

**TOWN OF ALGOMA
WINNEBAGO COUNTY, WISCONSIN
MINUTES FOR
REGULAR MEETING OF THE TOWN BOARD
Wednesday, January 18th, 2012 at 6:00 PM
Algoma Town Hall
15 N. Oakwood Road, Oshkosh, WI 54904**

1. Call to Order.

The meeting was called to order by Chairperson Blake at 6:00 PM.

A. Pledge of Allegiance.

The Pledge of Allegiance was recited by everyone in attendance.

B. Roll Call.

Chairperson Blake	Supervisor Haman
Supervisor Timm	Supervisor Drexler
Supervisor Kierszh	Atty. K. Marone
Treasurer Edson	Clerk Nelson
Deputy Clerk Andrews	

2. Public Forum.

Marge Mueller, 1759 Lake Breeze Road – Ms. Mueller requests that the board consider against political signs on any of the town owned property. Ms. Mueller placed the Walker sign on the Town Hall property after she saw the Recall Walker sign on the property. Ms. Mueller was told by Treasurer Edson that town attorney advised the town hall staff that people had a constitutional right to do so. Ms. Mueller believes it caused an “anks” in the town and personally believes there shouldn’t be any political signs on the town property. If residents want to exercise their right to freedom of speech, they can do so on their own property, except in a speaking forum. For the harmony of the township, Ms. Mueller would like an ordinance against political signs on all town owned property.

Michel Schraa, 220 Wyldeberry Lane – Mr. Schraa announced his candidacy for the 53rd Assembly District. Mr. Schraa handed out his press release. If any constituents would like to speak to him about anything to please contact him. Mr. Schraa is looking forward to working with the town and learning their issues and concerns.

Mark Thompson, 3375 Sheppard Drive – Mr. Thompson spoke on the petition for vacation of part of Abraham Lane roadway. Mr. Thompson would like to see this issue go to the Planning Commission even though it’s not statutorily required to. Mr. Thompson believes this would show the Planning Commission that the Town Board supports them by at least asking their opinion on it. The Planning Commission could have some more insight on the situation. Mr. Thompson spoke at the November Town Board meeting about the Apple Acres subdivision. Mr. Thompson believes there is a breakdown in the town on what the procedures are in this town, what ordinances get enforced, and why we do sometimes and not others. Mr. Thompson claims the town never saw a preliminary plat for that subdivision, it never went to the Planning Commission, and to Mr. Thompson’s recollection, it was supposed to follow all the requirements of the settlement agreement. Mr. Thompson believes it sets the

wrong precedents for the next developer that comes in. At the Stormwater Management meeting there was talk about some drain tile that was put in. In Mr. Thompson's opinion, he thinks it great that the town is trying to get rid of some of the water, but it looks like on the map it was going right through the backyards. Who is going to pay for that when it gets screwed up. The answer is going to be the developer's agreement. But, it always seems like the town pays for it. Mr. Thompson doesn't want to pay for it in the future. This is something that should have been set up before it was approved. Mr. Thompson was very disappointed that it was approved after he raised several questions about it the month before and he hopes it doesn't come back to bite us.

*Blake explained that Mr. Greenman, the town's insurance agent, is only available for a short time this evening and asked for a motion to move item 4C up on the agenda to be discussed next. **Motion by Kierszh/Hamann to move item 4C up to the current item. No further discussion. Motion carried in a voice vote, 5-0.***

4.C. Concealed carry at the Town Hall.

Mr. Greenman was contacted via speaker phone. Atty. Marone explained briefly that she had spoken on the concealed carry issue before indicating that should the town decide to post no weapons allowed, the sign would have to be of a certain size, and the town may be liable if there was some harm caused by an individual bearing a weapon who injured others. If the town does not post a sign indicating no weapons allowed, then there would be immunity. Mr. Greenman was being contacted this evening in order for the board to find out what the Town's insurance company, Rural Mutual, would recommend, to post or not to post, and what type of coverage there may be for either option. Mr. Greenman indicated that Rural would stand behind the town should they decide to post or not to post. As far as a recommendation, Rural remains neutral. Should the town decide to post, there are specific guidelines on the proper way to post. Mr. Greenman recommends following those guidelines. Atty. Marone gave Mr. Greenman a scenario of a person being injured by another who was bearing a weapon illegally. There is a portion of negligence that is assigned to each party involved. Would there be any more negligence on the Town of Algoma's behalf because they decided to post or not. Mr. Greenman replied that there haven't been any court cases setting a precedent to this effect at this time. Mr. Greenman would turn the matter over to the claims department and they would take over the matter. Should this situation arise, would there be an increase in premiums for the Town? Mr. Greenman answered that as far as he is aware, Rural is not increasing or decreasing the liability premiums right now. There were no further questions for Mr. Greenman, and the conference call was concluded. Timm believes that we have to also look at open carry which has been around quite a long time even though the concealed carry issue is bring the issue forth. **Motion by Drexler that we do not post based on the insurance carriers saying that we would be supported by them. Motion failed for lack of a second.** Kierszh indicated that as far as the buildings go, we should be able to post the buildings and it shouldn't make a difference in the liability. Since the courthouse and police stations have immunity from the concealed carry, Kierszh believes that a public building where people congregate is a place for concealed carry. We can't stop employees from carrying weapons in their vehicles, but they couldn't be brought into the building. Drexler's concern is that posting no weapons brings more attention to it. If they don't think about bringing a weapon into the building and then see the sign, they think about. Police stations and courthouses aren't posting because they have automatic immunity; there isn't going to be any signs. So there could be the assumption that this is a municipal building, and weapons

couldn't be brought in. *Motion by Kierszh/Timm that we post all our municipal buildings. No further discussion. Motion carried in a voice vote, 4-1 with Drexler voting no.*

3. New Business.

A. Conditional Use Permit for Casey's Meadow LLC on tax parcel number 002-0350-07, five acres east of 2960 Clairville Road to stockpile top soil in a shoreland district.

Drexler read the motion from the draft Planning Commission Meeting Minutes. *Motion by Hamann/Kierszh to approve with the identical conditions as laid out by the Planning Commission.* Chet Wesenberg from Casey's Meadow LLC was present to answer any questions. Mr. Wesenberg indicated that the dirt was moved so that it is now 300 feet away from the creek. The pile has been there for 5-6 years. There was an aerial photo taken by the county which started this conditional use permit. The pile was within the shoreland area and in the floodway. Per the county's staff recommendation, we could either move the entire pile 300 feet back or move ten feet out of the floodway. They moved ten feet out of the floodway which has been inspected and approved by the county. The county is satisfied with where the pile is now. The second part of moving the ten feet of dirt, Mr. Wesenberg informed the board that they had to get a conditional use permit from the town and the county. The City of Oshkosh also supports conditional use permit. Mr. Wesenberg indicated that there is no intention of adding additional dirt to the pile; they intend to sell the dirt as they can. They also use the pile to spread topsoil on houses in the subdivision as they are being built. *No further discussion. Motion carried in a voice vote, 5-0.*

B. Petition for vacation of part of Abraham Lane roadway.

Mr. Norm Mueller was present to explain his request to the Town Board. Mr. Mueller handed out a map indicating the area where he was requesting the vacation. Discussion ensued. Atty. Marone explained that Mr. Mueller is asking the Town Board to start the vacation process. Atty. Marone then read the letter from Mr. Mueller. If the board approves this tonight, it starts the timeline for the process to be finished within 90 days. There will have to be a public hearing in which residents will be given an opportunity to debate the merits of what's going to be happening. Preceding that meeting, there will have to be a walk-thru of the area by all board members which can be done individually or as a group with Mr. Mueller and/or Mr. Skoglund present. If it's done as a group, proper notice will have to be given. At least thirty days prior to the hearing, a letter mailed via registered mail, notice to all residents surrounding and the Department of Transportation for anyone to object. Copies of these documents indicating there is action in process will also be filed with the Registrar of Deeds. Then there will be a final hearing before the ninety day mark where the Town Board will decide if granting vacation is in the public interest. There are no arguments tonight; this is just procedural to decide if this procedure to commence. Mr. Mueller is withdrawing his original petition which was filed this summer. Mr. Mueller also agrees that while Atty. Marone represents only the Town of Algoma, he will be paying for legal expenses as billed to him by the town. Atty. Marone wanted to make it clear to the board that tonight's action only starts the process, nothing is heard on the merits tonight. *Motion by Blake/Kierszh to approve.* Drexler clarified that this could go through the Planning Commission. Atty. Marone indicated while there is nothing in the statutes that require it go through a Planning Commission, the Town Board could recommend that it go to its Planning Commission. Drexler requested that the motion be amended to include a recommendation that it go to the Planning Commission. The motion was not amended. *No further discussion. Motion carried in a voice vote, 5-0.*

C. Adopt an ordinance amending Section 6 of Ordinance Number 115 entitled “Alcohol Beverage and Wine License Ordinance”.

Motion by Drexler/Hamann to accept the amendment to ordinance 115. No further discussion.
Motion carried in a voice vote, 5-0.

D. Adopt an ordinance amending Ordinance Number 142 entitled “Establishment of Wards and Ward Boundaries Based on Winnebago County Board Re-Districting”.

Clerk Nelson explained that this ordinance only amends which polling place the wards will vote at. This splits the population a little more evenly than before and as wards 9 and 10 are annexed into the city, the split should become more even over a ten year period. Motion by Drexler/Kierszh that we adopt the ordinance which amends ordinance 142 – Establishment of Wards and Ward Boundaries Based on Winnebago County Board Re-Districting. No further discussion. Motion carried in a voice vote, 5-0.

E. Create an ordinance to make it mandatory to have drain tile installed in rear drainage ditches for new subdivisions. (Hamann)

Hamann explained that the board is now committed to stormwater drainage and he believes that this would help solve some of the issues. This would be at the expense of the developers. This ordinance would be separate from the sump pump ordinance. Timm would like Hamann to put together a draft so there is something to look at. Drexler inquired if the drainage coordinator should be working with Hamann on this ordinance. *Motion by Timm/Kierszh to table creating an ordinance because she would like to see a draft. No further discussion. Motion carried in a voice vote, 5-0.*

F. Collection of Impact Fees or Parkland Fees.

Treasurer Edson explained that parkland fees were collected as part of an ordinance back in the year 2000. There was pressure to go to Impact Fees ordinance. About a month or two after the impact fee ordinance was adopted, then Governor Doyle, re-instated the parkland fees. So now there are both impact fees and parkland fees. The Town Board has to decide which fee they want to collect because both can't be collected. Treasurer Edson personally likes the impact fees. Both have the characteristics of time requirements, that if the money isn't used within a certain timeframe it has to be paid back. Clerk Nelson explained that basically a parkland fee is tied to the developers and the plat. A developer does have the option to dedicate land in lieu of payment which is why the town has little pieces of trails that don't connect. The impact fees are tied to building permits and can go towards any type of public improvements, not just necessarily parks. With the impact the time limit is seven years, use it or pay it back along with the interest. The Parkland fee, once you get the fee, it's yours, there is no time limit. Atty. Stadelman also advised that we could collect the parkland fee or the impact fee, but could not charge both; therefore the Town Board has to decide which fee they want to collect. The money that the Parks Committee has now all came from parkland fees. There has been no money collected on impact fees. This fee goes to the town. There is one subdivision, Bell Ridge, that has not paid their parkland fees. The developer did give land for a trail, but hasn't paid the difference between the value of the land and the actual fee. The was discussion on how the fees is enforced and the determination of the fee amounts. *Motion by Timm/Kierszh to collect parkland fees as our town ordinance as it relates to parks and recreation.* Drexler wanted to know if the motion needed to state when the fees are collected. It was determined that it was already in the ordinance. *No further discussion. Motion carried in a voice vote, 5-0.*

G. Fire numbers for residences. (Kierszh)

This was brought up by one of the town constables that when they get a call at night it's hard to find houses because everyone does not have their house numbers on the mailboxes. Kierszh observed through his travels that other local towns have fire numbers near driveways. This would help police, fire, and EMS as their responding to calls for help. Kierszh would like to do some more research into the cost of doing this, and would like to see what the thoughts are on doing this. Chief Groth addressed this issue with the firefighters and the first responders, but do to the costs that the town would incur, the fire department decided to purchase GPS units for all First Responders and fire trucks. The GPS isn't always failsafe, the mapping isn't always up to date. Groth would like to see the ordinance include a three inch block numbers on both sides of their mailbox with the address on. Groth also believes that the board should look at the current address on where the tiles from the town are put on homes so there is consistency. Thompson believes there is going to be a lot of kick back from high-end house on the posts, and doesn't think the residents of Algoma would go for fire numbers. Groth recommends having numbers and letters on both sides of the mailboxes. There was discussion about putting an article in the upcoming newsletter regarding this. Kierszh would like to have Clerk Nelson look into what the other townships in Winnebago County to see what the costs were, and how they paid for it; just get some more information. Maybe it's something we want to look at, maybe not, maybe it's appropriate, maybe not. Let's just look at it.

H. Approval and swearing in of the newly elected Fire Chief, Scott Groth.

Motion by Blake/Drexler to approve Mr. Groth as the elected Fire Chief. No further discussion. Motion carried in a voice vote, 5-0. Clerk Nelson swore in Chief Elect Scott Groth.

I. Approve the 2011 contribution for the Fire Department Service Award Program.

Clerk Nelson explained the state match for 2011 is \$316.38. In the past, the town has contributed the state match to the Service Award Program. There is enough money in the budget to match the state contribution. *Motion by Drexler/Kierszh we accept the Length of Service Award 2011 contributions. No further discussion. Motion carried in a voice vote, 5-0.*

J. Posting of signs on public property.

Clerk Nelson explained that the Town Hall becomes a polling place at election time and up until the recent recall challenges, this wasn't an issue. Atty. Marone explained that the first amendment right to freedom of speech has to be protected. Atty. Marone stated the Town Hall Office Staff, none of them can be political, they are to remain neutral. They can't solicit signatures, they shouldn't be asked for signatures, and their offices are not intended to be political. When we're asking people to attend to their signs, it is known who is protesting. Posting a sign outside of a public building gives the impression that the people inside the building are in support of that sign. The research isn't conclusive on this issue. The town can issue an ordinance where it is there to protect safety and for aesthetics. It would seem as long as the Town Board doesn't infringe upon private property and write an ordinance on unattended signs, it would still protect the freedom of speech for those who want to attend, hold their signs, and protest on public grounds. *Motion by Drexler/Hamann to create an ordinance that gives neutrality so that no signs are posted public property. No further discussion. Motion carried in a voice vote, 5-0.*

4. Old Business

A. Approve garbage and refuse contract with Veolia Environmental Systems.

Atty. Marone explained that Treasurer Edson and her have been working with Veolia on the contract and the contract the board has in front of them right now is the almost final version. There is still some negotiations left to do regarding private roads. Veolia is going to be adding a paragraph about if there is any damage to the private roads that they have to fix it. The private roads will also be listed out. There is also a correction on what consumer price index to use. The board needs to know the increase by October for budgeting purposes. ***Motion by Kierszh/Drexler to put this on hold until the final draft is complete. No further discussion. Motion carried in a voice vote, 5-0.***

B. Part-Time Road/Drainage Coordinator Job Description.

Atty. Marone explained there were several drafts of the job description that she wanted to make sure that Atty. Bensky received all before he rendered a recommendation. Atty. Bensky made two recommends; assuring that all federal guidelines are being met, and reasonable accommodations. For reasonable accommodations, does the coordinator have to go out and physically do the work themselves or is someone else going to be sent out instead. This is something the board has to take decide exactly what the job is. The question becomes, will the coordinator be going out to do to the work or will reasonable accommodation be made. Atty. Bensky caution the board to be careful on this because if the description is too restrictive but not really necessary for the job, that could cause trouble later. Discussion ensued between Drexler and Atty. Marone attempting to define whether this position is to assure that the work is done, or is the position one of where reasonable accommodations could be made by sending someone out on his behalf, i.e. someone on his staff. Timm informed the board that the purpose of this job is that person will inspect areas that need to be inspected physically otherwise it diminishes the purpose of what we're hiring this person for. That's not to say that this person will physically be doing the work. A coordinator is working contractors to do the work. The purpose of the job is so that coordinator can go in the backyards, go in drainage ditches, and go out and measure things. Kierszh would like to have to the job description re-written to include the recommendations, have it run past the town's attorney to make sure it's done right. There are certain things that have been recommended to be included in the job description, this isn't something that we have to rush into. ***Motion by Kierszh/Drexler to have the three recommendations included in the job description and have the revised job description approved by the town's attorney.*** There was further discussion regarding the timeline. ***No further discussion. Motion carried in a voice vote, 5-0.***

C. Concealed carry at the Town Hall.

Please see above for discussion and action on this item.

D. Paving of roads in Olde Apple Acres and Olde Apple Acres First Addition – Phase 1.

Clerk Nelson explained that the issue with the paving was whether or not the cost of paving roads in Olde Apple Acres or Olde Apple Acres First Addition would be able to assess back to the homeowners. This issue was discussed at this year's first budget session along with several other times, and we have a final determination from Stafford Rosenbaum, Atty. Chris Hughes, who was lead counsel in the lawsuit. After careful examination of the records, Atty. Hughes determined that yes, the town can assess the road paving in both Olde Apple Acres and Olde Apple Acres First Addition to the homeowners. There will be a copy of this determination in both files. There was discussion on the assessment process along with funding of the assessment. This was on the agenda

just to report back to the board there was a determination and we are ready to proceed with the assessment procedure. No action taken.

E. Action Appraisers and Consultant, Inc. Contract for assessment revaluation.

Atty. Marone reviewed the current contract. Atty. Marone had concerns with item 6B which deals with Public Liability Insurance, and 6C that deals with holding Action Appraisers harmless. Clerk Nelson had Action Appraisers submit their liability insurance certificate to the town and then forwarded to Wiese Risk Management for their determination on sufficient coverage. Wiese Risk Management did determine that Action Appraisers did have adequate liability insurance appropriate for the project. Item 6C, hold harmless section, the town is retaining Action Appraisers to do the work on behalf of the town because of their expertise. Should a resident feel they have been harmed by the appraisal, the resident will come back and sue the town which the town would like to keep Action Appraisers accountable for that as well. Atty. Marone recommends that item 6C is stricken completely. There was discussion regarding if 6C is stricken completely, and Actions liability insurance is deemed appropriate by Wiese Risk Management, then the contract would be accepted. Motion by Drexler/Kierszh that Atty. Marone add language to 6B for the liability insurance and that 6C is stricken. No further discussion. Motion carried in a voice vote, 5-0.

5. Fire Department Report.

A. Adopt-A-Family Recap.

December 22nd, Santa Clause and the Fire Department delivered gifts to the adopted families. It was very well received, it was a great time, and Chief Groth is proud that the department adopts families every year.

B. First Responders Pizza Sales.

First Responders will doing one pizza sale this year and that will be in the spring. Pizzas will be made on Saturday, April 14th. The location of the pizza making maybe relocated to the Town Hall. Oakwood School recreation department will be charging a fee from now on for the use of the school. Someone from the school has to be on the premises while the First Responders are there. There was discussion on making the pizzas here, but nothing confirmed at this time. The date of the Service Oil Sale also has to be set. Hopefully this information will be confirmed at the February Town Board meeting. There was discussion on including the pizza order form in the next newsletter. Clerk Nelson indicated that could be done.

C. New truck update.

On December 21st, 2011 Assist Chief Kolb filled in at the Town Board meeting for Chief Groth. Chief Groth went with the New Truck Committee to Red Power who is manufacturing the new fire truck. The new cab and chassis is at Red Power and they are currently ordering parts for it. There was a truck there that is almost identical to our truck that is being made for Tiss Mills. The committee was able to see this truck and recommend some changes. Chief Groth asked the Town Board what their wishes would be for the truck they are going to retire. There was discussion on possible options for the retiring the truck. ***Motion by Hamann/Kierszh that we leave it up to Fire Chief Groth to do what he needs to do to retire the truck.*** Groth asked if it was possible for the proceeds of this truck to go into the account for the next truck. ***Amended motion by Hamann/Kierszh that the proceeds of the retiring of the truck go towards the purchase of another truck. No further discussion. Motion carried in a voice vote, 5-0.***

D. Membership update.

There are two First Responders will be ready to respond to calls in the next couple of weeks. They have finished their training and they are waiting on some final certification from the National Registry to have their license go through the State of Wisconsin. Fire Chief Groth recently announced to the membership that they are going to be having CPR and AED training for non-first responders on the fire department. The training will be done by the Oshkosh Fire Department on a drill night. An updated Chain of Command chart was handed out to the Town Board.

6. Receive Road/Drainage Consultant Report January, 2012.

Road/Drainage Consultant Report was received.

7. Approve minutes of previous meetings.

A. Special Town Board Meeting, December 14th, 2011.

Motion by Timm/Kierszh to accept. No further discussion. Motion carried in a voice vote, 5-0.

B. Special Town Board Meeting, Stormwater Management, December 15, 2011.

Motion by Drexler/Kierszh to approve the minutes. No further discussion. Motion carried in a voice vote, 4-0-1 with Blake abstaining because he was not in attendance.

C. Regular Town Board Meeting, December 21, 2011.

Motion by Timm/Hamann to accept. No further discussion. Motion carried in a voice vote, 5-0.

8. Approve monthly disbursements for January, 2012.

Drexler asked what check number 18941, Williams Technology Group, monthly maintenance. Clerk Nelson it's for monthly maintenance and backup for the server. Motion by Kierszh/Hamann to accept. No further discussion. Motion carried in a voice vote, 5-0.

9. Receive Treasurer's Report for January, 2012.

The Treasurer's Report for January, 2012 was received.

10. Closed Session.

A. The town board may then go into closed session pursuant to WIS STATS §19.85(1)(c) to consider employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility; and,

WIS STATS §19.85(1)(f) to consider financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specified personnel problems or investigation of charges against specific persons except where par. (b) applies which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations; and,

WIS STATS §19.85(1)(g) to confer with legal counsel for the 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.

Approved at the February 15th, 2012 Regular Town Board Meeting.

B. The town board may then reconvene into open session to discuss and act upon matters discussed in closed session.

Blake read Items A and B in their entirety. *Motion by Timm/Drexler for the Town Board to go into closed session. No further discussion. Roll call vote: Hamann – yes, Kierszh – yes, Blake – yes, Timm – yes, and Drexler – yes. Motion carried in a roll call vote, 5-0.*

The Town Board took a five minutes recess at 7:55 PM. The Town Board then reconvened into closed session at 8:00 PM.

Motion by Timm/Drexler for the Town Board to go back into open session. Roll call vote: Drexler – yes, Timm – yes, Blake – yes, Kierszh – yes, and Hamann – yes. No further discussion. Motion carried in a voice vote, 5-0.

The Town Board reconvened into open session at 8:12 PM.

11. Adjourn.

Hamann/Kierszh motion to adjourn. No further discussion. Motion carried in a voice vote, 5-0. Meeting adjourned at 8:12 PM.

Respectfully submitted,

Charlotte K. Nelson
Town Clerk
Town of Algoma, Winnebago County, Wisconsin