

43 / April 19  
9



# CITY OF LA CROSSE COUNCIL LEGISLATION

File #

**CAPTION:**

Resolution approving easement and agreement regarding storm sewer outfall on property located at 1325 Nakomis Avenue.

**REFERRAL ROUTE:**

Intro. 03/11/10  
BPW  
HPU

Re- REFERRED TO  
APR 08 2010  
HPU June 2010 mtgs

**ACTIONS AND DATES: (for Clerk's Office use only)**

Tabled  
JUN 10 2010  
by Council

**DRAFTED BY:**

Legal Department

**REQUESTED BY:**

Mark Johnson Utilities Manager

**INTRODUCED BY:**

CM Chris Olson

## **COMMITTEE REPORT**

To the Honorable Mayor and Common Council of the City of La Crosse:

Your Highways, Properties and Utilities Committee having under consideration the annexed resolution approving easement and agreement regarding storm sewer outfall on property located at 1325 Nakomis Avenue, recommends the same be referred to the regular July, 2010 Highways, Properties & Utilities Committee, Committee of the Whole and Common Council Meetings.

Respectfully submitted,

Jai Johnson, Chmn  
John J. Satory  
Mike Larsen  
Bernard Maney  
Bruce Ranis  
Alan P. Wagner

Typed: 6-2-10

Approved:

HPU Vote: Unanimous

**Attorneys and Counselors at Law**  
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Bennett A. Myers

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JUN -9 2010

City of La Crosse  
Legal Department

June 8, 2010

Attorney Stephan F. Matty  
La Crosse City Attorney  
400 La Crosse Street, 6<sup>th</sup> Floor  
La Crosse, WI 54601

*Re: Myrna L. Frank, 1325 Nakomis Avenue*

Dear Attorney Matty,

As you know, I represent Ms. Myrna Frank. Ms. Frank has weighed her options and she has decided to decline the City's offer to help with the upkeep on her property and take care of it herself. It would be appreciated if you would notify the appropriate City departments of Ms. Frank's decision.

Please call me if you have any questions. Thank you.

Sincerely yours,

**BOSSHARD | PARKE Ltd.**



Darla A. Krzoska  
[dkrzoska@bosshardparkelaw.com](mailto:dkrzoska@bosshardparkelaw.com)

DAK/sg

cc: Myrna Frank

[www.bosshardparkelaw.com](http://www.bosshardparkelaw.com)

**Main Office**  
P.O. Box 966  
505 King, Suite 334  
La Crosse, WI 54602-0966  
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Fax: 608.784.1561

**Branch Office**  
103 S. Water St.  
Sparta, WI 54656  
608.269.5076  
Fax: 608.269.5077

# COMMON COUNCIL CITY OF LA CROSSE

The following Committee(s) considered the attached matter and make(s) the following recommendation to the Common Council:  
 Resolution re-referred approving easement and agreement regarding storm sewer outfall on

**Subject:** property located at 1325 Nakomis Avenue.

## JUDICIARY & ADMINISTRATION COMMITTEE

A   NA   R   AF   RF   NR

VOTE:	<u>ABSENT</u>	<u>FOR</u>	<u>AGAINST</u>
BECKER	_____	_____	_____
DECKER	_____	_____	_____
FARMER	_____	_____	_____
RICHMOND	_____	_____	_____
SEAQUIST	_____	_____	_____
 Total	=====	=====	=====

MOTION: 2<sup>nd</sup>

MOTION: 2<sup>nd</sup>

MOTION: 2<sup>nd</sup>

Date \_\_\_\_\_ Signed \_\_\_\_\_

## HIGHWAYS, PROPERTIES & UTILITIES COMMITTEE

A   NA   R   AF   RF   NR

VOTE:	<u>ABSENT</u>	<u>FOR</u>	<u>AGAINST</u>
JOHNSON	_____	_____	_____
LARSEN	_____	_____	_____
MANEY	_____	_____	_____
RANIS	_____	_____	_____
SATORY	_____	_____	_____
WAGNER	_____	_____	_____
 Total	=====	=====	=====

30 day referral

MOTION: 2<sup>nd</sup>

MOTION: Satory 2<sup>nd</sup> Wagner

MOTION: 2<sup>nd</sup>

Date JUN 02 2010 Signed [Signature]

## FINANCE & PERSONNEL COMMITTEE

A   NA   R   AF   RF   NR

VOTE:	<u>ABSENT</u>	<u>FOR</u>	<u>AGAINST</u>
OLSON	_____	_____	_____
KADER	_____	_____	_____
SCHMIDT	_____	_____	_____
SWANTZ	_____	_____	_____
SWEENEY	_____	_____	_____
WIGDAHL	_____	_____	_____
 Total	=====	=====	=====

MOTION: 2<sup>nd</sup>

MOTION: 2<sup>nd</sup>

MOTION: 2<sup>nd</sup>

Date \_\_\_\_\_ Signed \_\_\_\_\_

## **COMMITTEE REPORT**

**To the Honorable Mayor and Common Council of the City of La Crosse:**

**Your Highways, Properties and Utilities Committee having under consideration the annexed resolution approving easement and agreement regarding storm sewer outfall on property located at 1325 Nakomis Avenue and said matter having been referred to the Board of Public Works and same having made and filed its report thereon, recommends the same be referred to the regular June, 2010 Highways, Properties & Utilities Committee, Committee of the Whole and Common Council Meetings.**

**Respectfully submitted,**

**Jai Johnson, Chmn  
John J. Satory  
Mike Larsen  
Bernard Maney  
Bruce Ranis  
Alan P. Wagner**

**Typed: 4-1-10**

**Approved:**

**HPU Vote: Unanimous**



# COMMON COUNCIL CITY OF LA CROSSE

The following Committee(s) considered the attached matter and make(s) the following recommendation to the Common Council:

Resolution approving easement and agreement regarding storm sewer outfall on property

**Subject:** located at 1325 Nakomis Avenue.

## JUDICIARY & ADMINISTRATION COMMITTEE

A   NA   R   AF   RF   NR

VOTE:	<u>ABSENT</u>	<u>FOR</u>	<u>AGAINST</u>
BECKER	_____	_____	_____
DECKER	_____	_____	_____
FARMER	_____	_____	_____
RICHMOND	_____	_____	_____
SEAQUIST	_____	_____	_____
 	_____	_____	_____
Total	=====	=====	=====

MOTION: 2<sup>nd</sup>

MOTION: 2<sup>nd</sup>

MOTION: 2<sup>nd</sup>

Date \_\_\_\_\_ Signed \_\_\_\_\_

## HIGHWAYS, PROPERTIES & UTILITIES COMMITTEE

A   NA   R   AF   RF   NR

VOTE:	<u>ABSENT</u>	<u>FOR</u>	<u>AGAINST</u>
JOHNSON	_____	_____	_____
LARSEN	_____	_____	_____
MANEY	_____	_____	_____
RANIS	_____	_____	_____
SATORY	_____	_____	_____
WAGNER	_____	_____	_____
 	_____	_____	_____
Total	=====	=====	=====

MOTION: Satory 2<sup>nd</sup> Wagner

MOTION: 2<sup>nd</sup>

MOTION: 2<sup>nd</sup>

Refer Co Day

Date MAR 31 2010 Signed \_\_\_\_\_

## FINANCE & PERSONNEL COMMITTEE

A   NA   R   AF   RF   NR

VOTE:	<u>ABSENT</u>	<u>FOR</u>	<u>AGAINST</u>
OLSON	_____	_____	_____
KADER	_____	_____	_____
SCHMIDT	_____	_____	_____
SWANTZ	_____	_____	_____
SWEENEY	_____	_____	_____
WIGDAHL	_____	_____	_____
 	_____	_____	_____
Total	=====	=====	=====

MOTION: 2<sup>nd</sup>

MOTION: 2<sup>nd</sup>

MOTION: 2<sup>nd</sup>

Date \_\_\_\_\_ Signed \_\_\_\_\_



# BOARD OF PUBLIC WORKS

## CITY OF LA CROSSE

400 LA CROSSE ST  
LA CROSSE, WI 54601  
PHONE (608) 789-7599  
FAX (608) 789-8322

MATHIAS HARTER, Mayor  
RICHARD SWANTZ, Council Member  
DALE J HEXOM, Dir. of Public Works  
WAYNE DELAGRAVE, Finance Director  
RANDY TURTENWALD, City Engineer  
LAWRENCE KIRCH, City Planner  
TERI LEHRKE, City Clerk - Secretary

March 22, 2010

Honorable Mayor and  
Common Council Members

Re: Resolution approving easement and agreement regarding storm sewer outfall on property located at 1325 Nakomis Ave.

Ladies and Gentlemen:

The Board of Public Works considered the above matter at their meeting today and recommended the same be adopted.

Sincerely,

*Mathias Harter*  
Mathias Harter  
President

/tll

## RESOLUTION

BE IT RESOLVED by the Common Council of the City of La Crosse that it hereby approves the attached Right of Way Easement for Maintenance of Storm Sewer Outfall and corresponding Agreement.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to execute the same.

BE IT FURTHER RESOLVED that the Director of Public Works, Water Utilities Manager and other City officials are hereby authorized to take any and all steps necessary to effectuate this resolution.



**AGREEMENT**

In consideration of a Right of Way Easement for Maintenance of Storm Sewer Outfall on the property described on the attached Exhibit A, the undersigned, Myrna L. Frank, owner of property located at 1325 Nakomis Avenue and designated as Tax Parcel Identification Numbers 4-1241-3 and 17-10672-90, and the City of La Crosse hereby agree to the following:

1. The City of La Crosse shall fill the hole with dirt and rock and cover the pipe near the storm sewer outfall.
2. The City of La Crosse shall build a ramp onto said property to allow access to the City for maintenance of the property as well as to allow access by the property owner to clean up garbage that accumulates on the property from the river.
3. The City of La Crosse shall remove trees as agreed upon between the property owner and the City of La Crosse.
4. The City of La Crosse hereby agrees to maintain the easement area and repair any problems caused by its storm sewer system/pipe on the property as long as funding is available within the Capital Improvement Budget.

CITY OF LA CROSSE

BY: \_\_\_\_\_  
Mathias Harter, Mayor

\_\_\_\_\_  
Teri Lehrke, City Clerk

State of Wisconsin }  
La Crosse County } ss.  
On the above date, this instrument was acknowledged before me by the named persons.

\_\_\_\_\_  
(Signature, Notary Public, State of Wisconsin)

\_\_\_\_\_  
(Print or Type Name, Notary Public, State of Wisconsin)

\_\_\_\_\_  
(Date Commission Expires)

This instrument drafted by:

Stephen F. Matty  
City Attorney

This space is reserved for recording data

Return to

City Attorney  
400 La Crosse Street  
La Crosse WI 54601

Parcel Identification Number/Tax Key Number  
4-1241-3 and 17-10672-90

**RIGHT OF WAY EASEMENT  
FOR MAINTENANCE OF STORM SEWER OUTFALL**

The undersigned, Myrna L. Frank, Grantor, in consideration of the sum of One Dollar (\$1.00) and other valuable considerations, the receipt of which is hereby acknowledged does hereby grant, and convey unto the CITY OF La Crosse, a Wisconsin Municipality, (the Grantee), its SUCCESSOR AND ASSIGNS, the right to enter upon the hereafter described lands to construct, use, repair, maintain, relocate and replace thereon and/or under the surface thereof, storm sewer drainage material or equipment on said lands, the right to excavate the soil within the easement described and remove trees, rocks and other obstructions necessary to properly construct, operate and maintain said storm sewer drainage area, and to eliminate present or future hazards to the rendition of adequate service thereby.

The rights hereby granted include the right to inspect, rebuild, remove, improve and make changes, alterations and substitutions in and to its facilities as it may deem advisable including the right to increase or decrease the number of structures or other obstructions which might interfere with or endanger the operation or maintenance of the storm water drainage facilities and to enter and exit the above described lands and adjacent land of the grantor(s) along a route which will cause the least possible interference with existing land use in order to access right-of-way for the purpose of exercising the rights granted hereunder.

The rights hereby granted include the right to keep the easement clear of all buildings, structures or other obstructions that will interfere with or endanger the construction, operation or maintenance of storm water drainage facilities.

All facilities placed on the property by Grantee pursuant to this easement shall remain the property of Grantee.

In granting this easement, it is understood that the location of all equipment or appurtenances will be such as to form the least possible interference with existing land use and is consistent with sound engineering principles.

Grantor, his successors and assigns, may use the land within the easement for any purpose not inconsistent with the rights hereby granted, provided such use does not unreasonably interfere with or endanger the construction, operation and maintenance of the storm sewer drainage facilities.

The property in which this easement is granted is in the County of La Crosse, State of Wisconsin and described as:

SEE ATTACHED SHEET FOR LEGAL DESCRIPTION.

This easement is granted on the condition that any disturbance of surface by Grantee shall be restored to pre-existing conditions. This easement shall be binding to the heirs, representatives, assigns and grantees of the Grantor and Grantee.

WITNESS THE HANDS AND SEALS OF THE GRANTOR this \_\_\_\_ day of \_\_\_\_\_, 2009

STATE OF WISCONSIN        )  
  ) ss.  
COUNTY OF LA CROSSE    )

CITY OF LA CROSSE, WISCONSIN

BY: \_\_\_\_\_  
Myrna L. Frank

Subscribed and sworn to before me this \_\_\_\_  
day of \_\_\_\_\_, 2009.

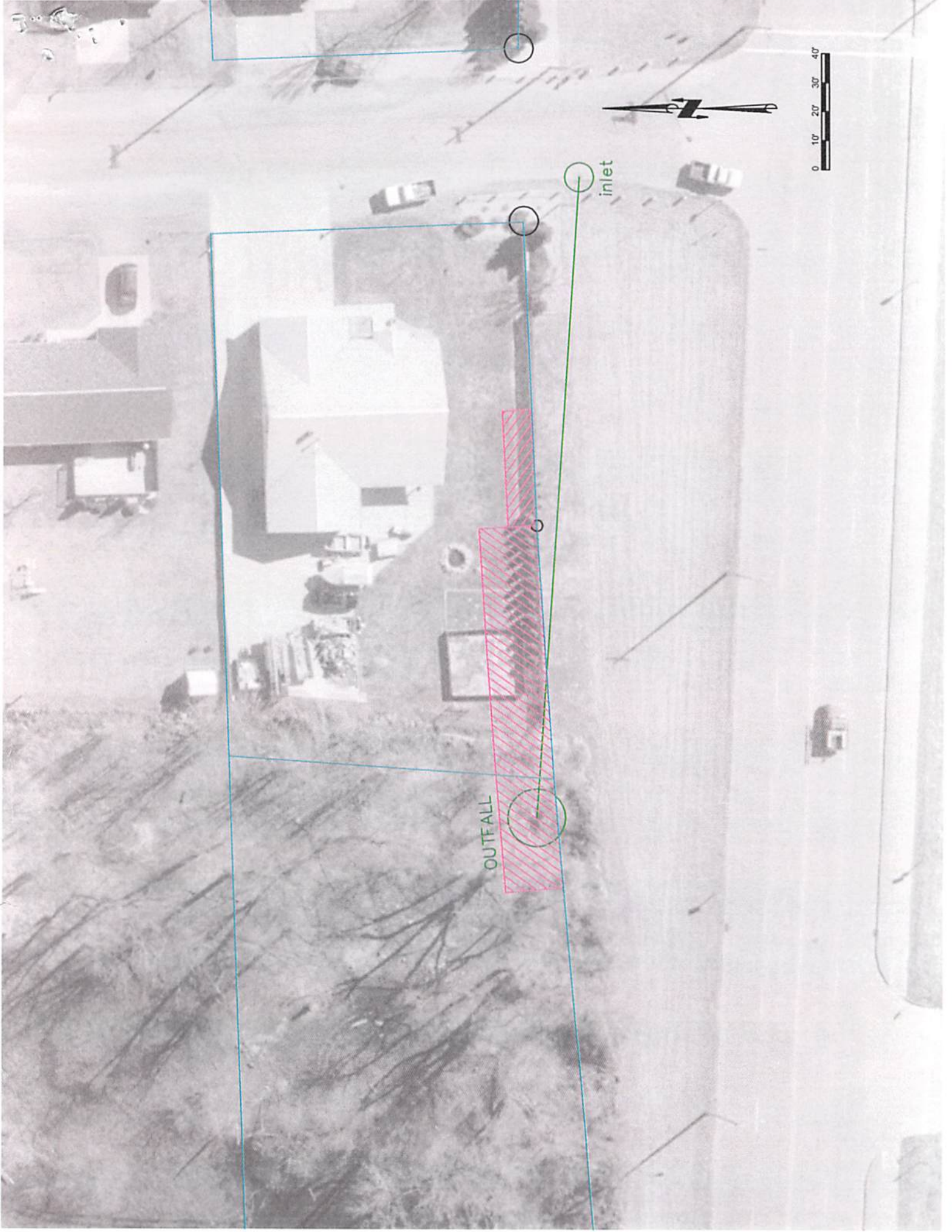
\_\_\_\_\_  
Notary Public, State of WI  
My Commission:

Return to:

City Attorney  
400 La Crosse St  
La Crosse WI 54601

Tax Parcel ID:

17-10672-90 & 4-1241-3



inlet

OUTFALL

