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June 13, 2025

Mr. David Baker
Village President
Village of Kronenwetter
1582 Kronenwetter Drive
Kronenwetter, WI 54455

VIA E-MAIL

Re: Martin Road and Maple Ridge Road Speed Limit Opinion

Dear President Baker:

I am writing in response to your request dated June 6, 2025, for a legal opinion regarding whether the Village was compliant, statutorily and by the Wisconsin Department of Transportation ("DOT") guidelines, in lowering the speed limit from 55 MPH to 45 MPH on Martin Road and Maple Ridge Road, at the Village Board meeting on January 13, 2025. Specifically, you have requested an opinion regarding whether the Village Board may only reduce the speed limit of a road when the engineering report indicates it is justified. Please note this opinion is based solely on the information provided. We have not conducted an independent investigation of any facts, nor have we been instructed to do so. This opinion is based merely on our review of the facts provided in your email, provided Minutes of the January 13, 2025 Village Board meeting, Report to Village Board, the attached Traffic Engineering, Operations & Safety Manual, Chapter 13, Section 5 (hereafter referred to as the "Manual"), and certain legal principles that apply. Please note that this correspondence is to advise you with respect to the limited issues discussed herein and may not be used for any other purpose.

On December 9, 2024, the Village Board initially changed the speed limits of the two roads at its meeting from 55 MPH to 45 MPH. The Village subsequently realized that an engineering report was not provided as part of the speed limit change process. Thereafter, Greg Ulman, the Public Works Director, prepared an engineering report for each road and presented them at the January 13, 2025 Village Board meeting. The conclusion stated in these reports was that lowering the speed limit to 45 MPH was not warranted for either road. From our understanding, the Village Board then voted at this meeting to keep the changes to the speed limits of these two roads at 45 MPH.

Subsequent to the January 13, 2025 meeting, a Village resident, a municipal engineer with a professional engineering license, conducted their own independent traffic analysis for Maple Ridge Road. This report supports Greg Ulman's finding that a reduction in the speed limit was not warranted.

Generally, a municipality may modify speed limits within its jurisdiction:

Whenever . . . the local authorities with respect to highways under their jurisdiction *determine upon the basis of an engineering and traffic investigation* that any statutory speed limit is greater or less than is reasonable or safe under the conditions found to exist upon any part of a highway or that the actual speed of vehicles upon any part of a highway is greater or less than is reasonable and prudent . . . the local authorities with respect to highways under their jurisdiction may . . . determine and declare a reasonable and safe speed limit on the highway or part thereof in question. When appropriate signs giving notice of such speed limit have been erected and are in place, such speed limit shall be effective at all times or at such times as indicated by the signs.

Wis. Stat. § 349.11(1)(a) (emphasis added).

Our analysis began by reviewing the provided Manual. The Manual has different sections highlighted, seemingly by the Village resident engineer. Some of these highlighted sections use “shall,” a term meaning something is required, or “should,” meaning something is preferable but not required. The Manual points out that “all speed limit changes shall be based on an engineering and traffic investigation.” (Manual, p. 5.) The Manual provides that an engineering and traffic investigation *shall* include certain information regarding (1) roadway context information, (2) safety information, (3) speed performance metrics, and (4) other relevant information. (*Id.* at pp. 7–8.) After information is gathered, the analyst *shall* use it to develop and support speed zone *recommendations*. (*Id.* at 8.) The investigation *shall* provide a recommendation indicating whether conditions warrant a modification of the speed limit. (*Id.*) “Decisions regarding the potential change in a speed limit should be based on the objective findings of the engineering and traffic investigation and on conditions that exist at the time of the evaluation.” (*Id.*)

We found no court decision regarding this issue. The only case law that discussed the statutory construction of Wis. Stat. § 349.11(1)(a) is an unpublished opinion by the Court of Appeals which rejected an argument from an individual stopped for speeding, that the city was required to have an engineering and traffic investigation to determine if the speed limit was appropriate. *See Beaver Dam v. Rasmussen*, 98 Wis. 2d 748, 297 N.W.2d 515 (Ct. App. 1980) (unpublished opinion prior to July 1, 2009).

Therefore, we look at the plain meaning of the statute. Both the Manual and the statute are clear that there *must* be an engineering and traffic investigation done before a municipality may *reduce* a speed limit. The determination to reduce the speed limit must have a *basis* on said investigation. A basis is “[a] fundamental principle; an underlying fact or condition; a foundation or starting point. Basis, Black’s Law Dictionary (12th ed. 2024).

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Neither the statute nor the Manual *requires* a municipality to come to the same conclusion as the engineering and traffic investigation. Rather, the statute only requires that there be facts within the investigation that the municipality can base its determination on. If the statute required the municipality to follow the recommendation of the engineering and traffic report, the determination by the Village Board would be superfluous.

Therefore, it is our opinion that Wis. Stat. § 349.11(1)(a) does not require a municipality to comply with the opinion of the engineering and traffic study conclusion. It does, however, require the Village to base its determination of whether to reduce the speed limit on the contents of the investigation. Please note that we discussed the matter with Tony Kemnitz of the DOT. His opinion is that a municipality should follow the opinion of the engineer due to their expertise.

Please advise if you have any other questions or require clarification as to the above.

Sincerely,

VANDERWAAL LAW, S.C.

A handwritten signature in black ink, appearing to read "Austin M. Mogard", with a long, sweeping horizontal line extending to the right.

Austin M. Mogard
AMM/jjs