



AGENDA OF THE TRAFFIC, BICYCLE, & PEDESTRIAN COMMISSION

**MONDAY, JANUARY 21, 2019, 5:30 PM
CITY HALL, ROOM 207**

A. Roll Call.

- I. *Members:* Chairperson Matt Kuepers, Vice Chairperson Daniel Theno, Ald. Craig Stevens, Lieutenant Brad Strouf, Charles Karow, Brigid Riordan, and Ray Smith

B. Approval of the Agenda.

- I. Approval of the Monday, January 21, 2019 Traffic, Bicycle, and Pedestrian Commission meeting agenda.

C. Approval of Minutes.

- I. Approval of the November 19, 2018 Traffic, Bicycle, and Pedestrian Commission meeting minutes.

D. Regular Business.

- I. *General Business:* Consideration with possible action on the report by the Police Department of the 2018 4th quarter serious injury and fatality crashes. (All Alders)
2. *General Business:* Request by the Traffic Engineer to eliminate Municipal Code Sec. 29.503 - Obstruction of Crossing by Trains - due to a recent Wisconsin Court of Appeals ruling upholding the regulations of the Federal Railroad Safety Act. (Ald Alders)
3. *Termination of 90-Day Trial Period:* Remove the NO PARKING DURING SCHOOL HOURS zone on the west side of Irwin Avenue from Cass Street to a point 200 feet north of Cass Street.
4. *Termination of 90-Day Trial Period:* Remove the 2-HOUR PARKING 7 AM TO 7 PM MONDAY THRU FRIDAY zone on the west side of N Oakland Ave from a point of 58 feet north of Shawano Avenue to a point 130 feet south of Hubbard Street.

E. Public Hearings.

F. Informational.

- I. *Next meeting:* Monday, February 11, 2019 at 5:30 p.m. in Room 203 (Council Chambers).

G. Adjournment.

- I. Adjournment of the current Traffic, Bicycle, and Pedestrian Commission meeting.

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT www.greenbaywi.gov
- 2) ACCESSIBILITY: Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3) QUORUM: Please take notice that a majority or quorum of the Common Council will attend this Traffic, Bicycle, & Pedestrian Commission meeting and will constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.
- 4) REPRESENTATION: The party requesting the communication, or their representative, should be present at this meeting.



Report to the
Traffic, Bicycle and Pedestrian Commission
of the City of Green Bay

MEETING DATE

January 21, 2019

PREPARED BY

AGENDA ITEM # B.I.

Approval of the Monday, January 21, 2019 Traffic, Bicycle, and Pedestrian Commission meeting agenda.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Report to the
Traffic, Bicycle and Pedestrian Commission
of the City of Green Bay

MEETING DATE

January 21, 2019

PREPARED BY

AGENDA ITEM # C.I.

Approval of the November 19, 2018 Traffic, Bicycle, and Pedestrian Commission meeting minutes.

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None



Report to the
Traffic, Bicycle and Pedestrian Commission
of the City of Green Bay

MEETING DATE

January 21, 2019

PREPARED BY

Dave Hansen, Traffic Engineer

AGENDA ITEM # D.I.

General Business: Consideration with possible action on the report by the Police Department of the 2018 4th quarter serious injury and fatality crashes. (All Alders)

BACKGROUND

Manitowoc-Brosig Fatality

There are 2 street lights in proximity of the crash:

1. 1 - 150W HPS fixture, SW corner of Manitowoc-Brosig
2. 1 - 150W HPS fixture, 155 ft west from the light at the SW corner of Manitowoc-Brosig, S side of street

It appears the eastbound motorist struck the pedestrian somewhere between the two street lights. And based on city light spacing standards, these 2 lights are spaced closer than our typical 300 ft spacing. The lights also provide the necessary lumen output for a collector roadway rated at 14,000 lumens each.

RECOMMENDATION

Receive and place on file the report by the Police Department of the 2018 4th quarter serious injury and fatality crashes.

FISCAL IMPACT

ATTACHMENTS

- I. D.I. - 2018 Q4 SI&F Report



GREEN BAY POLICE DEPARTMENT OPERATIONS DIVISION

Lieutenant Brad Strouf

Email: bradst@greenbaywi.gov

(920) 448-3217

2018 Fourth Quarter Serious Injury & Fatal Accident Report

18-211185

Manitowoc Rd. at Brosig St.

On Thursday, 10-04-18 at 7:31pm, a four door Jeep Wrangler travelling westbound on Manitowoc Rd, struck a pedestrian walking in the roadway near Brosig St. The driver, and sole occupant of the Jeep was a 40 yr old Green Bay resident. She reported that she did not see the pedestrian until just prior to the crash. The pedestrian, a 36 yr old Green Bay resident was transported to a nearby hospital where she was pronounced deceased at 8:02pm. Witness statements point to the area of the crash being poorly lit and the pedestrian walking in traffic as contributing factors in the crash.

2018-216282

Humboldt Rd. at Laverne Dr.

On Monday, 12-24-18 at 2:21am, a Dodge Neon travelling eastbound on Humboldt Rd left the roadway and struck a tree near Laverne Dr. The vehicle immediately became engulfed in flames. The driver, and lone occupant, a 26 year old male from Green Bay was ejected from the vehicle when it impacted the tree. The male was pronounced deceased at the scene. Witnesses reported hearing the crash, but did not witness the actual crash.



Report to the
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MEETING DATE

January 21, 2019

PREPARED BY

Dave Hansen, Traffic Engineer

AGENDA ITEM # D.2.

General Business: Request by the Traffic Engineer to eliminate Municipal Code Sec. 29.503 - Obstruction of Crossing by Trains - due to a recent Wisconsin Court of Appeals ruling upholding the regulations of the Federal Railroad Safety Act. (Ald Alders)

BACKGROUND

1st Savings Clause: States (City's in this case as well) can adopt or continue in force a law, regulation, or order related to railroad safety...until the Secretary of Transportation...prescribes a regulation or issues an order covering the subject matter of the State requirement. Court concluded that the City of Weyauwega ordinance was more about regulating train movements rather than addressing railroad safety. Clause 1, not met. Basically, the City's argument that police, fire, and EMS response times increasing from 1-15 minutes was not convincing enough.

2nd Savings Clause: States can adopt a more stringent law, regulation, or order regarding railroad safety if it meets all three requirements: (A) it is necessary to eliminate or reduce an essentially local safety...hazard, (B) it is compatible with federal laws and regulations; and (C) it does not create an undue burden on interstate commerce. The City failed to meet Requirement A. Clause 2, not met.

RECOMMENDATION

Eliminate Municipal Code Sec. 29.503 - Obstruction of Crossing by Trains

FISCAL IMPACT

ATTACHMENTS

- I. D.2. - LOM FSRA Article

FRSA Preempts Ordinance Prohibiting Trains from Obstructing RR Crossings

Claire Silverman, Legal Counsel, League of Wisconsin Municipalities



The Wisconsin Court of Appeals recently held that the Federal Railroad Safety Act (FRSA) and regulations promulgated pursuant to that act preempt a City of Weyauwega ordinance prohibiting any train from obstructing, for more than 10 minutes, any railroad street crossing unless the train is in continuous motion. *City of Weyauwega v. Wisconsin Central Ltd.*, 2018 WI App 65.

Wisconsin Central is a railroad carrier that owns railroad tracks in the city and operates trains that pass through the city. Wisconsin Central's tracks cross streets and a highway at three points within the city. A portion of the city is located north of the Wisconsin Central tracks. When trains obstruct any of the crossings, motor vehicles are forced to take alternate routes to reach northern parts of the city. When not in use, the city's police, fire, and emergency service vehicles are located south of the railroad tracks. The response time for police, fire, and emergency services vehicles to reach northern portions of the city can increase from about one minute to anywhere between 12 to 15 minutes when Wisconsin Central trains obstruct some or all of the crossings.

In March 2015, a Wisconsin Central train stopped at and blocked one of the crossings for 69 minutes. The city cited Wisconsin Central for violating the ordinance. In a stipulation ratified by the New London/Weyauwega Joint Municipal Court, the parties agreed to conduct a trial regarding that citation. The agreement incorporated by reference

39 other pending citations issued by the city to Wisconsin Central for violating the ordinance, with proposed forfeitures totaling over \$25,000.00. The parties agreed that a final appellate decision as to that citation would apply with equal force to the remaining outstanding citations issued to Wisconsin Central. The municipal court found in favor of the city after a trial on the citation. The Wisconsin Court of Appeals reversed.

The court of appeals explained that in 1970, and in response to a call for comprehensive rail safety regulation, Congress enacted the FRSA to "promote safety in every area of railroad operations and reduce railroad-related accidents and incidents." *Id.* at ¶ 12 quoting 49 U.S.C. § 20101. The FRSA grants the Secretary of Transportation broad powers to prescribe regulations for every area of railroad safety. An express preemption clause declares that laws related to railroad safety shall be nationally uniform to the extent practicable and to facilitate uniformity, expressly preempts state law in areas covered by the FRSA. *Id.* at ¶ 14. In two "saving clauses," the FRSA permits state regulation related to railroad safety only in the following situations:

Under the first saving clause, states can "adopt or continue in force a law, regulation, or order related to railroad safety ... until the Secretary of Transportation ... prescribes a regulation or issues an order covering the subject matter of the State requirement." *Id.* citing § 20106(a)(2). The second

saving clause permits a state to adopt a more stringent law, regulation or order regarding railroad safety if it meets three requirements: (A) it is "necessary to eliminate or reduce an essentially local safety ... hazard"; (B) it is compatible with federal laws and regulations; and (C) it does not create an undue burden on interstate commerce. *Id.* at ¶ 15 citing § 20106(a)(2)(A)-(C).

The court assumed, without deciding, that the city's ordinance qualifies as a state law or regulation under the FRSA. The court rejected the city's argument that its ordinance was related to the public health, safety, and welfare and concluded that the ordinance is related to railroad safety and that the subject matter of the ordinance is regulating the operation and movement of trains. It next determined that federal regulations concerning train speed, crossing safety, and air brake testing cover the subject of the ordinance (operation and movement of trains) and there is no exception to preemption under the first saving clause. Looking to the second saving clause, the court determined that because it is written in the conjunctive, the ordinance must satisfy all three requirements to be excepted from preemption. The court concluded that the ordinance does not address an essentially local safety hazard and therefore fails to satisfy the requirements of the second saving clause. The court concluded that the ordinance was preempted.

► p.26

In the wake of this decision, cities and villages with ordinances similar to the preempted City of Weyauwega ordinance should read the decision and consult with their municipal attorney to determine whether the municipality's ordinance can be defended under the requirements of the second saving clause (i.e., is necessary to eliminate or reduce an essentially local safety hazard) which would allow the ordinance to survive preemption.

Powers of Municipalities 936

About the Author:

Claire Silverman is Legal Counsel for the League of Wisconsin Municipalities. Claire joined the League staff in 1992. Contact Claire at cms@lwm-info.org



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PREPARED BY

Dave Hansen, Traffic Engineer

AGENDA ITEM # D.3.

Termination of 90-Day Trial Period: Remove the NO PARKING DURING SCHOOL HOURS zone on the west side of Irwin Avenue from Cass Street to a point 200 feet north of Cass Street.

BACKGROUND

RECOMMENDATION

Move to ordinance.

FISCAL IMPACT

ATTACHMENTS

None



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PREPARED BY

Dave Hansen, Traffic Engineer

AGENDA ITEM # D.4.

Termination of 90-Day Trial Period: Remove the 2-HOUR PARKING 7 AM TO 7 PM MONDAY THRU FRIDAY zone on the west side of N Oakland Ave from a point of 58 feet north of Shawano Avenue to a point 130 feet south of Hubbard Street.

BACKGROUND

RECOMMENDATION

Move to ordinance.

FISCAL IMPACT

ATTACHMENTS

None



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AGENDA ITEM # F.I.

Next meeting: Monday, February 11, 2019 at 5:30 p.m. in Room 203 (Council Chambers).

BACKGROUND

RECOMMENDATION

FISCAL IMPACT

ATTACHMENTS

None