



*"In the Spirit of Town Government"*

**TOWN OF BUCHANAN, OUTAGAMIE COUNTY, WI  
MINUTES OF THE TOWN BOARD MEETING  
TUESDAY, AUGUST 21, 2018 AT 7:00 P.M.  
BUCHANAN TOWN HALL, N178 COUNTY RD N, APPLETON, WI 54915**

**OPENING:**

1. **CALL MEETING TO ORDER:** Meeting called to order by Chairperson McAndrews at 7:00 p.m.
2. **PLEDGE OF ALLEGIANCE:** Pledge recited.
3. **ROLL CALL & VERIFY PUBLIC NOTICE:** Public notice verified. Board members present ó McAndrews, Lawrence, Reinke, Kavanaugh and Walsh. Town officials present ó Town Administrator Brown, Clerk/Treasurer Sieracki, Fire Chief Mohr, Plan Commission Chairperson Ted Erdmann, Lt. Dietzen and Deputy Burke from the Outagamie County Sheriff's Department, Town Engineer Thad Majkowski and other members of the public were also in attendance.

**PRESENTATIONS & PUBLIC FORUM:**

4. **PUBLIC HEARINGS:** NONE
5. **PRESENTATIONS:** NONE
6. **PUBLIC COMMENT FORUM**
  - Mark Zietlow, N326 County Rd N, Appleton stated that he lives at the NE corner of the round-a-bout and has some concerns about the proposed round-a-bout. He feels the County has failed to address the hazard with the exposed natural gas substation on the SW corner of the round-a-bout. He mentioned that the scope of the project is poorly defined and the County's projected cost of \$1 million to relocate the substation is excessive. He also stated that the County has failed to allow room for power ROW so additional property will need to be taken moving the lines even closer to the homes. He also had concerns about vehicles jumping the curb when it snows and rains. The proposed plan won't allow him to park his vehicle in his driveway without partially blocking the trail. He stated that round-a-bouts are considered safer but stoplights should be considered so the property values would not be decimated like they would with the minimized property that would need to be taken.
  - Dennis Sanderfoot, W2544 Skyview Ct, Appleton stated that he would like to see the speed limit on Hwy KK reduced from 45 to 35 from County Rd N to State Park Rd. He asked that the Board present this request to the County to see what can be done.
  - Carl Pettey, W2417 Treeline Ct, Appleton has concerns about the construction that was done on his road. He stated the workmanship was poor as well as the follow up process. He was promised they would come back and fix the problem, this has not happened. He feels the value of his property has gone down. He also stated that he would like to see a round-a-bout on CE and Buchanan Rd and hopes the Board considers that.
  - Jim Van Geffen, W2513 Skyview Ct, Appleton stated that he would also like to see the speed limit on KK reduced to 35. He feels that there are too many accidents on that road, drivers are using the acceleration lane as a passing lane. He would like to see signs that state "No passing on the right". He feels the motorists no longer have respect for the officers or emergency personnel when accidents happen.
  - Mike Van Lanen, N336 County Rd N, Appleton wanted to thank the Town Deputies for a job well done. He stated that his business had been vandalized. When the Deputy arrived he not only wrote the report but also called in the investigation team and by four o'clock that afternoon the vandal had been caught. He also stated that the speed on KK is out of control. He would like the Town to partner with Outagamie Highway Department, the Village of Harrison and Calumet County to see what can be done.
  - Megan Possin, N201 Whitetail Ridge Ct, Appleton stated that they have a geothermal heating and cooling system which is buried within the property along Highway N. The geothermal system is a very large loop that takes up the majority of the property on the side of the house. If the proposed plan for County Rd N is approved she will lose the use of the geothermal heating and cooling system. The loop has an estimated value of \$40,000 plus there would be the cost to install the traditional heating and cooling systems if the proposed plan is approved. The usable play area of the yard is small, since they have small children they will be fencing in the

yard on the Highway N side of the property to allow a safe play area. If the proposed plan is approved the fence will need to come down and there will not be enough useable safe play space for the children. This would also wipe out the landscaping and feels these changes would cause a significant effect on the property value and would make it difficult to sell. She is concerned about the ditch being moved closer to her house if they would meet the current required setbacks. She is also worried about the speed the traffic will be going.

## **TOWN BOARD BUSINESS AGENDA:**

### **7. CONSENT AGENDA**

- a). Approval of the Minutes of the July 17, 2018 Town Board Meeting.
- b). Approval of the Minutes of the August 6, 2018 Special Town Board Meeting.
- c). Approval of July 2018 Treasurer Statement & Approve Bills.
- d). Operatorø Licenses with No Applicable Violations per Town Policy.

*Motion by Reinke/Walsh to approve all items as provided in the consent agendas as presented. Motion carried 5 to 0 by voice vote.*

### **8. ORDINANCES FOR INTRODUCTION: NONE**

### **9. PLAN COMMISSION ITEMS FOR DISCUSSION & POSSIBLE ACTION:**

- a). Ordinance 2018-07 Chapter 525, Zoning, Article XIII, Special Exception, Ordinance Amendment. ó For Approval/Denial. Administrator Brown introduced the Ordinance with this summary from the August 6, 2018 Plan Commission Meeting and June 19, 2018 Town Board Meeting.

Last year on November 28<sup>th</sup> the Wisconsin legislature enacted a significant change to local zoning authority laws. This piece of legislation, Act 67, impacts the conditional use, or special exception, permitting authority of all local governments in the State. What is colloquially called the "homeowners" bill of rights by developers and supporters amends the zoning enabling statute to specify that for any conditional use permit (CUP) the "condition[s] imposed must be related to the purpose of the ordinance and be based on substantial evidence." Also, any requirements and conditions "must be reasonable and, to the extent practicable, measurable." This means if the Town Board is going to put conditions on a CUP or deny one there must be substantial evidence and, where practicable, it must be measurable to be deemed reasonable.

In Wisconsin Stat 62.23(7)(de)1.b. substantial evidence is defined as "facts and information, other than merely personal preferences or speculation, directly pertaining to the requirements and conditions an applicant must meet to obtain a conditional use permit and that reasonable persons would accept in support of a conclusion." This means at the CUP hearing anecdotal information cannot be used to make a decision. Again, conditions and the decision have to be based on facts and information directly related to what is in the zoning code (i.e., requirements and conditions identified within the Code) or substantial evidence provided at the hearing. The substantial evidence and measurable requirements are rather expansive in scope and allow for a significant amount of interpretation.

The statute goes on to say, "if an applicant for a conditional use permit meets or agrees to meet all of the requirements and conditions specified in the city ordinance or those imposed by the city zoning board, the city shall grant the conditional use permit." This shifts the legal burden from the applicant to the municipality. In essence, this change makes CUPs more akin to a permitted use unless otherwise proven.

In light of Act 67, the amendments to Article XIII would do the following:

- 525-83 Procedure ó Makes a site plan a requirement for all applications;
- 525-85 Appeals. ó Simplifies the Appeals process;
- 525-86 Conditions and safeguards ó Addresses the substantial evidence and measurable requirement. Conditions are identified.
- 525-87 Records and decisions ó The Town Board is identified as the legislative body having authority to review CUPs.

It is worth noting there are no legal requirements to have conditional uses in the zoning code. Also, the Town Board has the legislative discretion to limit, or determine how many, conditional uses there should be in a particular zoning district. Put another way, it is legally permissible for the Board to eliminate conditional uses in zoning districts or limit the number allowed.

With these new legislative restrictions on CUP review authority it makes it harder to guide where and when riskier land use activities occur, protect the property interests and provide stability to the adjacent property owners, the neighborhood and the Township.

Brown also mentioned that the Town should look at zoning districts and the Town Attorneys will need to be involved with any changes that are considered.

*Motion by Walsh/Reinke to approve Ordinance 2018-07 Chapter 525, Zoning, Article XIII, Special Exception, Ordinance Amendment as presented. Motion carried 5 to 0 by voice vote.*

#### **10. ROUTINE REPORTS & ACTIVITIES:**

- a). Law Enforcement ó Monthly/Quarterly Update on Town Law Enforcement Activities. Deputy Burke stated that they are monitoring traffic in the óHot Spotsö, the traffic on CTH Z has picked up and crashes in the roundabouts are down. He spoke about the accident on State Park Rd and County Rd KK and how this was a joint effort with the Town and Village of Harrison. Lt. Dietzen spoke on the K-9 dogs that the County has and how they have been utilized in the Town. He also stated that the CAD system has changed and better reporting should be available soon.
- b). Fire, EMS & Emergency Management - Update on Fire, EMS & Emergency Management Activities. Chief Mohr mentioned the department continues to train with Combined Locks and have discussed ways to work together in the future. They assisted Combined Locks with staffing for Bike to the Beat. The department has opened discussion with the Village of Wrightstown and Town of Holland to talk about auto/mutual aid agreements. The department will participate in the annual softball tournament with Little Chute, Kimberly and Combined Locks on Monday, August 27 at Doyle Park in Little Chute. Chief Mohr has been working FVTC to bring some training to Buchanan and Combined Locks for our staff. The department did receive the new engine and will begin to lay out equipment and prepare to place the SeaGrave in service within the next few months. Along with that 2373 has been stripped out and placed for sale with some steady interest shown so far. Old 2324 will be put up for sale once the new engine is placed in service. Some old or unused equipment will be sold to help fund the equipment needed for the new engine. The annual Safety Day is scheduled for Saturday, September 22<sup>nd</sup> from noon to 3:00 p.m. includes activities for children and demonstrationø by fire department staff. Buchanan Fire hosted the quarterly meeting for the Outagamie County Fire Chiefs Association on Thursday, August 2<sup>nd</sup>, this was the yearly summer cookout with approximately 50 fire chiefs and company officers. The department had some turnover of staff so interviews were done and three applicants were hired. New members are Isaac Archer, Keith Singleton and Christopher Killeen.

- c). Town Engineer ó Update on Town Engineer Activities

- i. Contract B17 ó Building/Garage ó Pay Request #6 and Change Order #5 ó For Approval/Denial. Engineer Majkowski stated that this is for the work on the existing garage and back filling were the new garage was to be built.

*Motion by Walsh/Lawrence to approve Pay Request #6 for \$20,290.79 and Change Order #5 for \$10,909.30. Motion carried 5 to 0 by voice vote.*

- ii. Contract A18 ó Project Update ó Pay Request #2, Change Order #1 and Closeoutó For Approval/Denial. Engineer Majkowski stated this is for the paving project and that it has been completed under budget. He mentioned that the payment should not be released until lien waivers are received.

*Motion by Lawrence/Kavanaugh to approve Pay Request #2 and Change Order #1 and closeout, payment can be made once we have received the lien waivers. Motion carried 5 to 0 by voice vote.*

- iii. Contract B18 ó 2018 Paving ó Phase II ó Update. Engineer Majkowski stated that the pre-construction meeting is scheduled for August 29<sup>th</sup> and the work will begin after Labor Day.
- iv. Warranty Reviews for A16 and A17. Engineer Majkowski mentioned that project A16 is getting cleaned up and he will meet with those that still have concerns with project A17.
- v. Hickory Park ó Drainage Study. Administrator Brown stated that the drainage study is part of the CIP for 2018. He noted the overview of the project and the tasks to be done. He mentioned that the road floods when there is a significant rain fall or winter melt. Darboy Joint Sanitary District will be

contacted to televise a culvert pipe from Briarwood to Block Road. Cedar will present the findings of the study in October and the project will be on the CIP for 2019.

- d). Clerk/Treasurer
  - i. Update on August Election: Clerk Sieracki stated that the election went very smooth, the biggest issue was voters not understanding the Partisan Primary. Total voter turnout was 29.25%.
  - ii. Tax Collection ó August Settlement: Clerk Sieracki stated that the County has completed the tax collection process and the Town should receive the settlement any day.
  - iii. P-Card Update: Clerk Sieracki stated that the application is being processed and staff will create a procedure once the card is received and usage starts.
- e). Town Administrator Report on Administrative Activities
  - i. Major Project Update: Administrator Brown referred the Board to the spreadsheet.
  - ii. 2019 Budget Update: Administrator Brown stated that on the week of Monday, July 30th Staff met to review departmental and capital budget requests. Overall, the General Fund budget is taking shape. There are a few larger revenue estimates Staff is waiting for, e.g., Shared Revenue and GTA estimates, other Intergovernmental Revenue estimates, 2019 compensation levels. Once this is complete final touches on the General Fund budget can be done. For the capital budget, Staff has to hold off on doing any work until the Town Board determines what road specs the Town will be utilizing and how capital projects will be funded.
  - iii. Comprehensive Plan Update: Administrator Brown mentioned that the Plan Commission has approved their work plan for the next year or so on the Comprehensive Plan. The list includes 14 different items split into two categories. The first five were near-term items to work on over the next 12-24 months, e.g., develop a bike and pedestrian plan. The other nine items are initiatives underway or that will be worked on over the next 12 months, e.g., consider adopting a stormwater management ordinance that would establish a stormwater utility for portions of the Town outside of the Garnerø Creek Stormwater Utility District.
  - iv. Ordinance 2018-08, Chapter 525, Zoning, Article XIV, Board of Adjustment, Regarding the Creation of a Board of Appeals in place of and instead of a Board of Adjustment. Update: Administrator Brown gave an update stating that on August 7th the Board of Adjustment reviewed Ordinance 2018-08, which was referred to the Board by the Town Board. There was a lengthy and productive conversation about the Ordinance and on a broader scale a discussion about how the Board wants to operate. Some of the things discussed were operating rules, procedures, and who should serve on the Board. As a result of this conversation, the Board moved to table the item to take a deeper dive into some of these areas.
  - v. Future Board and Commission Appointment(s): Administrator Brown stated that there are a number of Board and Commission appointments that will need to be filled through the end of the year. On the Plan Commission Jerry Wallenfang and Mary VanWychen will be resigning, and on the Board of Adjustment there is one open seat. Over the next few months Staff will work with the Town Board Chairman to identify individuals who would be a good fit to serve on those panels.
  - vi. Part-Time Maintenance Worker Position: Administrator Brown noted that earlier this month, Rick Franzke resigned from the Maintenance Worker position. As a result, a recruitment process has been undertaken to find a replacement. The job is being posted in multiple places and will close on Friday, August 24th. Ideally, interviews will follow, a candidate will be chosen and a new hire will start on Monday, September 24<sup>th</sup>.

#### **11. UNFINISHED BUSINESS FOR DISCUSSION & POSSIBLE ACTION:**

- a) Buchanan Road Culvert ó For Approval/Denial: Administrator Brown recapped the Buchanan Road Culvert Design Review Study and process. He reviewed the cost estimate summary mentioning the Board needs to select what option to approve, if any. After much discussion the following motion was made:

*Motion by Walsh/McAndrews to approve Option A2 to grout existing concrete end treatment and inject grout around existing culvert pipe for \$9,100. Motion failed 2 to 2 by voice vote with Reinke abstaining, Walsh and Mc Andrews aye, Lawrence and Kavanaugh nay.*

The Board continued to discuss and after more discuss the following motion was made:

*Motion by Kavanaugh/McAndrews to realign the culvert when the road is reconstructed for \$49,400. Motion failed 2 to 2 by voice vote with Reinke abstaining, Kavanaugh and Mc Andrews aye, Lawrence and Walsh nay.*

The Board continued to discuss and after more discuss the following motion was made:

*Motion by McAndrews/Kavanaugh to table the project indefinitely. Motion passed 4 to 0 by voice vote with Reinke abstaining.*

- b) Review Town Road Standards for Modification ó For Approval/Denial. Administrator Brown and Engineer Majkowski reviewed the existing town standards for rural and urban and the alternative options. The Board discussed drainage issues, funding and what should the Town look like and the following motion was made.

*Motion by Walsh/Kavanaugh to approve Alternative Options U5, U6 and R3 for future road construction projects as presented. Motion carried 4 to 1 by voice vote, Reinke nay.*

- c) CIP Project Financing Approach ó Modified Special Assessment Policy for Town Capital Projects ó For Approval/Denial. Administrator Brown gave a recap on why the Town needs to adopt the modified special assessment in order to help cover the road projects. The Board discussed the options in detail taking in to consideration what the Town should pay for and what the landowner would pay for and how those costs would be allocated.

*Motion by Walsh/McAndrews to approve the Special Assessment Policy for implementation beginning in 2019 as presented. Motion failed 2 to 3 by voice vote, Walsh and McAndrews –aye, Reinke, Lawrence and Kavanaugh – nay.*

The Board continued to discuss and the following motion was made:

*Motion by Lawrence/Kavanaugh to table the project until the next meeting. Motion passed 5 to 0 by voice vote.*

McAndrews called for a 10 minute recess at 9:50 p.m.

It should be noted that after the break item 12(e) was moved to the first item under new business.

## **12. NEW BUSINESS FOR DISCUSSION & POSSIBLE ACTION:**

- a). 2018 CIP Project óPurchase of \$7,521 Copier ó For Approval/Denial. Clerk Sieracki mentioned that the cost of the new machine is \$7,287 and includes delivery, installation and on-going training. An additional \$550 is requested for a Word/Excel program that can convert PDF documents.

*Motion by Lawrence/Reinke to approve the purchase of a Kyocera copier for \$7,837. Motion carried 5 to 0 by voice vote.*

- b). Purchase of Express Vote Machine (1) ó For Approval/Denial. Clerk Sieracki asked the Board to approve a third Express Vote machine.

*Motion by Lawrence/Reinke to approve the purchase of an Express Vote Machine for \$3,642. Motion carried 5 to 0 by voice vote.*

- c). Set a Date/Time for Trick or Treat. -ó For Approval/Denial. Clerk Sieracki asked the Board to consider changing the trick or treat hours to be 4:00 p.m. to 7:00 p.m. on Halloween.

*Motion by Walsh/Lawrence to approve Trick or Treat Hours from 4:00 p.m. to 7:00 p.m. on Halloween. Motion carried 5 to 0 by voice vote.*

- d). Amending Assessment Contract with Accurate Appraisal, LLC for Assessment Years 2019-2021 ó For Approval/Denial. Administrator Brown stated that at the April Town Board meeting, the Board agreed move forward with two (2) three (3) year contracts with Accurate Appraisal to complete a full revaluation over the

course of six (6) years with walk-through in a sixth of all Town properties per year. Accurate has put together a contract based on that feedback. The Board discussed the agreement.

*Motion by Walsh/Lawrence to approve a three-year Agreement for Assessment Services with Accurate Appraisal for an annual cost of \$48,500. Motion carried 5 to 0 by voice vote.*

- e). Outagamie County Highway Department CTH N Road Design and Funding ó For Discussion. Administrator Brown reviewed the cost share agreements between the County and the Town for the scope of work from KK to the round-a-bout. He mentioned exploring other cost share possibilities with the Kimberly School District and grants that may be available. There are still several areas of concern and feels the Town doesn't have all the facts. He stated that there isn't a rush and would like the Board to take their time to do this right. The Board discussed.
- f). Professional Services Agreement with Cedar Corporation for Engineering Services, Three (3) Year Agreement (2019-2021) with Three (3) One Year Extensions. ó For Approval/Denial. Administrator Brown reviewed the engineering cost and type of expense for the last five (5) years. He stated that this is a general agreement for service with Cedar. The Board discussed the agreement.

*Motion by Lawrence/Reinke to approve a three-year Agreement for Engineering Services with Cedar Corporation with three (3) one (1) year extensions. Motion carried 5 to 0 by voice vote.*

### **13. CLOSED SESSION:**

*Motion by Walsh/Lawrence at 10:26 p.m. to move into closed session pursuant to Section 19.85(1)(c) of the Wisconsin State Statutes: the Board may move to Closed Session when considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility. Review of performance evaluation data for Town employees. Roll call vote taken: McAndrews: Aye, Lawrence: Aye, Kavanaugh: Aye, Walsh: Aye, Reinke: Aye. Carried 5 to 0.*

- a). 2019 Budget: Compensation.

Pursuant to section 19.85(1)(c) of the Wisconsin State Statutes: Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility. Annual Review of Performance, Compensation, Benefit and Employment for Specific Town Employees.

- b.) 2018 Annual Performance Evaluation of the Town Administrator

Pursuant to section 19.85(1)(c) of the Wisconsin State Statutes: Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility. Annual Review of Performance, Compensation, Benefit and Employment for Specific Town Employees.

#### **Reconvene to Open Session: Possible Town Board Action on Item Discussed in Closed Session.**

*Motion by Walsh/Kavanaugh at 11:08 p.m. to return to open session. Roll call vote taken: McAndrews: Aye, Lawrence: Aye, Kavanaugh: Aye, Walsh: Aye, Reinke: Aye. Carried 5 to 0.*

## **CLOSING:**

**14. FUTURE AGENDA ITEMS** – Next Town Board Meeting is scheduled for September 18, 2018. Meeting agenda/discussion items and possible action on future Town Board agenda, including specific items for inclusion on or exclusion from a future agenda include KK speed limit and the Special Assessment Policy.

**15. ADJOURNMENT:** Motion made to adjourn at 11:26 p.m. by Walsh/Lawrence.. Motion carried 5 to 0.

Cynthia Sieracki, Clerk  
Drafted: August 24, 2018

Motion to Approve Walsh/Lawrence Vote: 5 to 0 Dated: September 18, 2018