



City of Sturgeon Bay
421 Michigan Street
Sturgeon Bay, WI 54235
jvanlieshout@sturgeonbaywi.org

Joshua J. Van Lieshout
City Administrator

920-746-6905 (Voice)
920-746-2905 (Fax)

Memorandum

To: Common Council

From: Josh Van Lieshout, City Administrator

Date: November 3, 2017

Re: Item 9: Consideration of: Order requiring the City to raze the grain elevator at 92 East Maple Street and the Petition of the Sturgeon Bay Historical Society, Inc. for a Hearing Pursuant to Wis. Stats. §§ 101.02 and 227.42 on the Order to Raze and Remove Structure Issued to the City of Sturgeon Bay to Raze the Granary Structure at 92 East Maple Street, in the City of Sturgeon Bay, Door County, Wisconsin.

Item 9 on the Common Council Agenda of November 7, 2017 centers on two issues, first the order issued by the Fire Department demanding the grain elevator be razed, and second how a petition filed by the Sturgeon Bay Historical Society, Inc. requesting a hearing on the order affects any decisions by the Council.

The purpose of these items being posted for closed session is to provide for the opportunity to go into closed session should the conversation of the Council turn towards matters of joining the legal action brought by Sturgeon Bay Historical Society, Inc. or into matters of liability, risk, feasibility, possible outcomes and legal defenses regarding the litigation. As always, the council does not have to go into closed session if it does not feel it is necessary.

Legal Assistance and Representation:

City Attorney Nesbitt has had to recuse himself due to an ethical conflict that arises in serving the interests of both the Council and Fire Department because he drafted the order for the Fire Department (the Order), and the Order is in regards to property owned by the City.

Attorney James Kalny, Davis and Kuelthau will advocate for the City. He has reviewed the order, applicable statute(s), summary from Attorney Nesbitt and is prepared to advise you accordingly.

In light of the Sturgeon Bay Historical Society opting to file their own request for hearing (attached) before the department of Safety and Professional Services (the rule making agency charged with conducting hearings appealing an order), the Fire Department will need an attorney to represent their public safety concerns should a hearing be granted. The Fire Department will be represented by Attorney William VandeCastle of Green Bay.

Liability and Risk Matters

Analysis by Atty. Nesbitt

Shared with the Common Council is City Attorney Nesbitt's analysis. I will not paraphrase it in this memo, it is attached and you should read it in its entirety. Mr. Kalny will have some observations and additions to that opinion.

Statewide Claims Service

With regard to liability to the existing structure and the documented conditions, you should review Attorney Conlon's letter. Attorney Conlon is the claims handler for LWMMI. He is the person that has the most influence in determining if a claim will be defended or not. Also attached is a follow up email from Attorney Conlon. It is especially important that the Common Council understand the potential for exposure to claims that could arise if an accident or worse to occur at the site.

Sturgeon Bay Historical Society, Inc. and Impact of money on decision:

The Sturgeon Bay Historical Society, Inc. has come forward (letter attached) with an intriguing offer to the City. This offer, while interesting, hasn't been vetted. In light of the Order the ability to vet the offer is complicated by public safety concerns and related insurance coverage issues. Should the Council wish to entertain some or all their proposal, the Council may wish to consider joining the SBHS, Inc. petition or filing your own petition to try to stay/modify/ or overturn the Order. In considering that option the Order, insurance and public safety concerns are factors that should be addressed.

To say the pledged sum of \$1.25 million is a lot of money is an understatement (Door County Community Foundation Letter). It is a substantial and meaningful gift, however the matter of Order must first be addressed and resolved. Once the Order and related insurance and public safety issues are resolved, and if the Council and other approving and review bodies agree, perhaps then enter into a plan to do something with this incredibly generous pledge.

Process for determining use of site (eg. Development proposals last sought in 2015)

When the City last sought proposals for development site, the City and WRA went through a public process to solicit proposals from interested parties. In 2015 the City received two proposals to make reuse of the grain elevator site. One from the team of Dan Collins and Laurel Hauser, another from Ryan Schabach and finally a proposal from Smet Construction Services. The WRA and Council ultimately selected the Smet proposal. The process used to get to that point is attached this process. Staff has met a number of times with a group represented by Hans Christian who are working on a proposal titled Center for the Arts that would make use of the grain elevator site.

You have also seen the SBHS, Inc. letter seeking to make use of elevator as well. How compatible these proposals are is uncertain. Nonetheless, they seem to have many commonalities and supporters. My advice to the Council would be to use to the process previously deployed in selecting a project for this site. The process previously used has been shared with Mr. Christian and SBHS, Inc.

Options for the Common Council

Subject to the arguments raised by the Historical Society, the Order is a lawful order. The City has given notice to the State Historical Society of its intent to raise the Granary over 30 days ago and has heard no response. I am also not aware of any other notice or order by any agency or court that would prevent the Council from taking action to raise the structure on its own if it desires to do so. The Common Council has three choices:

1. Implement the Order (approve demolition contract). If you choose to go this route, use of any gift made to SBHS, Inc. would likely be lost.
2. Request a hearing before Department of Safety and Public Services / Join the existing request from SBHS, Inc. This gives the Council some opportunity for delay and possibly make an attempt at working something out with SBHS or others who expressed an interest in the site.
3. Finally, take no action. I do not recommend this. I expect the Order would remain standing, and could result in enforcement action against the City by the Fire Department and/or Department of Safety and Professional Services.

Other Information

I have received a draft resolution from Alders Catarozoli and Hauser relative to the second actionable item above. It is included for your reference.

The City's Historic Preservation Commission has acted on the grain elevator, a resolution adopted by them is included as well as a letter submitted by the Sturgeon Bay Visitor's Center.

Over the course of the last two weeks I have received many, many, emails the majority of which encourage the Council to take whatever steps necessary to preserve the grain elevator.

COMMON COUNCIL
August 1, 2017

A meeting of the Common Council was called to order at 12:00 p.m. by Mayor Birmingham. The Pledge of Allegiance was recited. Roll call: Catarozoli, Vandertie, Ward, Wiesner, Allmann, Fett, and Hauser.

Catarozoli/Ward to adopt agenda. Carried.

The following people spoke during public comment on agenda items: Hans Christian, 330 N. 3rd Ave; Bruce Joffe, 46 E. Pine St; Chris Kellems, 120 Alabama St; Mike Orlock, 947 Michigan St; Liz Orlock, 947 Michigan St; Christie Weber, 311 Pennsylvania St; Bonnie Statz, 525 Louisiana St; Janice Haen, 507 Louisiana St; Dan Collins, 6040 Carlsville Rd.

Fett/Ward to approve the following bills - General Fund - \$158,532.04, Capital Fund - \$6,749.85, Cable TV - \$4,968.33, TID #4 - \$7,858.03, Solid Waste Enterprise Fund - \$20,285.97 for a grand total of \$198,394.22. Allmann addressed the TID #4 legal fees. Roll call: All voted aye. Carried.

Ward/Allmann to approve consent agenda:

- a. Approval of 7/18/17 regular Common Council minutes.
- b. Approval of the following minutes:
 - (1) Sturgeon Bay Utility Commission - 6/13/17
 - (2) Aesthetic Design & Site Plan Review Board - 6/26/17
 - (3) Finance/Purchasing & Building Committee - 7/11/17
 - (4) Ad Hoc Committee on Funding for Local Street Infrastructure - 7/11/17
 - (5) Community Protection & Services Committee - 7/13/17
 - (6) Parking & Traffic Committee (amended) - 7/17/17
 - (7) City Plan Commission - 7/19/17
- c. Place following report on file:
 - (1) Bank Reconciliation - June 2017
 - (2) Revenue & Expense Report - June 2017
 - (3) Fire Department Report - June 2017
 - (4) Inspection Department Report - June 2017
- d. Consideration of: Approval of Beverage Operator licenses.
- e. Consideration of: Approval of Temporary Class B Beer licenses.
- f. Consideration of: Approval of Temporary Class B Beer licenses and Temporary Class B Wine licenses.
- g. Consideration of: Approval of Sidewalk Café Permit for Door County Fire Company, LLC.
- h. Finance/Purchasing & Building Committee recommendation re: Amend lease between City of Sturgeon Bay and Sturgeon Bay Yacht Club with provisions.
- i. Community Protection & Services Committee recommendation re: Waive ordinance requirement and renew the issuance of the Combination Class B Liquor License to Nautical Inn for the property located at 234 Kentucky Street, because of intent to reopen promptly.
- j. Consideration of: Approval of renewal of Combination Class B Liquor and Beer license for Nautical Inn located at 234 Kentucky Street.
- k. Parking & Traffic Committee recommendation re: Police Chief Porter and Municipal Services Director Bordeau come up with a location for a No Parking between the hours of 1-5 pm., Monday through Friday, during the school year sign, on Nebraska Street for the Boys & Girls Club.

It was noted that an amended set of minutes for Parking & Traffic from 7/17/17 were on Council members desks.

Carried.

There were no mayoral appointments.

Ward/Catarozoli to award the Contract for Project 1703 - 2017 Crack Sealing Program to Fahrner Asphalt Sealers, LLC with unit pricing amounts totaling an estimated cost of \$30,270.00. Carried.

The item regarding the appeal of Aesthetic Design & Site Plan Review Board Decision was removed from agenda.

The next item was related to the Grain Elevator – Structural issues and costs. Discussion took place regarding the notification from the WI Historical Society regarding the hearing on this building, that general fund, not TID dollars, would need to be used for razing of the building if it were on the Historical Register. Fett/Vandertie to direct staff to obtain formal bids for the razing of the grain elevator located at 92 E. Maple Street and that the razing bid specification be written in such a way that demolition commence no sooner than January 1, 2018. In the meantime, should an offer be received from an interested party to save or restore the elevator, no City dollars will be used in that effort. Further discussion took place regarding that this is a City building that has been neglected, the OHWM issue, the historical value of the structure, the injunction on Parcel 92 and that a developer currently isn't aware of what they could do with the structure, that more time should be given to a potential developer, that no one has entered the building to get more up to date costs on securing or razing the building, the length of time that of the current lawsuit and that the building could be in significant worse shape in that timeframe, the five months that would allow a developer to come forward with a plan and money to fix or rehabilitate the structure. Catarozoli/Allmann to amend the original motion to not seek bids until after January 1, 2018. The motion and the second were withdrawn. Catarozoli/Hauser to table. Roll call: Catarozoli, Allmann and Hauser voted aye. Vandertie, Ward, Wiesner, and Fett voted no. Motion failed. Discussion took place regarding the safety of the public in, near, or around the building. Vandertie/Fett to call for the question. Roll call: Vandertie, Ward, Wiesner, and Fett voted aye. Catarozoli, Allmann and Hauser voting no. Carried. Roll call vote taken on original motion: Vandertie, Ward, Wiesner, and Fett voted aye. Catarozoli, Allmann, and Hauser voted no. Carried.

Personnel Committee Chair Vandertie, Parking & Traffic Committee Chair Ward, Community Protection & Services Committee Chair Wiesner, and Sturgeon Bay Utility Commission Chair Fett presented reports for their respective committees/commissions.

The following people spoke during public comment on non-agenda items: Paul Anschutz, 221 N. 6th Ave; Christie Weber, 311 Pennsylvania St; Laurel Brooks, 920 Kentucky Pl; Mike Orlock, 947 Michigan St; and Hans Christian, 330 N. 3rd Ave.

The Mayor made his comments.

After the Mayor announced the statutory basis to convene in closed session in accordance with the following exemption: Conferring with legal counsel for governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. Wis. Stats. 19.85(1)(g) Consideration of: Negotiations for Potential Settlement of Lawsuit – Friends of Sturgeon Bay Public Waterfront et al v. City of Sturgeon Bay and Sturgeon Bay Waterfront Redevelopment Authority; Catarozoli/Allmann to remain in open session. Roll call: Catarozoli, Allmann, and Hauser voted aye. Vandertie, Ward, Wiesner, and Fett voted no. Motion failed. Ward/Wiesner to convene in closed session. Roll call: Vandertie, Ward, Wiesner, and Fett voted aye. Catarozoli, Allmann and Hauser voted no. Carried. The Council went into closed session at 1:27 p.m.

The Council reconvened in open session at 2:11 p.m. Hauser/Ward to accept the Ad Hoc Settlement Committee's negotiated settlement signed July 12, 2017. Hauser/Catarozoli to amend the motion to change the "public area" to "area below ordinary high water mark". Carried. Vote taken on original motion as amended. Catarozoli, Ward, Allmann, and Hauser voted aye. Vandertie, Wiesner, and Fett voted no. Motion Carried.

Vandertie/Fett to adjourn. Carried. The meeting adjourned at 2:18 p.m.

Respectfully submitted


Stephanie L. Reinhardt
City Clerk/HR Director

ORDER TO RAZE AND REMOVE STRUCTURE

TO: City of Sturgeon Bay
c/o Stephanie Reinhardt, City Clerk
421 Michigan Street
Sturgeon Bay, WI 54235

YOU ARE HEREBY NOTIFIED, as representative of the City of Sturgeon Bay, which is the record owner of property containing a structure at 92 East Maple Street, City of Sturgeon Bay, Door County, Wisconsin, legally described as set forth in the legal description attached hereto and incorporated herein as Exhibit A, also known as Tax Parcel No. 281-12-10080101 as follows:

1. On the basis of inspection made by the Fire Chief of the Sturgeon Bay Fire Department, the Granary Building upon the property is hereby found and declared, by virtue of its dilapidated condition and location as it is so situated to endanger other buildings, persons or property, upon such site or adjacent property, as to require removal of the granary structure.

By reason of the above alleged facts, said premises are subject to an Order to Raze under Wis. Stats. §101.14 (1) (a).

Accordingly, in order that the above premises be made safe and not detrimental to the public health and safety, I do hereby direct and order you to raze the building described above and restore the site to a dust free and erosion free condition within 30 days from the date of service of this order upon you.

EXHIBIT A

Being a part of Lot One (1), Block Nine (9), according to the recorded Plat of Harris First Addition and also a part of Lots One (1), Six (6) and Seven (7), Block Eight (8) of Bay View Plat, and all of Lots Two (2), Three (3), Four (4) and Five (5), Block Eight (8), of Bayview Plat, and part of Subdivision 76, all in the Northeast Quarter (NE1/4), Section Seven (7), Township Twenty-seven (27) North, Range Twenty-six (26) East, in the City of Sturgeon Bay, Door County, Wisconsin, described as follows:

Commencing at the intersection point of the East line of Neenah Avenue and the North line of Maple Street; thence North 89 deg. 59 min. 38 sec. West, 91.92 feet along the North line of Maple Street to the point of beginning of lands to be described; thence North 13 deg. 34 min 55 sec. East, 47.11 feet; thence North 33 deg. 52 min. 22 sec. East, 263.80 feet; thence North 47 deg. 16 min. 59 sec. West, 200.38 feet; thence South 42 deg. 16 min. 00 sec. West, 229.08 feet; thence South 40 deg. 01 min. 00 sec. West, 33.71 feet; thence South 32 deg. 53-min. 44 sec. West, 33.77 feet; thence West 92.01 feet; thence South 06 deg. 01 min. 06 sec. East, 178.01 feet to the North line of Maple Street; thence South 89 deg. 59 min. 38 sec. East, 256.57 feet along said North line to the point of beginning.

Excepting therefrom:

Lot One (1) of Certified Survey Map No. 2952, recorded in Volume 18 of Certified Survey Maps, Page 57, as Document No. 788826, in Door County Register of Deeds, Door County, Wisconsin.



ATTORNEYS AT LAW
Niles Berman
Jeffrey L. Landsman
Thomas J. Zaremba
Stuart G. Mondschein
William Pray O'Connor
Denis R. Vogel
Rhea A. Myers

Mary Beth Peranteau
Jessica J. Shrestha
Justin W. Chasco
Kari J. Fasulo
Andrew J. Parrish
OF COUNSEL
Norman C. Anderson
Janet L. Kelly

October 27, 2017

HAND DELIVERED

Laura Gutierrez, Secretary
State of Wisconsin Department of Safety and Professional Services
1400 East Washington Avenue, Room 112
Madison, Wisconsin 53703

RE: Petition for Extension of Time Under Raze Order
Pursuant to Wis. Stat. § 101.02(6)(d)

Dear Ms. Gutierrez:

This firm represents the Sturgeon Bay Historical Society, Inc., a Wisconsin nonstock corporation organized and existing pursuant to ch. 181, Stats., whose address is P.O. Box 827, Sturgeon Bay, Wisconsin 54235. On October 17, 2017, the City of Sturgeon Bay Fire Chief, acting as a deputy of the Department, issued an Order to Raze and Remove Structure to the City pursuant to Wis. Stats. § 101.14(1)(a). The Raze Order directs and orders the City to raze and remove the historic Teweles & Brandeis grain elevator located on City-owned property at 92 East Maple Street, in Sturgeon Bay (the "Granary").

The deadline specified in the Raze Order to raze and remove the Granary is November 16, 2017. A copy of the Raze Order is attached for reference. The purpose of this letter is request an extension of time to allow the City to remedy conditions of the Granary that could create a public safety hazard.

The Sturgeon Bay Historical Society was incorporated in 2016 for the specific purpose of submitting a nomination for the listing of the Granary on the Wisconsin State and National Registers of Historic Places, and to restore and preserve the Granary as a community venue and public space. On August 18, 2017, the Granary was officially listed on the Wisconsin State Register of Historic Places. The iconic, 116-year old Granary is the last-surviving example of this type of grain elevator, reflecting the history of Door County agriculture production and contributes to Sturgeon Bay's unique sense of place.

Secretary Laura Gutierrez
Wisconsin Department of Safety and Professional Services
October 27, 2017
Page 2 of 2

The Society accelerated its fundraising and planning efforts in response to a Resolution adopted by the Sturgeon Bay City Council in August 2017, which contemplates the razing of the structure if private funds do not become available for restoration. The City's Resolution sought proposals for the cost of razing the Granary (which is currently closed to the public due to unsanitary conditions) but directed that any such demolition work would not begin prior to January 1, 2018. We understand that this postponed date to reflect the City's determination that the now-closed Granary does not pose an imminent threat to public health and safety.

The Society is unaware of any inspection report substantiating that the Granary is especially liable to fire or that it contains combustible or explosive material or inflammable conditions that endanger safety, nor does the Raze Order so specify. The Order does not comply with the applicable standard under s. 101.14(a)(1), Stats. and s. SPS 314.01(g)1., because it does not make these required findings. As such, the Society is separately filing a petition for hearing as to the reasonableness of the Order. The Granary needs repairs and needs cleaning. The Society has the funds and is well-situated to address those issues.

The Society has received contributions and commitments for funds in excess of \$1.25 million, well in excess of the estimate given by the City's structural engineering consultant of the amount required to stabilize and restore the Granary. The Society is actively involved in preparing plans for the Granary to be reopened as a community space.

Accordingly, the Society hereby petitions pursuant to Wis. Stat. § 101.02(6)(d) for an extension of time to address the Raze Order, through at least March 31, 2018, to provide time for City consideration and approval of a Society-sponsored plan for restoration and reuse of the Granary, and further extensions as necessary to complete that work.

Thank you for your consideration.

Sincerely,

WHEELER, VAN SICKLE & ANDERSON, S.C.



Mary Beth Peranteau

cc: Sturgeon Bay Historical Society, Inc.
Tim Dietman, Sturgeon Bay Fire Chief

ORDER TO RAZE AND REMOVE STRUCTURE

TO: City of Sturgeon Bay
c/o Stephanie Reinhardt, City Clerk
421 Michigan Street
Sturgeon Bay, WI 54235

YOU ARE HEREBY NOTIFIED, as representative of the City of Sturgeon Bay, which is the record owner of property containing a structure at 92 East Maple Street, City of Sturgeon Bay, Door County, Wisconsin, legally described as set forth in the legal description attached hereto and incorporated herein as Exhibit A, also known as Tax Parcel No. 281-12-10080101 as follows:

1. On the basis of inspection made by the Fire Chief of the Sturgeon Bay Fire Department, the Granary Building upon the property is hereby found and declared, by virtue of its dilapidated condition and location as it is so situated to endanger other buildings, persons or property, upon such site or adjacent property, as to require removal of the granary structure.

By reason of the above alleged facts, said premises are subject to an Order to Raze under Wis. Stats. §101.14 (1) (a).

Accordingly, in order that the above premises be made safe and not detrimental to the public health and safety, I do hereby direct and order you to raze the building described above and restore the site to a dust free and erosion free condition within 30 days from the date of service of this order upon you.

EXHIBIT A

Being a part of Lot One (1), Block Nine (9), according to the recorded Plat of Harris First Addition and also a part of Lots One (1), Six (6) and Seven (7), Block Eight (8) of Bay View Plat, and all of Lots Two (2), Three (3), Four (4) and Five (5), Block Eight (8), of Bayview Plat, and part of Subdivision 76, all in the Northeast Quarter (NE1/4), Section Seven (7), Township Twenty-seven (27) North, Range Twenty-six (26) East, in the City of Sturgeon Bay, Door County, Wisconsin, described as follows:

Commencing at the intersection point of the East line of Neenah Avenue and the North line of Maple Street; thence North 89 deg. 59 min. 38 sec. West, 91.92 feet along the North line of Maple Street to the point of beginning of lands to be described; thence North 13 deg. 34 min 55 sec. East, 47.11 feet; thence North 33 deg. 52 min. 22 sec. East, 263.80 feet; thence North 47 deg. 16 min. 59 sec. West, 200.38 feet; thence South 42 deg. 16 min. 00 sec. West, 229.08 feet; thence South 40 deg. 01 min. 00 sec. West, 33.71 feet; thence South 32 deg. 53-min. 44 sec. West, 33.77 feet; thence West 92.01 feet; thence South 06 deg. 01 min. 06 sec. East, 178.01 feet to the North line of Maple Street; thence South 89 deg. 59 min. 38 sec. East, 256.57 feet along said North line to the point of beginning.

Excepting therefrom:

Lot One (1) of Certified Survey Map No. 2952, recorded in Volume 18 of Certified Survey Maps, Page 57, as Document No. 788826, in Door County Register of Deeds, Door County, Wisconsin.

**STATE OF WISCONSIN
DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES**

Petition of the Sturgeon Bay Historical Society,
Inc. for a Hearing Pursuant to Wis. Stats. §§
101.02 and 227.42 on the Order to Raze and
Remove Structure Issued to the City of Sturgeon
Bay to Raze the Granary Structure at 92 East
Maple Street, in the City of Sturgeon Bay, Door
County, Wisconsin

TO: State of Wisconsin Department of Safety and Professional Services
Secretary Laura Gutierrez
1400 East Washington Avenue, Room 112
Madison, Wisconsin 53703

The undersigned Petitioner, Sturgeon Bay Historical Society, Inc. (the "Society"), a Wisconsin nonstock corporation organized and existing pursuant to ch. 181, Stats., whose address is P.O. Box 827, Sturgeon Bay, Wisconsin 54235, hereby requests a hearing to be held by the Department of Safety and Professional Services (the "Department") pursuant to Wis. Stats. §§ 101.02(6)(e) and 227.42.

The Department action that is the basis for the request for a hearing is the October 17, 2017 Order to Raze and Remove Structure (the "Raze Order") issued by the Department's deputy, Sturgeon Bay Fire Chief Tim Dietman, to the City of Sturgeon Bay (the "City") pursuant to Wis. Stats. § 101.14(1)(a). The Raze Order directs and orders the City to raze and remove the historic Teweles & Brandeis grain elevator located at 92 East Maple Street, Sturgeon Bay, Door County, Wisconsin (the "Granary"). The deadline specified in the Raze Order to raze the Granary is November 16, 2017. A copy of the Raze Order is attached hereto as Exhibit A and made a part thereof.

The substantial interests injured or threatened with injury by the Department action are:

1. Destruction of the iconic, 116-year old Granary, which is officially listed on the Wisconsin State Register of Historic Places upon an application sponsored by the Society and which is the last-surviving example of this type of grain elevator, reflecting the history of Door County agriculture production.
2. Loss of the investment of time and resources of the Society in funds and in-kind contributions for the listing of the Granary on the Wisconsin Registry of Historic Places and for its preservation and restoration.
3. Impairment to the public interest in the preservation and restoration of a historic structure.

There is no evidence of legislative intent that the Petitioner's interest is not to be protected. Wis. Stat. § 101.02(6)(e) grants standing to an interested person, including a person other than an owner or occupant of the affected structure, to petition for a hearing on an order of the Department in the manner provided by that section.

The injury to the Petitioner is different in kind or degree from injury to the general public caused by the agency action. The Society was formed in 2016 for the specific purpose of submitting a nomination for the listing of the Granary on the Wisconsin State and National Registers of Historic Places. The Society has raised significant funds and prepared plans for the preservation of the Granary. The Society is an interested person within the meaning of Wis. Stat. § 101.02(6)(e), and a substantial interest of Society is threatened with injury by the Department's action.

Grounds for the hearing and supporting facts: The Department's issuance of the order violates Wis. Stat. §§ 101.14(1)(a) based on the following facts. Petitioner's allegations create a dispute of fact for purposes of the Society's entitlement to a hearing pursuant to Wis. Stat. § 227.42.

1. On November 8, 2016, the Society was incorporated for the primary purpose of nominating the Granary for listing on the Wisconsin State and National Registers of Historic Places and to restore and preserve the Granary as a community venue and public space.
2. On August 1, 2017, following the City's closure of the Granary to the public due to unsanitary conditions, the Sturgeon Bay City Council adopted a resolution "to direct staff to obtain formal bids for the razing of the grain elevator located at 92 E. Maple Street and that the razing bid specification be written in such a way that *demolition commence no sooner than January 1, 2018*. In the meantime, should an offer be received from an interested party to save or restore the elevator, no City dollars will be used in that effort." (emphasis added).
3. On August 18, 2017, the Granary was officially listed on the Wisconsin State Register of Historic Places. A copy of the Wisconsin Historical Society certificate is attached hereto as Exhibit B and made a part thereof.
4. In connection with the listing of the Granary, the Wisconsin State Historical Society found that "The Teweles and Brandeis grain elevator is an excellent, highly intact example of a grain processing and storage building of a type that was once frequently encountered in communities in Wisconsin and in many other Midwestern states....It is now the only surviving historic resource in the city that can attest to the city's historically important role in agriculture production in Door County."

5. The historic designation and preservation of the Granary is consistent with the City's Comprehensive Plan adopted in March 2010, which provides in pertinent part: "Cultural resources encompass historic buildings or structures and archeological sites, as well as institutions and organizations which contribute to the cultural or artistic life of the community. Cultural resources help to provide the City of Sturgeon Bay with a sense of heritage, identity, and civic pride . . . and can also provide economic development opportunities for the city and its residents." The Plan lists five overall goals, one of which is to "*seek preservation and maintain the abundant natural and historic resources within and surrounding the City.*" (emphasis added).
6. As of October 6, 2017, the Society had received \$150,000 in contributions from the Sturgeon Bay community for the sole purpose of stabilizing and refurbishing the Granary. At that time, members of the Society began to initiate conversations with City staff concerning a Society-sponsored restoration and reuse project that would not use City funds.
7. On October 17, 2017, shortly after the Society initiated the above-referenced discussions, the Raze Order was issued, setting forth the grounds for the issuance of an order under Wis. Stat. § 101.14(1)(a), as follows:

"On the basis of inspection made by the Fire Chief of the Sturgeon Bay Fire Department, the Granary Building upon the property is hereby found and declared, by virtue of its dilapidated condition and location as it is so situated to endanger other buildings, persons or property, upon such site or adjacent property, as to require removal of the granary structure."
8. On October 26, 2017, the Society received a \$1.25 million commitment from an anonymous donor via the Door County Community Foundation for the repair, restoration, and future maintenance of the Granary.
9. As contemplated by the Sturgeon Bay City Council's August 1, 2017 Resolution, the Society has raised sufficient funds to repair and restore the Granary so that no City funds will need to be used for that purpose.
10. The Raze Order fails to comply with the standards for an order under Wis. Stat. § 101.14(1)(a) because it contains neither of the required findings under that statute and Wis. Admin. Code § SPS 314.01(g)1., that the Granary "**has either of the following characteristics:**
 - a. **It is especially liable to fire** and is so situated as to endanger other building or property.
 - b. **It contains combustible or explosive material or inflammable conditions** that are dangerous the safety of any building or premises or the occupants thereof, or hindering firefighters in the case of fire."

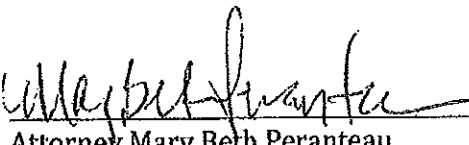
11. On July 31, 2013, Meyer Borgman Johnson Structural Design and Engineering ("MBJ") conducted a thorough structural assessment on the Granary, in which "...a detailed computer analysis model was constructed to capture the elevator behavior. The model includes over 1,000 pieces, over 700 plates, and over 1,200 connections. Twenty-six different load combinations of wind, self-weight, and live load were considered. The computer analysis was supplemented by hand calculations and MBJ analysis spreadsheets to determine loads and to confirm the computer results." MBJ concluded in its report that the "City of Sturgeon Bay intends to salvage and adaptively reuse the elevator as part of its waterfront redevelopment program. Based on the information gathered during the site visit report and subsequent calculations, it is our conclusion that the existing elevator is in generally good condition and retains sufficient capacity to support this intended use, with some modifications."
12. Based on the MBJ assessment, Middleton Consulting and Contracting estimated that the total cost of the modifications would be between \$138,739 and \$148,739. This estimate was provided to the Society in July of 2017.
13. Upon information and belief, the City Fire Chief has no contemporary structural engineering reports or other professional report to substantiate the finding in the Raze Order as to the Granary's asserted dilapidated condition such as would endanger other buildings, persons, or property and thus require removal.
14. The Raze Order is not a reasonable order for the removal of a building or other structure within the meaning of Wis. Stat. § 101.14(a)(1).

WHEREFORE, Petitioner requests that the Department order a hearing, to be held as a contested case hearing under ch. 227, Stats., to consider and determine the matters raised by the Petition, pursuant to Wis. Stats. §§ 101.02(6)(e) and 227.42.

Dated this 27th day of October, 2017.

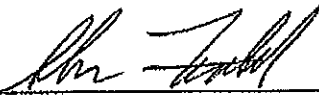
STURGEON BAY HISTORICAL SOCIETY, INC.

By Its Counsel:




Attorney Mary Beth Peranteau
Wheeler, Van Sickle & Anderson, S.C.
44 East Mifflin Street, Suite 1000
Madison, WI 53703
mperanteau@wheelerlaw.com
(608) 441-3832

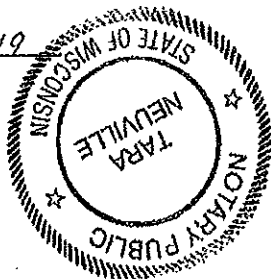
VERIFICATION

By: 
Shawn Fairchild, Board Member
Sturgeon Bay Historical Society, Inc.

STATE OF WISCONSIN)
) SS,
COUNTY OF DOOR)

Personally came before me this 27th day of October, 2017, the above named Shawn Fairchild, to me known to be the person who executed the foregoing Petition and acknowledges the same.


Notary Public, State of Wisconsin
My commission expires: 04/12/2019



cc: Deputy Tim Dietman
City of Sturgeon Bay Fire Chief
421 Michigan Street
Sturgeon Bay, WI 54235

EXHIBIT A

Being a part of Lot One (1), Block Nine (9), according to the recorded Plat of Harris First Addition and also a part of Lots One (1), Six (6) and Seven (7), Block Eight (8) of Bay View Plat, and all of Lots Two (2), Three (3), Four (4) and Five (5), Block Eight (8), of Bayview Plat, and part of Subdivision 76, all in the Northeast Quarter (NE1/4), Section Seven (7), Township Twenty-seven (27) North, Range Twenty-six (26) East, in the City of Sturgeon Bay, Door County, Wisconsin, described as follows:

Commencing at the intersection point of the East line of Neenah Avenue and the North line of Maple Street; thence North 89 deg. 59 min. 38 sec. West, 91.92 feet along the North line of Maple Street to the point of beginning of lands to be described; thence North 13 deg. 34 min 55 sec. East, 47.11 feet; thence North 33 deg. 52 min. 22 sec. East, 263.80 feet; thence North 47 deg. 16 min. 59 sec. West, 200.38 feet; thence South 42 deg. 16 min. 00 sec. West, 229.08 feet; thence South 40 deg. 01 min. 00 sec. West, 33.71 feet; thence South 32 deg. 53-min. 44 sec. West, 33.77 feet; thence West 92.01 feet; thence South 06 deg. 01 min. 06 sec. East, 178.01 feet to the North line of Maple Street; thence South 89 deg. 59 min. 38 sec. East, 256.57 feet along said North line to the point of beginning.

Excepting therefrom:

Lot One (1) of Certified Survey Map No. 2952, recorded in Volume 18 of Certified Survey Maps, Page 57, as Document No. 788826, in Door County Register of Deeds, Door County, Wisconsin.

ORDER TO RAZE AND REMOVE STRUCTURE

TO: City of Sturgeon Bay
c/o Stephanie Reinhardt, City Clerk
421 Michigan Street
Sturgeon Bay, WI 54235

YOU ARE HEREBY NOTIFIED, as representative of the City of Sturgeon Bay, which is the record owner of property containing a structure at 92 East Maple Street, City of Sturgeon Bay, Door County, Wisconsin, legally described as set forth in the legal description attached hereto and incorporated herein as Exhibit A, also known as Tax Parcel No. 281-12-10080101 as follows:

1. On the basis of inspection made by the Fire Chief of the Sturgeon Bay Fire Department, the Granary Building upon the property is hereby found and declared, by virtue of its dilapidated condition and location as it is so situated to endanger other buildings, persons or property, upon such site or adjacent property, as to require removal of the granary structure.

By reason of the above alleged facts, said premises are subject to an Order to Raze under Wis. Stats. §101.14 (1) (a).

Accordingly, in order that the above premises be made safe and not detrimental to the public health and safety, I do hereby direct and order you to raze the building described above and restore the site to a dust free and erosion free condition within 30 days from the date of service of this order upon you.

EXHIBIT A



WISCONSIN
HISTORICAL
SOCIETY

Teweles and Brandeis Grain Elevator

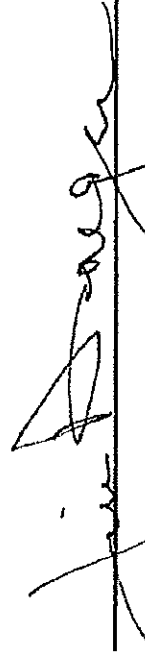
92 East Maple Street

Sturgeon Bay, Wisconsin

WAS LISTED ON THE
STATE REGISTER OF HISTORIC PLACES

ON
August 18, 2017





Jim Draeger
State Historic Preservation Officer

EXHIBIT B



JAMES R. SMITH
RANDALL J. NESBITT*†
RICHARD A. HAUSER
JON R. PINKERT
JENNIFER C. HOBART
AMY M. SULLIVAN

JAMES R. E. SMITH*
AMY E. GOYETTE

* Court Commissioner
† Certified Civil Trial Specialist by
National Board of Trial Advocacy
• Also licensed in Illinois

454 KENTUCKY STREET
P.O. BOX 89
STURGEON BAY, WISCONSIN 54235-0089

TELEPHONE (920) 743-6505
FACSIMILE (920) 743-2041
WRITER'S E-MAIL rnesbitt@pinkertlawfirm.com

HERMAN J. LEASUM (1910-2006)

RETIRED:
JEFFERY M. WEIR
ROGER PINKERT
MARK A. JINKINS

NORTHERN DOOR OFFICE:
2294 SUNSET DRIVE
SISTER BAY, WISCONSIN 54234
TELEPHONE (920) 854-2616

October 20, 2017

Mayor Thad Birmingham
Sturgeon Bay Common Council
421 Michigan Street
Sturgeon Bay, WI 54235

RE: Legal Issues Related to Fire Department Raze Order

Dear Mr. Mayor and Common Council Members:

The raze order issued by the City of Sturgeon Bay Fire Chief raises a number of legal issues. In this letter I will attempt to explain the nature of the legal issues identified so far to provide background information for actions to be considered by the Common Council.

1. Authority to Issue Order.

Wis. Stats. §101.14 (2) (a) provides that “the chief of the fire department in every city, village or town, except cities of the first class, is constituted a deputy of the department (Safety and Professional Buildings Department) . . .”. In that same statute, §101.14 (1) (a), it is provided that:

The department may make reasonable orders for the repair or removal of any building or other structure which for want of repair or by reason of age or dilapidated condition or for any other cause is especially liable to fire, and which is so situated as to endanger other buildings or property and for the repair or removal of any combustible or explosive material or inflammable conditions,

dangerous to the safety of any building or premises or the occupants thereof or endangering or hindering firefighters in case of fire.

The raze order executed by Chief Dietman of the Fire Department is issued under his authority under Wis. Stats. §101.14 (1) (a). The Chief made a determination that the Granary structure upon what has become commonly known as Parcel 92 along the West Waterfront, owned by the City of Sturgeon Bay, is in such a dilapidated and dangerous condition as to endanger other buildings or property. By all outward appearances, the Fire Chief has the authority to make this determination under Wisconsin law. The nature of the factors and information used by Chief Dietman in arriving at that conclusion may be subject to the review of the City Council in exercising any action by the City Council upon this order.

2. Compliance with the Order of the Fire Chief.

Wis. Stats. §101.02 indicates that:

All orders of the department in conformity with law shall be in force, and shall be prima facie lawful; and all such orders shall be valid and in force, and prima facie reasonable and lawful until they are found otherwise upon judicial review thereof pursuant to ch. 227 or until altered or revoked by the department.

Wis. Stats. §101.02 (6) (a).

It is also noted at (12) of that statute that:

Every day during which any person or corporation, or any officer, agent or employee of a person or corporation, fails to observe and comply with any order of the department or to perform any duty specified under this subchapter shall constitute a separate and distinct violation of the order or of the requirements under this subchapter, whichever is applicable.

Wis. Stats. §101.02 (12).

The obligation of municipalities relative to orders of the department are specifically referenced.

It shall be the duty of all officers of the state, the counties and municipalities, upon request of the department, to enforce in their respective departments, all lawful orders of the department, insofar as the same may be applicable and consistent with the general duties of such officers.

Wis. Stats. §101.02 (13) (b).

These provisions of Wis. Stats. §101.02 indicate that, with respect to orders issued under authority of the Department of Safety and Professional Services, municipalities have the obligation to enforce those orders. It is also clear that the orders issued by the department, or on behalf of the department, are assumed to be lawful until proven otherwise. The City of Sturgeon Bay, as owner of the Granary building, is in the same position as the owner of any other building, public or private, being served with an order to comply by the Department of Safety and Professional Services.

3. Appeal of Order.

Wis. Stats. §101.02 (6) provides that:

Any employer or other person interested either because of ownership in or occupation of any property affected by any such order, or otherwise, may petition for a hearing on the reasonableness of the order of the department in the manner provided in this subchapter.

Wis. Stats. §101.02 (6) (e).

If a petition is to be filed, it must be a verified petition filed with the department, setting out specifically and in full detail the order upon which the hearing is desired and every reason why such order is unreasonable and every issue to be considered by the department on the hearing. The Department of Safety and Professional Services can determine, upon receipt of a petition, whether it determines that a hearing is necessary to determine the issues raised, or whether no hearing will be granted. It appears by statute that the appeal of an order of the Department of Safety and Professional Services is under Chapter 227 of Wisconsin Statutes, which is an administrative appeal remedy. By all indications, based upon the wording of the statute, the City is the only "person" which would have standing to appeal the order of the Fire Chief.

4. Immunity.

Wisconsin law grants municipalities limited immunity related to claims against it. In general, that immunity prevents any person from recovering more than \$50,000 upon any claim against the municipality. The insurance coverage provided to municipalities is based upon the limited exposure in a variety of circumstances, which would entitle the municipality and its insurer to a damage cap of \$50,000. There are exceptions to that immunity, however. The ministerial duty exception eliminates immunity in circumstances where the law imposes an affirmative obligation to act in a particular way. A ministerial duty is absolute, certain and imperative, involving merely the performance of a specific task when the law imposes, prescribes and defines the mode, time and occasion for its performance with such certainty that nothing remains for judgment or discretion. That type of immunity could well apply here because the

order of the Fire Chief defines the time, mode and occasion for performance with certainty. The raze order requires the removal of the Granary building within 30 days of the issuance of the order. If the ministerial duty of removing the Granary is not done, the immunity provided by Wisconsin Statutes may, in fact, be eliminated in this instance; and the City of Sturgeon Bay would then be subject to unlimited liability with respect to claims related to the Granary building.

A second exception to the liability involves the known danger exception. The known danger exception eliminates immunity in situations where an official or employee has no choice but to act. The duty arises not by the command of rules or regulations, but by the exigencies of an obviously dangerous and hazardous situation. The known danger exception is applicable when there exists a danger that is known and compelling enough to give rise to a ministerial duty on the part of a municipality or its officers. The known danger exception is most often applied in circumstances that are, in essence, "accidents waiting to happen". It is a situation where it is almost certain to cause injury of some type, and involves more than the mere possibility of harm. If the known danger exception applies, then the immunity provided by Wisconsin law would be eliminated with respect to the Granary, and the City of Sturgeon Bay would face unlimited liability in the event of an injury or damage caused by or related to the Granary structure.

The raze order of the Fire Chief brings the issue of the safety of the Granary building front and center. The Fire Chief, acting with authority from the Wisconsin Statutes as an agent of the Safety and Professional Services Department of the State of Wisconsin, has made a conclusion that the Granary building is in such a hazardous and precarious state that it is a danger to persons and property and must be removed. That determination would serve as a springboard for a "known danger" and also as a "ministerial duty" in the nature of following the order of the Fire Chief in the removal of the Granary building. The recent Wisconsin case of *Otto v. Eau Claire County*, Appeal No. 2011AP2430 in our Third District Court of Appeals, provides the background for the immunity and exceptions to immunity that is described above.

5. Insurance.

The insurance coverage for the City of Sturgeon Bay, its employees and property, is provided by the League of Wisconsin Municipalities Municipal Insurance Program. Under that insurance coverage, the City generally has a \$4 million liability limit for any claim which is subject to coverage provided by the insurance. As noted above, some claims are subject to liability caps or immunity which reduce the risk to the City and also reduce the risk to the insurance carrier.

If the immunity of the City is eliminated due to a risk being a known danger or created by a ministerial duty, then the \$50,000 liability limit applicable to the City is erased and the City is subject to unlimited liability. If that situation is created due to the City's failure to act upon a lawful order or failure to remedy a known danger, our insurance carrier could claim that the City

has breached its obligations by exposing itself to significant and unlimited liability, and take the position that the City has waived its insurance coverage with respect to those issues.

I understand that Josh VanLieshout has been in contact with the City's insurer, and may have some more specific detail with respect to that issue. However, caution should be taken to assure that the City is not waiving its insurance coverage and exposing itself to substantial or even unlimited risk by failure to eliminate a known danger or fulfill a duty which it is obligated to perform. In short, the City and its Common Council have to tread carefully to prevent a situation which it is without insurance coverage with respect to all risks relating to the Granary building.

6. Public Bidding Requirements.

As you are aware, Wisconsin law generally requires that public works projects be bid under public bidding procedures to comply with the provisions of the law. Wis. Stats. §62.15 provides that all public construction contracts which exceed \$25,000 are to be let by contract to the lowest responsible bidder. The problem in this case is that the 30 day time frame prescribed by the Fire Chief does not allow sufficient time to complete the public bidding process for a contract to raze the Granary building in compliance with the raze order. Wis. Stats. §66.0901 further describes the public bidding requirements for public works contracts. In that statute, a public contract is defined as a "contract for construction, execution, repair, remodeling or improvement of a public work or building . . .".

Upon review of both Wis. Stats. §62.15 and §66.0901, it is apparent that there is an exception to public bidding requirements in the case of an emergency under Wis. Stats. §62.15 (1b). If following this emergency exception, the Board of Public Works would need to make a determination that the repair and reconstruction of public facilities threaten damage creating an emergency, as determined by a resolution of the Board of Public Works. In that situation, the City is not required to follow public bidding requirements.

A closer review of both statutes further reveals a real question as to whether the work involved in razing a publicly owned building such as the Granary building is, in fact, "public construction". The statutory definition indicates that a public contract is one for improvement, remodeling or repair. There is no indication that a contract to remove a structure falls under the definition of a public contract or public construction. In fact, I am aware that the League of Municipalities' legal counsel has taken a position that removal of structures is not a public contract or public construction and, therefore, is not subject to public bidding.

By all indications, moving forward with a contract negotiated between the City of Sturgeon Bay and a private contractor for removal of the Granary structure in order to comply with the order of the Fire Chief would not violate the public bidding requirements of Wis. Stats. §62.15 or §66.0901.

7. **Historical Building Designation.**

The removal of the Granary building is further complicated by its designation as a listed property on the Wisconsin State Register of Historic Places. It is my understanding that the City has recently received notification that the Granary building is a "listed property" as defined under Wis. Stats. §44.31. Wis. Stats. §66.1111 provides as follows with respect to actions upon historic properties:

In the earliest stage of planning any action related to the following, a political subdivision [including the city] shall determine if its proposed action will affect any historic property which is a listed property, as defined under s. 44.31 (4), or which is on the list of locally designated historic places under s. 44.45:

...

3. *Razing any historic property which it owns.*

Further, a political subdivision, including the City, is required to notify the State Historic Preservation Officer of any proposed action which it determines which would affect any historic property.

While there do not appear to be any prohibitions in razing or removing the Granary as a historically significant building, I would recommend that a copy of the raze order be provided to the Historic Preservation Officer and that written confirmation of any action decided upon by the Common Council be further forwarded to the Historic Preservation Officer soon after the action has been approved.

It is notable that the City of Sturgeon Bay has a historic preservation code at Chapter 28 of the Municipal Code indicating that no owner of a historic structure or historic site shall alter the property or demolish the property unless a certificate of appropriateness has been granted by the Historic Preservation Commission. However, Section 28.09 of the historic preservation code of the City of Sturgeon Bay indicates that nothing contained in the chapter prohibits the making of necessary alterations or demolition of a historic structure by order of a governmental agency or court judgment to remedy emergency conditions determined to be dangerous to life, health or property. "In such cases, no approval from the commission shall be required, although the commission shall be notified of the alteration or demolition as soon as possible." Municipal Code Section 28.09.

Clearly, the issuance of a raze order upon the Granary structure creates a multitude of legal issues. I have attempted to identify those issues and provide some information with respect

Mayor Thad Birmingham
Sturgeon Bay Common Council
October 20, 2017
Page 7

to compliance with those legal issues raised. There may be more legal issues identified as this order is considered further and as the Common Council prepares to act upon the raze order.

Sincerely,

PINKERT LAW FIRM LLP

A handwritten signature in black ink, appearing to read "Randall J. Nesbitt", written in a cursive style.

Randall J. Nesbitt

RJN:hb

cc: Mr. Josh VanLieshout, City Administrator

F:\Clients\SVSturgeon Bay-City\Property\Coop Property\mayor & common council 10-19-17.docx

Statewide Services, Inc.

Claim Division

October 20, 2017

Anthony D. Conlin
Senior Claims Attorney
1241 John Q. Hammons Dr., P.O. Box 5555
Madison, WI 53705-0555
Office: 608-828-5461 Fax 888-372-4916
Toll-Free: 800-298-9242 Cell: 608-225-6755
aconlin@statewidesvcs.com

Mr. Joshua J Van Lieshout
Administrator - City of Sturgeon Bay
421 Michigan St
Sturgeon Bay, WI 54235
jvanlieshout@sturgeonbaywi.org

Dear Mr. Van Lieshout:

I am in receipt of the documentation that you forwarded regarding the proposed razing of the grain elevator at 92 E. Maple Street. My understanding is that the City is concerned that the property is sitting vacant and has become a health and safety hazard. The documents indicate that there appear to be significant concerns regarding the structural integrity of the building, as well as health concerns. A raze order has been issued, and the Common Council is considering moving forward with razing the structure.

As Dennis indicated in his initial response to you, a municipality is often entitled to discretionary immunity when deciding what to do with properties such as the one at issue. As you are likely aware, municipalities and public officials are entitled to immunity when exercising their legislative, quasi-legislative, judicial or quasi-judicial discretion. An exception to that discretionary immunity occurs when the municipality or public official has a ministerial duty to prevent a known or foreseeable harm. Here, given the information set forth in the engineering reports, fire chief review, sanitarian review, etc., argument could be made that the City is aware of a dangerous structure that presents a risk of damage or injury. An argument could be made that the City has a duty to mandate that the structure be razed or made safe. Were the City to allow the building to stand in its current condition and someone were to sustain injury, I could envision a claimant arguing that the City bears liability.

This letter is not meant to offer any sort of legal advice or recommendation as to what the City should decide with regard to the granary. Instead, I merely wish to notify you as to possible impact the reports could have on a liability claim, were one to occur.

If you have any questions or require any additional information, please do not hesitate to contact my office.

Sincerely,



Anthony Conlin

cc: Dennis Tweedale

VanLieshout, Josh

From: Nesbitt, Randy J <RNesbitt@pinkertlawfirm.com>
Sent: Tuesday, October 24, 2017 2:45 PM
To: Statewide Anthony Conlin
Cc: VanLieshout, Josh
Subject: RE: City of Sturgeon Bay

Thank You Tony. That pretty well answers the question.
The response is appreciated.

Randy Nesbitt

Pinkert Law Firm LLP
454 Kentucky Street, P.O. Box 89
Sturgeon Bay, WI 54235
Phone: 920.743.6505
Fax: 920.743.2041
www.pinkertlawfirm.com



This is a transmission from the Pinkert Law Firm LLP and may contain information which is privileged, confidential, and protected by the attorney-client privilege or attorney work product privileges. If you are not the addressee, note that any disclosure, copying, distribution or use of the contents of this message is prohibited. If you have received this transmission in error, please destroy it and notify us immediately at 920-743-6505.

From: Statewide Anthony Conlin [mailto:aconlin@statewidesvcs.com]
Sent: Tuesday, October 24, 2017 11:19 AM
To: Nesbitt, Randy J
Subject: RE: City of Sturgeon Bay

Randy,

The policy does include an exclusion for any claim "Arising from the deliberate violation of any federal, state or local statute, ordinance, rule or regulation committed by or with the knowledge and consent of the insured." Depending on the circumstances, I suppose that the raze order could be deemed a local statute, rule or regulation, and failure to abide by it could give rise to a question as to the availability of coverage. I hope that answers your question. If you'd like to discuss further, please don't hesitate to give me a call.

Please let me know if you need any additional information.

Thanks,

Tony Conlin

Anthony Conlin
Senior Claims Attorney
Rural Mutual Insurance Co
Statewide Services, Inc. Claims

(608) 828-5461- Phone

(8688 372-4916- Fax



This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately and delete all copies of this message

From: Nesbitt, Randy J [<mailto:RNesbitt@pinkertlawfirm.com>]
Sent: Monday, October 23, 2017 5:04 PM
To: Statewide Anthony Conlin <aconlin@statewidesvcs.com>
Cc: VanLieshout, Josh <jvanlieshout@sturgeonbaywi.org>
Subject: City of Sturgeon Bay

Good Afternoon Mr. Conlin,

Our law firm acts in the capacity of City Attorney for the City of Sturgeon Bay. In that capacity I have received and reviewed your letter of October 29, 2017 to Josh Van Lieshout, the City Administrator. I will also share with you my letter issued to the City last week regarding liabilities related to the granary building.

In an effort to better explain to the City Council the risks associated with this building I would like to inquire as to one particular issue. Your letter describes the potential loss of immunity related to failure to act upon a ministerial duty or known risk. I also addressed those subjects in my letter to the City. The question that I have is whether a loss occurring after a failure to act upon the raze order could or would result in a loss of insurance coverage. I have speculated that such a failure to act may create such a situation, but I would be interested in your thoughts in that regard.

I would appreciate your response so that I can more fully advise the City Council of the risks involved. Thank you in advance.

Randy Nesbitt

Pinkert Law Firm LLP
454 Kentucky Street, P.O. Box 89
Sturgeon Bay, WI 54235
Phone: 920.743.6505
Fax: 920.743.2041
www.pinkertlawfirm.com



This is a transmission from the Pinkert Law Firm LLP and may contain information which is privileged, confidential, and protected by the attorney-client

privilege or attorney work product privileges. If you are not the addressee, note that any disclosure, copying, distribution or use of the contents of this message is prohibited. If you have received this transmission in error, please destroy it and notify us immediately at 920-743-6505.

This message is intended only for the person to whom it is addressed and may contain information that is privileged, confidential and exempt from disclosure. Use, distribution or copying by anyone else is prohibited. If you receive this in error, please notify us promptly and then destroy this communication.

STURGEON BAY
Historical Society, INC
1234 3rd Ave - Sturgeon Bay | 920-818-1234

November 2, 2017

Mayor Thad Birmingham and Common Council
Fire Chief Tim Dietman
City of Sturgeon Bay
421 Michigan Street
Sturgeon Bay, WI 54235

To the Honorable Mayor Birmingham, Common Council, and Chief Dietman,

The Sturgeon Bay Historical Society (SBHS) is pleased to provide the following draft proposal (Proposal) that may form the basis of a Development Agreement or Memorandum of Understanding with the City of Sturgeon Bay (City) that may facilitate the stabilization, rehabilitation and use of the Granary as a cultural and economic asset of the community at no cost to the City.

The intention of this letter is to convey a simplified proposal to the City that can stand alone from other proposals that might come forward. If, at a later date, the City desires, the work contemplated in this Proposal may support, complement or integrate with other developments in the district that are consistent with the SBHS mission.

SBHS is very excited about the possibility to move forward, and pleased by recent substantial funding donations from the community in support. Between the lines of our bylaws is a can-do attitude and a firm commitment to seeing projects come to fruition for the benefit of the community. SBHS welcomes the Door County Community Foundation's request, as stipulated by the donor it represents, to work collaboratively with the City of Sturgeon Bay to develop a shared vision for the use of this property for the public's benefit.

This Proposal is based solely on using SBHS funds, currently in excess of \$1,300,000. No City funds will be used. This proposal relates only to the area

immediately proximate to the Granary, approximately 60 feet x 60 feet, approximately 0.08 acres.

This proposal would require time to obtain an updated analysis regarding the structural stability of the Granary. SBHS will pay the cost associated with obtaining this analysis, provided the current raze order is suspended or withdrawn to enable this review.

If acceptable and helpful to the City, SBHS is immediately ready to provide the assistance of consultant and builder Pat Drury, of Drury Designs Inc., from DePere, Wisconsin. SBHS offers a plan, ready to implement, for re-assessing the Granary's structural condition that engages Drury as general contractor and consultant to facilitate the work of Meyer Borgman Johnson Engineering (MBJ)—which performed the 2013 structural assessment for the City—to safely assess and then address the safety issues outlined in the raze order issued by Fire Chief Dietman; and then to assess and restore the Grain Elevator.

If allowed to proceed, SBHS agrees to pay for the stabilization in a manner that is done safely and in keeping with standards and best practices for the work. The SBHS agrees to pay for insurance riders, separate policies or bonds that may be required for the City to fill any gaps in coverage during the assessment, stabilization and restoration process to indemnify the City against loss or obligation.

The SBHS will restore and maintain the Granary to a historically appropriate finish and trim which will comport with the standards and review of the State, City and any committees charged with review of building, safety and appearance.

The SBHS agrees to maintain the structure in a safe manner and will facilitate inspections deemed necessary by officials of the City, County, State or Federal governments.

The SBHS will retain an endowment sufficient to facilitate ongoing maintenance and upkeep.

The SBHS will work with the City and other commercial and non-profit entities in the area to enhance the overall community and economic value of the district as may be appropriate.

SBHS is willing to purchase or lease the structure from the City for a negotiated fee, if the City desires.

When restoration is complete the SBHS agrees to make the structure available to the public for events, festivals, markets and rental as may be appropriate.

All terms of this proposal will adhere to any requirements of the Wisconsin Historical Society and any other norms and laws that may apply to this site and structure.

Sincerely,

A handwritten signature in cursive script, appearing to read "Christie Weber".

Board of the Sturgeon Bay Historical Society
Christie Weber, President

cc: Josh VanLieshout, City Administrator
Marty Olejniczak, Community Development Director
Randy Nesbitt, City Attorney
Chip Brown, State Historical Preservation Office of Wisconsin

The City previously engaged the engineering firm of Meyer Borgman Johnson (MJB) to perform a structural evaluation of the Granary and in its December 13, 2013, Phase-II Structural Condition Assessment report the professional engineer from MJB reported the following "...a detailed computer analysis model was constructed to capture the elevator behavior. The model includes over 1,000 pieces, over 700 plates, and over 1,200 connections. Twenty-six different load combinations of wind, self-weight, and live load were considered. The computer analysis was supplemented by hand calculations and MJB analysis spreadsheets to determine loads and to confirm the computer results." MJB concluded in its report, "The City of Sturgeon Bay intends to salvage and adaptively reuse the elevator as part of its waterfront redevelopment program. Based on the information gathered during the site visit report and subsequent calculations, it is our conclusion that the existing elevator is in generally good condition and retains sufficient capacity to support this intended use, with some modifications."

The Granary is in an unsanitary condition due to the presence of bird and rodent waste, but does not pose a safety or health hazard because it has been secured against entry by the public; and is not in imminent danger of collapse according to the 2013 MJB Report and due to the installation of support cables by the City of Sturgeon Bay to ensure the structural integrity of the Granary as recommended in and directly following the 2013 MJB Report.

Many citizens consider the Granary a valuable, important and unique asset of the community and have expended time and funds directly and through business or non-profit ventures to incorporate the Granary in future commercial plans and public space plans for the west side waterfront.

On August 18, 2017, the Granary was officially listed on the Wisconsin Registry of Historic Places as defined under Wis. Stats. §44.31 and further was recommended to be listed on the National Registry of Historic Places and further according to the Wisconsin Historical Society, "The Teweles and Brandeis grain elevator is an excellent, highly intact example of a grain processing and storage building of a type that was once frequently encountered in communities in Wisconsin and in many other Midwestern states....It is now the only surviving historic resource in the city that can attest to the city's historically important role in agriculture production in Door County."

The City of Sturgeon Bay's Comprehensive Plan, adopted in 2010, states, "Cultural resources encompass historic buildings or structures and archeological sites, as well as institutions and organizations which contribute to the cultural or artistic life of the community. Cultural resources help to provide the City of Sturgeon Bay with a sense of heritage, identity, and civic pride...and can also provide economic development opportunities for the City and its residents. For these reasons, it is important to identify historical and cultural sites in the City of Sturgeon Bay." The Plan lists only five overall goals and one of the five is: *Seek preservation and maintain the abundant natural and historic resources within and surrounding the City* (page 3-30).

Considerations for Development Approval

The issues need to be addressed for the Waterfront Redevelopment Authority and Council to adequately evaluate and approve a redevelopment proposal .

1. Names of the principal people involved in the project. While it is not necessary to disclose every investor, the main people responsible for the project need to be disclosed so the City knows who entity it is dealing with. It is also important to list any similar projects or experience that the developer has had.
2. Proposed Use or Uses. The developer needs to show the use or mix of uses envisioned for the development project. This includes the intensity/density of the project. While the exact square footage, number of dwelling, and the like is not necessary to start the review, the WRA and Council will want to have a good sense of the development and how it fits the redevelopment area
3. Projected Value of project. The city will want to know whether it is taxable and the estimated property value.
4. Area of site. The location of the development and the general shape and size are important factors.
5. Timetable for completion. The development can be phased if necessary. The timing of the construction is needed.
6. Number of jobs expected. This helps with the overall economic impact of the project.
7. Financial wherewithal. The WRA and Council will want verification that the developer has the means to pull off the project. Due to confidentiality concerns, this can sometimes be done through the chair of the WRA. The developer doesn't necessarily have to have all funds in hand, but will need to provide reasonable confidence to the city that the private funding will be there to complete the project.
8. Anticipated sale price for the site. Land for \$1 or market rate or in between?
9. Anticipated need for City financial incentives. Does the developer need the City to commit TIF dollars or other funds toward the project, whether it be in construction funding or infrastructure such as utilities, parking, etc.
10. Other conditions for the project. Are there other things that the developer requires in order to start the project? For instance, does another project have to happen first or simultaneously? Does the City need to amend ordinances or do other actions?



City of Sturgeon Bay
421 Michigan Street
Sturgeon Bay, WI 54235
jvanlieshout@sturgeonbaywi.org

Joshua J. Van Lieshout
City Administrator

920-746-2900 (Voice)
920-746-2905 (Fax)

US MAIL
EMAIL

September 27, 2017

State Historical Society of Wisconsin
State of Wisconsin Historic Preservation Office
Ellsworth H. Brown
816 State Street
Madison, Wisconsin 53706

Re: Notice of Demolition Pursuant to Ch. 66.1111(4)(b) Wisconsin Statutes
Former Midland (Teweles & Brandeis) Grain Elevator
92 East Maple Street; Sturgeon Bay, Wisconsin

Dear Director Brown,

The City of Sturgeon Bay has been lead to believe that the State Historical Society of Wisconsin has taken action to place the above referenced municipal property on the state register of historic places. Although no formal notice of placement as defined in Ch. 44.31(4) Wis. Stats. has been received, the City is giving notice pursuant to Chapter 66.1111(4)(b) of its intent to raze the grain elevator located at 92 East Maple Street, Sturgeon Bay, Wisconsin. In accordance with Ch. 44.42 Wis. Stats., the State Historical Society of Wisconsin has 30 days from the date of this letter to determine if this this activity will have an adverse effect on the subject property. Be advised the City approved razing this structure on August 1, 2017 prior to placement on the register.

The scope of this project will include the demolition and disposal of the structure, earth grading and filling in and around the site. In accordance with action taken by the City of Sturgeon Bay Common Council on Tuesday August 1, 2017 this work is expected to commence no sooner than January 1, 2018.

This structure has been deemed a human health hazard under ss. 213.095(4), 101.14, and 299.01(6) Wis. Stats, as such, should you decide to inspect or otherwise document the structure, you will be required to first meet with Sturgeon Bay Fire Chief to discuss your safety and that of the public. Respirators and other personal protective equipment may be necessary for you or your staff's protection, this equipment will not be provided by the City; under no circumstance will the City of Sturgeon Bay or employees of the City be responsible for your activities, damages or injuries.



City of Sturgeon Bay
421 Michigan Street
Sturgeon Bay, WI 54235
jvanlieshout@sturgeonbaywi.org

Joshua J. Van Lieshout
City Administrator

920-746-2900 (Voice)
920-746-2905 (Fax)

The building is currently secured, if you do plan to enter, you should make arrangements in advance to re-secure the property when your documentation effort is complete.

Should you have any other questions, please do not hesitate to contact me at (920) 746-2900 or by email at jvanlieshout@sturgeonbaywi.org.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Van Lieshout", with a horizontal line extending from the end of the signature.

Joshua J. Van Lieshout, Administrator
City of Sturgeon Bay

Enclosures: Completed HP-09-12, Request for SHPO Review and Comment on a Local Unit of Government Action

Notice of Emergency Action—May 26, 2017

cc: file

REQUEST FOR SHPO REVIEW AND COMMENT ON A LOCAL UNIT OF GOVERNMENT ACTION

All materials must be submitted in hard-copy via US Postal or other mail carrier. We do not accept electronic project submittals. Submit one copy of this form and supporting materials for each undertaking requiring our review, pursuant to Wis. Stats. §§ 44.42 and 66.1111. Please print or type. Return to:

Wisconsin Historical Society
Historic Preservation and Public History Division
Preservation Planning Department
816 State Street
Madison, WI 53706

Please Check All Boxes and Include All of the Following Information, as Applicable:

I. GENERAL INFORMATION

- This is a new submittal.
- This is supplemental information relating to Case # _____, and title _____
- This project is being undertaken pursuant to the terms and conditions of a programmatic or other memorandum of agreement.
The title of the agreement is _____

- A. Local Unit of Government Jurisdiction (Governmental entity undertaking the project): City of Sturgeon Bay
- B. Local Unit of Government Project Contact Person: Josh Van Lieshout
- C. Return Address: 421 Michigan Street Zip Code: 54235
- D. Telephone: (920) 746-2900 FAX: (920) 746-2905
- E. Email Address: jvanlieshout@sturgeonbaywi.org
- F. Project Name: Westside Redevelopment
- G. Project Street Address: 92 East Maple Street
- H. City: Sturgeon Bay Zip Code: 54235 County: Door
- I. Project Location: Township 27N, Range 26E, W (circle one), Section 7, Quarter Sections _____

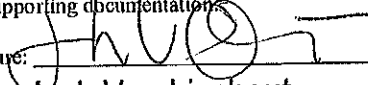
- J. Project Narrative Description. Attach information including activity summary, plan drawings/specifications, current photographs of the affected property.
- K. Area of Potential Effect (APE). Attach Copy of U.S.G.S. 7.5 Minute Topographic Quadrangle Showing APE, and/or other maps as appropriate.

II. IDENTIFICATION OF NATIONAL REGISTER OR STATE REGISTER-LISTED HISTORIC PROPERTIES

- National Register and/or State Register-Listed Historic Properties are located within the project APE. Attach supporting information identifying said properties.

III. FINDINGS

- No National Register and/or State Register-Listed Historic Property or Properties may be affected. Attach supporting documentation.
- The proposed undertaking may affect one or more National Register and/or State Register-Listed Historic Properties located within the project APE. Attach supporting documentation.

Authorized Signature:  Date: Sept 27, 2017
 Type or Print Name: Josh Van Lieshout

IV. STATE HISTORIC PRESERVATION OFFICE COMMENTS

- SHPO concurs in the findings identified above.
- The proposed undertaking will not result in an adverse effect to one or more historic properties.
- The proposed undertaking will result in an adverse effect to one or more historic properties.
- SHPO requires negotiation with the Local Unit of Government to resolve the adverse effect.
- SHPO objects to the finding for reasons indicated hereon or in the attached letter.
- SHPO cannot review this submittal for reasons indicated hereon or in the attached letter.

Authorized Signature: _____ Date: _____

Former Door County Co-Op, 92 East Maple St...

(//www.co.door.wi.gov)

Printed 09/29/2017 courtesy of Door County Land Information Office

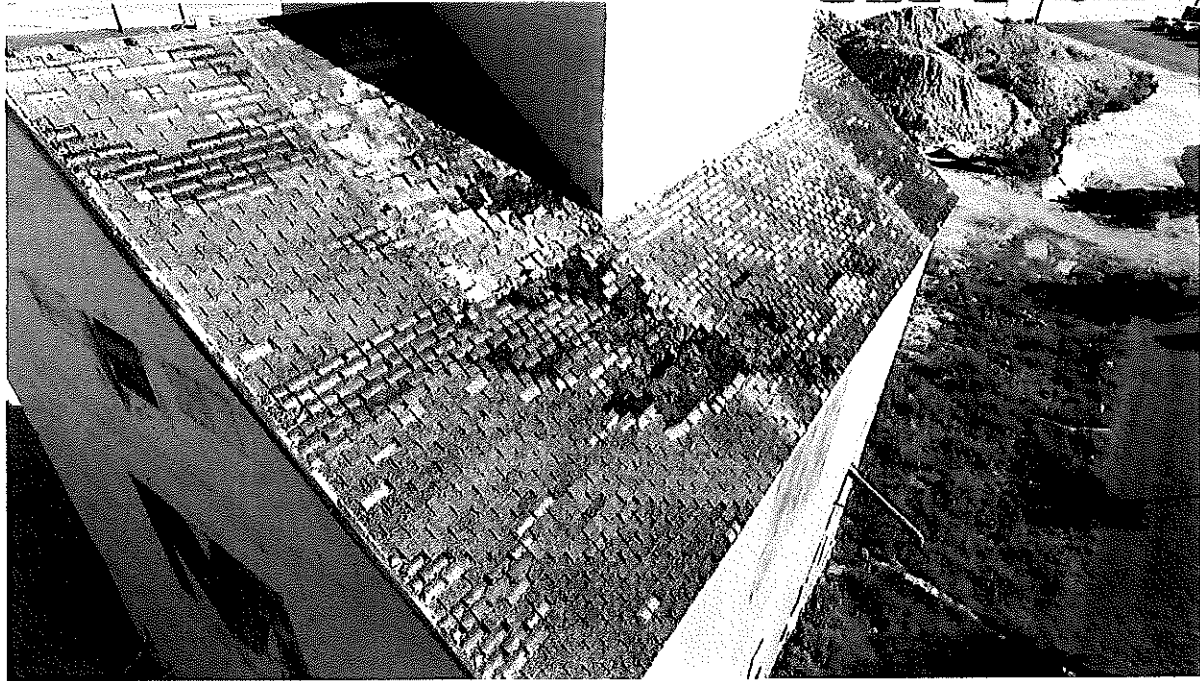


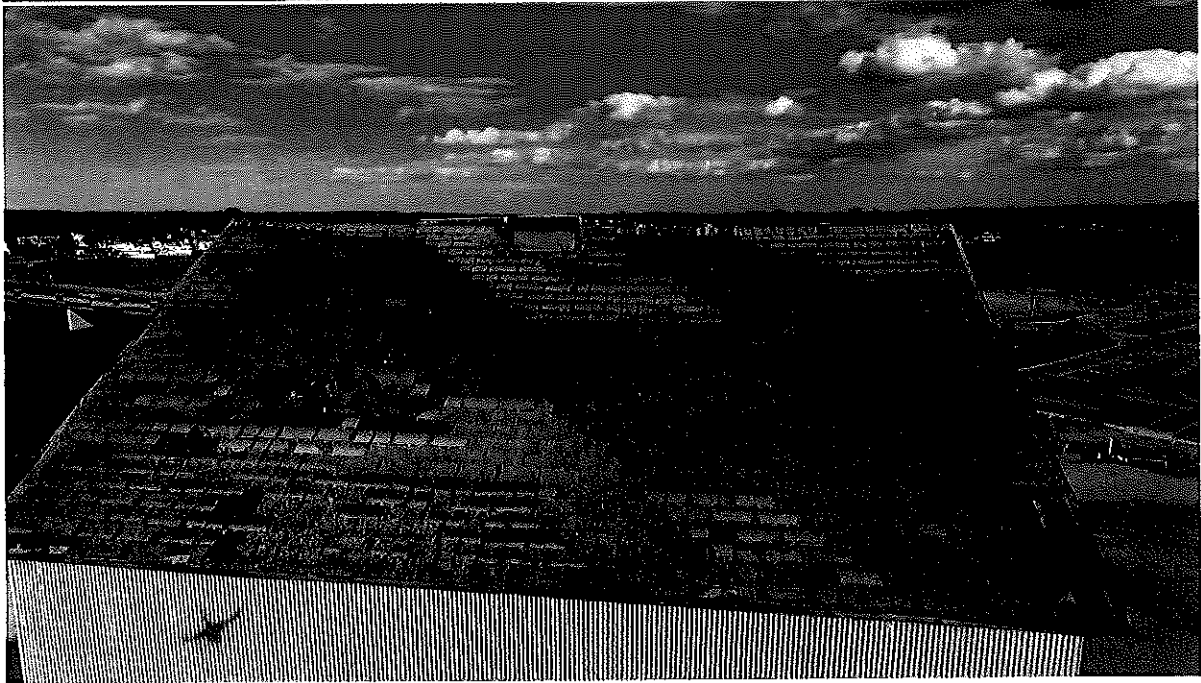
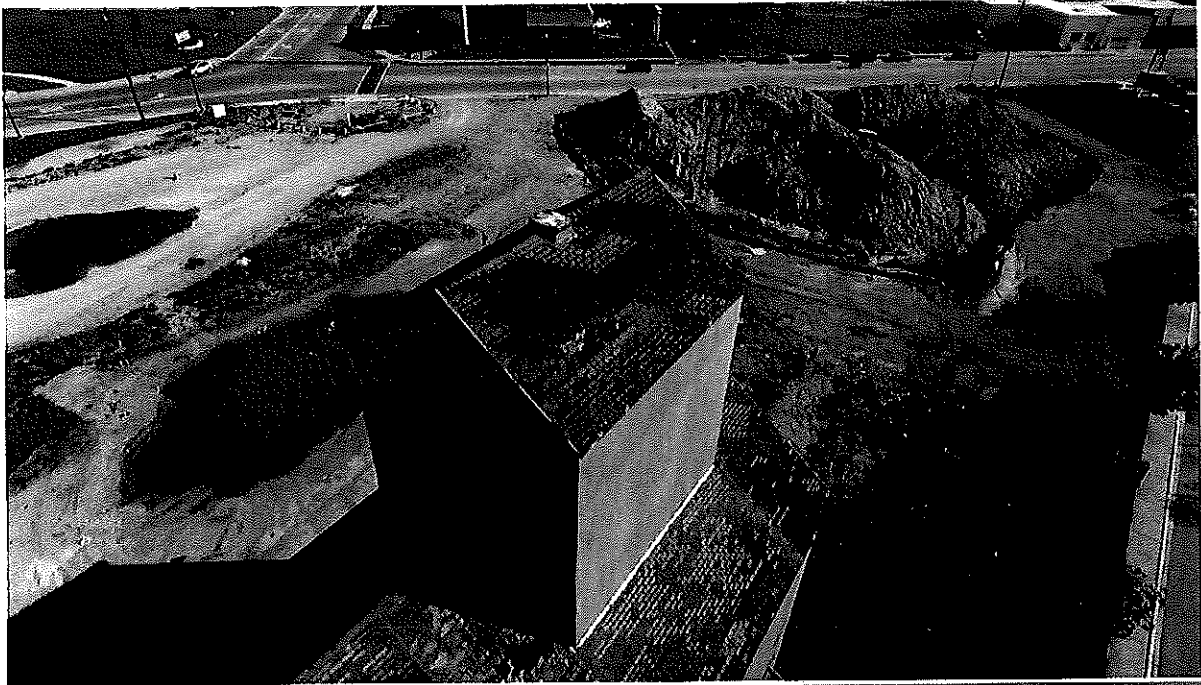
Door County, Wisconsin
... for all seasons!

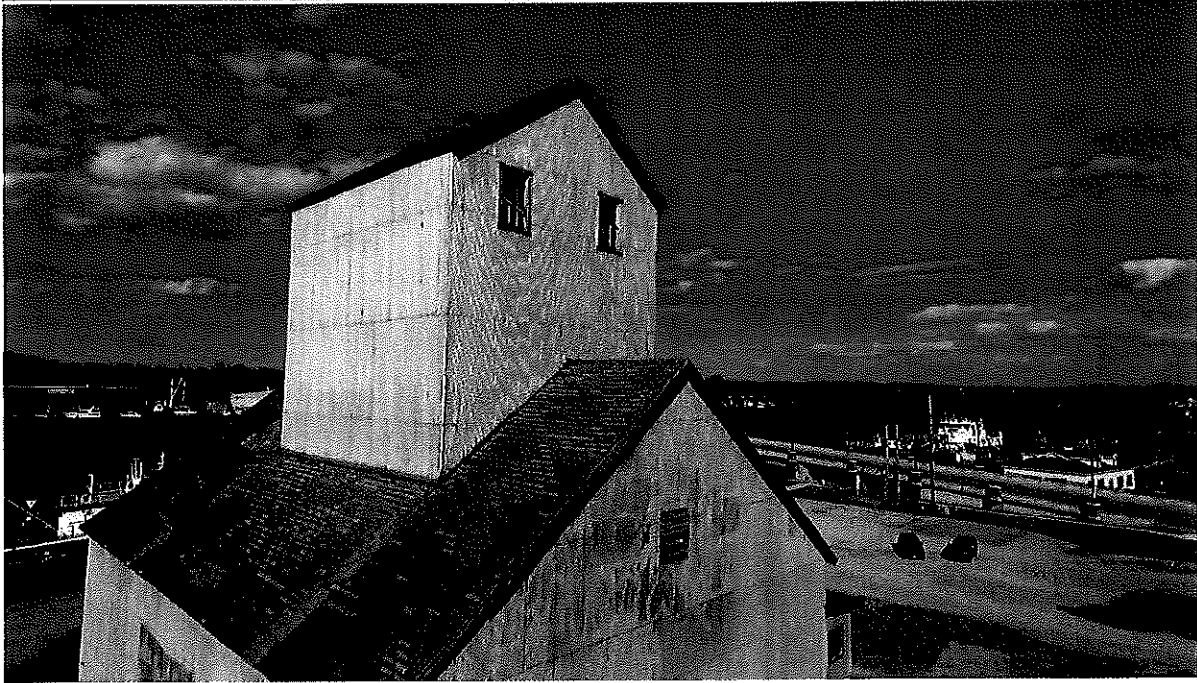
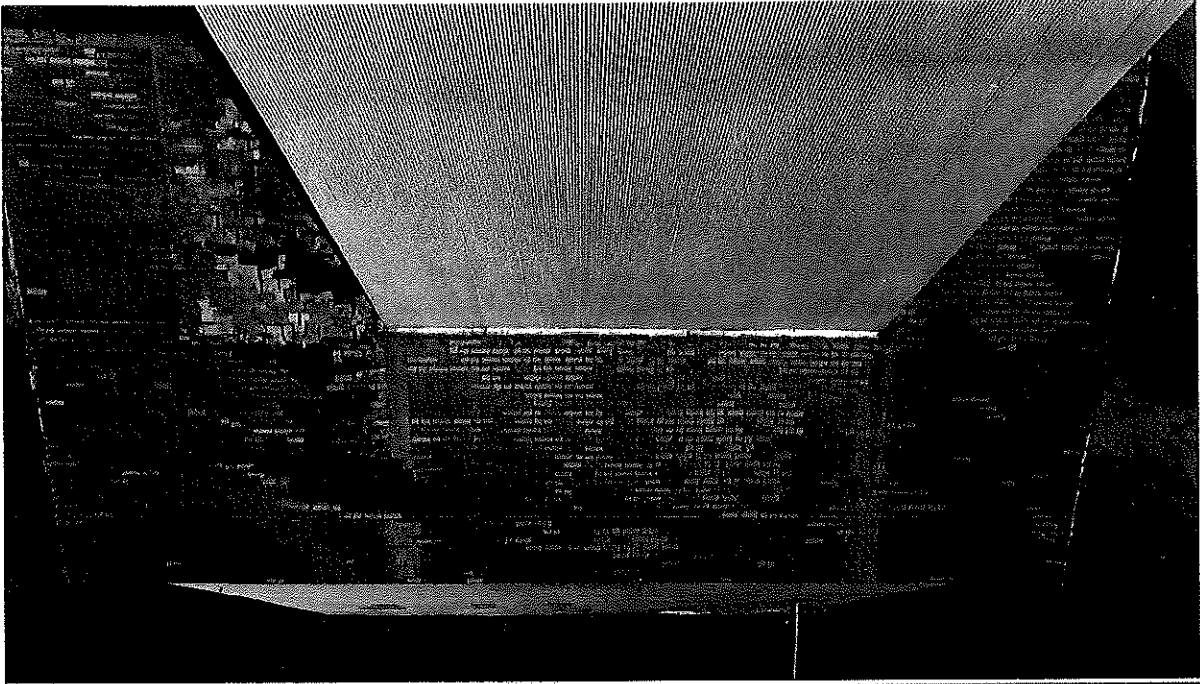


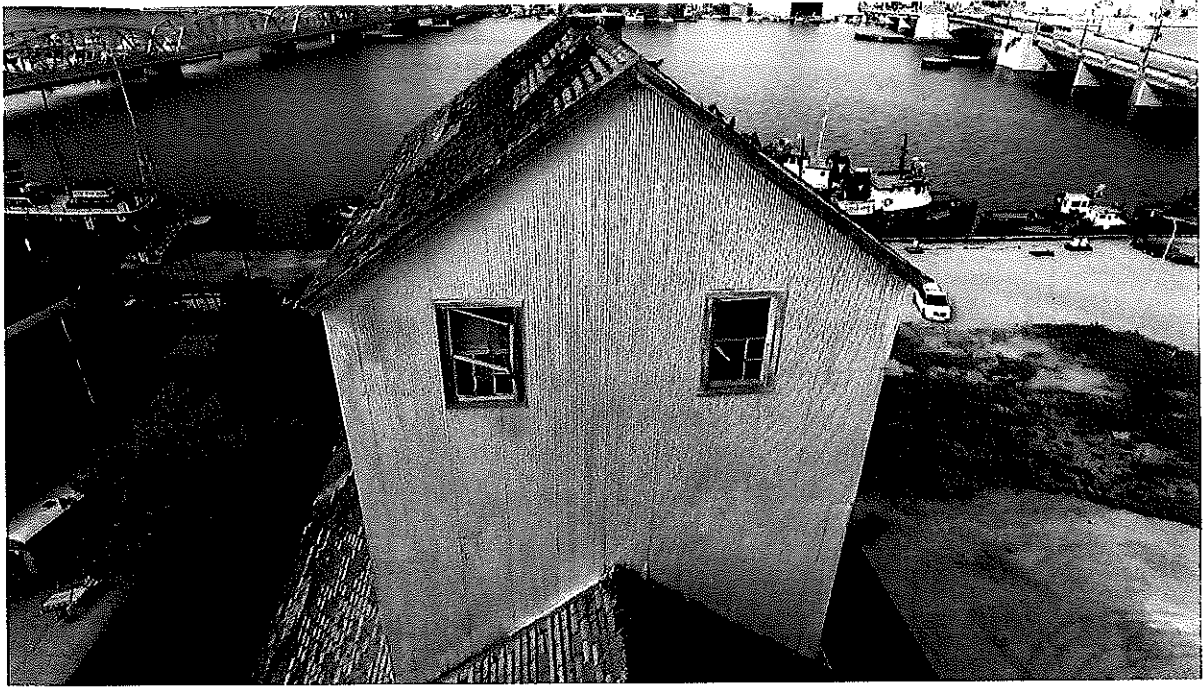
Door County can not and does not make any representation regarding the accuracy or completeness, nor the error-free nature, of information depicted on this map. This information is provided to users "as is". The user of this information assumes any and all risks associated with this information. Door County makes no warranty or representation, either express or implied, as to the accuracy, completeness, or fitness for a particular purpose of this information. The Web Map is only a compilation of information and is NOT to be considered a legally recorded map or a legal land survey to be relied upon.











NOTICE OF EMERGENCY ACTION

NOTICE is hereby provided under Wis. Stats. §213.095(4), §101.14, §299.01 (6) and all applicable statutory, administrative code and City of Sturgeon Bay Municipal Code provisions, that the City of Sturgeon Bay Fire Chief has determined that the premises at 92 East Maple Street, Sturgeon Bay, Wisconsin, Tax Parcel No. 2811210080101B contains respiratory and human health hazardous substances which render the premises unsafe for human habitation or occupancy. No occupancy or entry upon said premises is permitted without authorization by the Fire Chief.

IT IS FURTHER ORDERED that there shall be no utility services provided to the premises as it has been determined that any electricity or flame upon the premises will increase the risk to life, health and public safety.

**THIS ORDER SHALL BE EFFECTIVE IMMEDIATELY
AND SHALL REMAIN IN EFFECT UNTIL ITS RELEASE.**

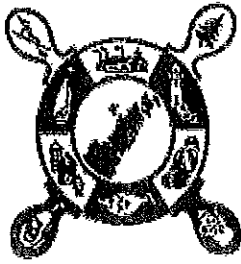
Dated this 26 day of May, 2017.



Timothy Dietman

Fire Chief

City of Sturgeon Bay



County of Door
LAND USE SERVICES: SANITARIAN

County Government Center
421 Nebraska Street
Sturgeon Bay, WI 54235

John Teichtler
Sanitarian
(920) 746-2308
sanitarian@co.door.wi.us

May 24, 2017

TIM DIETMAN, FIRE CHIEF
CITY OF STURGEON BAY
421 MICHIGAN ST
STURGEON BAY WI 54235

RE: Grainery
City of Sturgeon Bay – Tax #281-12-10080101B
Section 7, Town 27 North, Range 26 East
Location: 92 East Maple Street

Good Morning:

On Friday, May 19, 2017 an inspection was made of the above-described property. Entrance to the lower level of the grainery was made by you, the Assistant Fire Chief and I. The purpose of this was in response to complaints received regarding odors emanating from the grainery.

The grainery has residual farm materials scattered throughout the first floor and other portions of the grainery, including under the grainery. In addition, the grainery is in a state of disrepair and has many holes in which feral cats, birds, rodents and other critters can enter and survive inside of the structure. Odors were emitting from this at various times and at the time of my inspection.

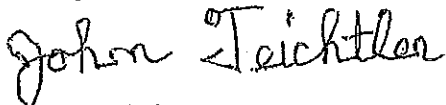
Wisconsin Statute 254.01 (2) defines a human health hazard as follows: "Human health hazard" means a substance, activity or condition that is known to have the potential to cause acute or chronic illness, to endanger life, to generate or spread infectious diseases, or otherwise injuriously to affect the health of the public." The conditions observed in the area at the time of my inspection and as a result of the odors emanating from this condition, the structure meets that criteria.

Tim Dietman, Fire Chief
City of Sturgeon Bay

May 24, 2017

It is my recommendation that no entry by human beings should be allowed into that building at the condition that it is in in the present state. There is a grave concern over respiratory illnesses that may arise from the odors and interior condition of the structure itself due to decaying animal matter, animals themselves and the emanating odor that is being discharged from this structure. It is recommended that advisories be placed on the structure prohibiting human entry without proper respiratory equipment.

Yours,

A handwritten signature in cursive script that reads "John Teichtler".

John Teichtler
Sanitarian

JT:lg

CITY OF STURGEON BAY
Resolution Authorizing Appeal of Raze Order
Resolution No. _____

WHEREAS, the City of Sturgeon Bay is the owner of property at 92 East Maple Street on the West Waterfront of Sturgeon Bay containing the historic Teweles and Brandeis grain elevator known as the Granary;

AND WHEREAS, under Section 101.14 of the Wisconsin Statutes, the State Department of Safety and Professional Services, "may make reasonable orders for the repair or removal of any building or other structure which for want of repair or by reason of age or dilapidated condition or for any other cause ***is especially liable to fire, and which is so situated as to endanger other buildings or property and for the repair or removal of any combustible or explosive material or inflammable conditions***" (emphasis added);

AND WHEREAS, the Fire Chief of the City of Sturgeon Bay, acting as deputy of the State Department of Safety and Professional Services, issued a raze order for the Granary dated October 17th, 2017, "On the basis of inspection made by the Fire Chief of the Sturgeon Bay Fire Department, the Granary Building upon the property is hereby found and declared, by virtue of its dilapidated condition and location as it is so situated to endanger other buildings, persons or property, upon such site or property, as to require removal of the granary structure", without any additional data, without any reference to fire or combustion risk, without anything additional at all;

AND WHEREAS the City previously engaged the engineering firm of Meyer Borgman Johnson (MJB) to perform a structural evaluation of the Granary and in its December 13, 2013, Phase-II Structural Condition Assessment report the professional engineer from MJB reported the following "...a detailed computer analysis model was constructed to capture the elevator behavior. The model includes over 1,000 pieces, over 700 plates, and over 1,200 connections. Twenty-six different load combinations of wind, self-weight, and live load were considered. The computer analysis was supplemented by hand calculations and MJB analysis spreadsheets to determine loads and to confirm the computer results." MJB concluded in its report, "The City of Sturgeon Bay intends to salvage and adaptively reuse the elevator as part of its waterfront redevelopment program. Based on the information gathered during the site visit report and subsequent calculations, it is our conclusion that the existing elevator is in generally good condition and retains sufficient capacity to support this intended use, with some modifications.";

AND WHEREAS, the Granary is in an unsanitary condition due to the presence of bird and rodent waste, but does not pose a safety or health hazard because it has been secured against entry by the public; and is not in imminent danger of collapse according to the 2013 MJB Report and due to the installation of support cables by the City of Sturgeon Bay to ensure the structural integrity of the Granary as recommended in and directly following the 2013 MJB Report;

AND WHEREAS many citizens consider the Granary a valuable, important and unique asset of the community and have expended time and funds directly and through business or non-profit ventures to incorporate the Granary in future commercial plans and public space plans for the west side waterfront;

AND WHEREAS On August 18, 2017, the Granary was officially listed on the Wisconsin Registry of Historic Places as defined under Wis. Stats. §44.31 and further was recommended to be listed on the National Registry of Historic Places and further according to the Wisconsin Historical Society, "The Teweles and Brandeis grain elevator is an excellent, highly intact example of a grain processing and storage building of a type that was once frequently encountered in communities in Wisconsin and in many other Midwestern states....It is now the only surviving historic resource in the city that can attest to the city's historically important role in agriculture production in Door County.";

AND WHEREAS the City of Sturgeon Bay, as the owner of a structure on the Registry of Historic Places, may have some obligations, and funding source limitations, that relate to razing the Granary;

AND WHEREAS the City of Sturgeon Bay's Comprehensive Plan, adopted in 2010, states, "Cultural resources encompass historic buildings or structures and archeological sites, as well as institutions and organizations which contribute to the cultural or artistic life of the community. Cultural resources help to provide the City of Sturgeon Bay with a sense of heritage, identity, and civic pride...and can also provide economic development opportunities for the City and its residents. For these reasons, it is important to identify historical and cultural sites in the City of Sturgeon Bay." The Plan lists only five overall goals and one of the five is: ***Seek preservation and maintain the abundant natural and historic resources within and surrounding the City.*** (page 3-30);

AND WHEREAS the City Council issued a resolution on August 1st 2017 directing staff to obtain bids for razing of the Granary no sooner than January 1st, 2018 and in the meantime should an offer be received from an interested party to save or restore the Granary, no City dollars will be used in that effort;

AND WHEREAS the Sturgeon Bay Historical Society has raised funds sufficient to repair and stabilize the Granary, without the use of City funds, as contemplated by the Council's August 1st 2017 resolution and has informed the City of this by letter to the Common Council dated October 19th, 2017, which also requested an 18-month period during which the Grain Elevator would remain protected from demolition, to solidify and present a community-devised plan; and on October 26, 2017, the Society received an *additional* commitment from an anonymous donor via the Door County Community Foundation for \$1.25M for the repair, restoration and future maintenance of the Granary for public benefit, in collaboration with the City;

AND WHEREAS the Sturgeon Bay Historical Society offers to pay the costs relating to an immediate structural assessment of the Granary and the expense of an insurance rider to indemnify the City against claims that might arise relating to the

Granary during the limited time period necessary to conduct a qualified structural assessment;

NOW, THEREFORE, BE IT RESOLVED by the City of Sturgeon Bay, through its Common Council, that the City of Sturgeon Bay as owner of the structure instruct the City Attorney to request an extension of time and a hearing pursuant to Wis. Stat. § 101.02(6)(c) to permit an evaluation by Meyer Borgman Johnson (MBJ) or other qualified professional engineering firm, as soon as practical, to determine the structural integrity of the Granary with the understanding that after such determination of structural integrity the Fire Chief may then rescind his order of October 17th, 2017 or restate a reasonable order for the repair or removal as may be warranted by the so obtained professional engineering structural evaluation.

BE IT FURTHER RESOLVED that the City Administrator is instructed to proceed with an immediate professional engineering structural assessment of the Granary as described and with funds provided by the Sturgeon Bay Historical Society.

BE IT FURTHER RESOLVED that any general funds or emergency funds contemplated for razing the Granary be retained by the City of Sturgeon Bay until such time that they may be required.

This resolution was adopted at a regular meeting of the Sturgeon Bay Common Council this ____ day of _____ 2017.

Attest:

Stephanie L. Reinhardt, Clerk

CITY OF STURGEON BAY HISTORIC PRESERVATION COMMISSION

Resolution to Save the Historic 1901 Teweles and Brandeis Granary

Resolution No. 1-2017

WHEREAS, the City of Sturgeon Bay is the owner of property at 92 East Maple Street on the West Waterfront of Sturgeon Bay containing the historic 1901 Teweles and Brandeis grain elevator known as the Granary;

AND WHEREAS many citizens consider the Granary a valuable, important and unique asset of the community and have expended time and funds directly and through business or non-profit ventures to incorporate the Granary in future commercial plans and public space plans for the west side waterfront;

AND WHEREAS on August 18, 2017, the Granary was officially listed on the Wisconsin Registry of Historic Places as defined under Wis. Stats. §44.31 and further was recommended to be listed on the National Registry of Historic Places and further according to the Wisconsin Historical Society, "The Teweles and Brandeis grain elevator is an excellent, highly intact example of a grain processing and storage building of a type that was once frequently encountered in communities in Wisconsin and in many other Midwestern states.... It is now the only surviving historic resource in the city that can attest to the city's historically important role in agriculture production in Door County.";

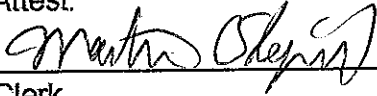
AND WHEREAS the City of Sturgeon Bay's Comprehensive Plan, adopted in 2010, states, "Cultural resources encompass historic buildings or structures and archeological sites, as well as institutions and organizations which contribute to the cultural or artistic life of the community. Cultural resources help to provide the City of Sturgeon Bay with a sense of heritage, identity, and civic pride... and can also provide economic development opportunities for the City and its residents. For these reasons, it is important to identify historical and cultural sites in the City of Sturgeon Bay." The Plan lists only five overall goals and one of the five is: "*Seek preservation and maintain the abundant natural and historic resources within and surrounding the City*";

AND WHEREAS the Historic Preservation Commission of the City of Sturgeon Bay believes the Granary is of special historical significance and seeks under its authority to safeguard the city's historic and cultural heritage as embodied and reflected in the historic 1901 Teweles and Brandeis Granary on the west side waterfront, and for the Granary to help foster civic pride in the notable accomplishments of Sturgeon Bay's agricultural past, and for the Granary to protect and strengthen the city's attractiveness to residents, tourists and visitors thus serving as a support and stimulus to business and industry;

NOW THEREFORE, BE IT RESOLVED by the Historic Preservation Commission that the Commission requests the City of Sturgeon Bay, its Common Council to make every diligent effort to safely stabilize, save and restore the Historic Granary utilizing private funds from the Sturgeon Bay Historical Society and Door County Community Foundation, and further, to support the request of the Sturgeon Bay Historical Society for an 18-month period during which the Grain Elevator would remain protected from demolition, for the Sturgeon Bay Historical Society to solidify and present a community-devised plan.

This resolution was adopted at a regular meeting of the Sturgeon Bay Historic Preservation Commission this 30 day of October 2017.

Attest:



Clerk

Historic Preservation Commission



STURGEON BAY
D O O R C O U N T Y
V I S I T O R C E N T E R

October 31, 2017

To the Honorable Mayor Birmingham and the Member of the Sturgeon Bay Common Council:

As an active member of the Wisconsin Main Street program since 1994 – who's mission it is to preserve and revitalize Wisconsin's downtowns and historic commercial districts as the centers for commerce, social life, government and more – the Sturgeon Bay Visitor Center is in support of the recommendation made on October 30, 2017 by the Sturgeon Bay Historical Preservation Commission (SBHPC) to the Common Council. We also believe that this aligns with our published Sturgeon Bay "Vision Statement" (copy attached).

The Board of Directors, through a majority vote on October 31, 2017, supports the recommendation of the SBHPC to the Sturgeon Bay Common Council to make every diligent effort to safely stabilize, save and restore the 1901 Teweles & Brandeis Granary utilizing private funds from the Sturgeon Bay Historical Society facilitated through the Door County Community Foundation.

Sincerely,

Randy Morrow
President, Board of Directors
Sturgeon Bay Visitor Center

Attached:

- *City of Sturgeon Bay Historic Preservation Commission resolution*
- *Sturgeon Bay Visitor Center Mission Statement*
- *Sturgeon Bay Visitor Center Vision Statement*



STURGEON BAY

D O O R C O U N T Y

V I S I T O R C E N T E R

MISSION STATEMENT

“Our mission is to market Sturgeon Bay as a year round destination and promote our city as a premier community to live, shop and play”

A VISION FOR STURGEON BAY

Sturgeon Bay will be known as the premier Wisconsin community and tourism destination. It will contain wonderful shopping, dining, entertainment and cultural opportunities.

Sturgeon Bay will be the gateway to Door County.

With the waters of Sturgeon Bay being the community's greatest asset, waterfront development will continue to be a critical component of the future. Compatible development will serve local residents as well as new visitors to the community.

Green space and pedestrian walkways on both sides of the bay will encourage linkage of the east and west sides. Property owners will appreciate the efforts to retain our historic preservation movement and will improve the facades and back entrances of their buildings. The downtown, continuing to serve as the heart of the city, will be clean, safe and attractive. Vehicular traffic will flow smoothly from the beautifully landscaped entrances throughout the city where drivers will find ample parking.

Sturgeon Bay will be the major commercial hub, setting high standards for merchandising and service for all of Door County. It will be the center for business, government, the arts and cultural activities for the region. A unique and diverse mix of shops will cooperate to meet customer needs.

The future vision of Sturgeon Bay will be accomplished through the development of community pride and a can-do attitude among an involved and supportive citizenry, proactive and cooperative political leadership. The Sturgeon Bay Visitor Center will provide professional assistance to the community to this end.



Door County
Community
Foundation, Inc.

October 25, 2017

COPY

Board of Directors

- Polly Alberts
Chair
- Marcia Smith
Vice Chair
- Dick Egan
Secretary
- Richard Hauser
Treasurer
- Dave Elliot
Past Chairman
- Jacinda Duffin
- Michael Felhofer
- Mark Jinkins
- John Herlache
- Frank Maxwell
- Kaaren Northrop
- Sally O'Brien
- Patrick O'Hern
- Jeff Ottum
- Grace Rossman
- Nancy Sargent
- Glenn Timmerman

The Honorable Thad Birmingham
City of Sturgeon Bay
421 Michigan Street
Sturgeon Bay, WI 54235

Dear Mayor Birmingham,

A generous family in Door County is prepared to guarantee that up to \$1.25 million will be available for the repair, restoration, and future maintenance of the Teweles and Brandeis Grain Elevator at its current location. The Door County Community Foundation, Inc. will be the conduit for this contribution.

The family requests that the City of Sturgeon Bay work collaboratively with the newly formed Sturgeon Bay Historical Society to develop a shared vision for the use of this property for the public's benefit. It is the family's hope that a truly collaborative vision will inspire others in the community to step forward and make their own contribution to this effort.

Regardless of the amount ultimately raised, the family is prepared to contribute whatever amount is necessary to bring the campaign total to \$1.25 million (exclusive of any campaign expenses), subject to final terms to be worked out once your collaborative vision has been articulated.

We hope the people of our community will use this generous contribution as an opportunity to work together for a better future for us all:

Warm regards,

Bret N. Bicoy

Bret N. Bicoy
President & CEO

cc: Josh VanLieshout
Sturgeon Bay Historical Society