

Memo

To: Village Board
Fr: Craig Berndt
Re: LeBrun Agreement with DePere
Date: September 9, 2014

Attached is the recent information on Paragraph 5 of the proposed agreement with DePere regarding the LeBrun Road annexation/detachment agreement.

Number 1 or A is the original paragraph from the draft agreement. This is the paragraph that the village board requested a change to – to limit the future access driveway(s) to the road.

Number 2 or B is a revision proposed by DePere to respond to the request of the Allouez village board. This paragraph adds notice to Allouez for any meetings at which access to LeBrun would be discussed.

Number 3 or C is an Allouez proposed revision that still provided driveway access but provided some additional assurances to Allouez.

De Pere has rejected this request as noted in the attached emails.

The future course of action and response to this correspondence should be discussed.

A. **CURRENT LANGUAGE** ^{#1} *"Original Agreement"*

5. **City Access to LeBrun-East of East River Drive.** Allouez shall allow such access points to LeBrun Street as are approved by the De Pere Plan Commission in its site plan approval process of future developments of Parcel ED-1128-11, and any subdivision(s) thereof.

B. **PROPOSED NEW LANGUAGE** ^{#2} *"Revision proposed by De Pere"*

5. **Access to LeBrun Street Right-of-Way East of East River Drive.** The parties acknowledge that Parcel ED-1128-11, located in De Pere, is an undeveloped parcel with frontage on that part of LeBrun Street to be detached from De Pere and annexed into Allouez. The parties further agree that currently, De Pere has full authority to determine the appropriate access points along LeBrun Street for such parcel upon development and that De Pere wishes to retain that authority after detachment of such territory. The parties therefore agree that De Pere shall retain its authority to determine appropriate access points along LeBrun Street as determined by its Plan Commission in its site plan review of future development of Parcel ED-1128-11 and any subdivision thereof. De Pere shall provide notice to the Allouez Clerk of any Plan Commission meeting at which site plan review for development of such parcel is scheduled and the Plan Commission shall consider any comments from Allouez on the issue of LeBrun Street access points during such site plan review.

C. **REVISED PROPOSED NEW LANGUAGE** ^{#3} *"Revision proposed by Allouez"*

5. **Access to LeBrun Road Right-of-Way East of East River Drive.** The parties acknowledge that Parcel ED-1128-11, located in De Pere, is an undeveloped parcel with frontage on that part of LeBrun Road to be detached from De Pere and annexed into Allouez. The parties further agree that currently De Pere has authority to determine the appropriate access points along LeBrun Road for such parcel development, subject to approval by Allouez for use of the Allouez portion of the right-of-way, and that De Pere wishes to retain its authority after detachment of the De Pere portion of such territory. The parties therefore agree that De Pere shall retain its authority to determine one access point along LeBrun Road as determined by its Plan Commission in its site plan review of future development of Parcel ED-1128-11 and any subdivision thereof. The parties further agree that the existing Allouez public use trail along this territory was a WDNR funded project and must be retained, or if relocated, the cost shall be born by De Pere. The parties further agree that the cost to provide access to LeBrun Road, and any improvements to any portion of LeBrun Road as may be required by De Pere to obtain its access point, shall be born by De Pere. De Pere shall provide notice to the Allouez Clerk at least 60 days in advance of any Plan Commission meeting at which site plan review for development of such parcel is scheduled and the Plan Commission shall consider any comments from Allouez on the issue of the LeBrun Road access point during such site plan review.

Craig Berndt

From: Beth Stein <bmstein@new.rr.com>
Sent: Monday, September 08, 2014 1:51 PM
To: Brad Lange; Craig Berndt
Subject: FW: Allouez De Pere Agreement

Re: LeBrun

I am forwarding an email from DePere City Attorney Judy Schmidt-Lehman with the City's position on the access provision. Let me know what you think.

/s/ Dennis M. Duffy

Beth M. Stein
Legal Assistant to Attorney Dennis M. Duffy

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-----Original Message-----

From: Judy Schmidt-Lehman [<mailto:jschmidt-lehman@mail.de-pere.org>]
Sent: Friday, September 05, 2014 12:00 PM
To: 'Beth Stein'; Dennis Duffy
Subject: RE: Allouez De Pere Agreement

Hello Dennis. City officials have discussed the language proposed by the Village engineer. As indicated in the revised language De Pere proposed, the City currently has authority over the access points from the vacant parcel onto LeBrun and is not interested in relinquishing that authority.

Any language limiting that authority in the annexation/detachment agreement is not acceptable.

We remain willing to agree to the language of paragraph 5 in the original agreement or to the City's proposed changes to paragraph 5 forwarded to you on August 26, 2014.

Please let me know how the Village might wish to proceed.

Thanks!

Judy

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-----Original Message-----

From: Beth Stein [<mailto:bmstein@new.rr.com>]
Sent: Wednesday, August 27, 2014 5:06 PM
To: Craig Berndt
Cc: Judy Schmidt-Lehman
Subject: FW: Allouez De Pere Agreement

Craig:

By copy of this email I am forwarding your comments and revised language to DePere City Attorney Judy Schmidt-Lehman. I believe everything you proposed is self-explanatory. I don't expect we will have turnaround for a September 2, 2014 Village Board meeting if we can get this turned around. I will wait to hear from Judy. Thanks.

/s/ Dennis M. Duffy

Beth M. Stein
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-----Original Message-----

From: Craig Berndt [<mailto:Craig@villageofallouez.com>]
Sent: Tuesday, August 26, 2014 3:06 PM
To: bmstein@new.rr.com
Cc: Brad Lange
Subject: Allouez De Pere Agreement

Beth/Dennis-

I made some changes to the draft paragraph which I believe have a reasonable chance of being acceptable to the Allouez village board.

My reasoning for these changes include:

1. During all earlier discussions it was our understanding that one access point was being requested. The changes reflect one access point. Multiple access points is a significant concern of the village board and I am sure will not be acceptable.
2. The LeBrun roadway currently extends only to the parking lot. If De Pere needs access east of the parking lot there is considerable cost for extending the roadway. This would be De Pere's cost. This also applies if De Pere requires a roadway upgrade of existing LeBrun Road due to development.
3. The existing public access trail (WDNR funded) must be retained, and if relocated must be a De Pere cost.

I think the modified paragraph has a reasonable chance of being approved.

The modified paragraph does allow De Pere one access which will allow De Pere to develop its property.

If this modified paragraph is acceptable to De Pere we could put this on the village board agenda for September 2nd. We would need to know by Wednesday end of day to do so. Hope this helps. Craig

Craig L. Berndt, P.E.
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