

TOWN OF WILSON
SHEBOYGAN COUNTY, WISCONSIN
APPROVED MINUTES OF NOVEMBER 15, 2010 TOWN BOARD MEETING

CALL TO ORDER & DECLARATION OF OPEN MEETING:

Meeting was called to order by Chair David Gartman, legal posting was confirmed with clerk and meeting was declared an open meeting.

PLEDGE OF ALLEGIANCE was recited.

PRESENT: Chair David Gartman, Supervisor David Senkbeil, Supervisor Dale Sommer, Treasurer Laurie Pankratz, Clerk Cheryl Rostollan. **Also present:** Daniel Rostollan, Michael Bergin, Michael Whitcomb, Mark Rausch, Kory Wendlandt, Rick Meyer, Tom Sonntag, Kim Gartman, Dan Hartmann, Nancy Des Jardins, Steven Aschenbach, Tom Mueller, Jim Kummer.

1. Approval of draft minutes – deferred.

PUBLIC COMMENT SESSION: None

APPOINTMENTS / NEW BUSINESS:

2. Mark Rausch – Sign permit application for 4210 CTH OK W, Sheboygan, Clear Channel Communications, 908 Silvernail Road, Pewaukee, WI The Town Board resumed its consideration of the application of Clear Channel Outdoor, Inc. for a sign permit on a parcel of real estate approximately one mile south of Highway V on the west side of Interstate 43. More specifically, Clear Channel is seeking to upgrade an existing sign located in the Town of Wilson to a digital/LED face. This proceeding is a continuation of the October 4, 2010 meeting of the Town Board. Appearing for Clear Channel were Mark A. Rausch, Vice President, Real Estate/Public Affairs and Clear Channel's legal counsel, Michael A. I. Whitcomb. Appearing for the Town of Wilson was Town attorney, John A. St. Peter.

Mr. Whitcomb summarized Clear Channel's position stating that (1) Clear Channel does not believe that the modifications to its existing sign require approval from the Town, and (2) the subject sign was zoned commercial prior to 1959 and, therefore, is entitled to the statutory protections of Wis. Stat. § 84.30. The basis for this contention is that the Town adopted a zoning ordinance in 1955. This ordinance is identified as Exhibit #4. Section II of this ordinance divided the Town into five districts. Section II also states that the boundaries of these districts are shown on a map entitled "(Tentative) District Map for Town of Wilson, Sheboygan County." The map is included with the zoning ordinance identified as Exhibit #4. Mr. St. Peter noted that six exhibits were offered and received at the October 4, 2010 Town Board meeting. Mr. Whitcomb confirmed that Clear Channel received the Town's response to Clear Channel's public records request. However, Clear Channel did not offer any further exhibits in support of its application.

The Town Chairman, David Gartman, reviewed the historical records that were provided to Clear Channel in response to its public records request. In that regard he identified relevant historical records. These records are identified as Exhibit #7. Mr. Gartman argued that Exhibit #7 is evidence that the map contained in the 1955 zoning ordinance is not a zoning map but rather a land use planning map. He supported this conclusion by reference to the rezoning activity described in the various documents of Exhibit #7. This zoning activity would not have occurred if the map in the 1955 zoning ordinance were a zoning map. More specifically, the activities described in the documents of Exhibit #7 contradict Clear Channel's contention that the subject property was zoned commercial as of 1959. Mr. Gartman presented a detailed historical summary of the activities described in Exhibit #7. Throughout this conversation Mr. Whitcomb was allowed to comment or question the Board.

After further discussion among the Town Board members and representatives of Clear Channel, motion Garman, second Senkbeil approving the following resolution on a vote of 2 yes (Gartman and Senkbeil) 1 abstention (Sommer):

WHEREAS, the Town Plan Commission recommended the denial of the Clear Channel application; and

WHEREAS, Section 29.05 of the Town's Sign Ordinance prohibits off-premises multiple or variable message signs, unless the construction or upgrade of the sign is in an area that was zoned commercial or industrial as of September 1, 1959; and

RESOLVED, the Town Board hereby finds that Clear Channel has failed to meet its burden of proving that its sign was in an area zoned commercial or industrial as of September 1, 1959;

FURTHER RESOLVED, that Clear Channel's application is hereby denied for the reasons described by Town Chairman Gartman reflected in the above minutes.

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3. Kevin Kolb, WI Public Service Corp – request to place a pole-mounted DCU unit near the intersection of Indian Mound Road and Evergreen Drive – Attorney St. Peter informed the board that, other than out-of-pockets costs, the town cannot charge the utility to put the pole up. However, he recommends that the town request the utility to hold the town harmless and that they indemnify the town. Motion by Sommer to approve request contingent upon receiving indemnification holding the Town of Wilson harmless, reimbursement of any out-of-pocket costs and location to be approved by Rick Meyer, Maintenance Supervisor; second by Senkbeil; motion carried with no nay votes and no abstentions.
4. Town of Wilson First Responder 2010/2011 Cargo Trailer with accessories for the purpose of Fire Fighter Rehab / Emergency Incident Response – Sommer's questions included trailer licensing, insurance for towing, storage expense and what budget would bear these expenses. Dan Hartmann and Tom Sonntag responded to questions. The first responder's insurance companies would cover them if/when they use their personal vehicles to pull the trailer. Gartman contacted the town's insurance company and a \$500,000 liability is recommended with proof of liability insurance to be provided. Towing – there would be two options, using a town vehicle or personal vehicle. Insurance costs would be born by the TWFR's operating budget. 10 x 26 unheated is \$60 per month; unheated 20' x 26' is \$125 per month. Heated ranged from \$390 per month to \$425 per month. Based on these figures the TWFR conceded they wouldn't need to go with heated storage. Hartmann will also check out similar storage facilities within close proximity. Board opened proposals as follows:
 - a. Received 11/15/10, 9:00 a.m. – ESS, Mt. Calvary, WI for 18' trailer - \$18,997.00;
 - b. Received 11/15/10, 2:11 p.m. - Bruggink Inc., Oostburg - \$14,150.00;
 - c. Received 11/15/10, Mueller's, Random Lake for 2011 trailer - \$18,780.00.

TWFR will review to ensure that all specifications meet their needs and get back to the board. Put on December 6, 2010 board agenda. Senkbeil asked whether a town vehicle is an option and which town vehicles would serve the purpose as it appears that only one vehicle, the Road/Maintenance Supervisor's vehicle. Chair Gartman reminded the TWFR that negotiating is not involved in the proposal process.
5. Gerald Bertsch, 5735 Wind Dancer Court – Chair David Gartman appointed Gerald Bertsch to the Park & Forestry Commission.
6. Fire Station Improvements – Grant for exhaust system, statutory and WI DWD requirements – Legal counsel concurred that bidding and prevailing wage are required for the fire station exhaust system. Rick Meyer will work with Bernie Rammer from Sheboygan County for bidding documents.
7. Reports
 - a) Treasurer – Laurie Pankratz provided written and verbal reports.
 - b) Clerk – Written and verbal reports provided by Cheryl Rostollan.
 - c) Constable – None
 - d) Plan Commission - None
 - e) Park & Forestry Commissioner – None
 - f) Wage, Salary & Benefits Commission - None
 - g) Long Range Planning Ad Hoc Committee – None
 - h) Black River Fire Department – Kory Wendlandt / Tony Vandewege provided costs for radios, boat, compressor. (Not on agenda for action.)
 - i) First Responders - None
 - j) Maintenance: (Snowplowing/Roads/Maint. Site/Bldgs) – Report provided by Rick Meyer.
8. Roads/building maintenance:
 - a. 2011 Project with City of Sheboygan/Nahn & Associates for Maple Lane/S. 16th Street/ Pheasant Lane – Chuck Nahn from Nahn & Associates appeared by telephone – Chair Gartman proposed a property owner meeting to take place on Monday, December 13, 2010. Chuck Nahn spoke with the property owners regarding whether they would grant a temporary easement. He has not received approval from the property owners for the easement. One resident responded no (Moore) and one was unavailable, out of town (Opgenorth). Nahn: The time to do a storm water improvement is when the road is being improved, if they easement isn't granted now does the board want to proceed forward with the road project without the betterment? The board's response is that if the betterment is not completed prior to the roadwork, then the board would not come back a year later to complete the betterment. Both sides of Maple Ln. to S. 16th St. would be a more expensive option and not a preferable option for drainage. Board requested Nahn to go back to property owners and explain to the residents that the town will not return at a later date to correct the drainage. Nahn agreed to contact the residents and explain that any and all drainage corrections will occur with the road improvements regardless of whether easements are granted for the road project or not. Culverts to be replaced by the town will be identified prior to the Dec. 13th meeting by Nahn so that this list will be available at that meeting. Meyer provided the estimate from the

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Sheboygan County Highway Department with 26' pavement on all roadways. Maple was originally estimated at 30'. Limiting the width of streets will also provide a side-benefit in the annual stormwater permit renewal. The board concurred to re-grind Pheasant Lane and reduce all three roadways to 26'.

- b. Wood Chipper for Maintenance Site – Meyer provided the board with proposals received from multiple vendors for chippers. Board instructed Meyer to forward vendors documents for proposals to be opened at the next board meeting.
9. Rammer Pond Utility District – Discussion with Attorney St. Peter for the best avenue for the town to charge the residents of Rammer Pond for the costs incurred with the street lights, potentially using the district that was executed when the development was created. The current district was created under the sanitary district law, which extends jurisdiction for water, sewer and drainage. Street lights would be taken care of under a Utility District. St. Peter recommends that the town advance the money to fund 2011 and convert the existing sanitary district, into a utility district and levy the tax in 2011 in an amount to pay the town as a mill tax. Discussion regarding whether the town would be able to utilize the new utility district for any future storm water drainage issues. John St. Peter will provide the board with his final recommendation.
10. Board approval for on-line access to Community Bank & Trust accounts – Motion by Sommer to approve on-line access to all Community Bank & Trust accounts to the Town Treasurer, Laurie Pankratz and Town Clerk, Cheryl Rostollan; second by Gartman; motion carried with no nay votes and no abstentions.
11. Application for Operator's license – Jarred Hoytink for Marshall's Western Shores – deferred to December 6, 2010 meeting.
12. Disbursements:
 - a. Checks on hold - none
 - b. Black River Fire Department – Motion by Senkbeil to pay Black River Fire Department disbursements \$3,567.43 pending approval of town board, treasurer and clerk by noon on Wednesday; second by Sommer; motion carried with no nay votes and no abstentions.
 - c. Town of Wilson First Responders – Motion by Senkbeil to approve Town Board disbursement pending approval of town board, treasurer and clerk no later than noon on Wednesday; second by Sommer; motion carried with no nay votes and no abstentions.
 - d. Town of Wilson – Motion by Senkbeil to approve town disbursements pending approval of town board, treasurer and clerk by noon on Wednesday; second by Gartman; motion carried with no abstentions and no nay votes.

OLD BUSINESS:

CORRESPONDENCE:

NOTICES:

- 11/17/2010, 5:30 p.m. – Park & Forestry Commission Meeting, Town Office
- 11/29/2010, 7:00 p.m. – Town of Wilson Budget Hearing, Special Town Meeting, Special Town Board Meeting, Town Hall
- 12/2/2010, 5:30 p.m. – Town of Wilson First Responder Meeting, Town Office
- 12/6/2010, 5:30 p.m./6:00 p.m. – Sanitary District No. 1 Commissioner Mtg./Town Board Meeting, Town Office
- 12/13/2010, 7:00 p.m. – Plan Commission Meeting, Town Office

AGENDA ITEMS FOR SUBSEQUENT MEETINGS:

- 12/6/2010, Serenity Farms Landscaping, 2803 Old Park Road, Sheboygan, WI - Conditional Use Permit
- Alliant Energy, 5400 Frontage Road, Sheboygan – Conditional Use Permit Renewal
- 12/6/2010, Bonestroo & Paul Rosenfeldt to be here as an appointment for Alliant/We Energies Conditional Use Permit.

ADJOURN

Motion by Senkbeil, second by Sommer to adjourn; motion carried and meeting adjourned at 9:11 p.m.

Minutes submitted by: Cheryl Rostollan, Town Clerk