

# DRAFT

**TOWN OF ALGOMA  
WINNEBAGO COUNTY, WISCONSIN  
MINUTES FOR  
REGULAR MEETING OF THE TOWN BOARD**

**Wednesday, February 15<sup>th</sup>, 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 - Excused
Supervisor Timm	Supervisor Drexler
Supervisor Kierszh	Atty. K. Marone
Treasurer Edson	Clerk Nelson
Deputy Clerk Andrews	

**2. Public Forum.**

Gary Drebus 1364 Olde Apple Lane – Mr. Drebus wanted clarification on who is going to pay for the road improvements in Olde Apple Acres subdivision. Mr. Drebus believes since the plat was filed the day prior to the moratorium went into effect that the town would pay for paving of the roads in Olde Apple Acres subdivision. Mr. Drebus read aloud a portion of the Town Board meeting minutes from September 15, 2010. That was before the research had been done. Attorney Marone explained there was research done by Clerk Nelson and her in which they contacted the lead attorney who litigated the case ten years ago. It was his position that since it was intended that the developer complete the paving and since the developer had specific waivers from some towns people, there was every intention for the road paving to be borne by those adjoining. Therefore, we will be assessing the road paving, taking the total cost and dividing it by the linear footage fronting the road that will be borne by each homeowner. Mr. Drebus didn't understand if the plat was filed before the moratorium went into effect, why are the homeowners paying for the paving. Attorney Marone indicated that Midwest did attempt to solicit waivers from the property owners indicating that they as the developer, in notifying you, that there is going to be some expense to be borne to the homeowners. Mr. Drebus continued to debate this case. It seems to Mr. Drebus that the town is trying to get out of paying for the paving of the roads in Olde Apple Acres. Attorney Marone assured Mr. Drebus that the lawsuit had a settlement agreement which did not indicate that the town was going to bear the road paving expenses. There were waivers solicited by some of the townspeople adjourning there at the time, and basically the road paving can be assessed back to the adjacent property owners.

**3. New Business.**

**A. Authorize the Planning Commission to seek outside assistance to re-write Chapter 18.**

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Motion by Drexler/Blake that we authorize the Planning Commission to seek outside assistance to re-write Chapter 18. No further discussion. Motion carried in a voice vote, 4-0.

**B. Appoint member to the Parks Committee for the remainder of Kip Jacobson's term expiring April 30<sup>th</sup>, 2013.**

Blake withdrew his name as a candidate for the Parks Committee as to not put his colleagues in a precarious position and endorses Joel Rasmussen for Mr. Jacobson's spot. Motion by Blake/Timm to appoint Joel Rasmussen to the Parks Committee for the remainder of Mr. Jacobson's term. No further discussion. Motion carried in a voice vote, 4-0.

**C. Approve interest rate for Parkland Fees for Bell Ridge Subdivision.**

Treasurer Edson explained at the initial billing, the interest rate was at six percent which is out of line given today's real estate market. Treasurer Edson explained the balance is \$23,000 which has been outstanding for about five or six years. Treasurer Edson has had conversation with Mr. Williams that each unit should be half, but the board voted that each unit be counted as one. Mr. Williams is raising this issue again. Mr. Williams did not know going into this development that each unit would be counted as one as the board had not voted on it yet. Mr. Williams made a contribution of land so he feels, compared to other developments, it's out of line. Treasurer Edson spoke with Attorney Marone whose position is once the issue of the interest rate is taken care of, we'll move forward. Treasurer Edson believes that three percent would be more reflective of the current economic times. Drexler feels that if the interest rate stays at six percent Mr. Williams would be more encouraged to pay, but understands why Treasurer Edson would like the interest rate lowered to three percent. Kierszh wanted to know if the interest rates go back up to six percent, is the town going to raise the interest rate back up to six percent. Treasurer Edson answered yes. Attorney Marone offered an option of having the six percent effective until today, and tomorrow lowering it to three percent. Therefore there would be two different rates, but it could be split up that way. Attorney Marone informed Drexler that it would be illegal to compound the interest, but the statutory rate is twelve percent. Mr. Williams is getting a deal, but it would have to be simple interest accrued until today and then simple interest accrued at three percent in the future. Drexler believes Mr. Williams should be getting at least an annual invoice showing the balance owed and the interest accrued. Motion by Kierszh/Drexler to table this until we find out exactly what Mr. Williams owes and bring it up next month. Timm wanted to know if Mr. Williams requested this interest adjustment. Treasurer Edson replied that it is the town's request to reflect the current real estate market. No further discussion. Motion carried in a voice vote, 4-0.

**D. Authorize Town Treasurer to research road assessment funding.**

Treasurer Edson has a quote from the bank of three percent which that's based on an assumption because the starting and ending date is unknown at this time. Therefore when we go for the funding, it will be for the interest rate that is in effect at that time. Drexler clarified that the resident would be charged this same interest along with a small administrative fee. Treasurer Edson agreed. Motion by Drexler/Timm to authorize Town Treasurer to research road assessment funding. No further discussion. Motion carried in a voice vote, 4-0.

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## **E. Resolution for Sign Retroreflectivity Maintenance Program.**

Drexler informed the board that she was researching this just before the meeting, and it is her understanding that this is an either or program. Either the signs are replaced by doing the assessment method or by a maintenance method, both are not required. Drexler would like to see the assessment method used. Timm questioned why the inspector had to be at least 60 years old. Clerk Nelson explained all the bullet points are required by the new Federal Highway Department as part of the Retroreflectivity Maintenance Program. Motion by Drexler/Kierszh that we use the Assessment Method. When questioned why, Drexler explained that it's using a visual inspection rather than life expectancy of the sign because depending on where the sign is placed and weather, it may need to be replaced before its life expectancy is up. Timm wanted to know who this program was assigned to? Clerk Nelson explained that it hasn't been assigned to anyone at this time. The board needs to pick a method before it's assigned to anyone, but criteria is here. No further discussion. Motion carried in a voice vote, 4-0.

## **F. Report on the Oshkosh Chamber Economic Marketing meeting. (Drexler)**

Drexler thought it was appropriate that the Town Board receive a copy of the Request for Proposal to Develop an Economic Development Marketing Plan that came out of the meeting which reviews what the discussion of the meeting was. East Central Wisconsin thought there was a good chance that a grant could be received to cover most of this plan. Matching funds could be received for time spent for developing and marketing this. The thought was to send this out and see what comes back to pursue the grant. There hasn't been another meeting set yet, but the intention is to have a monthly meeting. Blake asked Drexler that when she has a meeting if she would let Clerk Nelson know so that she can report back to the board at their next meeting. Drexler agreed.

## **4. Old Business.**

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

Kierszh informed the board that he spoke with Treasurer Edson who feels that he and Attorney Marone got a lot of things worked out with Mr. Tellock. They both feel comfortable with the contract. Motion by Kierszh/Timm to accept. Further discussion ensued regarding the definition of curbside. Where people place their containers, is it in the walking path? Specifically, the discussion was regarding Omro Road and students walking to school. Clerk Nelson will put a notice in the newsletter to remind residents not to place their receptacles in the walkway of the road. Drexler was concerned that the garbage will be hauled to Outagamie County Landfill during the course of this contract. Veolia will only haul the garbage to Winnebago County Landfill. They in turn haul it to Outagamie. The town is not charged by Veolia for the hauling to Outagamie County. Attorney Marone wanted it noted that there was a section in the contract regarding indemnification which was pulled from the contract on her request. No further discussion. Motion carried in a voice vote, 4-0.

### **B. Part-Time Road/Drainage Coordinator. (Drexler)**

Discussion ensued by Drexler regarding three changes that were to happen. Attorney Marone stated that she and Clerk Nelson had numerous discussions regarding the last meeting. It was unclear to both of them whether or not this person was going to be charged with assuring the work was done or the necessity of having the Road/Drainage Coordinator do the work themselves. Attorney Bensky looked at the percentages that are included in the memo regarding measuring what attributes are

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physically necessary to do the job and what attributes are assuring the work is done and questioned if indeed item 8 is necessary. Attorney Marone didn't have clarity after the last meeting that those changes needed to be made or that they should be put into the document. Attorney Marone agrees with Clerk Nelson that there needs to be more discussion on the work and duties so that there is some kind of clarity on the job description. Drexler wasn't talking about physical labor; she was talking about physical movement. The person should be able to move, inspect, climb up and climb down; basically the things that are listed in item 8, the ability to negotiate. Attorney Marone clarified with Drexler that she was requiring this person to go out personally, themselves, to climb up and climb down, climb into mud rather than assuring. Attorney Bensky is simply asking, can this climbing be a task that is delegated by the Road/Drainage Coordinator if there is rough conditions. Attorney Bensky is informing the board to be careful how this is noticed so as to not to exclude people with disabilities, people who may be older, or people with other physical problems. Unless the board is saying that safely negotiating is so critical to the job that the board wants to leave it in the job description. If the board feels that the Road/Drainage Coordinator can delegate someone else to do the physical movement, then words like assure must be used. Drexler wants this person to be able to safely negotiate all type of terrain, soil conditions, rough and uneven ground, icy conditions, and other land impediments. This has nothing to do with physical labor, it has to do with inspection, measuring, and checking things out. Timm indicated that the board isn't asking them to do the work. Discussion continued regarding assuring verses physically doing the work along with recommendations from Attorney Bensky. Drexler asked the board if anyone had concerns regarding item number 8, the ability to safely negotiate all types of terrain, soil conditions, rough and uneven ground, icy conditions, and other land impediments. Blake had an issue with the statement because he had a knee surgery. Timm expressed that she doesn't want a Road/Drainage Coordinator looking out of the car window and making decisions. She would like them to be able to get out of the car, walk up to the site, and make an assessment of it. After discussion, Blake agreed with wording of item 8. Kierszh agrees that person has to be able to do the job, but also agrees with Attorney Marone in which he doesn't want to see the town get sued. Attorney Marone replied by saying that as long as it is an absolute requirement, but the board needs to be careful listing this as a requirement. The question is, could a reasonable accommodation be done or not? If this is something that the board feels the individual, themselves, needs to be able to safely negotiate, an accommodation could not be made, then it's ok to list it. Blake indicated that we also have it covered with the disclaimer. Attorney Marone agreed, but with item 8, the board is specifically saying that the Road/Drainage Coordinator must negotiate and that as their applying that the applicant understands that item 8 is something that an accommodations will not be sought because this is an absolute. Kierszh asked who's going to determine if an applicant is physically able to negotiate properly. Drexler indicated that town board would make that determination. Further discussion continued regarding the boards qualification for making that decision and workers compensation. Attorney Marone walked the board through a workers compensation process. Timm indicated that it is very logical that there are mobility tasks attached to the job. There was discussion regarding Occupational Health for testing. Moving on, Blake asked, under qualifications, what combination of training, education, license, certifications, and experience is required. Drexler would like to change the order of items 2 and 3, because it is unknown what types of training, education, licenses, certifications, or experience is out there for people who will apply. Treasurer Edson made the point that the board made the decision to take on stormwater management, now they're trying to solve other drainage problems. The town

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can't do both. Drexler debated that the town cannot let them go either. Mr. Neubauer believes the problem is in trying to combine the roads and the backyard ditches. He believes the backyards should be left up to the town surveyor. Drexler requested that someone else make the motion that she can work with Clerk Nelson on the changes that she feels the board made this evening and bring it back next month. Kierszh would still like the job description approved by Attorney Marone. Motion by Blake/Kierszh for Drexler, Clerk Nelson, Attorney Marone work together on the changes as noted by Drexler on her sheet for the job description to the Road/Drainage Coordinator to be ready to be voted on at next month meeting. No further discussion. Motion carried in a voice vote, 4-0.

## **C. Creation of grievance system for town employees and other statutorily mandated policies/procedures of Wisconsin Act 10 and Chapter 66 of Wisconsin State Statutes.**

Clerk Nelson informed the board that Attorney Marone and her are still working on the definition of employee. Nothing new to report to the board.

## **D. Fire numbers for residences. (Kierszh)**

Kierszh asked Clerk Nelson to gather some information together regarding fire numbers. This was brought up to Kierszh by one of the town's constables and he has received phone calls from residents when they saw this item on the agenda asking when they could get the fire numbers. Chief Groth indicated that he did write an article for the upcoming newsletter regarding numbering their home. It would cost somewhere between \$30-\$40 including the post and installation. It's a matter if the town cares to have them. When it's dark, it's hard to find numbers on the house. Timm believes the key is to get the residents to put the numbers on their mailboxes. The fire department addresses the situation with the homeowners directly on a case by case basis. Groth would like a uniform system, something that is consistent with where the numbers are placed. Groth feels the town ordinance needs to be revisited. It's dated, but the ordinance is only good if someone enforces it. Some subdivisions have a community mailbox center and don't have mailboxes in front of their house. No action taken.

## **E. Ordinance Codification. (Drexler)**

Drexler explained that this came out of the conversation the Planning Commission had and also because she attended the Winnebago County's Zoning Re-Write Committee meeting for several months. She started thinking about what are the board's short and long term goals for ordinances. The way the ordinances are now, it's very hard to find things. Drexler spoke of the database the county has decided to go with called CiviTek. Drexler's thought was county zoning keeps doing things and doesn't advise the town. The town has the capability of having stricter ordinances than the county. If the town was on the same system as the county, when they saw a permit come in from a Town of Algoma resident, it would be flagged to send this person back to the town because of the stricter ordinances. Drexler would like the board to permit her to contact Civitech and see if it's something that can be reasonably done. She would just ask some questions and gather a little bit of information and report back to the board. Kierszh believes it wouldn't hurt. Motion by Timm/Kierszh to allow Drexler to contact Civitech to determine what they could do for us in helping us codify our ordinances and put them in a more user-friendly context. No further discussion. Motion carried in a voice vote, 4-0.

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## 5. Fire Department Report.

### A. First Responder Pizza Sales.

Chief Groth reminded everyone that the pizza sale will take place on Saturday, March 24, 2012 at 7am till 2pm at Service Oil. Pizza forms are also available at the Town Hall, at Service Oil, or any First Responder or Firefighter. The pizza making which is Saturday, April, 14, 2012 at the Town Hall beginning at 7am and any help is greatly appreciated. New this year, Groth worked on the suggestion that there will be a pizza form as part of the upcoming newsletter.

### B. Junior Firefighter Program.

The Junior Firefighter Program was discussed by the members of fire department. This would give young men and women between the ages of 14-18 the opportunity to become familiar with fire service career. There are a few other departments in the area, Omro and Grand Chute, that have this type of program. The members of the Junior Firefighter Program will not respond to fire calls. They could have their own training night separate from the rest of the department. Jeff Miller has been spearheading this and Groth handed out an outline of what the Junior Firefighters responsibilities would be. Groth also handed out a copy of the constitution from the Omro Fire Department on what they use for their program. The committee for the Junior Firefighter Program consisted of Jeff Miller, Kevin Sawicki, and Paul Friday. Groth didn't want the juniors to respond to calls, he doesn't want the responsibility of having minors on an emergency scene. What is the town's responsibility, liability, workers compensation, or general liability of having minors involved with the department. Groth is asking the board for permission to have Attorney Marone look into this with the town's risk manager and insurance company. Groth would not allow the juniors on a fire call. Groth's other issue is the HIPPA law and if that should be violated by a junior. Blake indicated that there needs to be a lot of background research before the board proceeds with this issue. This is something that will be researched.

### C. Truck update.

Since the last update last month, Red Power has ordered the parts for the truck. The Truck Committee will be going to Red Power for a pre-build meeting which will be an opportunity for the committee and the builder to address any possible changes that need to be made before the actual build begins. Groth passed a photo of the truck around to the members of the board. The truck will be received 180 days after the final signing of the contract which occurred in December. Groth is working on the sale of the old truck and will report back to the board sometime in the future.

*Chief Groth will not be in attendance at the March meeting but will have a representative attend on his behalf.*

## 6. Receive Road/Drainage Consultant Report February, 2012.

Road/Drainage Consultant Report was received. It's been very quiet and all he did was field a few telephone calls.

## 7. Approve minutes of previous meetings.

### A. Regular Town Board Meeting, January 18<sup>th</sup>, 2012.

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There were one or two minor spelling corrections. Motion by Timm/Kierszh to accept with the changes that were pointed out. No further discussion. Motion carried in a voice vote, 4-0.

**8. Approve monthly disbursements for February, 2012.**

Robin Jennings assisted with tax collection. Motion by Kierszh/Blake to accept the disbursements. No further discussion. Motion carried in a voice vote, 4-0.

**9. Receive Treasurer's Report for February, 2012.**

Motion by Timm/Kierszh to receive the Treasurer's Report. No further discussion. Motion carried in a voice vote, 4-0.

**10. Adjourn.**

Motion by Kierszh/Blake to adjourn. No further discussion. Motion carried in a voice vote, 4-0.  
Meeting adjourned at 7:35 PM.

Respectfully submitted,

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