search of a student on school grounds by a school resource officer at the request of school officials should be deemed a search by a school employee."). See, *State of Wisconsin v. Angelia D.B.*, 211 Wis. 2d 140, 155; 564 N.W.2d 682, 688 (1997) ("Were we to conclude otherwise, our decision might serve to encourage teachers and school officials, who generally are untrained in proper pat down procedures or in neutralizing dangerous weapons, to conduct a search of a student suspected of carrying a dangerous weapon on school grounds without the assistance of a school liaison officer or other law enforcement official."). See also, *D.L. v. State*, 877 N.E.2d 500 (2007); *In re William V.*, 111 Cal. App. 4th 1464, 4 Cal. Rptr. 3d 695, 699-700 (Cal. Ct. App. 2003); *Russell v. State*, 74 S.W.3d 887, 892-93 (Tex. App. 2002); *New York v. Jameel Butler*, 725 N.Y.S.2d 534 (2001). *In re Josue T.*, 1999 NMCA 115, 128 N.M. 56, 989 P.2d 431, 436-37 (N.M. Ct. App. 1999). See slight variation of this rule in Oregon, (*State ex rel. Juvenile Dep't v. M.A.D.*, 348 Ore. 381; 233 P.3d 437 (OR 2010)). See rejection of this rule in Georgia and Washington State, the only States to place students and educators at-risk. (*State v. Scott*, 279 Ga. App. 52; 630 S.E.2d 563 (2006) and *State v. Meneese*, 174 Wn.2d 937 (2012). The result in *State v. Meneese* is influenced heavily by the interagency Memorandum of Understanding (MOU) that did not authorize the school resource officers to assist with school discipline. See discussion of the MOU, *infra*.

51 *Indicators*, *supra* note 2.

52 *Juvenile Offenders and Victims*, *supra* note 4.

53 M.T. Theriot, *School Resource Officers and the Criminalization of Student Behavior*, 37 J. CRIM. JUST. 280-287 (2009).

54 *Id.*, at 285. See also, R.A. Astor et al., *Unowned Places and Times: Maps and Interviews About Violence in High Schools*, 36 AM. ED. RES. J. 3-42 (1999). For a general assessment see, B. Brown, *Understanding and assessing school police officers: A conceptual and methodological comment*, 34 J. CRIM. JUS. 591-604 (2006).

55 *Id.*, at 284. Professor Theriot's conclusions about the role of the SRO were not positive in relation to arrests involving subjective disorderly conduct by students. However, as the objectivity and severity of the misconduct increased the impact of the presence of the SRO was significant. See comment on page 285 ("the presence of SROs at schools might deter certain behaviors").

56 Kyle Ramey, *Partners for Safety*, AM. SCH. BOARD J. 71-72. (2004).

57 I. M. Johnson, *School Violence: The Effectiveness of a School Resource Officer Program in a Southern City*, 27 J. CRIM. JUS. 173-192 (1999). ("The SRO program is fulfilling its goals and objectives, and thus, should be maintained. Considering the problem of school violence, the SRO program is one that is greatly needed. If SROs are taken out of the high schools and middle schools, there may be a sharp increase in the number of school suspensions for Class I, Class II, and Class III offenses."). *Id.*, at 190.

- 58 Johanna Wald & Lisa Thureau, *First, Do No Harm: How Educators and Police Can Work Together More Effectively to Preserve School Safety and Protect Vulnerable Students*, Charles Hamilton Institute for Racial Justice, March 2010, p. 7-8.
- 59 *Ibid.*
- 60 NORTH CAROLINA DEPT. OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE, *Annual School Resource Officer Census* http://www.ncdjjdp.org/cpsv/school_resource_officer.html (last visited July 11, 2012).
- 61 David C. May et al., *Predictors of Principals' Perceptions of School Resource Officer Effectiveness in Kentucky*, 29 AMER. J. CRIM. JUST. 1 (2004).
- 62 See, N. Hopkins, *School Pupils' Perceptions of the Police That Visit Schools: Not All Police Are "Pigs."*, 4 J. CMTY. & APPLIED SOC. PSY. 189–207 (1994). Compare with, N. Hopkins et al., *Police-school Liaison and Young People's Image of the Police: An Intervention Evaluation*, 83 British J. Psy. 203–220 (1992). I.M. Johnson, *supra* note 57, at 173-192. See Brad A. Myrystol, *Police in Schools: Public Perceptions*, 27(3) ALASKA J. FORUM 1, 5–8 (Fall 2010). However, see *contra*, Arrick Jackson, (2002) *Police-School Resource Officers' and Students' Perception of the Police and Offending*, 25 POLICING: AN INTERNATIONAL JOURNAL OF POLICE STRATEGIES & MANAGEMENT 631 – 650 (2002).
- 63 Debbie Vought, *supra* note 1.
- 64 Lt./PRO Stan Miller, South Charleston (WV) Police Dept., *Prevention, Mentoring & Safety: West Virginia's Prevention Resource Officers (PROs) Take SRO Duties a Few Steps Further*, J. SCH. SAFETY 17 (2012).
- 65 The compelling interest to maintain a safe campus corresponds to the duty to keep students safe. See *King v. Northeast Sec., Inc.*, 790 N.E.2d 474, 479 (Ind. 2003), (“the school district has a duty to take reasonable steps for the protection of its students. In immunity terms, failure to take reasonable safety precautions is not within the common law immunity for failure to prevent crime”). See also, *Travis v. Bohannon*, 128 Wn. App. 231 (Wash. Ct. App., 2005. See, *M W v Panama Buena Vista Union Sch Dist*, 110 Cal App 4th, 508, 517, 518 (2003), (“a school district has an "affirmative duty to take all reasonable steps to protect its students"). See, *Jerkins v. Anderson*, 191 N.J. 285, 306 (2007). (“Even if parents or guardians overlook their responsibility, educators have a duty of reasonable care that includes the implementation of appropriate dismissal procedures.”). See *Dunn v. Unified Sch. Dist. No. 367*, 30 Kan. App. 2d 215, (2002). *Cleveland v. Blount County Sch. District*, 2008 U.S. Dist. LEXIS 6011 (D. Tenn. 2008). *Williams ex rel. Hart. v. Paint Valley Local Sch. Dist.*, 400 F.3d 360, 364 (6th Cir. 2005)(“Where a school district has actual knowledge that its efforts to remediate are ineffective, and it continues to use those same methods to no avail, such district has failed to act reasonably in light of the known circumstances.”).
- 66 David C. May et al., *Predictors of Principals' Perceptions of School Resource Officer Effectiveness in Kentucky*, 29 AMER. J. CRIM. JUSTICE, 1 (2004).
- 67 See NEA: SAFE SCHOOLS, <http://www.nea.org/home/16364.htm> (last visited July, 12, 2012).
- 68 Peter Finn & Jack McDevitt, *National Assessment of School Resource Officer Programs Final Project Report* (2005), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/209273.pdf>.
- 69 Chief Justice Burger coined this term in his famous dissent in *Board of Education v. Pico*, 457 U.S. 853 (1982). In *Pico*, the Court struggled to determine how to review a decision made by school officials to remove certain books from school libraries. The Court decided to remand the case with instructions to the lower court on how to determine whether the school board was acting in good faith. The justices wrote a plurality of opinions, each acknowledging the degree of difficulty presented by such cases. In his view the challenge was a result of trying to harness local democratic processes:
- [T]he people elect school boards, who in turn select administrators, who select the teachers, and these are the individuals best able to determine the substance of that policy. The plurality fails to recognize the fact that local control of education involves democracy in a microcosm. In most public schools in the United States the parents have a large voice in running the school. Through participation in the election of school board members, the parents influence, if not control, the direction of their children's education. A school board is not a giant bureaucracy far removed from accountability for its actions; it is truly “of the people and by the people.” A school board reflects its constituency in a very real sense and thus could not long exercise unchecked discretion in its choice to acquire or remove books. If the parents disagree with the educational decisions of the school board, they can take steps to remove the board members from office. Finally, even if parents and students cannot convince the

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school board that book removal is inappropriate, they have alternative sources to the same end.
Id. at 891-892 (Burger, J., dissenting) (citations omitted).

70 *New Jersey v. T. L. O.*, 469 U.S. 325, 336-37 (1985).

71 *Ibid.*

72 *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 655-56 (1995). See also, *Board of Education v. Earls*, 536 U.S. 822 (2002). For a critical review of the law and literature on *in loco parentis*, see Susan Stuart, *In Loco Parentis In The Public Schools: Abused, Confused, and in Need Of Change*, 78 UNIV. CIN. L. REV. 969 (2010).

73 Brad A. Myrston, *Police in Schools: Public Perceptions*, 1 ALASKA JUST. FORUM 27(3): 1 5-8 (Fall 2010). The data also revealed that 58.8 percent of the adults disagreed or strongly disagreed with the notion that an SRO program would create additional barriers between students and police. 66.6 percent doubted that the introduction of police into schools would increase fear among students, faculty, and staff. 67.9 percent disagreed or strongly disagreed that the presence of SROs would conflict with the authority of school officials.

74 *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260, 273 (1988). For more on the connection between school safety and parental rights, see Todd A. DeMitchell, *The Duty to Protect: Blackstone's Doctrine of In Loco Parentis: A Lens for Viewing the Sexual Abuse of Students*, 2002 BYU EDUC. & L. J. 17 (2002).

75 *Indicators*, *supra* note 2.

76 *New Jersey v. T. L. O.*, 469 U.S. 325 (1985).

77 *Bd. of Educ. v. Earls*, 536 U.S. 822, 830-31 (quoting *New Jersey v. T.L.O.*, 469 U.S. 325, 350 (1985)).

78 Pub. L. No. 98-473, 98 Stat. 1837 (1984).

79 Pub. L. No. 101-647, 104 Stat. 4789 (1990).

80 Pub. L. No. 105-6, 111 Stat. 12 (1997).

81 Pub. L. No. 108-405, 118 Stat. 2260 (2004).

82 See ARK. CODE ANN. § 6-18-514 (West 2012) (providing anti-bullying policies for public schools including both physical and electronic harassment); see also CAL. EDUC. CODE § 32261 (West 2012) (allowing school officials to suspend or expel students for electronic acts of bullying).

83 Jaffe, Elizabeth M. & Robert J. D'Agostino, *Bullying in Public Schools: The Intersection Between the Student's Speech Rights and the School's Duty to Protect*, 62 MERCER L. REV. 407 (2011) (discussing the balance between students' constitutional rights and the duties of educational institutions).

84 As of 2012, all states, with the exception of Montana, have passed some type of bullying law, aiming to protect victims of bullying and help prevent incidences of harassment and violence. Further, 42 states include electronic harassment as a form of bullying, with 3 other states having recently proposed legislation. While there is no federal bullying law, policy changes have been proposed. See Hinuja, Sameer et al. *State Cyberbullying Laws: A Brief Review of State Cyberbullying Laws and Policies*, CYBERBULLYING RESEARCH CENTER (June, 2012), http://www.cyberbullying.us/Bullying_and_Cyberbullying_Laws.pdf.

85 For example, to make out a proper danger-creation claim, a student must demonstrate that (1) the school and the charged individual educators created the danger or increased the student's vulnerability to the danger in some way; (2) the student was a member of a limited and specifically definable group; (3) the school officials' conduct put the student at substantial risk of serious, immediate, and proximate harm; (4) the risk was obvious or known; (5) defendants acted recklessly in conscious disregard of that risk; and (6) such conduct, when viewed in total, is conscience shocking. See generally, the danger creation cases, *supra* note 276; *Frances-Colon v. Ramirez*, 107 F.3d 62, 64 (1st Cir. 1997); *Dwares v. City of New York*, 985 F.2d 94, 99 (2d Cir. 1993); *Kneipp v. Tedder*, 95 F.3d 1199, 1201 (3d Cir. 1996); *Pinder v. Johnson*, 54 F.3d 1169, 1175-77 (4th Cir. 1995) (en banc); *Johnson v. Dallas Indep. Sch. Dist.*, 38 F.3d 198, 200-01 (5th Cir. 1994); *Kallstrom v. City of Columbus*, 136 F.3d 1055, 1066-67 (6th Cir. 1998); *Reed v. Gardner*, 986 F.2d 1122, 1125 (7th Cir. 1993); *Gregory v. City of Rogers*, 974 F.2d 1006, 1010 (8th Cir. 1992) (en banc); *Wood v. Ostrander*, 879 F.2d 583, 589-90 (9th Cir. 1989) *Uhlrig v. Harder*, 64 F.3d 567, 572 & n. 7 (10th Cir. 1995); *Wyke v. Polk County Sch. Bd.*, 129 F.3d 560, 567 (11th Cir. 1997); *Gonza-*

les v. City of Castle Rock, 307 F.3d 1258, 1263 (10th Cir. 2002); *Christiansen v. City of Tulsa*, 2003 U.S. App. LEXIS 11858 (10th Cir. June 16, 2003).

86 *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000).

87 See *Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance*, 59 FED. REG. 11448, 11449 (March 10, 1994). A school violates Title VI when: (1) There is a racially hostile environment; (2) The district had actual or constructive notice of the problem; and (3) The district failed to respond adequately to redress the racially hostile environment.

88 A racially hostile environment is one in which racial harassment is "severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from [an education]." *Id.* at 11449. The courts have held that, it is not necessary to show physical absence from school to prove a violation of student rights. Instead, the student must show that the learning environment has been compromised such that "victim-students are effectively denied equal access to an institution's resources and opportunities." *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629, 651 (1999). See also *Zeno v. Pine Plains Cent. Sch. Dist.*, 2009 U.S. Dist. LEXIS 42848 (S.D.N.Y. May 19, 2009).

89 20 U. S. C. § 1681(a).

90 See *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999).

91 *Jackson v. Birmingham Board of Education*, 544 U.S. 167, 173 (2005).

92 See *Frazier v. Fairhaven Sch. Comm.*, 276 F.3d 52 (1st Cir. 2002) (Same-sex stalking at a high school). See *Doe v. D'Agostino*, 367 F. Supp. 2d 157 (D. Mass. 2005) (Same-sex harassment by teacher toward a student in class). See *Doe v. E. Haven Bd. of Educ.*, 430 F. Supp. 2d 54 (D. Conn. 2006) (group harassment from students of both genders). Finally, Title IX also allows parents, educators and SROs to file retaliation claims against schools when attempts to eliminate a hostile environment backfire upon them.

93 See *Jackson v. Birmingham Board of Education*, 544 U.S. 167, 173 (2005). See also, *Dawn L. v. Greater Johnstown Sch. Dist.*, 2008 U.S. Dist. LEXIS 51411 (W.D. Pa. July 2, 2008) (parents allege retaliation by school officials after reporting sexual harassment of their daughter by a teacher).

94 *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000).

95 Peter Finn & Jack McDevitt, *supra* note 20 at 42.

96 Defining what an SRO is and/or setting parameters of SRO programs, see, e.g., D.C. CODE § 5-132.01-.02 (2012), FLA. STAT. § 1006.12 (2012), K.R.S. § 158.441 (2012), LA. R.S. § 17:416.19 (2012), MD. EDUC. CODE ANN. § 26-102, TENN. CODE ANN. § 49-6-4202 (2012), TEX. EDUC. CODE § 1701.601 (2012), VA. CODE ANN. § 9.1-101, 9.1-110 (2012). Requirements for SRO training, see, e.g., LA. R.S. § 17:416.19 (2012), MISS. CODE ANN. § 37-7-321 (2012), N.J. STAT. § 18A:17-43.1 (2012), TENN. CODE ANN. § 49-6-4217 (2012), TX. EDUC. CODE § 37.205 (2012). Requiring or encouraging SRO role in school-safety planning, see, e.g., A.R.S. § 15-154 (2011), D.C. CODE § 2-1531.01 (2012), FLA. STAT. § 1006.13 (2012), BURNS IND. CODE ANN. § 5-2-6.9-10, 24 P.S. § 13-1302-A (2012), TENN. CODE ANN. § 49-6-801 et seq. (2012), UTAH CODE ANN. § 67-5-20 (2012), REV. CODE WASH. § 28A.300.2851 (2012). Treating SRO as a school official in some situations, see, e.g., A.C.A. § 6-18-513 (2012), FLA. STAT. § 856.022 (2012), 105 I.L.C.S. 5/27-23.7 (2012), R.R.S. NEB. § 79-527 (2012), N.C. GEN. STAT § 14-27.7 (2012), TEX. EDUC. CODE § 37.0021 (2012).

97 A.R.S. § 15-154 (2011).

98 D.C. CODE § 2-1531.01 (2012).

99 TENN. CODE ANN. § 49-6-802 (2012).

100 *Tinker v. Des Moines Independent Community School Dist.*, 393 U.S. 503 (1969).

101 *New Jersey v. T. L. O.*, 469 U.S. 325 (1985).

102 *Bd. of Educ. v. Earls*, 536 U.S. 822 (2002).

103 *State of Wisconsin v. Angelia D.B.*, 564 N.W.2d 682 (Wisc. 1997).

- 104 *Ibid.*
- 105 *Id.*, at 690.
- 106 *In re William V.*, 111 Cal. App. 4th 1464, 4 Cal. Rptr. 3d 695 (Ct. App. 2003), cert. den. 541 U.S. 1051 (2004).
- 107 For a sampling of decisions applying the T.L.O. standard to actions by SROs, see, e.g., *Cason v. Cook*, 810 F.2d 188 (8th Cir. 1987); *State v. Alaniz*, 2012 WL 1173764 (N.D. 2012); *In re Josue T.*, 989 P.2d 431 (N.M.App. 1999); *R.D.S. v. State*, 245 S.W.3d 356 (Tenn. 2008); *Myers v. State*, 839 N.E.2d 1154 (Ind. 2005); *In re Randy G.*, 110 Cal. Rptr.2d 516 (Cal. 2001); *State v. C.D.*, 947 N.E.2d 1018 (Ind. App. 2011); *M.D. v. State*, 65 So.3d 563 (Fl. App. 2011); *Wilson ex rel Adams v. Cahokia Sch. Dist.*, 470 F.S.2d 897 (S.D. Ill. 2007); *In re D.E.M. v. Commonwealth of Pennsylvania*, 727 A.2d 570 (P.A. Super. 1999). For examples finding that the SRO acted independently or purely for law-enforcement purposes, see, e.g., *Doe v. Little Rock Sch. Dist.*, 380 F.3d 349 (8th Cir. Ark. 2004); *Pacheco v. Hopmeier*, 770 F.Supp.2d 1174 (D.N.M. 2011); *In re T.A.S.*, 713 S.E.2d 211 (N.C. Ct. App. 2011).
- 108 *The JPI Report*, *supra*, Summary, note 19. The JPI report offers no statistical data of its own to support any of its arguments.
- 109 Even "lesser" crimes that critics allege should be handled by educators without law-enforcement involvement fail to support the track allegations as all crimes are on the decline. For example, a crime critics decry as mere prank playing that is now improperly criminalized--disorderly conduct--fell 17% between 2005-09. In California, juvenile arrest rates fell 22% between 2007-2010. *Juvenile Justice in California 2010, 2009, 2008, 2007*, CALIFORNIA DEPT. OF JUSTICE, available at <http://ag.ca.gov/cjcs/pubs.php#juvenilejustice> (last visited 5/17/2012). In Georgia, juvenile arrest rates fell 19% between 2008-2010. *2010 Summary Report Uniform Crime Reporting (UCR) Program*, GEORGIA CRIME INFORMATION CENTER, available at <http://juveniledata.georgia.gov/UCRReports.aspx>, (last visited 5/17/2012).
- 110 *Indicators*, *supra* note 2.
- 111 *Juvenile Justice in California 2010, 2009, 2008, 2007*, *supra* note 109.
- 112 *2010 Summary Report Uniform Crime Reporting (UCR) Program*, *supra* note 109.
- 113 Theriot at 284.
- 114 Theriot at 286.
- 115 Theriot at 286.
- 116 Michael P. Krezmien et al., *Juvenile Court Referrals and the Public Schools: Nature and Extent of the Practice in Five States*, 26(3) J. OF CONTEMPORARY CRIM. JUST. 273-293(2010).
- 117 *Id.*, p. 283.
- 118 *Id.*, p. 287. Two other papers are also widely cited in this debate. The Wald & Thureau paper discussed above (see footnotes 10 and 11 of this Section, is sometimes cited for the notion that SROs lack effective training and/or that their presence increases student hostility. The paper, however, merely noted that, in the opinion of the SROs and police chiefs surveyed, gaps in training can be problematic in some situations. Student attitudes were not surveyed and there was no finding regarding any cycle of hostility. In fact, the authors found that placement of SROs in schools leads to a relationship of understanding and trust that can decrease arrests. Further, the authors observed that SROs found that referrals to clerk-magistrate hearings or other forms of diversion programs more effective in changing student behavior than referrals to juvenile court.

Additionally, Mayer & Leone have been relied upon to assert that SROs lead to more disorder on campus. Matthew J. Mayer & Peter E. Leone, *A Structural Analysis of School Violence and Disruption: Implications for Creating Safer Schools, Education and Treatment of Children*, Vol. 22 No. 3 (Aug. 1999) p. 333-356. Their study analyzed data from the 1995 School Crime Supplement to the National Victimization Survey—a period well before modern SRO programs were implemented. The data analyzed does not mention SROs, but instead tracks actions of "security guards." The authors found that an approach to school safety that focused on metal detectors, locked doors, locker checks, security guards, hallway supervision by staff, and visitor sign-in procedures resulted in more disorder than a model based on student knowledge of school rules and consequences for infractions. The study did not find that security guards alone increased disorder and could not, because of its age, analyze how the modern triad approach affects levels of disorder. This approach, as previously discussed, relies heavily on the aspects of the study that were found to result in less disorder.

- 119 Judith A. Browne, *Derailed! The Schoolhouse to Jailhouse Track*, ADVANCEMENT PROJECT (2003), <http://www.advancementproject.org/digital-library/publications/derailed-the-schoolhouse-to-jailhouse-track> (last visited June 30, 2012).
- 120 *Id.*, at 14-15, 22-28.
- 121 *Id.*, at 15-16.
- 122 *Ibid.*
- 123 *FY 2010 Annual Statistical Report*, MARYLAND DEPT. OF JUVENILE SERVICES at 7, www.djs.state.md.us/pdf/2010stat_report-section1.pdf (last visited June 4, 2012).
- 124 *The State of Juvenile Probation Activity in Texas*, TEXAS JUVENILE PROBATION COMMISSION (2011) at 9, <http://www.tjjd.texas.gov/publications/reports/RPTSTAT2010.pdf> (last visited June 4, 2012).
- 125 Browne, *supra* note 119 at 18.
- 126 The JPI Report agrees: “No data exists showing that SROs arrest youth of color more often than white students.” *The JPI Report*, *supra* note 20 at 21.
- 127 *Zero Tolerance in Philadelphia*, *supra* note 20.
- 128 *Id.* at 12.
- 129 *Id.* at 12-14.
- 130 The following states are models for both child welfare law reform as well interagency collaboration through statutory authorization: California, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Montana, Oklahoma, Oregon, S. Carolina, Texas, Virginia, Washington, W. Virginia, Wisconsin, and Wyoming.
- 131 See FLORIDA CRIME PREVENTION TRAINING INSTITUTE, <http://www.fcpti.com/fcpti.nsf/pages/SROPD> (last visited July 10, 2012).
- 132 *Ibid.*
- 133 *Delinquency in Florida's Schools: A Seven-Year Study*, FLORIDA DEPARTMENT OF JUVENILE JUSTICE at iv, www.djj.state.fl.us/Research/index.html (last visited Nov. 2011).
- 134 *Id.* at 1
- 135 See *School Resource Officers: What We Know, What We Think We Know, What We Need To Know*, CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE, www.ncdijdp.org/cpsv/pdf_files/nij_sro_rpt.pdf (last visited July 11, 2012).
- 136 See CITY OF COCOA, <http://www.cocoafl.org/FAQ.aspx?QID=120>, (last visited July 11, 2012) (discussing school safety in Cocoa, Florida).
- 137 See, e.g., ALASKA STAT. § 14.33.130 (2012) (any person responsible for students, including teachers and principals, shall report student crime to law enforcement); A.R.S. § 15-515 (all school personnel shall report certain violations to law enforcement); A.C.A. § 6-17-113 (2012) (Arkansas principals weapons violations and threats to law enforcement); CAL. WEL. & INST. CODE § 503 (2012) (school districts shall report all crimes and probation violations by serious habitual offenders); CAL. ED. CODE § 48902 (2012) (principals shall notify of drug-related crimes); CAL. ED. CODE § 49602 (school counselors shall disclose information to law enforcement to aid in crime investigation); 14 DEL. C. § 4112 (2011) (requiring school employees to notify law enforcement and victim's parents of crimes); FLA. STAT. § 1006.13 (2012) (zero-tolerance law requires notification of violations to law enforcement); O.C.G.A. § 20-984.2 (2011) (requires reporting of certain crimes to school board for determination of follow-up action); 105 I.L.C.S. § 5/10-21.7 (2012) (requires reporting of all battery against school officials to law enforcement); K.S.A. § 72-89b03 (2011) (requires school boards in Kansas to report certain offenses to law enforcement); MISS. CODE ANN. § 37-11-29 (2012) (school boards to report certain crimes annually); 160.261 R.S.MO. (2012) (school administrators shall report certain crimes to law enforcement); S.C. CODE ANN. § 59-63-310 (2011) (establishing school-crime reporting form, through which law enforcement must immediately notify state attorney general of some serious crimes); VA. CODE ANN. § 22.1-279.3:1 (2012) (requires annual reporting of crime by principal to law enforcement).

138 A.C.A. § 6-17-113 (2012).

139 CAL. WEL. & INST. CODE § 503 (2012); CAL. ED. CODE § 48902 (2012).

140 105 I.L.C.S. § 5/10-21.7 (2012).

141 *Juvenile Offenders and Victims*, *supra* note 4.

142 Despite their popularity with critics of SRO programs, because few restorative discipline programs have been assessed, they suffer from a lack of statistical analysis similar to the lack of analysis SRO programs can suffer from. See Cheryl Swanson & Michelle Owen, *Building Bridges: Integrating Restorative Justice With the School Resource Officer Model*, INTERNATIONAL POLICE EXECUTIVE FORUM, (2007), available at <http://www.restorativejustice.org/10fulltext/swansoncheryl/view> (last visited June 30, 2012).

143 *Id.* at 20-25 (explaining how restorative cautioning and restorative conferencing with police officers can reduce recidivism and play a key role in restorative justice models).

Part III: Moving Forward: Affirming the Value of SROs on the Child-Welfare Team and Ensuring the Effectiveness of SRO Programs in Our Schools

144 NORTH CAROLINA DEPT. OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, CENTER FOR THE PREVENTION OF SCHOOL VIOLENCE, *What School Resource Officers do in Schools* http://www.ncdjdp.org/cpsv/sro/sros_in_schools.html (last visited May 4, 2012).

145 *Juvenile Offenders and Victims*, *supra* note 4.

146 Morbidity And Mortality Weekly Report, Vol. 59 No. Ss-5, *Youth Risk Behavior Surveillance--United States 2009*, www.cdc.gov/mmwr/pdf/ss/ss5905.pdf (last visited June 4, 2012).

147 See *State v. R.D.S.*, 2009 Tenn. App. LEXIS 440 (Tenn. Ct. App. 2009).

148 See *State v. Heirtzler*, 147 N.H. 344, 789 A.2d 634 (2001).

149 See *Hill v. Sharber*, 544 F. Supp. 2d 670 (M.D. Tenn. 2008).

150 See *C.M.M. v. State*, 983 So. 2d 704 (Fla. Dist. Ct. App. 5th Dist. 2008).

151 4 W. LaFave, *Search & Seizure* § 10.11(a), at 802-06 (3d ed. 1996).

152 9 See Spencer C. Weiler & Martha Cray, *Police at School: A Brief History and Current Status of School Resource Officers*, *The Clearing House: A Journal of Educational Strategies, Issues and Ideas* (2011) p. 162.

153 Kyle Ramey *Partners for Safety*, *American School Board Journal* (2004) p. 70.

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Ashland

WISCONSIN

ASHLAND POLICE
DEPARTMENT



601 Main Street West
Ashland, WI 54806
Phone: 715.682.7062
Fax: 715.682.7051

9-22-2020

I am writing this letter to explain the information about the School Resource Officer contract.

With the national attention on law enforcement, some are trying to paint our communities with a broad brush. It's inappropriate to compare our situation here with large urban areas and different states. $\frac{3}{4}$ of our officers grew up in this community or the surrounding area. The $\frac{1}{4}$ who didn't grow up here, have chosen this area to call home and raise families here. All of the officers here either had kids in this school district, currently have kids in this school district, or will have kids in this school district. These officers are well known to kids in the schools from volunteering in their child's classes, reading to the kids in the "Cops For Kids reading program", and coaching sports teams. The officers are usually known as "so and so's dad" and not as a scary cop.

The SRO is not wandering the halls heavily armed and ready to pounce on a misbehaving kid so he can drag them to jail. The SRO is dressed in plain clothes with a hidden weapon and has a school ID visible. It would be hard for an outsider to differentiate him from a teacher. The SRO handles a lot of things in school that aren't even documented in police records. The kids often seek out the SRO to ask for help with bullying issues, mental health issues, or problems in the home. Often when a juvenile is acting out in school, they get along well with the SRO and welcome the chance to tell their side of the story to someone who isn't a teacher or principal because they can help mediate the conflict. When an incident is severe enough where a charge is appropriate, the charge is referred to social services. It's typically not an "arrest" where the juvenile is hauled off or locked up unless there is severe violence that the parent can't handle. It's very rare where a juvenile is sent to secure detention. The referral triggers social services to get involved and the court system is supportive and not punitive. More often than not, the parent or guardian of the juvenile is asking for help and wants the referral because they need support from social services and the court.

The schools are actually busy enough to support more than one SRO. The Ashland Police Department would be responsible to handle the calls to the school even if there was not an SRO. If this position is eliminated, resources will have to come from the patrol division because the call volume isn't going to go away. The school would also lose the services the SRO provides that patrol wouldn't have the time to do if responding from the street. The school currently pays 75% of the yearly salary which equals the time spent in the school. The City pays the 25% that is left and uses the officer in the summer when there is an increased call load.

Here are the statistics for the past two years in the elementary, middle school and high school combined: School year 2019-2020 had 123 days of school (shortened because of Covid). There were 204 school calls generated in our records system. These include calls to dispatch for an officer or self-generated reports from the SRO. This doesn't include activity done by the SRO that didn't require a report. There were 5 citations issued, 8 referrals for crimes made to social services, and 1 suicidal subject was taken to the hospital for an emergency detention. In this same time period, patrol was averaging 13.6 calls M-F 7:30A-3:30P. Most days, there are only two patrol officers working during that time period so it would stretch services to add those other calls to their call load.

School year 2018-2019 had 178 days of school. There were 266 school calls in our records system. There were 25 citations issued, 20 referrals for crimes made to social services, and 3 suicidal subjects were taken to the hospital for emergency detentions. In this same time period, patrol was averaging 12.8 calls M-F 7:30A-3:30P.

A reoccurring topic that comes up in the discussions of policing is the use of social workers and mental health professionals. For those ideas to be enacted, reforms need to be made at the state level first. By state statute, law enforcement is required to make the criminal referrals to social services. Social workers don't have authority to intervene without a referral. Social workers are the ones who bring the case forward to court if needed. Similarly, mental health professionals don't have legal authority to intervene with uncooperative suicidal people. Only law enforcement officers or doctors have legal authority to take someone into placement for emergency detention. Police are still going to be called for these calls no matter how many social workers or mental health counselors are working there. Social workers and mental health counselors also won't interact with people in a volatile situation without the police for protection.

The SRO builds relationships with students that last a life time and shape their perspectives and opinions. I want to use the SRO to bring an innovative, evidence based drug prevention program into the school to educate students about the dangers of drug abuse. With methamphetamine and heroin being some of our biggest problems locally, the campaign against drugs should start in the schools.

The reason I waited to bring the contract forward so late was because nobody knew how Covid would affect the start of the school year. I felt it would be irresponsible to fill the position until I knew for sure school would go on as planned. I also worried what would happen to the contract if school was suddenly cancelled. I was assured by the school administration that they would honor the contract even if school was cancelled as long as they could use the SRO to support their staff in other ways.

The two examples given were handing out or delivering lunches and going to homes where the school was unable to reach the families about assignments. This would help them out because the teachers and other staff would be busy with their online classes. The SRO wouldn't go to homes to confront them because they aren't doing their homework. They would be going to offer support and inquire if the family needs help acquiring internet access and make sure they have the Chromebook from school so they can access their classrooms. This explanation was twisted to imply that a uniformed and armed officer would go to homes and crack down on kids not doing homework. The SRO doesn't wear a uniform and wears his weapon concealed which is stated in the contract.

Thank you for your time and consideration in this matter.



Bill Hagstrom

SUBJECT: Approve to Waive the Advertisement Requirement Set Forth in Chapter 194.04, Ashland City Ordinance, and Award a Contract to Energenecs, Inc for Supervisory Data and Acquisition Control (SCADA) Upgrades at the 6th Avenue West Lift Station (*Public Works*) Roll

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Public Works

CLEARANCES: City Administrator
Finance Director
Public Works Director
Utility Manager
City Attorney

EXHIBITS:

1. Energenecs Proposal, September 3, 2020 - Upgrading of existing 6th Avenue Pump Station
2. Energenecs Proposal, September 3, 2020 - Wastewater Treatment Plant Upgrade of Hydropneumatic Tank Controls
3. Energenecs Proposal, September 3, 2020 - Upgrade of Existing Wastewater Treatment Plant
4. Excerpt of Council Minutes, August 8, 2017

EXPENDITURES REQUIRED:

\$ 76,100.00 - 6th Avenue Lift Station
\$ 24,740.00 - Wastewater Treatment Plant Effluent Water System
\$ 88,435.00 - Pretreatment & UV Buildings
\$189,275.00 Total
\$ 18,927.50 Contingency (10%)
\$208,202.50 Project Total

AMOUNT BUDGETED: \$0

APPROPRIATION REQUIRED: \$208,202.50 - Fund 690 Equipment Replacement Fund

TREASURER'S CERTIFICATE: The Treasurer's Office has certified on September 23, 2020, that Energenecs Inc. is in compliance with the provisions of Ordinance 923.10 Ashland City Ordinances.

COMPLIANCE WITH ORDINANCE 51: N/A

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD: N/A

SUMMARY STATEMENT:

On July 27, 2017 the Common Council approved a project, funded by USDA loans, to replace and upgrade the existing Supervisory Control and Data Acquisition (SCADA) system serving much of the wastewater treatment plant (WWTP), water treatment plant and sewage lift stations. The SCADA system is an electrical and computerized control system used to assist the staff in operation of the waste water and water systems. A SCADA system is basically an industrial computer system consisting of both hardware and software components. The operators use the SCADA system to control wastewater treatment processes, monitor plant operations, and collect data for reporting using the SCADA system that ties all of the various sites around the City together.

The 2017 project was approved because the existing system had become obsolete and increasingly difficult to maintain due to scarcity of replacement parts, many of which have been discontinued by the manufacturers, and have been increasing the cost of outside programming services and internal staff time for diagnosing alarm and system failures and locating replacement parts. Replacement of the SCADA system was identified as a high priority in the Wastewater Master Plan developed in 2017 by Stand and Associates.

The 2017 project did not include the 6th Avenue West Lift Station, Pretreatment Building, and Effluent Water System at the WWTP and the above problems are still managed by Utility staff at these locations. The 6th Avenue West Lift Station is the second largest sewage pumping facility in the City and has experienced a sewage overflow in both 2018 and 2019. The cause of the overflow is primarily due to infiltration and inflow (I&I) in the system but the facility also lacks alarms for overflows or pump failure, which make it much more susceptible to an overflow than other facilities.

The Pretreatment Building houses high capacity air compressors that provide the aeration necessary to maintain the biological growth (activated sludge) that treats (ie cleans) wastewater prior to disinfection and disposal. These compressors are a highly critical component of the wastewater treatment process and the electrical controls serving the facility are obsolete and in need of replacement in order to ensure reliable wastewater treatment service.

The Effluent Water System at the WWTP reuses partially treated wastewater for use in various processes at the WWTP, which reduces the demand for potable water at the site. The system is controlled by an electrical system that is also obsolete.

The Utility Manager is requesting approval of the cost of the services necessary to design and provide replacement electrical controls systems at these locations and integrate the facilities into the new SCADA system provided by the 2017 project. The 2017 project has effectively reduced the frequency of call outs for Utility staff as well as the reliability and functionality of the WWTP water treatment plant and sewage lift stations and it is desired to extend these upgrades to the remaining facilities.

The Utility Manager is also requesting Council waive advertising requirements per City Ordinance 194 in order to allow staff to work with Energenecs, Inc. The City Attorney has concurred that this request is within the authority of the Council and is allowable per State Statutes related to procurement. The City has a long standing contract for electrical control support from Energenecs, Inc and successfully partnered with them on the 2017 project. The staff time and effort necessary to solicit proposals from other firms would be inefficient and the Utility would incur additional costs in familiarizing another firm with the SCADA system and coordinating amongst the design of two different vendors.



DATE
September 3, 2020

PROPOSAL
City of Ashland, Wisconsin

PROJECT
Upgrade of Existing 6th Avenue Pump Station
Control & Monitoring System

PREPARED FOR
Mr. Chanz Green – Utility Manager
Mr. Todd Deeth – Wastewater Foreman

6th Avenue Pump Station – Pump Control Panel:



The existing blower building process control panel contains an obsolete Consolidated Electric D520SR programmable logic controller (PLC).

Our recommendation is to program, install, and test a new modern Allen Bradley CompactLogix PLC, input/output modules and a new Allen Bradley Panelview Plus 7 (10" color) operator interface in a new control panel. The majority of equipment in this control panel would be removed from service and their functions programmed into the new Allen Bradley programmable controller.

A large number of existing control panel relays and relay sockets and other components such as intrinsic barriers would also be removed from service and upgraded. The recommended upgrade would provide new hard wired indicator lights, selector switches, run time meters in the control panel front similar to what was provided for the recently improved main lift station control panel located at the main pump station building electrical room.

The proposal includes all required programming and testing of each control and monitoring function contained in this control panel. An Allen Bradley CompactLogix PLC, Allen Bradley Panelview Plus 7 color operator interface, and Wonderware SCADA graphical software will all require programming and testing for the 6 pumps involved.

The following is included in the control system upgrade:

- Wastewater Pumps (6) – Includes all new HOA switches, status & alarm lights, run time meters
- New Endress Hauser submersible level transducer
- New backup float switches
- New Allen Bradley Micrologix 1400 backup pump controller

Pump Control Panel hardware included:

- Allen Bradley CompactLogix programmable logic controller
- Allen Bradley Panelview Plus 7 (10" color operator interface)
- Allen Bradley relay output modules as required (1)
- Allen Bradley contact input modules as required (2)
- Allen Bradley analog input modules as required (1)
- Allen Bradley analog output modules as required (2)
- SixNet dial-up model (exists and will be retained for remote communication)
- All required power supplies
- UPS System
- All new interface and control relays
- Intrinsically safe barriers for analog and contact signals requiring barriers
- All new wire terminals for landing field wiring and connection to controller and enclosure panel front components noted below
- Enclosure front HOA switches, status indicator lights, run time meters, etc.
- All control panel components professional assembled into a new floor mount NEMA 4/12 steel enclosure with properly marked wire terminals, wire markers, etc.

Proposal Includes:

- Project management & coordination
- Responsibility for control and monitoring of all existing signals that are wired in the pump control panel
- All required control & monitoring application programming (Allen Bradley CompactLogix controller)
- All required operator interface application programming (Allen Bradley Panelview Plus)
- All required programming/configuration of existing Wonderware InTouch SCADA graphical interface software at the administration building
- All required data application programming (Allen Bradley Micrologix 1400) at the wastewater treatment plant main panel to route 6th Ave PS data to the SCADA software application
- Field installation of control panel including all wiring terminations in the control panel
- Field start-up and testing including all travel costs
- As-built drawings for the new control panel
- Operator training as required to properly operate the control system
- One year parts & labor warranty for any new equipment supplied or software applications involved with the upgrade.

Proposal Excludes:

- Sales tax
- Supply & installation of any new conduit & wire
- Supply & installation of new Yaskawa model variable frequency drives, etc.
- Supply & installation of magnetic flow meters,
- The pump station would retain the existing Westinghouse model 2100 motor control center, and remote pump motor disconnects/switches

6th Avenue Pump Control Panel Upgrade Project Cost Summary

Pump Control Panel Hardware	\$37,350.00
Includes control panel assembly	
Includes Level transducer and backup float switches	
System Integration Services:	\$24,000.00
Project coordination & electrical design,	
PLC application programming, operator interface programming,	
SCADA software application programming, dialup communications,	
O&M manual as-built drawings, etc.	
Field Labor Services:	\$14,750.00
Removal of existing control panel, installation of	
new control enclosure and termination of wires, startup & testing,	
1 year warranty, as-built drawings, etc.	
Total Upgrade Cost	\$76,100.00

Please be assured that Energenecs takes 100% responsibility for implementation of reliable hardware and software for this important wastewater pump station control application.

If you have technical questions, please give me a call.

Sincerely,

Brian Akason
Energenecs

cc: Tom Robarge

414-940-1570 mobile
262-377-6360 office

I Accept this Proposal:

Name _____

Date _____



Proposal

DATE: September 3, 2020

TO: Todd Deeth
Wastewater Treatment Plant Foreman
1901 Knight Road
Ashland, WI. 54806

tdeeth@coawi.org
(4 pages)

PROJECT: Wastewater Treatment Plant
Upgrade of Hydropneumatic Tank Controls
Non-Potable Water System

Todd,

Energenecs is pleased to offer the following proposal based on my meeting with you on August 28, 2019, and our various technical discussions.

This proposal is based on providing turn-key responsibility for Energenecs to provide and install an upgraded non-potable water control system with new level sensor in the existing tank as well as new pressure controls and a new control panel.

Our approach will allow the non-potable control panel to be connected on the plant Ethernet network and be visible at the SCADA system computer.

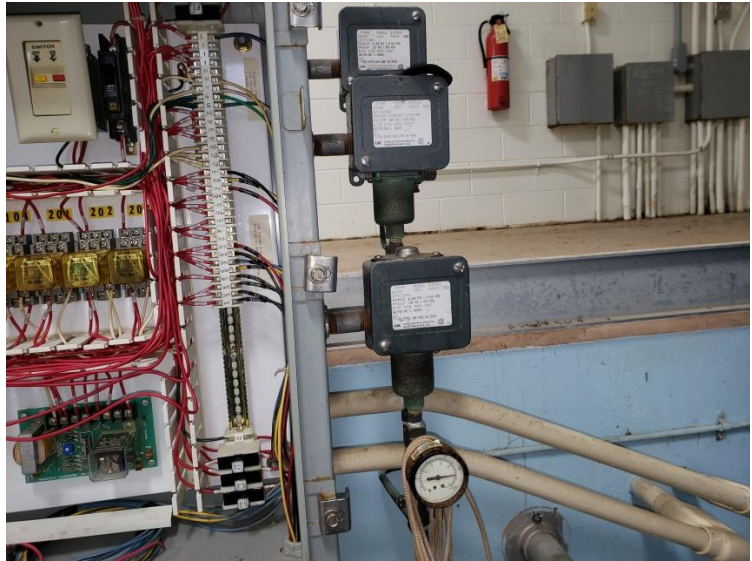
If you have technical questions, please give me a call.

Sincerely,

Brian Akason
Energenecs
414-940-1570 mobile
262-377-6360 office

cc: Tom Robarge

UV Disinfection Building – Non-Potable Water Control System:



The existing non-potable water tank has a level sensor in the vertical pipe with its associated controller in the control panel for on/off control of the non-potable water pumps. Plant air is distributed to the pressure tank at 70psi thru an add-air valve, with an air-vent valve pressure switch and pressure gauge assembly adjacent to the control panel.

Our recommendation is to install a new conductivity level probe and transmitter in the vertical pipe of the vessel for level measurement of tank level for control of the two water pumps. Also upgrade of the existing three United Electric pressure switches and pressure gauge to new units, as well as a small new control panel with terminals, relays, timers and an Allen Bradley 1400 controller

Equipment included:

- Endress Hauser Liquicap conductivity level probe and transmitter (4-20mA level signal)
- Ashcroft B series NEMA 4X pressure switches (0-100psi)
- Ashcroft Duragauge 4-1/2" pressure gauge (0-100psi)
- Allen Bradley Micrologix 1400 programmable logic controller
- Allen Bradley input/output modules as required
- NTron CAT5 Ethernet switch (connects non-potable panel to blower building fiber network)
- All required power supplies
- UPS System
- All new interface and control relays and timers for solenoid valve control
- All control panel components professional assembled into a small NEMA 4/12 steel enclosure



Proposal Includes:

- Project management & coordination
- Responsibility for control and monitoring of all existing signals that are wired in the existing non-potable control panel and system
- Panel assembly
- All required control & monitoring application programming (Allen Bradley Micrologix 1400 controller)
- All required programming/configuration of existing Wonderware InTouch SCADA graphical interface software at the administration building
- Field installation of control panel including all wiring terminations in the control panel
- Field start-up and testing including all travel costs
- As-built drawings for the new control panel
- Operator training as required to properly operate the control system
- One year parts & labor warranty for any new equipment supplied or software applications involved with the upgrade.

Proposal Excludes:

- Sales tax
- Supply & installation of any new conduit & wire
- Supply & installation of any new motor control, breakers, starters, etc.
- The non-potable system uses 120V solenoids which will remain
- Installation of our supplied flanged level sensor/transmitter
- Installation of our supplied pressure switches and pressure gauge



Non-Potable Control System Upgrade Project Cost Summary

Control Panel Hardware	\$ 3,845.00
Level Instrumentation and Pressure Switches	\$ 4,970.00
System Integration Services: Project coordination & electrical design, Panel assembly, PLC application programming, SCADA software application programming, O&M manual as-built drawings, etc.	\$ 8,725.00
Field Labor Services: Removal of existing control panel, installation of new enclosure and termination of wires, startup & testing, 1 year warranty, as-built drawings, etc.	\$ 7,200.00
<i>Total Upgrade Cost</i>	<i>\$24,740.00</i>

I Accept this Proposal:

Name _____
Date _____



DATE

September 3, 2020

PROPOSAL

Ashland Wastewater Treatment Facility City of Ashland, Wisconsin

PROJECT

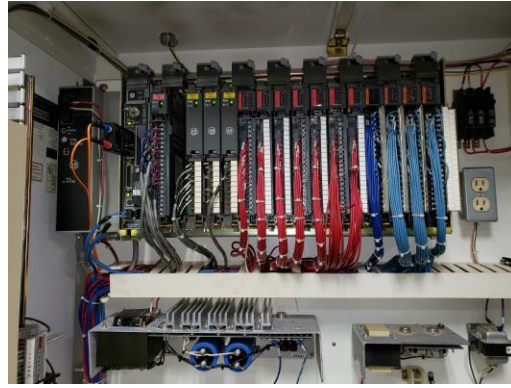
Upgrade of Existing Wastewater Treatment Plant
Blower Control & Monitoring System Panel

PREPARED FOR

Mr. Chanz Green – Utility Manager

Mr. Todd Deeth – Wastewater Foreman

Aeration Blower Building – Process Control Panel:



The existing blower building process control panel contains an obsolete Allen Bradley PLC 5/20E programmable logic controller (PLC).

Our recommendation is to program, install, and test a new modern Allen Bradley CompactLogix PLC, input/output modules and a new Allen Bradley Panelview Plus 7 (10" color) operator interface in a new control panel. The majority of equipment in this control panel would be removed from service and their functions programmed into the new Allen Bradley programmable controller.

A large number of existing control panel relays and relay sockets and other components such as intrinsic barriers would also be removed from service and upgraded. The recommended upgrade would provide new hard wired indicator lights, selector switches, run time meters in the control panel front similar to what was provided for the recently improved main control panel located in the wastewater treatment facility administration building electrical room.

The proposal includes all required programming and testing of each control and monitoring function contained in this control panel. An Allen Bradley CompactLogix PLC, Allen Bradley Panelview Plus 7 color operator interface, and Wonderware SCADA graphical software will all require programming and testing for the various processes involved.

The following processes are included in the control panel upgrade:

- Aeration Blowers (3) – Includes all new HOA switches, status & alarm lights, run time meters
- Retention Basin Pumps (5) – Includes new HOA switches, status & alarm lights, run time meters
- Retention Basin Aerators (5) – Includes new start/stop switches, run lights, run time meters
- Sludge Storage Blowers (2) - Includes new hand/off switches, run lights
- Non-Potable Water Pumps (2) – Includes all new HOA switches, run lights, run time meters
- Slide Gate - Includes new open/close/auto/off switch, open/close lights
- Grit Classifier – Includes new HOA switch, run light, run time meter
- Grit Pump – Includes new HOA switch, status & alarm lights, run time meter
- Step Screen – Includes status lights, run time meter
- Retention Basin Underdrain Pump – Includes new HOA switch, status & alarm lights, run time meter

Blower Control Panel hardware included:

- Allen Bradley CompactLogix programmable logic controller
- Allen Bradley Panelview Plus 7 (10" color operator interface)
- Allen Bradley relay output modules as required (4)
- Allen Bradley contact input modules as required (7)
- Allen Bradley analog input modules as required (2)
- Allen Bradley analog output modules as required (3)
- NTron Ethernet/fiber switch (connects PLC, Panelview and fiber network)
- All required power supplies
- UPS System (existing unit remains)
- All new interface and control relays
- Intrinsically safe barriers for analog and contact signals requiring barriers
- All new wire terminals for landing field wiring and connection to controller and enclosure panel front components noted below
- Enclosure front HOA switches, status indicator lights, run time meters, etc.
- All control panel components professional assembled into a new floor mount NEMA 4/12 steel enclosure with properly marked wire terminals, wire markers, etc.

Proposal Includes:

- Project management & coordination
- Responsibility for control and monitoring of all existing signals that are wired in the blower control panel
- All required control & monitoring application programming (Allen Bradley CompactLogix controller)
- All required operator interface application programming (Allen Bradley Panelview Plus)
- All required programming/configuration of existing Wonderware InTouch SCADA graphical interface software at the administration building
- Field installation of control panel including all wiring terminations in the control panel
- Field start-up and testing including all travel costs
- As-built drawings for the new control panel
- Operator training as required to properly operate the control system
- One year parts & labor warranty for any new equipment supplied or software applications involved with the upgrade.

Proposal Excludes:

- Sales tax
- Supply & installation of any new conduit & wire
- Supply & installation of any new motor control, variable frequency drives, starters, etc.
- Supply & installation of any new magnetic flow meters, level transducers, dissolved oxygen sensors or transmitters, air flow meters, float switches, etc.
- The blower control panel would retain the existing Flygt mini-CAS pump control modules and the existing fiber breakout enclosure and fiber optic cable/connectors
- The blower building would retain the Legacy model UPS unit

Blower Control Panel Upgrade Project Cost Summary

Blower Control Panel Hardware Includes control panel assembly	\$43,755.00
System Integration Services: Project coordination & electrical design, PLC application programming, operator interface programming, SCADA software application programming, O&M manual as-built drawings, etc.	\$26,880.00
Field Labor Services: Removal of existing control panel, installation of new control enclosure and termination of wires, startup & testing, 1 year warranty, as-built drawings, etc.	\$17,800.00
Total Upgrade Cost	\$88,435.00

Please be assured that Energenecs takes 100% responsibility for implementation of reliable hardware and software for this important wastewater treatment plant application.

If you have technical questions, please give me a call.

Sincerely,

Brian Akason
Energenecs

414-940-1570 mobile
262-377-6360 office

cc: Tom Robarge

I Accept this Proposal:

Name _____

Date _____

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Doersch moved, Pufall seconded a motion to approve final payment to David Suutala for the construction of the new Maslowski Beach well house. The motion carried unanimously by roll call vote.

Agenda Item 7G: Approve Allocation and All Five Components of USDA-RD Loans/Grants & Funding for SCADA Project Including Contracts With Brown Plumbing & HVAC, Energenecs, Inc., Xylem Water Solutions USA, Inc., Trojan Technologies, and Powrtek Engineering, Inc. (Public Works)

The Supervisory Control and Data Acquisition (SCADA) system is an electrical and computerized control system used to assist the staff in operation of the waste water and water systems. A SCADA system is basically an industrial computer system consisting of both hardware and software components. The operators control processes, monitor both plant operations, and collect data for reporting using the SCADA system that ties all of the various sites around the City together.

The existing SCADA system has becoming obsolete and increasingly difficult to maintain due to scarcity of replacement parts, many of which have been discontinued by the manufacturers, and had been increasing the cost of outside programming services and internal staff time for diagnosing alarm and system failures and locating replacement parts. The new SCADA system would resolve these issues and provide additional features to optimize both plant operations. The new SCADA system was tailored to provide full control access from various locations within the systems, expand data storage capacity, and improve data protection and backup, enhance alarms and security, improve functionality, and provide redundancy. The new system would be phased in to allow for continued operation of both facilities without interruption.

Replacement of the SCADA system was second in priority of repairs needed to the system per the Wastewater Master Plan developed by Strand and Associates. The number one priority was improvements to the final clarifier and most of these improvements were completed in 2012 during installation of the fine bubble diffuser improvements project. Remote monitoring of the system during off-shift hours would help reduce the number of overtime hours for call outs. In addition, the City had received a Notice of Noncompliance (NON) for the Turner Road lift station in the past. This NON was issued due to lack of pump controls at this station. New pumps have since been installed at this lift station and replacement of the SCADA controls would finalize needed improvements to address this noncompliant issue.

This project had been in design phase for over three years and proposed in various fashions during this time period. This proposed package was to complete the SCADA system upgrades to the level needed for the foreseeable future and included new pumps and motors for all lift stations and an Ultraviolet (UV) system.

The existing pump and motors were to be removed, cleaned, inspected and rebuilt as needed to serve as backup units. It was critical to have these backup units for lift stations which is another benefit of this proposed project. The current UV system, having approached 25 years old, was aging and inefficient to run both from a turn down mode and to the power usage per bulb. The existing UV system was to be left in place and used during high flows to ensure the City remains in compliance with the DNR on disinfection. UV disinfection treatment was the preferred method over chemical

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chlorine disinfection as a safe, environmentally-friendly and cost-effective approach to meet today's mandated requirements. It is a physical process that instantaneously neutralizes microorganisms as they pass by ultraviolet lamps submerged in the effluent. The process adds nothing to the water but UV light, therefore, has no impact on the chemical composition or the dissolved oxygen content of the water. Once passed through the UV light beams, harmful protozoa are neutralized that could find their way into the drinking water intake. UV systems by design are significant power users and the new UV system was to operate on a lower energy demand and can operate at an increased level of turn down to match effluent flows thus providing lower operating costs annually.

The proposed package had been a collaboration of many parties and was deemed to be the best approach for the City that created value in replacement of the electrical and mechanical "wear" parts for waste water system and water system controls.

The team consisted of following six groups:

1. Brown Plumbing & HVAC, Inc. for the Electrical and Mechanical Work on the Control Systems Infrastructure Improvement Project,
2. Energenecs, Inc. for the Control System Upgrades and Control Panels,
3. Xylem is providing motors and pumps for the lift stations,
4. Trojan Technologies for the new TrojanUV3000PLUS system,
5. Powrtek Engineering, Inc. for Electrical Engineering Services for the Supervisory Control and Data Acquisition (SCADA) Project
6. City staff to assist in project coordination, razing project specified equipment, providing funding source, working with USDA, administration and Council support for the project, and tracking project for reporting and final close out.

The field construction work was advertised for bids and three bids were received that ranged from \$459,318.12 to \$531,368.12. Brown Plumbing & HVAC, Inc. of Ashland had the lowest bid and was selected as the approved general contractor.

The City has had a long standing contract for control support from Energenecs, Inc. Energenecs had been instrumental in researching the existing system and identifying areas of improvement and benefits to the proposed upgrades. Energenecs along with Powrtek were chosen by the City initially who studied the existing system, provided options that were discussed with City staff and ultimately furnished the upgrade proposal that was presented for this Council agenda item. Their scopes were expanded during this process to provide additional research and options and finally to provide all necessary engineering, panels, control logic, field installation support, control startup services, and training that would result in a fully functional system and trained staff.

Xylem was chosen early on in the process to provide a quality pump and standardize the pumps used throughout the lift stations for the City.

The existing UV system was a Trojan model and it was determined that replacement with a new but similar size unit was the best value for the City for controls and channel sizing aspects.

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Powrtek's original contract, as noted, expanded to include design work for an expanded scope of work to utilize the USDA funding, completed the bidding documents to USDA standards, obtained bids, evaluated bids, supported field installation work, attended monthly progress meeting and approved contractor pay applications. Powrtek included in their revised fee proposal, copy attached, a two page summary of the existing contract with changes in blue and a second page of additional items added for the expanded scope in red.

The SCADA project had been several years in the making. In addition to addressing control problems and logic issues, the new equipment with variable frequency drives (VFDs) was to reduce power consumption since VFD drives match the motor/pump speed to the current flow rather than running at 100% rpm. The VFD drives was also to improve the Utility electrical power factor which allowed Xcel to switch these facilities to a lower rate. The turn down ratio on the UV system was greater than the existing unit and had a lower bulb power draw. When combined, these improvements generated significant electrical power savings annually since these systems run 24/7/365 days per year and for all future years as well.

Staff recommended approval so that outdoor electrical and concrete work would be completed in the fall of the current year and long lead equipment (the pumps, motors and UV system) could be ordered and installed in the fall/winter during lower flow periods for the waste water and water facilities.

Agenda Item 7G1: Approval of Bid to Brown Plumbing & HVAC, Inc. for the Electrical and Mechanical Work on the Control Systems Infrastructure Improvement Project

Agenda Item 7G2: Approve the Agreement with Energenecs, Inc. for the Control System Upgrades Required as Part of the Control Systems Infrastructure Improvement Project

Agenda Item 7G3: Approval to Purchase Pumps and Motors From Xylem Water Solutions USA, Inc. as Part of the Control Systems Infrastructure Improvement Project

Agenda Item 7G4: Approval to Purchase From Trojan Technologies a New TrojanUV3000PLUS System as Part of the Control Systems Infrastructure Improvement Project

Agenda Item 7G5: Approve Contract Amendment With Powrtek Engineering, Inc. for Electrical Engineering Services for the Supervisory Control and Data Acquisition (SCADA) Project

Lewis noted that this project had been budgeted for when it was initially planned. Clark also noted that the completion of this project should improve utility efficiency for the City. It was mentioned that this had not been presented to the Planning Commission.

Doersch moved, Pufall seconded a motion to approve allocation and all five components of USDA-RD Loans/Grants and Funding for SCADA Project including contracts with Brown Plumbing & HVAC, Energenecs, Inc., Xylem Water Solutions USA, Inc., Trojan Technologies, and Powrtek Engineering,

SUBJECT: Approve a Resolution to Approve an Offer to Purchase Two (2) Parcels of City-Owned Land, Parcels #201-01061-0000 and #201-01406-0000, Located on the Southeastern Corner of US Highway 2 and Stuntz Avenue, Applicant: Lucy Koivisto and Michael Tuttle on behalf of MI Copper Cup LLC (DBA Copper Cup) (*Planning*) Voice

RECOMMENDATION: Approval (Unanimously recommended by Plan Commission on September 15, 2020)

DEPARTMENT OF ORIGIN: Planning & Development

CLEARANCES: Planning and Development Department
Parks and Recreation Department
Planning Commission (Unanimously recommended to approve on September 15, 2020)

EXHIBITS:

1. Proposed Resolution
2. Plan Commission Public Hearing Summary, September 15, 2020
3. Staff Report - Plan Commission, September 9, 2020
4. Written Offer to Purchase City Owned Property, MI Copper Cup, August 31, 2020
5. Appraisals of Real Property

EXPENDITURES REQUIRED: N/A

AMOUNT BUDGETED: N/A

APPROPRIATION REQUIRED: N/A

TREASURER'S CERTIFICATE:

COMPLIANCE WITH ORDINANCE 51:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD: The Comprehensive Plan calls for careful disposition of vacant land. This means making financially sound decisions with the land that we own, and ensuring that the highest and best use for the land is achieved. Based on the size and irregularity of these parcels, and the ravine located on the eastern side of the property, the ability for the City to sell the properties for redevelopment into a new commercial use would be the highest and best use in this highly visible location along U.S. Highway 2. This would create several economic benefits for the City, including putting non-essential land back on the tax roll, gaining a new commercial development, and adding additional jobs which pay at least minimum wage plus tips.

SUMMARY STATEMENT:

The City currently owns two small parcels of land located on the southeast corner of U.S. Highway 2 and Stuntz Avenue, with the Bay City Creek ravine running through the eastern portion of the site. These properties

are considered non-essential, and have not been identified in any City planning documents (Comprehensive Plan, Waterfront Development Plan, Comprehensive Outdoor Rec Plan, etc.) for use by the City or future private redevelopment. The setbacks imposed on these lots by their location on U.S. Highway 2 (Gateway Overlay district), and adjacent to the Bay City Creek ravine make them incredibly difficult to develop or locate a standard sized building. The preliminary site plan included in the applicant's cover letter demonstrates how the proposed use of a drive-through coffee shop would fit on the lot while accommodating setbacks and other site standards, with ingress and egress both located on Stuntz Avenue.

Copper Cup is currently located in Ironwood, MI, and was opened in 2018. They are a locally owned and operated, women-owned, Native American-owned business who offers a variety of coffee products and small baked goods/food items. They have searched for a site in Ashland to establish a second location for over a year, and have identified the requested lots as ones which perfectly meet their needs. Their drive-through model is reliant upon visibility, convenience, and the ability to safely accommodate a line of vehicles as well as a few off-street parking spaces for staff. Without needing to request any variances of zoning standards, their anticipated site plan would fit these two properties. This would create additional jobs in Ashland, provide an unanticipated positive use along this commercial corridor in close proximity to the Oredock upland, and put non-essential City-owned land back on the tax roll in addition to the unanticipated revenue through the purchase price.

RESOLUTION

No. 17589

RESOLUTION TO APPROVE AN OFFER TO PURCHASE TWO (2) PARCELS OF CITY-OWNED LAND, PARCELS #201-01061-0000 AND #201-01406-0000, LOCATED ON THE SOUTHEASTERN CORNER OF US HIGHWAY 2 AND STUNTZ AVENUE, APPLICANT: LUCY KOIVISTO AND MICHAEL TUTTLE ON BEHALF OF MI COPPER CUP LLC (DBA COPPER CUP)

WHEREAS, Lucy Koivisto and Michael Tuttle, on behalf of MI Copper Cup, are interested in purchasing two (2) parcels of City-owned property on the corner of U.S. Highway 2 and Stuntz Avenue, parcels #201-01061-0000 and 201-01406-0000; and,

WHEREAS, the Plan Commission held a Public Hearing on September 15, 2020 and has unanimously recommended approval of the Offer to Purchase; and,

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Ashland hereby directs that parcels #201-01061-0000 and 201-01406-0000 be sold to Lucy Koivisto and Michael Tuttle for \$20,000 contingent upon the following:

- 1) Completion of the Phase I Environmental Site Assessment;
- 2) The property to be purchased shall be surveyed by the purchaser prior to final sale;
- 3) The properties shall be combined into a single parcel with the Ashland County Register of Deeds office after sale; and
- 4) The lots shall revert to the City of Ashland if development does not commence within a two (2) year period.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Ashland hereby approves the sale of parcels #201-01061-0000 and 201-01406-0000 to Lucy Koivisto and Michael Tuttle.

PASSED: September 29, 2020

Councilperson

ATTEST: _____

Denise Oliphant, City Clerk

Debra S. Lewis, Mayor

APPROVED AS TO FORM:

Tyler Wickman, City Attorney

RESOLUTION

No. 17589

Plan Commission Public Hearing Summary

September 15, 2020

Offer to purchase two (2) parcels of City-owned land, parcels #201-01061-0000 and #201-01406-0000, located on the southeastern corner of US Highway 2 and Stuntz Avenue, zoned: City Center (CC) and Gateway-Overlay (G-O) district. Applicant: Lucy Koivisto and Michael Tuttle on behalf of MI Copper Cup LLC (DBA Copper Cup)

Megan McBride explained that a Class 2 public hearing notice was issued, and discretionary letters were sent to surrounding property owners. Megan explained that she received one comment from Jack Hoglund, owner of 811 Lake Shore Dr E, located directly across the street from this proposed development. He expressed enthusiastic support for this development.

Megan McBride explained that the size and location of this lot adjacent to U.S. Highway 2 and the Bay City Creek make it very difficult to develop, and therefore these lots have not been identified as essential or marketable in any City plans. The applicants identified in their Offer to Purchase an initial Site Plan which demonstrates the ability to fit their future use of a drive-through coffee shop on this lot with ingress and egress off of Stuntz Avenue. She explained that the applicants are very sensitive to the unique location of the lot, and have expressed interest in using green infrastructure to promote water quality and the neighboring Bay City Creek. They have also agreed to work with the City on a shared parking agreement on the far southern portion of the lots for the intended future Bay City Creek pedestrian trail.

John Beirl asked if there was a requirement for the development to be completed within a certain timeframe, given the future developments along the Oredock upland area. He asked for more clarification regarding the timeline of this development.

Michael Tuttle from Copper Cup explained that they would like to do some site preparation this fall, and start construction as soon as possible in the spring.

John Beirl asked if they would be open to a reversion clause if they do not develop the lot within a 2 year period. Lucy Koivisto said that they would be open to that, as they don't want to sit on the site either. Lucy Koivisto explained that they will have minimal parking in that lot anyways due to the business being a drive-through, and that they are eager to preserve as much green space and landscaping as possible between the business and the Creek. The required 15 foot setback from U.S. Highway 2 will also ensure ample green space is provided on the lot, and that it will be an attractive commercial development in this central location.

Find yourself next to the water.



City of Ashland, Wisconsin

601 Main Street West Ashland, WI 54806 www.coawi.org

**DEPARTMENT OF
PLANNING &
DEVELOPMENT**

601 Main Street West
Ashland, WI 54806

STAFF REPORT

Plan Commission – September 9, 2020

Agenda Item # 5c:

**Public Hearing Vote on an Offer to
Purchase City-owned property**

Applicant:

**Lucy Koivisto and Michael Tuttle on behalf of MI
Copper Cup LLC (DBA Copper Cup)**

Parcel No:

201-01061-0000 and 201-01406-0000

Staff Contacts:

Megan McBride

Background

The City currently owns two small parcels of land located on the southeast corner of U.S. Highway 2 and Stuntz Avenue, with the Bay City Creek ravine running through the eastern portion of the site. These properties are considered non-essential, and have not been identified in any City planning documents (Comprehensive Plan, Waterfront Development Plan, Comprehensive Outdoor Rec Plan, etc.) for use by the City or future private redevelopment. The setbacks imposed on these lots by their location on U.S. Highway 2 (Gateway Overlay district), and adjacent to the Bay City Creek ravine make them incredibly difficult to develop or locate a standard sized building. The preliminary site plan included in the applicant's cover letter demonstrates how the proposed use of a drive-through coffee shop would fit on the lot while accommodating setbacks and other site standards, with ingress and egress both located on Stuntz Avenue.

Copper Cup is currently located in Ironwood, MI, and was opened in 2018. They are a locally owned and operated, women-owned, Native American-owned business who offers a variety of coffee products and small baked goods/food items. They have searched for a site in Ashland to establish a second location for over a year, and have identified the requested lots as ones which perfectly meet their needs. Their drive-through model is reliant upon visibility, convenience, and the ability to safely accommodate a line of vehicles as well as a few off-street parking spaces for staff. Without needing to request any variances of zoning standards, their anticipated site plan would fit these two properties. This would create additional jobs in Ashland, provide an unanticipated positive use along this commercial corridor in close proximity to the Oredock upland, and put non-essential City-owned land back on the tax roll in addition to the unanticipated revenue through the purchase price.

Review Criteria for Offer to Purchase and Sale of Land:

1. Consistency with the Comprehensive Plan:

The Comprehensive Plan calls for careful disposition of vacant land. This means making financially sound decisions with the land that we own, and ensuring that the highest and best use for the land is achieved. Based on the size and irregularity of these parcels, and the ravine located on the eastern side of the property, the ability for the City to sell the properties for redevelopment into a new commercial use would be the highest and best use in this highly visible location along U.S. Highway 2. This would create several economic benefits for the City, including putting non-essential land back on the tax roll, gaining a new commercial development, and adding additional jobs which pay at least minimum wage plus tips.

2. Consistency with the Unified Development Ordinance (U.D.O.):

A. Zoning Districts: City Center (CC) and Gateway Overlay (GTWY-O)

The sale of this non-essential City-owned land for the intended commercial development is compatible with the intent and goals of both the City Center (CC) and Gateway Overlay (GTWY-O) zoning district in which it is located. The intent of the (CC) district is to encourage and foster the further development and enhancement of the downtown (city center) area. For this reason, setbacks for commercial uses in this district are reduced to 0ft to promote the density of commercial uses which fosters vibrancy in the City Center area. If the Offer to Purchase is accepted, the developer will need to obtain a Conditional Use Permit for a drive-through window in the City Center (CC) district as well as Site Plan approval.

The properties are also located in the Gateway-Overlay district, the intent of which is to provide “general design standards and guidelines that are intended to help enhance and unify the appearance of development along the major roadways leading into and through Ashland.” The location of these properties in the Gateway-Overlay district creates a minimum setback of 15ft from the northern property line, and its position as a corner lot creates a 15ft setback from the western property line to ensure traffic safety and visibility. In combination, these factors have been constraining for other commercial developments, but are not prohibitive to the proposed future use of these sites by Copper Cup. This commercial development, which is compatible with a highway location, meets the intent of this overlay district.

B. Compatibility of Proposed Development with Existing and Future Development.

The proposed commercial development which accompanies this offer to purchase will be compatible with the existing commercial uses along the highway, as well as future plans to redevelop the Oredock upland area into a waterfront commercial hub serving both tourists and local residents. The applicants have also already expressed plans to be sensitive to the location adjacent to the Bay City Creek ravine, with the Phase I Environmental Site Assessment guiding future stormwater plans including location of a rain garden. Additionally, they will work with the City’s Parks and Recreation Department for a shared parking agreement on the south side of the site to accommodate a small public parking area and trailhead for the future Bay City Creek trail identified as a long-term Comp Plan goal.

STAFF RECOMMENDATION ON CONSISTENCY WITH THE U.D.O:

Staff recommends approval of the Offer to Purchase these parcels to be redeveloped by Copper Cup into an Ashland location for their drive-through coffee shop.

3. Consideration of Highest and Best Use:

Considering all factors as listed above, staff sees this as the highest and best use of the property. Redevelopment of these vacant, mostly undevelopable lots into a commercial use which has appeal to both residents and tourists:

- 1) Aligns with the goals for new development outlined in the City's Comprehensive Plan and Waterfront Development Plan;
- 2) Would complement future intended commercial and residential development in the Oredock upland; and
- 3) Would create both short- and long-term economic benefits for the Ashland community.

4. Additional Factors, including Compliance with other City Ordinances and State Statutes:

- A. The sale is contingent upon results of the Phase I Environmental Site Assessment (currently in progress)
- B. Will need to obtain a Conditional Use Permit (CUP) for drive-through window in the City Center (CC) zoning district
- C. Will need to obtain Site Plan approval from Plan Commission prior to issuance of any Building Permits

Staff Recommendation:

City staff recommends the APPROVAL of the Offer to Purchase land by Lucy Koivisto and Michael Tuttle on behalf of MI Copper Cup LLC (DBA Copper Cup) contingent on the following items:

- 1) The sale is contingent upon the completion of the Phase I Environmental Site Assessment.
- 2) The property to be purchased shall be surveyed by the purchaser prior to final sale.
- 3) The properties shall be combined into a single parcel with the Ashland County Register of Deeds office.

As a Public Hearing is scheduled, the Plan Commission should hear all input from the public prior to making a decision. The proper Class 1 Public Hearing notice was issued for this item, and letters were sent to all property owners within 200 feet.

Approvals are based on background information provided by the applicant and known conditions. Deviations from this information may be considered a change in the application and reconsideration and possible revision to the approvals may be made by the Plan Commission and Common Council.



Written Offer to Purchase City Owned Property

August 31, 2020

City of Ashland
601 Main Street West
Ashland, WI
54806

Re: Vacant city-owned lots on the corner of Stuntz and US Highway 2 in Ashland, WI

Dear Ashland Plan Commission & City Council,

The purpose of this letter is to present an offer to purchase this property and to describe our intent to develop this property.

Layman's Terms Property Description	Corner of Stuntz Ave and US Hwy 2 in Ashland, WI
Legal Property Description	Block 85, Ellis Division, Lots 1-7 (201-01406-0000) and Lots 8-12 (201-01061-0000)
Proposed Purchase Price	\$20,000
Down Payment	\$750
<i>Land Transfer Request Fee</i>	<i>\$150</i>
<i>Republication Fee</i>	<i>\$100</i>
<i>Down Payment for Request to Purchase</i>	<i>\$500</i>

In 2017 we were lucky enough to move back to the beautiful Northwoods. As parents with a newborn, however, we found it not worth the effort to haul our car seat through blizzards and to hunt for parking on streets narrowed by snow just to get a cup of coffee for a busy day. We also found that many coffee shops are trending toward less baby friendly seating and are serving a minimalist and simple black coffee - which left Lucy longing for her favorite mochas. With that, a vision was born to create an opportunity for people on the go to grab their favorite drink with a car full of rambunctious kids and give them an opportunity to customize their daily energy boost to their desire. Who are we to tell others how to enjoy their cup of joe?

We started with vision boards in our living room in October 2017, studied traffic flow, flew to Seattle for La Marzocco espresso machine repair training, sat through coffee tastings, and priced commercial lots and new builds in the Ironwood area. In March 2018, we decided to purchase a vacant old donut drive-thru for the business. In doing so we saw that we had an opportunity to reduce our environmental impact by cleaning up blight, filling an empty vacant building, reducing waste, repurposing the building, and reducing the amount of land that would be disturbed.

MI Copper Cup LLC (DBA Copper Cup) opened in Ironwood, Michigan on July 4, 2018. Not only did we

Mailing Address
PO Box 445
Ironwood, MI 49938

(906) 285-7451
micoppercup@gmail.com
www.micoppercup.com

Physical Address
517 E. Cloverland Drive
Ironwood, MI 49938

open a coffee shop in 3 months from purchasing the property, but we made one of our core values real from day one – we paid our employees more of a living wage. We started immediately by paying regular minimum wage plus tips, not tipped minimum wage. In the state of Michigan, this means that our employees currently make \$9.65/hour and other local baristas and waitresses start at \$3.67/hour. By 2030, the state of Michigan will have a minimum wage of \$12.00/hour but our full-time employees are already at \$10.25/hour and we have begun searching for health insurance benefits for our full time employees.

We understand that we are not required to provide a living wage and health insurance with our size, but by showing our team that we value them and respect their time we know we can maintain an outstanding retention rate and hopefully provide a space for our team to grow into careers that will help our company expand. We didn't want our community support to stop there, we have also donated generously to causes that support large local groups, schools, domestic violence prevention, child foster care, the animal shelter, etc. We recently purchased the website URL ConductingChange.org to begin formalizing our charitable giving and hopefully turn it into a full non-profit someday.

In 2019 we began looking for property in Ashland! We escape often to Ashland to indulge in the shopping and restaurants that we don't have in our area, so it seemed like the perfect next step. After over a year of searching and walking by properties, we just did not find property that could handle a line of cars nor a building that could be efficiently converted to meet our needs. We stumbled upon Stuntz by chance and the awkward long lot actually seems like it was made for a Copper Cup drive-thru.

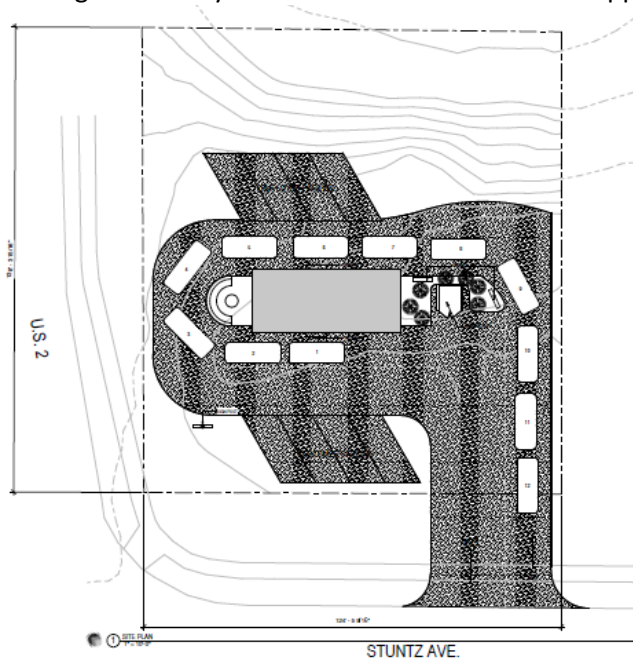


Image 1: Draft Site Plan for Stuntz/Hwy 2 Copper Cup

In Image 1 you will find a draft site plan for the parcel along US Hwy 2. We found that utilizing just that parcel does not leave much room for Copper Cup to expand in the future to potential outdoor seating/ordering – which we understand is a goal of the waterfront plan for Ashland. In the Image we have an outdoor seating space that may be built in the future but will not be included in our first phase due to extra costs of the restroom requirements and parking. However, the design will remain in all

Mailing Address
PO Box 445
Ironwood, MI 49938

(906) 285-7451
micoppercup@gmail.com
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517 E. Cloverland Drive
Ironwood, MI 49938

future site plans so that we can work toward that goal. Through this design process and work to understand the feasibility, we were grateful for the opportunity to speak with the parks department to understand their future goals of a bike trail near the property. Therefore, our plans are to work closely with the city to provide support and accessibility to a future trailhead will be a goal of ours.

While the building will be small on the parcel, we understand the impacts of the building on the land. As the Phase I Environmental Survey is complete, we will look into various stormwater management systems like rain gardens that can help more naturally handle runoff and also introduce local plant species to attract local pollinators.

We would like to purchase the property pending the results of the Phase I Environmental Review. We hope that the old railroad has not deemed the property unbuildable, but we are hopeful that it is. Aside from the financial investments of the architects to understand if this property has potential for a drive-thru, we have more funding prepared and set aside to pay for the surveying.

We appreciate your consideration in allowing us to be a larger part of the Ashland community. We hope with this opportunity we can provide positive experiences for the city, community, customers, and employees.

Sincerely,



Lucy Koivisto
Owner



Michael Tuttle
Owner

Locally Owned & Operated | Woman-Owned | Native American Owned

Mailing Address

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Ironwood, MI 49938

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micoppercup@gmail.com
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Physical Address

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Ironwood, MI 49938

Corner Stuntz Ave & Main St E
Ashland, WI 54806

RAILROAD RIGHT OF WAY OVER LOTS 1 TO 4 AND ALL OF LOTS 5 TO 7 BLOCK 85 ELLIS DIVISION V 736 PG

City of Ashland
601 Main St W
Ashland, WI 54806

OPINION OF VALUE

10,000

AS OF

08/03/2020

BY

Beth Roberts
Balsam Cottage Appraisals
PO BOX 924
Bayfield, WI 54814
715-661-3113
balsamcottage@pctcnet.net

APPRAISAL OF REAL PROPERTY



LOCATED AT

US Hwy 2 & Stuntz Ave
Ashland, WI 54806

Legal Desc: LTS 8-12 BLK 85 ELLIS DIVISION (OREDOCK APPROACH)

FOR

City of Ashland
601 Main St W
Ashland, WI 54806

OPINION OF VALUE

12,000

AS OF

04/10/2020

BY

Beth Roberts
Balsam Cottage Appraisals
PO BOX 924
Bayfield, WI 54814
715-661-3113
balsamcottage@pctcnet.net

LAND APPRAISAL REPORT

File No.: US 2/Stuntz Ave Revisec

SUBJECT	Property Address: US Hwy 2 & Stuntz Ave		City: Ashland		State: WI		Zip Code: 54806																																																																																						
	County: Ashland		Legal Description: Part of Legal Desc: LTS 8-12 BLK 85 ELLIS DIVISION (OREDOCK APPROACH)																																																																																										
	Assessor's Parcel #: Prt of 201-01061-0000		Tax Year: 2019		R.E. Taxes: \$ 0		Special Assessments: \$ 0																																																																																						
	Market Area Name: Ashland City		Map Reference: 33/48/4W		Census Tract: 9508.00																																																																																								
	Current Owner of Record: City of Ashland		Borrower (if applicable): City of Ashland																																																																																										
ASSIGNMENT	Project Type (if applicable): ☐ PUD ☐ De Minimis PUD ☐ Other (describe) HOA: \$ 0 ☐ per year ☐ per month																																																																																												
	Are there any existing improvements to the property? ☒ No ☐ Yes If Yes, indicate current occupancy: ☐ Owner ☐ Tenant ☐ Vacant ☐ Not habitable																																																																																												
	If Yes, give a brief description:																																																																																												
MARKET AREA DESCRIPTION	The purpose of this appraisal is to develop an opinion of: ☒ Market Value (as defined), or ☐ other type of value (describe)																																																																																												
	This report reflects the following value (if not Current, see comments): ☒ Current (the Inspection Date is the Effective Date) ☐ Retrospective ☐ Prospective																																																																																												
	Property Rights Appraised: ☒ Fee Simple ☐ Leasehold ☐ Leased Fee ☐ Other (describe)																																																																																												
	Intended Use: To determine a fair market value for a possible future purchase.																																																																																												
	Intended User(s) (by name or type): City of Ashland																																																																																												
Client: City of Ashland		Address: 601 Main St W, Ashland, WI 54806																																																																																											
Appraiser: Beth Roberts		Address: PO BOX 924, Bayfield, WI 54814																																																																																											
Characteristics Location: ☐ Urban ☐ Suburban ☒ Rural Built up: ☐ Over 75% ☒ 25-75% ☐ Under 25% Growth rate: ☐ Rapid ☒ Stable ☐ Slow Property values: ☐ Increasing ☒ Stable ☐ Declining Demand/supply: ☐ Shortage ☒ In Balance ☐ Over Supply Marketing time: ☐ Under 3 Mos. ☒ 3-6 Mos. ☐ Over 6 Mos.		Predominant Occupancy ☒ Owner ☐ Tenant ☒ Vacant (0-5%) ☐ Vacant (>5%)		One-Unit Housing <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th>PRICE \$ (000)</th> <th>AGE (yrs)</th> </tr> <tr> <td>10 Low 0</td> <td></td> </tr> <tr> <td>400 High 140</td> <td></td> </tr> <tr> <td>100 Pred 75</td> <td></td> </tr> </table>		PRICE \$ (000)	AGE (yrs)	10 Low 0		400 High 140		100 Pred 75		Present Land Use <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th>One-Unit</th> <th>38 %</th> </tr> <tr> <th>2-4 Unit</th> <th>1 %</th> </tr> <tr> <th>Multi-Unit</th> <th>1 %</th> </tr> <tr> <th>Comm'l</th> <th>5 %</th> </tr> <tr> <th>Pub Lands</th> <th>55 %</th> </tr> <tr> <th></th> <th>%</th> </tr> </table>		One-Unit	38 %	2-4 Unit	1 %	Multi-Unit	1 %	Comm'l	5 %	Pub Lands	55 %		%	Change in Land Use ☒ Not Likely ☐ Likely * ☐ In Process * * To:																																																																	
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Market Area Comments: Ashland County has 1,000's of acres of National, State, County, & other public lands totaling an estimated 55% of present land use and is a popular vacation recreational area. The City of Ashland has a wide variety of employers, from industrial to commercial to recreational and educational. Ashland Co has a population of 15,843 per 2015 census & 1,045.047 sq miles making it a rural community. Over 8,000 people live in the City of Ashland leaving the remaining 8,000 scattered over 1,030 sq miles.																																																																																													
Sales declined after 2008 and values dropped by 25-40% from the high in 2007. Currently the market appears to be growing per the attached WRA Ashland County Stats both the # of home sales and sales prices. Per market research, generally the value of vacant land and commercial property follows single family housing sales but an increase in commercial property has not developed currently.																																																																																													
Per the WRA Ashland Co Stats, after a decline in 2018, 2019 took a 15% jump in single family housing sales. 2020 appears to be following this trend but the year ahead will bring clarity and determine if it's a short term climb or a long term trend.																																																																																													
Subject market does fluctuate with the seasons and the marketing time for this rural community is generally 6 months due to weather and buyers traveling from other areas to view and purchase property.																																																																																													

LAND APPRAISAL REPORT

File No.: US 2/Stuntz Ave Revised

Dimensions: 125'x140'+- est per co maps Site Area: 17,500 sf Sq.Ft.

Zoning Classification: CC, City Center Description: The intent of the CC City Center District is to encourage and foster the further development and enhancement of the downtown (city center) area.

Do present improvements comply with existing zoning requirements? ☐ Yes ☐ No ☒ No Improvements

Uses allowed under current zoning: See attached list

Are CC&Rs applicable? ☐ Yes ☒ No ☐ Unknown Have the documents been reviewed? ☐ Yes ☐ No Ground Rent (if applicable) \$ /

Comments:

Highest & Best Use as improved: ☒ Present use, or ☐ Other use (explain)

Actual Use as of Effective Date: Commercial Use as appraised in this report: Commercial

Summary of Highest & Best Use: Per zoning and location along Hwy in the Heart of Ashland, I determine this is the HBU.

SITE DESCRIPTION

Utilities	Public	Other	Provider/Description	Off-site Improvements	Type	Public	Private	Frontage	US Hwy
Electricity	☒	☐	Local Providers	Street	State Hwy	☒	☐	Topography	Level/Steep Slope
Gas	☒	☐	Local Providers	Width	66'			Size	17,500sf* total
Water	☒	☐	City	Surface	Paved			Shape	Irregular see att map
Sanitary Sewer	☒	☐	City	Curb/Gutter	City	☒	☐	Drainage	Average
Storm Sewer	☒	☐	City	Sidewalk	None	☐	☐	View	US Hwy/Commercial
Telephone	☒	☐	Local Providers	Street Lights	City	☒	☐		
Multimedia	☒	☐	Local Providers	Alley	None	☐	☐		

Other site elements: ☐ Inside Lot ☐ Corner Lot ☐ Cul de Sac ☐ Underground Utilities ☐ Other (describe)

FEMA Spec'l Flood Hazard Area ☐ Yes ☒ No FEMA Flood Zone C FEMA Map # 5500050001B FEMA Map Date 9/30/1977

Site Comments: Subject site is a corner lot at US Hwy 2 & Stuntz Ave with an estimated 138' Hwy frontage & 123' Stuntz Rd Frontage. It has an estimated 17,500 sf total per co mapping but due to the steep slope to the rear, there is an estimated 8,712sf of useable land per county mapping.

The useable land is level and open with a good view of the highway. It provides easy access and would be desirable for small commercial enterprises offering drive thru access as parking would be limited. Per the City, access would be available and the set backs would allow for development.

As of 8/10/2020 The City Ashland provided new mapping with setbacks and buildable site area for the subject. Per these maps, subject has approximately 4,000 sf of buildable space which will be used as the site sf on the sales grid in place of the original 8,712 sf. This will affect the value of the subject.

SALES COMPARISON APPROACH

FEATURE	SUBJECT PROPERTY	COMPARABLE NO. 1		COMPARABLE NO. 2		COMPARABLE NO. 3	
Address	US Hwy 2 & Stuntz Ave Ashland, WI 54806	Main St E & 7th Ave E Corner Ashland, WI 54806		Main St E & Willis Ave Corner Ashland, WI 54806		611 Main St E Ashland, WI 54806	
Proximity to Subject		0.10 miles SW		0.16 miles SW		0.13 miles SW	
Sale Price	\$	\$ 9,000		\$ 9,000		\$ 3,500	
Price/ Sq.Ft.	\$	\$ 1.72		\$ 1.02		\$ 2.01	
Data Source(s)	City	LSAR MLS# 6081472, DOM 47		LSAR MLS# 6081474, DOM 534		LSAR MLS# 6081829;DOM 0	
Verification Source(s)	Co Online Rclds	CoDoc# 347835		CoDoc# 347835		CoDoc# 347955	
VALUE ADJUSTMENT	DESCRIPTION	DESCRIPTION	+(-) \$ Adjust	DESCRIPTION	+(-) \$ Adjust	DESCRIPTION	+(-) \$ Adjust
Sales or Financing		ArmLth		ArmLth		ArmLth	
Concessions		Conv;0		Conv;0		Cash;0	
Date of Sale/Time		05/11/2019		05/11/2019		06/17/2019	
Rights Appraised	Fee Simple	Fee Simple		Fee Simple		Fee Simple	
Location	US Hwy/City	City/Main St		City/Main St		City/Main St	
Site Area (in Sq.Ft.)	4,000	5,227	-2,110	8,799	-8,254	1,742	+3,884
Topography	Level/Steep Slope	Level		Level		Level	
Zoning	CC	CC		CC		CC	
Access	Hwy	Main St	+5,000	Main St	+5,000	Main St	+5,000
Net Adjustment (Total, in \$)		☒ + ☐ -	\$ 2,890	☐ + ☒ -	\$ -3,254	☒ + ☐ -	\$ 8,884
Adjusted Sale Price (in \$)			\$ 11,890		\$ 5,746		\$ 12,384



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3/2007

Page 162506192

LAND APPRAISAL REPORT

File No.: US 2/Stuntz Ave Revised

SALES COMPARISON APPROACH	Summary of Sales Comparison Approach All sales cited are the most comparable sales available per a search of the local MLS and were adjusted for their differences in location and physical characteristics as needed. Subject & comparables are smaller city lots appealing to similar commercial buyers. <i>I included only the useable sf from subject site on the sales grid.</i> Comparables 1-4 bracket subject in useable site size, location, & access.	
	All sales were given consideration in this appraisal and are considered to be good indicators of value. The comparables established a value range for the Subject, after adjustments, of a rounded \$6,000-\$13,000. While all sales have distinct differences themselves and from the Subject, this is a range with any choice of value in that range being considered realistic and justifiable. Comparable sale 1 is more similar overall. It is bracketed by sales 2 & 3 in value and supported by comparable 4. Therefore, most weight to Comparable Sale 1, in my opinion, based on the market approach to value.	
	Adjustment explanation: I made contributory site size adjustments @ \$1.72 sf which is the median of the 3 comparable sales. I adjusted at \$5000 for location along the US 2 based on Comparable 4.	
	Search criteria: My LSAR MLS search criteria was smaller, commercial city sites under 1 ac which sold in the past 2 years. I found 4 sales and used the 3 on the east side of Ellis Ave.	
TRANSFER HISTORY	My research ☐ did ☒ did not reveal any prior sales or transfers of the subject property for the three years prior to the effective date of this appraisal.	
	Data Source(s): County online records, WIIPAS	
	1st Prior Subject Sale/Transfer	Analysis of sale/transfer history and/or any current agreement of sale/listing: None since 2014 per Co Doc
	Date: 06/14/2014	
	Price:	
	Source(s): CoDoc#333152	
PUD	2nd Prior Subject Sale/Transfer	
	Date:	
RECONCILIATION	Price:	
	Source(s):	
ATTACH.	PROJECT INFORMATION FOR PUDs (if applicable) ☐ The Subject is part of a Planned Unit Development.	
	Legal Name of Project:	
	Describe common elements and recreational facilities:	
	Indicated Value by: Sales Comparison Approach \$ 12,000	
SIGNATURES	Final Reconciliation Land is not generally rented in market & there are no substantial improvements for the cost approach. Market value is best determined by the Sales Comparison Approach as it reflects the buyers and sellers action in the market.	
	This appraisal is made ☒ "as is", or ☐ subject to the following conditions:	
	☐ This report is also subject to other Hypothetical Conditions and/or Extraordinary Assumptions as specified in the attached addenda.	
	Based upon an inspection of the subject property, defined Scope of Work, Statement of Assumptions and Limiting Conditions, and Appraiser's Certifications, my (our) Opinion of the Market Value (or other specified value type), as defined herein, of the real property that is the subject of this report is: \$ 12,000, as of: 04/10/2020, which is the effective date of this appraisal. If indicated above, this Opinion of Value is subject to Hypothetical Conditions and/or Extraordinary Assumptions included in this report. See attached addenda.	
SIGNATURES	A true and complete copy of this report contains _____ pages, including exhibits which are considered an integral part of the report. This appraisal report may not be properly understood without reference to the information contained in the complete report, which contains the following attached exhibits:	
	☒ Limiting cond./Certifications ☒ Narrative Addendum ☒ Location Map(s) ☐ Flood Addendum ☐ Additional Comparable 4	
	☒ Photo Addenda ☒ Parcel Map ☒ Environmental Add ☒ WRA Stats ☐	
	Client Contact: Megan McBride Client Name: City of Ashland	
SIGNATURES	E-Mail: mmcbride@coawi.org Address: 601 Main St W, Ashland, WI 54806	
	APPRAISER	
	SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable)	
	Appraiser Name: Beth Roberts	
SIGNATURES	Company: Balsam Cottage Appraisals	
	Phone: 715-661-3113 Fax:	
	E-Mail: balsamcottage@pctcnet.net	
	Date of Report (Signature): 04/16/2020	
SIGNATURES	License or Certification #: 1300-4 State: WI	
	Designation: State License	
	Expiration Date of License or Certification: 12/14/2021	
	Inspection of Subject: ☒ Did Inspect ☐ Did Not Inspect (Desktop)	
SIGNATURES	Date of Inspection: 04/10/2020	
	Supervisory or Co-Appraiser Name:	
	Company:	
	Phone: Fax:	
SIGNATURES	E-Mail:	
	Date of Report (Signature):	
	License or Certification #: State:	
	Designation:	
SIGNATURES	Expiration Date of License or Certification:	
	Inspection of Subject: ☐ Did Inspect ☐ Did Not Inspect	
	Date of Inspection:	
	Date of Inspection:	



File No.: US 2/Stuntz Ave Revised

SALES COMPARISON APPROACH

Assumptions & Limiting Conditions

File No.: US 2/Stuntz Ave Revisec

Property Address: US Hwy 2 & Stuntz Ave

City: Ashland

State: WI

Zip Code: 54806

Client: City of Ashland

Address: 601 Main St W, Ashland, WI 54806

Appraiser: Beth Roberts

Address: PO BOX 924, Bayfield, WI 54814

STATEMENT OF ASSUMPTIONS & LIMITING CONDITIONS

- The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it. The appraiser assumes that the title is good and marketable and, therefore, will not render any opinions about the title. The property is appraised on the basis

of it being under responsible ownership.

- The appraiser may have provided a plat and/or parcel map in the appraisal report to assist the reader in visualizing the lot size, shape, and/or orientation. The appraiser has not made a survey of the subject property.

- If so indicated, the appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in the appraisal report whether the subject site is located in an identified Special Flood Hazard Area.

Because

the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.

- The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand.

- The appraiser has noted in the appraisal report any adverse conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property, or that he or she became aware of during the normal research involved

in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property, or adverse environmental conditions (including, but not limited to, the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or

warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist

or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the

field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

- The appraiser obtained the information, estimates, and opinions that were expressed in the appraisal report from sources that he or she considers to be reliable and believes them to be true and correct. The appraiser does not assume responsibility for the accuracy of such items

that were furnished by other parties.

- The appraiser will not disclose the contents of the appraisal report except as provided for in the Uniform Standards of Professional Appraisal Practice, and any applicable federal, state or local laws.

- An appraiser's client is the party (or parties) who engage an appraiser in a specific assignment. Any other party acquiring this report from the

client does not become a party to the appraiser-client relationship. Any persons receiving this appraisal report because of disclosure requirements

applicable to the appraiser's client do not become intended users of this report unless specifically identified by the client at the time of the assignment.

- The appraiser's written consent and approval must be obtained before this appraisal report can be conveyed by anyone to the public, through advertising, public relations, news, sales, or by means of any other media, or by its inclusion in a private or public database. Possession of this

report or any copy thereof does not carry with it the right of publication.

- Forecasts of effective demand for the highest and best use or the best fitting and most appropriate use were based on the best available data concerning the market and are subject to conditions of economic uncertainty about the future.

Certifications

File No.:

Property Address: <u>US Hwy 2 & Stuntz Ave</u>	City: <u>Ashland</u>	State: <u>WI</u>	Zip Code: <u>54806</u>
Client: <u>City of Ashland</u>	Address: <u>601 Main St W, Ashland, WI 54806</u>		
Appraiser: <u>Beth Roberts</u>	Address: <u>PO BOX 924, Bayfield, WI 54814</u>		

APPRAISER'S CERTIFICATION

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The credibility of this report, for the stated use by the stated user(s), of the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- Unless otherwise indicated, I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice that were in effect at the time this report was prepared.
- I did not base, either partially or completely, my analysis and/or the opinion of value in the appraisal report on the race, color, religion, sex, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property, or of the present owners or occupants of the properties in the vicinity of the subject property.
- Unless otherwise indicated, I have made a personal inspection of the property that is the subject of this report.
- Unless otherwise indicated, no one provided significant real property appraisal assistance to the person(s) signing this certification.

Additional Certifications:

Client Contact: <u>Megan McBride</u>	Client Name: <u>City of Ashland</u>
E-Mail: <u>mmcbride@coawi.org</u>	Address: <u>601 Main St W, Ashland, WI 54806</u>

APPRAISER Appraiser Name: <u>Beth Roberts</u> Company: <u>Balsam Cottage Appraisals</u> Phone: <u>715-661-3113</u> Fax: _____ E-Mail: <u>balsamcottage@pctcnet.net</u> Date Report Signed: <u>04/16/2020</u> License or Certification #: <u>1300-4</u> State: <u>WI</u> Designation: <u>State License</u> Expiration Date of License or Certification: <u>12/14/2021</u> Inspection of Subject: ☒ Did Inspect ☐ Did Not Inspect (Desktop) Date of Inspection: <u>04/10/2020</u>	SUPERVISORY APPRAISER (if required) or CO-APPRAISER (if applicable) Supervisory or Co-Appraiser Name: _____ Company: _____ Phone: _____ Fax: _____ E-Mail: _____ Date Report Signed: _____ License or Certification #: _____ State: _____ Designation: _____ Expiration Date of License or Certification: _____ Inspection of Subject: ☐ Did Inspect ☐ Did Not Inspect Date of Inspection: _____
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SIGNATURES



USPAP Compliance Addendum

Loan #

File # US 2/Stuntz Ave Revised

Client	City of Ashland		
Property Address	US Hwy 2 & Stuntz Ave		
City	Ashland	County	Ashland
		State	WI
		Zip Code	54806
Appraiser	Beth Roberts		

APPRAISAL AND REPORT IDENTIFICATION

This Appraisal Report is one of the following types:

- ☒ Appraisal Report This report was prepared in accordance with the requirements of the Appraisal Report option of USPAP Standards Rule 2-2(a).
- ☐ Restricted Appraisal Report This report was prepared in accordance with the requirements of the Restricted Appraisal Report option of USPAP Standards Rule 2-2(b). The intended user of this report is limited to the identified client. This is a Restricted Appraisal Report and the rationale for how the appraiser arrived at the opinions and conclusions set forth in the report may not be understood properly without the additional information in the appraiser's workfile.

ADDITIONAL CERTIFICATIONS

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The report analyses, opinions, and conclusions are limited only by the reported assumptions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no (or the specified) present or prospective interest in the property that is the subject of this report and no (or specified) personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- My analyses, opinions, and conclusions were developed and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
- This appraisal report was prepared in accordance with the requirements of Title XI of FIRREA and any implementing regulations.

PRIOR SERVICES

- ☒ I have NOT performed services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.
- ☐ I HAVE performed services, as an appraiser or in another capacity, regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment. Those services are described in the comments below.

PROPERTY INSPECTION

- ☐ I have NOT made a personal inspection of the property that is the subject of this report.
- ☒ I HAVE made a personal inspection of the property that is the subject of this report.

APPRAISAL ASSISTANCE

Unless otherwise noted, no one provided significant real property appraisal assistance to the person signing this certification. If anyone did provide significant assistance, they are hereby identified along with a summary of the extent of the assistance provided in the report.

ADDITIONAL COMMENTS

Additional USPAP related issues requiring disclosure and/or any state mandated requirements:

Commercial property generally takes 1-3 years to sell.

MARKETING TIME AND EXPOSURE TIME FOR THE SUBJECT PROPERTY

- ☒ A reasonable marketing time for the subject property is 180+ day(s) utilizing market conditions pertinent to the appraisal assignment.
- ☒ A reasonable exposure time for the subject property is 180+ day(s).

APPRAISER

SUPERVISORY APPRAISER (ONLY IF REQUIRED)

Signature _____
 Name Beth Roberts
 Date of Signature 04/16/2020
 State Certification # _____
 or State License # 1300-4
 State WI
 Expiration Date of Certification or License 12/14/2021
 Effective Date of Appraisal 04/10/2020

Signature _____
 Name _____
 Date of Signature _____
 State Certification # _____
 or State License # _____
 State _____
 Expiration Date of Certification or License _____
 Supervisory Appraiser Inspection of Subject Property
☐ Did Not ☐ Exterior-only from Street ☐ Interior and Exterior

ENVIRONMENTAL ADDENDUM

APPARENT* HAZARDOUS SUBSTANCES AND/OR DETRIMENTAL ENVIRONMENTAL CONDITIONS

File # US 2/Stuntz Ave Revisec

Client	City of Ashland					
Property Address	US Hwy 2 & Stuntz Ave					
City	Ashland	County	Ashland	State	WI	Zip Code 54806
Appraiser	Beth Roberts					

***Apparent is defined as that which is visible, obvious, evident or manifest to the appraiser.**

This Environmental Addendum is for use with any real estate appraisal. Only the statements which have been marked by the appraiser apply to the Subject property.

This addendum reports the results of the appraiser's routine viewing of and inquiries about the subject property and its surrounding area. It also states what assumptions were made about any observed evidence of any hazardous substances and/or detrimental environmental conditions. **The appraiser is not an expert environmental inspector** and therefore might be unaware of existing hazardous substances and/or detrimental environmental conditions which may have a negative effect on the safety or value of the property. It is possible that tests and inspections made by a qualified environmental inspector would reveal the existence of hazardous materials and/or detrimental environmental conditions on or around the property that would negatively affect its safety and value.

DRINKING WATER

- ☒ Drinking water is supplied to the subject from a municipal water supply which is considered safe. However, the only way to be absolutely certain that the water meets published standards is to have it tested at all discharge points.
- ☐ Drinking water is supplied by a well or other non-municipal source. It is recommended that tests be made to be certain that the property is supplied with adequate drinking water.
- ☒ Lead can get into drinking water from its source, the pipes, at all discharge points, plumbing fixtures and/or appliances. The only way to be certain that water does not contain an unacceptable lead level is to have it tested at all discharge points.
- ☒ **The opinion of value is based on the assumption that there is an adequate supply of safe, lead-free drinking water.**

Comments:

SEWER SYSTEM

- ☒ Sewage is removed from the property by a municipal sewer system.
- ☐ Sewage is disposed of by a septic system or other sanitary on-site waste disposal system. The only way to determine that the disposal system is adequate and in good good working condition is to have it inspected by a qualified inspector.
- ☒ **The opinion of value is based on the assumption that the sewage is disposed of by a municipal sewer or an adequate properly permitted alternate treatment system in good condition.**

Comments:

SOIL CONTAMINANTS

- ☒ There are no **apparent** signs of soil contaminants on or near the subject property (except as stated in Comments, below). It is possible that research, inspection and testing by a qualified environmental inspector would reveal existing and/or potential hazardous substances and/or detrimental environmental conditions on or around the property that would negatively affect its safety and value.
- ☒ **The opinion of value is based on the assumption that the subject property is free of soil contaminants.**

Comments:

ASBESTOS

- ☐ All or part of the improvements were constructed before 1979 when asbestos was a common building material. The only way to be certain that the property is free of friable and non-friable asbestos is to have it inspected and tested by a qualified asbestos inspector.
- ☐ The improvements were constructed after 1979. No **apparent** friable asbestos was observed (except as stated in Comments, below).
- ☐ **The opinion of value is based on the assumption that there is no uncontained friable asbestos or other hazardous asbestos material on the property.**

Comments: N/A**PCBs (POLYCHLORINATED BIPHENYLS)**

- ☒ There were no **apparent** leaking fluorescent light ballasts, capacitors or transformers anywhere on or nearby the property (except as stated in Comments, below).
- ☒ There was no **apparent** visible or documented evidence known to the appraiser of soil or groundwater contamination from PCBs anywhere on the property (except as reported in Comments below).
- ☒ **The opinion of value is based on the assumption that there are no uncontained PCBs on or nearby the property.**

Comments:

RADON

- ☒ The appraiser is not aware of any radon tests made on the subject property within the past 12 months (except as stated in Comments, below).
- ☒ The appraiser is not aware of any indication that the local water supplies have been found to have elevated levels of radon or radium.
- ☒ The appraiser is not aware of any nearby properties (except as stated in Comments, below) that were or currently are used for uranium, thorium or radium extraction or phosphate processing.
- ☒ **The opinion of value is based on the assumption that the Radon level is at or below EPA recommended levels.**

Comments: None Known. Radon varies from property to property and is found throughout the county.

USTs (UNDERGROUND STORAGE TANKS)

- ☒ There is no apparent visible or documented evidence known to the appraiser of any USTs on the property nor any known historical use of the property that would likely have had USTs.
- ☒ There are no apparent petroleum storage and/or delivery facilities (including gasoline stations or chemical manufacturing plants) located on adjacent properties (except as reported in Comments below).
- ☐ There are apparent signs of USTs existing now or in the past on the subject property. It is recommended that an inspection by a qualified UST inspector be obtained to determine the location of any USTs together with their condition and proper registration if they are active; and if they are inactive, to determine whether they were deactivated in accordance with sound industry practices.
- ☒ The opinion of value is based on the assumption that any functioning USTs are not leaking and are properly registered and that any abandoned USTs are free from contamination and were properly drained, filled and sealed.

Comments:

NEARBY HAZARDOUS WASTE SITES

- ☒ There are no apparent hazardous waste sites on the subject property or nearby the subject property (except as stated in Comments, below). Hazardous Waste Site search by a trained environmental engineer may determine that there is one or more hazardous waste sites on or in the area of the subject property.
- ☒ The opinion of value is based on the assumption that there are no hazardous waste sites on or nearby the subject property that negatively affect the value or safety of the property.

Comments:

UREA FORMALDEHYDE INSULATION (UFFI)

- ☐ All or part of the improvements were constructed before 1982 when urea foam insulation was a common building material. The only way to be certain that the property is free of urea formaldehyde is to have it inspected by a qualified urea formaldehyde inspector.
- ☐ The improvements were constructed after 1982. No apparent urea formaldehyde materials were observed (except as stated in Comments, below).
- ☐ The opinion of value is based on the assumption that there is no significant UFFI insulation or other urea formaldehyde material on the property.

Comments: N/A

LEAD BASED PAINT

- ☐ All or part of the improvements were constructed before 1978 when lead based paint was a common building material. There is no apparent visible or known documented evidence of peeling or flaking Lead Paint on the floors, walls or ceilings (except as stated in Comments, below). The only way to be certain that the property is free of surface or subsurface lead based paint is to have it inspected by a qualified inspector.
- ☐ The improvements were constructed after 1978. No apparent Lead Paint was observed (except as stated in Comments, below).
- ☐ The opinion of value is based on the assumption that there is no flaking or peeling Lead Paint on the property.

Comments: N/A

AIR POLLUTION

- ☒ There are no apparent signs of air pollution at the time of the appraiser's viewing of the subject property, nor were any reported (except as reported in Comments, below). The only way to be certain that the air is free of pollution is to have it tested.
- ☒ The opinion of value is based on the assumption that the property is free of air pollution.

Comments:

WETLANDS/FLOOD PLAINS

- ☒ The site does not contain any apparent wetlands/flood plains (except as stated in Comments, below). The only way to be certain that the site is free of wetlands/flood plains is to have it inspected by a qualified environmental professional.
- ☒ The opinion of value is based on the assumption that there are no Wetlands/Flood Plains on the property (except as stated in Comments, below).

Comments: Site is fairly level and open with a steep slope to the ravine in the rear.

MISCELLANEOUS ENVIRONMENTAL HAZARDS

- ☒ There are no other apparent hazardous substances and/or detrimental environmental conditions on or in the area of the site except as indicated below:

- ☐ Excess noise _____
- ☐ Radiation and/or electromagnetic radiation _____
- ☐ Light pollution _____
- ☐ Waste heat _____
- ☐ Acid mine drainage _____
- ☐ Agricultural pollution _____
- ☐ Geological hazards _____
- ☐ Nearby hazardous property _____
- ☐ Infectious medical wastes _____
- ☐ Pesticides _____
- ☐ Other (chemical storage, drums, pipelines, etc.) _____

- ☒ The opinion of value is based on the assumption that, except as reported above, there are no other environmental hazards that would negatively affect the value of the subject property.

When any of the environmental assumptions made in this addendum are not correct, the opinion of value in this appraisal may be affected.

Subject Land Photo Page

Client	City of Ashland					
Property Address	US Hwy 2 & Stuntz Ave					
City	Ashland	County	Ashland	State	WI	Zip Code 54806
Appraiser	Beth Roberts					



NE View Along Hwy 13

US Hwy 2 & Stuntz Ave
Sales Price
Date of Sale
Location US Hwy/City
Site/View
Topography Level/Steep Slope
Zoning CC
Access Hwy



SW View along Stuntz Rd



Subject Street

Subject Land Photo Page

Client	City of Ashland					
Property Address	US Hwy 2 & Stuntz Ave					
City	Ashland	County	Ashland	State	WI	Zip Code 54806
Appraiser	Beth Roberts					



Rear drop off

US Hwy 2 & Stuntz Ave
Sales Price
Date of Sale
Location US Hwy/City
Site/View
Topography Level/Steep Slope
Zoning CC
Access Hwy



Main building site



View from site

Subject Land Photo Page

Client	City of Ashland					
Property Address	US Hwy 2 & Stuntz Ave					
City	Ashland	County	Ashland	State	WI	Zip Code 54806
Appraiser	Beth Roberts					



View from the site

US Hwy 2 & Stuntz Ave
Sales Price
Date of Sale
Location US Hwy/City
Site/View
Topography Level/Steep Slope
Zoning CC
Access Hwy



Stuntz Rd view



Additional Hwy 13 view

Subject site setbacks

Client	City of Ashland						
Property Address	US Hwy 2 & Stuntz Ave						
City	Ashland	County	Ashland	State	WI	Zip Code	54806
Appraiser	Beth Roberts						



Subject Buildable site map

Client	City of Ashland						
Property Address	US Hwy 2 & Stuntz Ave						
City	Ashland	County	Ashland	State	WI	Zip Code	54806
Appraiser	Beth Roberts						



Appraisal License 2020-2021

NO. 1300 - 4

**The State of Wisconsin
Department of Safety and Professional Services**

EXPIRES: 12/14/2021
LIMITED LICENSE - SEE
ORDER

Hereby certifies that
BETH A ROBERTS
was granted a certificate to practice as a
**LICENSED APPRAISER ELIGIBLE TO APPRAISE FEDERALLY RELATED
TRANSACTIONS IS AQB COMPLIANT**

*in the State of Wisconsin in accordance with Wisconsin Law
on the 12th day of April in the year 2000.*

The authority granted herein must be renewed each biennium by the granting authority.

*In witness thereof, the State of Wisconsin
Department of Safety and Professional Services
has caused this certificate to be issued under
its official seal.*



David B. Cini
DAES Secretary

This certificate was printed on the 2nd day of December in the year 2019

SUBJECT: Approve a Resolution to Approve a Conditional Use Permit to Allow a Veterinary Clinic for Small and Large Animals on Parcel #201-04896-0000, Zoned: Future Development (FD), Applicant: Trevor Provost and Tim Dykstra on Behalf of FMK Properties, LLC (*Planning*) Voice

RECOMMENDATION: Approval (Unanimously recommended by Plan Commission on September 15, 2020)

DEPARTMENT OF ORIGIN: Planning & Development

CLEARANCES: Planning & Development Department
Planning Commission (Voted unanimously to approve on September 15, 2020)

EXHIBITS:

1. Proposed Resolution
2. Plan Commission Public Hearing Summary, September 15, 2020
3. Staff Report, Plan Commission, September 9, 2020
4. Parcel #201-04896-0000 Aerial Map
5. Letter of Request, M. Koosmann DMV, September 10, 2020

EXPENDITURES REQUIRED: N/A

AMOUNT BUDGETED: N/A

APPROPRIATION REQUIRED: N/A

TREASURER'S CERTIFICATE: NA

COMPLIANCE WITH ORDINANCE 51:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD: The proposed development is consistent with the goals and principles established in the Comprehensive Plan, which specifically states that the City will not “permit development outside our city’s core, so that demand can be channeled for greatest economic impact” (p. 19). While a veterinary clinic for small and large animals would not be a compatible use in the City Center district, this location along the 800 block of Sanborn Avenue is more centrally located than their current location on Farm Rd adjacent to Binsfield Rd. This will not only help an existing business to expand and construct a new building that meets their needs, while also drawing the 16 full-time and 18 part-time jobs, along with their wide reach of clients, closer to other businesses and services in the economic center of the City.

SUMMARY STATEMENT:

Trevor Provost of C&S Design and Tim Dykstra of Dykstra Construction have submitted a Conditional Use Permit (CUP) application on behalf of Margaret Koosmann (owner of Ashland Area Veterinary Clinic) to allow a “Veterinary Clinic: Small and Large Animals” on parcel #201-04896-0000. This parcel is located on

Sanborn Avenue, directly across from Fellman Drive, and is located in the Future Development (FD) and Gateway Overlay (GTWY-O) zoning districts. The applicant's practice, Ashland Area Veterinary Clinic, is currently located at 2700 Farm Rd in Ashland. She leases this building, but is requesting the subject CUP for the purpose of constructing a new building and relocating to Sanborn Avenue.

Ashland Area Veterinary Clinic treats both small and large animals, and the move to this more centrally located site will allow them to continue to service their clients and expand the practice while remaining in the City of Ashland. They currently employ four (4) full-time doctors, one (1) full-time office manager, three (3) full-time receptionists, one (1) full-time vet tech, three (3) full-time vet assistants, and eight (8) part-time staff.

Approval of the requested CUP would be contingent upon approval of the full Site Plan by Plan Commission.

RESOLUTION TO ISSUE A CONDITIONAL USE PERMIT TO ALLOW A VETERINARY CLINIC FOR SMALL AND LARGE ANIMALS ON PARCEL #201-04896-0000, ZONED: FUTURE DEVELOPMENT (FD), APPLICANT: TREVOR PROVOST AND TIM DYKSTRA ON BEHALF OF FMK PROPERTIES, LLC

WHEREAS, the Common Council of the City of Ashland is authorized to issue Conditional Use Permits; and,

WHEREAS, the applicant has requested a Conditional Use Permit per Chapter 781, Ashland City Ordinances, to allow a Veterinary Clinic for small and large animals on parcel #201-04896-0000, zoned: Future Development (FD), Applicant: Trevor Provost and Tim Dykstra on behalf of FMK Properties, LLC; and,

WHEREAS, the Plan Commission held a Public Hearing on September 15, 2020 and has unanimously recommended approval of the Conditional Use Permit with the following conditions:

- a. Conditional Use Permit approval is contingent upon approval of the associated Site Plan by the Plan Commission.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Ashland that the Conditional Use Permit to allow a Veterinary Clinic for small and large animals on parcel #201-04896-0000 is in accordance with the Ashland Unified Development Ordinance and is hereby approved.

PASSED: September 29, 2020

Councilperson

ATTEST: _____
Denise Oliphant, City Clerk

Debra S. Lewis, Mayor

APPROVED AS TO FORM:

Tyler Wickman, City Attorney

FOR APPLICANT:

Applicant understands and accepts the conditions of approval for the CUP as indicated within this resolution, and was provided notice of Common Council approval of this resolution within 5 business days of such approval.

Applicant: _____
(Print and signature)

Date

Plan Commission Public Hearing Summary

September 15, 2020

Conditional Use Permit request to allow a Veterinary Clinic for small and large animals on parcel #201-04896-0000, a 35 acre lot located on Sanborn Avenue directly across from Fellman Drive, zoned: Future Development (FD), Applicant: Trevor Provost and Tim Dykstra on behalf of FMK Properties, LLC

Megan McBride explained that the required Class 2 public hearing notice was fulfilled, and discretionary letters were sent to surrounding property owners. She did not receive any comments prior to this meeting. She explained that the business, Ashland Area Veterinary Clinic (AAVC) is currently located at 2700 Farm Road, and would like to relocate to this 35-acre lot on Sanborn. Megan explained that the approval of this CUP is contingent on approval of the associated Site Plan, which would be brought to Plan Commission at a future meeting. As noted in the Staff Report, this proposed use would require particular attention to screening requirements and impacts on neighboring residential uses, and compatible with its location in the Gateway-Overlay district on Sanborn Ave. Megan explained that she has been working with the applicants to ensure these considerations are incorporated into the Site Plan that is brought forward.

Ana Tochtermann asked Dr. Koosman, owner of Ashland Area Veterinary Clinic, what the reasoning was behind moving from Farm Road to the proposed location. Dr. Koosman explained that her business partner, who owned the Farm Road property, passed away in the spring. She is currently renting that property from family members, and does not foresee being able to purchase it in the near future. Additionally, she explained that she has outgrown the current location, and the Sanborn property would allow her to expand.

Matt Mackenzie requested that the Site Plan take into consideration the potential outdoor kennelling of dogs and other animals to ensure any impacts on the neighbors be mitigated.

STAFF REPORT

Plan Commission – September 9, 2020

Agenda Item # 5b: **Public Hearing and Consideration of a Conditional Use Permit Request to allow a Veterinary Clinic for Small and Large Animals**

Zoning District: **Future Development (FD); Gateway Overlay (GTWY-O)**

Property Address: **Sanborn Avenue directly across from Fellman Drive**

Parcel #: **201-04896-0000**

Applicant: **Trevor Provost and Tim Dykstra on behalf of Margaret Koosmann (Ashland Area Veterinary Clinic)**

Staff Contact: **Megan McBride**

Background

Trevor Provost of C&S Design and Tim Dykstra of Dykstra Construction have submitted a Conditional Use Permit (CUP) application on behalf of Margaret Koosmann (owner of Ashland Area Veterinary Clinic) to allow a "Veterinary Clinic: Small and Large Animals" on parcel #201-04896-0000. This parcel is located on Sanborn Avenue, directly across from Fellman Drive, and is located in the Future Development (FD) and Gateway Overlay (GTWY-O) zoning districts. The applicant's practice, Ashland Area Veterinary Clinic, is currently located at 2700 Farm Rd in Ashland. She leases this building, but is requesting the subject CUP for the purpose of constructing a new building and relocating to Sanborn Avenue.

Ashland Area Veterinary Clinic treats both small and large animals, and the move to this more centrally located site will allow them to continue to service their clients and expand the practice while remaining in the City of Ashland. They currently employ four (4) full-time doctors, one (1) full-time office manager, three (3) full-time receptionists, one (1) full-time vet tech, three (3) full-time vet assistants, and eight (8) part-time staff.

Approval of the requested CUP would be contingent upon approval of the full Site Plan by Plan Commission.

Standards for Conditional Use Review

The City of Ashland's Unified Development Ordinance Section 3.9 (C) Conditional Use Permit – Approval Criteria (and all subsections thereof), create the legal framework to regulate, administer, and enforce the conditional use standards for the City of Ashland. The following decision criteria were used to review the submitted conditional use:

1. **Consistency with Comprehensive Plan.** The proposed development is consistent with the goals and principles established in the Comprehensive Plan, which specifically states that the City will not "permit development outside our city's core, so that demand can be channeled for greatest economic impact" (p. 19). While a veterinary clinic for small and large animals would not be a compatible use in the City Center district, this location along the 800 block of Sanborn Avenue is more centrally located than their current location on Farm Rd adjacent to Binsfield Rd. This will not only help an existing business to expand and construct a new building that meets their needs, while also drawing the 16 full-time and 18 part-time jobs, along with their wide reach of clients, closer to other businesses and services in the economic center of the City.

2. **Compatibility.** The proposed use is compatible with the existing predominately residential uses in the vicinity of the proposed new vet clinic location. This is a relatively low-impact commercial use, with operations taking place indoors and standard hours of 9:00am- 5:00pm on weekdays, with the exception of emergency visits. The size of the lot, 35 acres, ensures that through proper site planning, setbacks and screening/buffering can be utilized to prevent any negative impacts on neighboring properties such as headlights from traffic coming and going from the site at late hours from emergency calls, or any noises or exterior lighting added by this use. The lot is also already served by City utilities, so no additional public infrastructure would be needed to support this project.
3. **Importance of Services to the Community.** Ashland Area Vet Clinic services clients with both small and large animals from all across the region, providing medical services to area animals while also creating another draw to the community which creates larger impact on the local economy.
4. **Neighborhood Protections.** Neighborhood protections will be particularly important with this proposed use on the subject property given the mix of residential uses also in the vicinity and located directly adjacent to the lot. Landscaping and other methods for buffering shall be incorporated into the site plan, along with adequate setbacks from residential uses, to ensure that noises, lights other impacts of this commercial use will not adversely impact neighboring properties. Additionally, the location in the Gateway Overlay (G-O) zoning district will ensure items such as landscaping, orientation of the building to block outdoor areas for animals, and overall appearance of the building to be considered through site plan evaluation for compatibility of this highly visible overlay district. Approval of this Conditional Use Permit shall be contingent upon approval of the full Site Plan at a later Plan Commission meeting.
5. **Conformance with Other Requirements:** The development must conform to all other provisions of the UDO, including the intent of the Future Development (FD) and Gateway Overlay (GTWY-O) zoning districts in which it is located. The intent of the FD district is primarily related to land which is not served by municipal water and sewer. As utilities are available to land in this district, as is the case for this particular property, it recommends promoting “economical uses” which are compatible with the size and location of the property.

Review Recommendation

Staff recommends APPROVAL of the Conditional Use Permit contingent upon the following conditions:

- Approval of Site Plan by Plan Commission, including adequate landscaping and screening to provide neighbor protections and ensure compatibility with location on Sanborn Ave in the Gateway-Overlay (GTWY-O) district.

Additionally, as a Public Hearing is scheduled for the proposed Conditional Use Permit, the Plan Commission should hear all input from the public prior to making a decision. The required Class 2 public hearing notice was given, and letters were sent to property owners within 200 feet of the proposed development.

Approvals are based on background information provided by the applicant and known conditions. Deviations from this information may be considered a change in the application and reconsideration and possible revision to the approvals may be made by the Plan Commission and Common Council.

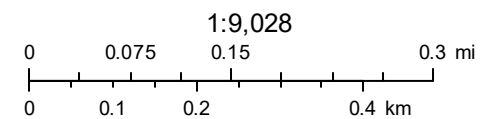
Parcel #201-04896-0000 Aerial Map



9/9/2020, 10:27:54 AM

Parcel Labels

 Parcel Mapping



City of Ashland Public Works Department, GIS Division
PICTOMETRY INTL



Margaret M. Koosmann, DVM

September 10, 2020

Hello my name is Margaret Koosmann and I am a veterinarian and Ashland Area Veterinary Clinic. I recently purchased that practice following the passing of my boss Gretchen Wilson this spring. I am a 2006 graduate of Mellen High-school, 2010 graduate of Northland College, and a 2015 graduate of the University of Wisconsin School of Veterinary Medicine. I have been practicing in Ashland since June 1, 2015.

I am currently renting the building where AAVC has resided since 1990. I employ four full time doctors, one full time office manager, three full time receptionists, one full time vet tech and three full time vet assistants. I also provide work for eight other part time staff. The clinic is open Monday through Friday from 9 am to 5 pm and operates 24/7 answering all emergency calls for large and small animal. I am in the process of purchasing land and looking to build a new clinic at this time.

It is my intention to keep the business in the city of Ashland and continue to provide high quality care for our patients. My clientele spans from all the way from two hours into the Upper Peninsula of Michigan, to Duluth, down to Cable, to Park Falls and everywhere in between. Although I see clients from all over the area, it is important for us to remain in the city of Ashland with an easily accessible area to allow for large animal patients to continue to use our facility as well.

SUBJECT: Approve a Resolution to Issue a Conditional Use Permit to Allow a Clinic Use for an Ultrasound Machine and Associated Services at 522 Chapple Avenue, Zoned Mixed Residential/Commercial (MRC). Applicant: Eva Thewis on Behalf of Chequamegon Pregnancy Center (*Planning*) Voice

RECOMMENDATION: Approval

DEPARTMENT OF ORIGIN: Planning & Development

CLEARANCES: Planning & Development Department
Planning Commission (Voted to approve 4-2, Tochtermann and Mettillie opposed)

EXHIBITS:

1. Proposed Resolution
2. Plan Commission Public Hearing Summary, September 15, 2020
3. Staff Report, Plan Commission, September 9, 2020
4. 522 Chapple Avenue Aerial Map
5. Request Letter, Chequamegon Pregnancy Center, August 24, 2020

EXPENDITURES REQUIRED: N/A

AMOUNT BUDGETED: N/A

APPROPRIATION REQUIRED: N/A

TREASURER'S CERTIFICATE: NA

COMPLIANCE WITH ORDINANCE 51:

STATEMENT OF CONFORMANCE WITH COMPREHENSIVE PLAN OF RECORD: The proposed use is consistent with the goals and principles established in the Comprehensive Plan, which emphasizes the importance of attracting and retaining young families as a means of adding vibrancy and diversity to the area. The requested clinic use for the addition of an ultrasound machine at 522 Chapple would further support the family planning services provided by the Chequamegon Pregnancy Center at this location, and expand the services they are able to provide to individuals “on their parenthood journey.”

SUMMARY STATEMENT:

The applicant, Eva Thewis, on behalf of the Chequamegon Pregnancy Center, is requesting a Conditional Use Permit (CUP) to allow for a Clinic use in the Wilmarth Mansion at 522 Chapple Avenue. The property is currently owned by Impact 7. The Chequamegon Pregnancy Center began leasing space in the mansion as of September 1, 2019, for the purpose of establishing their non-profit organization. The property is located in the Mixed Residential/Commercial (MRC) zoning district, in which a Clinic is a conditional use.

The addition of an ultrasound machine with associated staff and services constitutes a new use on the site, and thus constitutes the need for a CUP based on the current definition of “Clinic” in the UDO. A clinic is defined as “an establishment operated by one or more physicians, dentists, chiropractors, mental health professionals, or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis.” This definition fits the intent of the future use of the ultrasound machine for outpatient services, operated by licensed professionals, to complement the services they already offer to new families.

RESOLUTION

No. 17591

RESOLUTION TO ISSUE A CONDITIONAL USE PERMIT TO ALLOW A CLINIC USE FOR AN ULTRASOUND MACHINE AND ASSOCIATED SERVICES AT 522 CHAPPLE AVENUE, ZONED MIXED RESIDENTIAL/COMMERCIAL (MRC). APPLICANT: EVA THEWIS ON BEHALF OF THE CHEQUAMEGON PREGNANCY CENTER

WHEREAS, the Common Council of the City of Ashland is authorized to issue Conditional Use Permits; and,

WHEREAS, the applicant has requested a Conditional Use Permit per Chapter 781, Ashland City Ordinances, to allow a clinic use for an ultrasound machine and associated services at 522 Chapple Avenue, zoned Mixed Residential/Commercial (MRC). Applicant: Eva Thewis on behalf of Chequamegon Pregnancy Center; and,

WHEREAS, the Plan Commission held a Public Hearing on September 15, 2020 and has recommended approval of the Conditional Use Permit with a 4-2 vote.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Ashland that the Conditional Use Permit for a Clinic use at 522 Chapple Avenue is in accordance with the Ashland Unified Development Ordinance and is hereby approved.

PASSED: September 29, 2020

Councilperson

ATTEST: _____
Denise Oliphant, City Clerk

Debra S. Lewis, Mayor

APPROVED AS TO FORM:

Tyler Wickman, City Attorney

FOR APPLICANT:

Applicant understands and accepts the conditions of approval for the CUP as indicated within this resolution, and was provided notice of Common Council approval of this resolution within 5 business days of such approval.

Applicant _____
(Print and signature)

Date

Plan Commission Public Hearing Summary

September 15, 2020

Conditional Use Permit request to allow a Clinic use for an ultrasound machine and associated services at 522 Chapple Avenue, zoned Mixed Residential/Commercial (MRC). Applicant: Eva Thewis on behalf of Chequamegon Pregnancy Center

Megan McBride explained that the required Class 2 public hearing notice was issued, and she did not receive any comments prior to the meeting. She explained that this will expand the range of services that the Clinic will be able to provide at this location and they do not anticipate additional parking needs or any traffic impacts to the surrounding area.

John Beirl asked Eva Thewis if the Clinic considers itself to be pro-life or pro-choice. Eva Thewis explained that they are considered more pro-life but that they do not push their beliefs on their patients, instead they give their patients a range of options.

Ana Tochtermann asked for further clarification regarding the Clinic's affiliation with CareNet, a very openly pro-life organization. Eva Thewis explained that they are affiliated only loosely with CareNet, and do not push their beliefs onto patients. John Beirl asked if the Clinic is affiliated with any religion, and Eva Thewis said that they are not.

Mayor Lewis asked if there is any additional licensure required to operate the ultrasound machine, and Eva Lewis said that the Clinic is required to have a physician to write the orders for imaging. They are additionally required to have a nurse or ultrasound technician in order to do the imaging, which they already have on staff, so no additional licensure is needed.

Ana Tochtermann asked for clarification about what the Clinic plans to use the ultrasound machine for, and Eva Thewis explained that they plan to use the machine for general imaging, including to make sure that the fetus is viable and not an ectopic pregnancy, and allowing for the mother can see the fetus, if she chooses. Additionally, mothers must have confirmation of a viable pregnancy to receive referrals for WIC services.

STAFF REPORT

Plan Commission – September 9, 2020

Agenda Item # 5a: **Public Hearing and Consideration of a Conditional Use Permit Request to allow a Clinic use**

Zoning District: **Mixed Residential/Commercial (MRC)**

Property Address: **522 Chapple Avenue**

Parcel #: **201-04585-0100**

Applicant: **Eva Thewis on behalf of Chequamegon Pregnancy Center**

Staff Contact: **Megan McBride**

Background

The applicant, Eva Thewis, on behalf of the Chequamegon Pregnancy Center, is requesting a Conditional Use Permit (CUP) to allow for a Clinic use in the Wilmarth Mansion at 522 Chapple Avenue. The property is currently owned by Impact 7. The Chequamegon Pregnancy Center began leasing space in the mansion as of September 1, 2019, for the purpose of establishing their non-profit organization. The property is located in the Mixed Residential/Commercial (MRC) zoning district, in which a Clinic is a conditional use.

The addition of an ultrasound machine with associated staff and services constitutes a new use on the site, and thus constitutes the need for a CUP based on the current definition of "Clinic" in the UDO. A clinic is defined as "an establishment operated by one or more physicians, dentists, chiropractors, mental health professionals, or other licensed practitioners of the healing arts for the examination and treatment of persons solely on an outpatient basis." This definition fits the intent of the future use of the ultrasound machine for outpatient services, operated by licensed professionals, to complement the services they already offer to new families.

Standards for Conditional Use Review

The City of Ashland's Unified Development Ordinance Section 3.9 (C) Conditional Use Permit – Approval Criteria (and all subsections thereof), create the legal framework to regulate, administer, and enforce the conditional use standards for the City of Ashland. The following decision criteria were used to review the submitted conditional use:

1. **Consistency with Comprehensive Plan.** The proposed use is consistent with the goals and principles established in the Comprehensive Plan, which emphasizes the importance of attracting and retaining young families as a means of adding vibrancy and diversity to the area. The requested clinic use for the addition of an ultrasound machine at 522 Chapple would further support the family planning services provided by the Chequamegon Pregnancy Center at this location, and expand the services they are able to provide to individuals "on their parenthood journey."
2. **Compatibility.** The proposed use is compatible with the other existing professional service uses within the Wilmarth Mansion, and the addition of an ultrasound in the building would not impact the compatibility of the site with surrounding, primarily residential, uses.

3. **Importance of Services to the Community.** The addition of an ultrasound machine as requested will further augment the important services already provided by the Chequamegon Pregnancy Center at this location. They currently offer support services and resources “to help women and their partners during the journey of an unplanned pregnancy” (see attached cover letter). The addition of an ultrasound machine will add an additional tool for providing this support, particularly given that all of these services are provided free of charge.
4. **Neighborhood Protections.** The requested Clinic use would not require any additional neighborhood protections. The ultrasound machine will be an addition to the existing services offered through the Chequamegon Pregnancy Center at 522 Chapple Avenue, and is not anticipated to have any significant impacts on traffic flow or building use which would warrant the need for new neighborhood protections. Adequate off-street parking already exists on site, so no additional parking would be required through the addition of this zoning use.
5. **Conformance with Other Requirements:** The development must conform to all other provisions of the UDO, including the intent of the zoning district(s) in which the property is located. Part of the intent of the Mixed Residential/Commercial (MRC) district in which this property is located is to “allow the preservation and enhancement of existing commercial uses that are compatible with the predominantly residential character of the area, and the vision for the area as expressed in the City’s Comprehensive Plan.” The addition of an ultrasound machine will not create negative impacts on the surrounding residential uses, and the site already provides adequate on- and off-street parking to accommodate clients. Therefore, this use is compatible with the intent of the MRC zoning district and will fit with the existing adjacent residential uses.

Review Recommendation

Staff recommends APPROVAL of the Conditional Use Permit.

Additionally, as a Public Hearing is scheduled for the proposed Conditional Use Permit, the Plan Commission should hear all input from the public prior to making a decision. The required Class 2 public hearing notice was given, and letters were sent to property owners within 200 feet of the proposed development.

Approvals are based on background information provided by the applicant and known conditions. Deviations from this information may be considered a change in the application and reconsideration and possible revision to the approvals may be made by the Plan Commission and Common Council.

Department of Public Works Engineering
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522 Chapple Avenue, Ashland, Wisconsin 54806 | (715) 682-1125

City of Ashland
Conditional Use Permit Request

August 24, 2020

Mayor Deb Lewis and Common Council
City of Ashland
601 Main Street West
Ashland, WI 54806

Dear Ashland Leadership:

On September 1, 2019 the Board of Directors of the Chequamegon Pregnancy Center signed a lease with Impact Seven, a Wisconsin corporation and owner of the Wilmarth Mansion, for the purpose of establishing our non-profit organization. The Chequamegon Pregnancy Center seeks to help women and their partners during the journey of an unplanned pregnancy. We assist with education regarding birthing options, we offer life skills and support, and our boutique has complimentary infant and toddler items. Simply put, we help to assist them on their parenthood journey. We offer baby goods, services and encouragement; however, we do not provide direct financial support to the mothers.

We have raised a sizable amount of funds that have allowed us to hire a full-time executive director, fund operating expenses, and set aside a monetary amount for the purpose of procuring an ultrasound machine. In networking with other pregnancy centers throughout the country, we've found that an ultrasound machine is a valuable tool in establishing the viability of the child – it is medically foundational to establishing the reality of a pregnancy and allows us to provide direct support to the pregnant mother. Following the initial visit, we continue providing support up to two years to assure a positive and hopeful future for mom and baby, as well as the father. All of our services are free and confidential.

The time for purchasing the ultrasound machine has come and we've learned due to the existing zoning requirements of the Wilmarth Mansion – *Residential/Commercial* – we must seek a conditional approval from the City of Ashland in order to use the ultrasound service at this location. This addition to our non-profit organization will designate us as a medical clinic and thus needs approval.

We therefore ask for your favorable review of our application. Thank you very much for your time and consideration.

Sincerely,

Eva Thewis, RN

Vice Chair – Medical Supervision & Internal Affairs,
Board of Directors of the Chequamegon Pregnancy Center