

TOWN OF SCOTT, BROWN COUNTY, WISCONSIN
MINUTES OF FEBRUARY 10, 2009 TOWN BOARD MEETING

1. **Call To Order:** The February 10, 2009 Monthly Town Board Meeting was called to order at 6:00 P.M. on Tuesday, February 10, 2009 in the Town Hall by Chairman Mike Van Lanen. Present were Chairman Mike Van Lanen, Supervisor Cyril Van Laanen, Supervisor Kenneth Jacobs, Supervisor Tom DePas, Supervisor Jeffrey Zlatohlavek, Clerk/Treasurer John Roth, Economic Development Coordinator Dave Cerny, Engineer Scott Brosteau, Plan Commission Chairman Bill Roskams, Constable Leland Baenen.
2. **Affidavit of Posting:** The Affidavit of Posting indicating that the public notice of the Town Board Meeting was posted on February 5, 2009 was presented by the Clerk.
MOTION KEN JACOBS/TOM DEPAS to accept and file the Affidavit of Posting. Vote: Aye-5. No-0. Carried.

The Town Board and members of the audience were led in the Pledge of Allegiance to the American Flag by Boy Scouts Troop 1041, who are in the process of earning their Communications Badge: Scout leaders were Darlene Blaney 2429 Edmund Road and Barb Trabert, 4759 Champion Road.

3. Approval of Minutes of Prior Meetings:

- A. **Town Board: 1-13-09 and 1-20-09:** the following meeting minutes were presented for approval by the Town Board: Town Board Meeting of January 13, 2009 and January 20, 2009.

MOTION TOM DEPAS/JEFF ZLATOHLAVEK to approve the minutes from the Town Board Meeting dated January 13, 2009. Vote: Aye-5, No-0. Carried.

MOTION KEN JACOBS/TOM DEPAS to approve the minutes from the Town Board Meeting dated January 20, 2009. Vote: Aye-5, No-0. Carried.

- B. **Plan Commission January 8, 2009:** The Plan Commission met on January 8, 2009 and those minutes were approved last month.

4. Public Input:

MOTION MIKE VAN LANEN/CY VAN LAANEN to suspend the rules and open the meeting to public input. Vote: Aye-5, No-0. Carried.

- A. Sandy Boucher, 4556 Edgewater Beach Road: Questioned the status of the guard rail on Nicolet. Chairman Van Lanen stated that the County reported not having funding for a new rail, but that the County is looking into this now, since there was the school bus mishap.
- B. Steve Wirtz, 4197 Nicolet Drive: Final resolution on Nicolet. Does the Town have authority over the billing? Chairman Van Lanen stated that billing and how properties are assessed are handled by the Water Utility Commission and the Clerk. Wirtz questioned a deferred assessment on a lot with an existing structure. Brosteau stated that there is a navigable stream that affects the assessments in this area, and the Commission declared this as a non-buildable/non developable area. Deferred assessments will have interest added.

MOTION KEN JACOBS/TOM DEPAS to return to the agenda. Vote: Aye-5, No-0. Carried.

5. Communications by Clerk, Engineer and Economic Development Coordinator (no action):

- A. Clerk/Treasurer Roth: Completed the quarterly payroll reports & the end of year payroll documents/reports (941, W-2's, W-3, 1099's, 1096). Continued working with the Auditor concerning the 2008 audit providing documents/reports. Met with the auditor on Friday, Feb. 6 to set up payroll on Quickbooks. We lost about three hours of work due to a computer problem. Continue getting used to using QuickBooks for accounting, still learning the program and started taking a QuickBooks class at NWTC in January. This is a requirement for my two year accounting program. Reviewed & renumbered the Town Ordinance Chapters & assigned chapter numbers to the new ordinances, this is in preparation for Codification. Researched ordinances in regard to writing citations. Discussed this with the new Clerk of our Municipal Court Mary Valitchka. Completed the Town's insurance renewal (on the internet). The Newsletter has been printed & mailed. Minor preparation for the Feb.17, 2009 election. Went through the files and copied Town contracts. Stayed late Thurs-Sun to re-enter payroll data, update the insurance, search and copy contracts, renumber ordinances & prepare for the meeting. Attended the "Advance" breakfast: they discussed the purpose of Advance, Mutual Collaboration Agreement, Brown County Waste Transformation Project, Hwy. 41 becoming an Interstate Highway, Single Stream Recycling, Legislative Update (Transportation, State Aids, etc). Will be working on the mailing for the Hickory Nut project; mailing for the Nicolet Drive Water Extension final assessments; the April 7, 2009 election; need to set up website payment of Payroll taxes. "Greater By The Bay" needs to make a presentation to the Town Board.
- B. Engineer (Brosteau): He will be speaking on agenda items. NEWSC had a meeting yesterday and will be beginning an educational campaign, will also be providing a training program for staff (available on-line). Also covered new DNR policy on testing sediment. Chairman Van Lanen stated that a meeting of the Storm Water Utility Board needs to be scheduled.
- C. Cerny (Economic Development Administrator): He will be speaking on agenda items. Looking into potential reconstruction of end of Point Lane, dependent on home builder.

6. Specific matters for discussion and possible action by Town Board:

- A. **2008 Audit presentation:** Ginny Hinz represented Schenck (auditor) and explained the 2008 audit documents. This audit is an "Unqualified Opinion" (in audit terms, this is the best opinion that can be given). See Audit reports. The Town is still operating on cash basis, but we are trying to convert to modified accrual basis. The audit is required by the State for a Town that has an appointed and combined Clerk/Treasurer. Actual cash at the end of 2008 is \$44,000 for Dec. 2008 snow removal, and \$72,363 actual cash as a carryover. A portion of the garbage collection is on the tax bill as a special charge, we are recommending that the Town place more or all of the garbage collection as a special charge, as this will help concerning the State mandated levy limits. The Internal Control is good, there are no non-compliance issues. Clerk/Treasurer Roth stated that Ginny Hinz was very professional and worked well and got the audit done months earlier than most municipalities.

MOTION TOM DEPAS/KEN JACOBS to approve and accept the 2008 Town of Scott Audit and Management as presented by Schenck and place it on file. Vote: Aye-5, No-0. Carried.

- B. **VandenPlas building permit issue:** The Town Assessor reported that there is an extra building constructed when he did a site visit. This second building did not have a permit issued. It is a wood shed. It has posts in the ground and no walls. It is an AG use building, but a permit was not issued. Cerny stated that he talked to Paul VandenPlas, and stated that he believes that this was an honest mistake; that in the past the Town did not issue building permits for buildings that did not have walls; the VandenPlas family did not realize that the ordinance had changed; this building is considered a shed. Our current ordinance states that we require a building permit. A building permit would show what and where the building would be placed. If posts in the ground are permanent (footings and permanent structure), it requires a permit. A person can cantilever a roof line (an overhang), and this would not require a permit if there are no posts in the ground. The old ordinance was not clear, if it did not have walls, it did not need a permit. The ordinance has changed.

MOTION MIKE/KEN to suspend the rules and open the meeting to public input. Vote: Aye-5, No-0. Carried.

The VandenPlas brothers were present and spoke in their defense on how they had applied for the appropriate permit for the AG Building and were told that they didn't need one for the woodshed. The new ordinance was approved Jan.8, 2008. On Jan.7, 2008 they asked if they needed a permit and were told that they did not need one for this wood shed. They broke ground on Jan.8, 2008 to dig the holes for the posts. We felt that we did what we were supposed to do, We should have gotten this in writing. We are not trying to disobey the law.

This will need to be tabled. Zlatohlavek asked if is there a grace period when the ordinance is adopted? Ordinances do not go into effect until they are published and posted.

MOTION KEN JACOBS/JEFF ZLATOHLAVEK to return to the agenda. Vote: Aye-5, No-0. Carried.

MOTION TOM DEPAS/KEN JACOBS to table the VandenPlas building permit issue until Chairman Van Lanen can talk this over with the former Clerk/Treasurer and clarify previous discussions. Vote: Aye-5, No-0. Carried.

C. Juza Churchill Downs Letter of Credit and Developers Agreement: The final Plat was approved. Letter of Credit is required. Developer Brian Bartels spoke and stated that economic times are tough, and that they are running into difficulties obtaining a Letter of Credit for the entire project. We want to get approval to do part of the project (Phase One: Lots 1-6, 13-26 (see site plan). Cerny handed out a new revised map. Chairman Van Lanen explained what the Developer wants to do: to do a portion of the project and therefore a partial Letter of Credit. Jeff Zlatohlavek asked about the need for a temporary cul-de-sac, as there are concerns about garbage trucks and rescue vehicles. The plans have not been reviewed yet, the Board would then have to approve the plans and approve the Letter of Credit. The Town Board discussed permitting additional lots (#5,6, & #13) to be opened up past the cul-de-sac without a temporary cul-de-sac being constructed at the end of phase One.

MOTION MIKE VAN LANEN/TOM DEPAS to approve the partial development but require a temporary cul de sac on the road in front of Lot 7 and Lot 12 for the Churchill Downs, must have plans approved and Letter on Credit. Motion withdrawn.

MOTION MIKE VAN LANEN/KEN JACOBS to suspend the rules and open the meeting to public input. Vote: Aye-5, No-0. Carried.

Brian Bartels: could the Board have a meeting with the Attorney concerning the Developers Agreement and the Letter of Credit? They would like to modify the Letter of Credit. Chairman Van Lanen: The Town will require the Letter of Credit. Brian Bartels: asked the Town Board to look at the economic times, to look at this issue. He wants to ask for a different credit mechanism. Jeff Zlatohlavek and Tom DePas want to keep the current system of requiring the full Letter of Credit. Brosteau: talked to Brian Bartels this morning. Brosteau also updated the Board stating that he had discussed policy with the City regarding their procedures. The City of Green Bay still requires a Letter of Credit.

MOTION KEN JACOBS/CY VAN LAANEN to return to the agenda. Vote: Aye-5, No-0. Carried.

MOTION MIKE VAN LANEN/TOM DEPAS to approve the partial development (Phase One, Lots 1-6,13-26 see site plan) but require a temporary cul de sac on the road in front of Lot 7 and Lot 12 for the Churchill Downs, must have plans approved and Letter on Credit as well as following all other Standard Operating Procedures. Vote: Aye-5, No-0. Carried.

**D. Update on Hickory Nut Road Resolution and Order and vacating of Wery Road:
Resolution 2009-02-01 Amended Preliminary Resolution Declaring Intent To Exercise
Special Assessment Powers Under Section 66.0703(2) For Street Construction
Improvements To Hickory Nut Avenue In The Town Of Scott, Brown County, Wisconsin:**
Brosteau explained the bid. The bids came in a little lower that the last time. Mike read the Resolution.

MOTION TOM DEPAS/JEFF ZLATOHLAVEK to approve Resolution 2009-02-01 as presented. Roll call vote: Tom DePas:yes Jeff Zlatohlavek:yes. Ken Jacobs:yes. Mike Van Lanen:yes. Cy Van Laanen:yes. Aye-5, No-0. Carried.

E. Setting Public Hearing for Feb. 24, 2009 at 5:00 pm concerning Special Assessments for Hickory Nut: The Board agreed on this time and date.

F. Public Service Contract approval for Hickory Nut road construction project: Brosteau has not heard back from WPS yet. No action taken.

G. Stone Pillar Road: Martin Holden talked to Ken Jacobs about this issue. Holden also addressed this issue in a letter. There was an accident on this road recently. There have been accidents in the past. Various suggestions were made. The last 125 feet of the road is in the Town, the rest of the road is in the Town of Green Bay. Ken Jacobs will find out what can be done. Chairman Van Lanen will talk to the Chairman of the Town of Green Bay.

MOTION CY VAN LAANEN/JEFF ZLATOHLAVEK to table this issue. Vote: Aye-5, No-0. Carried.

H. Nicolet Water Extension: revised Final Assessments and Final Resolution (Resolution 2009-02-02): Brosteau spoke concerning this. He handed out the documents. Brosteau has talked to Attorney Duffy. The assessments went down. The Water Utility did approve the revised Final Resolution. Brosteau read the Resolution.

MOTION MIKE VAN LANEN/TOM DEPAS to approve the revised Final Assessments and Final Resolution for the Nicolet Water Extension project (Resolution 2009-02-02). Vote: Aye-5, No-0. Carried.

I. Victoria Parking Lot issue (paving schedule): Cerny left a message with Victorias but has not heard back. They will not be allowed to park cars in this parking lot. The Town could withhold the liquor license renewal if they do not comply with the parking lot requirements as set for the in the Conditional Use. Some Board members shared concern about the economic times and that this may be a hardship for Victorias. They need the ability to make money. The Board suggested that the Town keep “putting pressure” on them. The parking lot does have gravel. A registered letter needs to be sent, threatening the non-issuance of the liquor license renewal if the parking lot issue is not taken care of. Cerny will write a registered letter, stating the violation of Conditional Use permit, that the deadline for a parking lot paving plan has passed, and that the Town could withhold the liquor license renewal.

J. Naming of Storm Water Utility District Board member: Martin Holden said he was interested in serving. He is very qualified.

MOTION MIKE VAN LANEN/KEN JACOBS to appoint Martin Holden to the Storm Water Utility District Board. Vote: Aye-5, No-0. Carried.

K. Code of Ordinances proposal: Roth explained the proposal (see copy of proposal).

MOTION MIKE VAN LANEN/JEFF ZLATOHLAVEK to approve and sign the contract with General Code: Codification of Town Ordinances for \$10,530 (including five copies of the Code); additional copies of the code for \$60.00 each; \$699 for the Code on disk in Word format. Vote: Aye-5, No-0. Carried.

L. Method of appointing Town Supervisors to the Fire Department Board: Tom DePas stated that the highway commissioner get appointed each year, this should be the same for the fire commissioners.

MOTION KEN JACOBS/CY VAN LAANEN to appoint the Town Board Chair and to appoint the two longest tenured Board members to the Fire Department Board. Discussion: Tom DePas stated that this does not address the issue of appointing each year, he feels that seniority should not be the qualifier. The other two towns have only three members, so those towns have all of their board members as Fire Commissioners. Vote: Aye-3, No-2. Carried.

M. Set up a closed session to contract reviews: John updated the Board on the contracts he has found –copies were provided for each board member. Need time to review, and set up a date. The meeting will be March 4 at 4pm.

MOTION MIKE VAN LANEN/CY VAN LAANEN to suspend the rules and open the meeting to public input. Vote: Aye-5, No-0. Carried.

Jamie Swienton asked about Hickory Nut documentation. Documents will be mailed to the property owners this week.

MOTION CY VAN LAANEN/KEN JACOBS to return to the agenda. Vote: Aye-5, No-0. Carried.

7. Reports from Town Officers/Committees/Commissions:

- A. Tom DePas: Attended a Wisconsin Towns Association meeting, the speaker was the Administrator of the Village of Howard in regard to issues between municipalities and Indian tribes. Also went to the DNR meeting.
- B. Ken Jacobs: booked rooms for the WTA Convention for October. Also stated that there is water on Edgewater Beach and Bay Heights, we are opening up the ditches.
- C. Mike Van Lanen: Letter sent to property owner at the corner of Bay Settlement/Van Lanen Road. He also reported on the parking complaint and garbage on Church road.

8. Treasurer's and Clerk's Financial reports: Ending balances are as follows:

LGIP Property Taxes:	\$1,513,916.87
LGIP Holding Tanks:	\$ 7,800.00
LGIP Investments:	\$ 93,519.61
Baylake Bank:	\$ 2,308.30
Total:	\$1,617,544.78

Vouchers #1017-1047 totaled \$126,845.43 and receipts (including interest) totaled \$2099.00. Roth summarized the receipts and the expenses.

MOTION JEFF ZLATOHLAVEK/CY VAN LAANEN to approve the Clerk's and Treasurer's reports and to pay the bills (vouchers #1017-1047 totaled \$126,845.43). Vote: Aye-5, No-0. Carried.

8. Discussion and action on specific Town Board Notice and Agenda for next meeting: March 10:

9. Meetings/Adjournment:

MOTION CY VAN LAANEN/KEN JACOBS to adjourn Vote: Aye-5, No-0. Carried. Meeting Adjourned at 8:30 P.M.

John Roth, Clerk/Treasurer