

**TOWN OF CEDARBURG  
MEETING OF THE BOARD OF SUPERVISORS  
December 7, 2011**

Present:

David Valentine, Chairman

Joe Rintelman, Supervisor, Dist. 4

David Salvaggio, Supervisor, Dist. 2

Gary Wickert, Supervisor Dist. 3

Wayne Pipkorn, Supervisor, Dist. 1

Dawn Priddy, Clerk

James Culotta, Administrator

Eric Ryer, Director of Rec. & Planning

Brad Hoefl, Town Attorney

Charles Pretty, Treasurer

**1. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE**

Chairman Valentine called the meeting to order at 7:28 pm. The pledge of allegiance was recited at the Budget Public Hearing special Board meeting earlier in the evening.

- 2. HEARING OF THE PEOPLE:** *If you wish to address the Town Board on subjects pertaining to today's meeting agenda, please wait until that item on the agenda is reached. If you wish to address the Board on an item not on the agenda, please do it during the Hearing of the People. Please note whenever you speak on any issue, the person chairing the meeting must recognize you, and then you may approach the microphone and give your name and address for the public record. Please note you will be limited to three (3) minutes*

**3. COMMUNICATIONS AND REQUESTS FOR HOLDING TANK AGREEMENTS AND OPERATOR LICENSES:**

- a. None

- 4. CONSENT AGENDA:** *The Consent Agenda contains routine items and will be enacted by one motion without separate discussion unless someone requests an item to be removed for separate consideration and vote.*

- a. Approving November 2, 2011 Regular Town Board Meeting Minutes  
b. Approving November 16, 2011 Special Town Board Meeting Minutes (6:15pm)  
c. Approving November 16, 2011 Special Town Board Meeting Minutes (6:30pm)  
d. Approving November 21, 2011 Special Town Board Meeting Minutes  
e. Accepting Sept. 27, 2011 Special Park & Recreation Committee Meeting Minutes  
f. Accepting October 6, 2011 Park & Recreation Committee Meeting Minutes  
g. Accepting October 19, 2011 Plan Commission Meeting Minutes  
h. Accepting September 7, 2011 Finance Committee Meeting Minutes

Supervisor Salvaggio made a motion to approve the consent agenda. Supervisor Rintelman seconded, and the motion passed unanimously.

**5. TREASURER'S REPORT**

- a. Motion Accepting the November 2011 Treasurer's Report**

Supervisor Salvaggio made a motion to accept the Treasurer's Report for November 2011. Supervisor Rintelman seconded. Chairman Valentine then summarized the monthly payment for Town Fire Station No. 2, and how the station, along with the cisterns and dry hydrants located throughout the Town reduce individual annual homeowner's insurance payments due to the improved ISO rating of the Town. The motion was then unanimously approved.

**6. PRESENTATION OF BILLS/PURCHASE ORDER/PAYROLL/AWARDS**

- a. **Presentation of Bills/Purchase Orders/Payroll/Awards for November 1, 2011 to November 30, 2011 (Check #'s 9871-9977) & Manual Checks (2011-57 through 2011-63)\***

Chairman Valentine verified with Administrator Culotta that check # 9950 to Godfrey & Kahn was for Prochnow Landfill related services. Administrator Culotta confirmed.

Supervisor Rintelman made a motion to accept all bills, purchase orders, payroll and awards as presented for review. Supervisor Wickert seconded, and the motion was approved 5-0.

**7. REPORTS TO BE RECEIVED/FILED (Non-action items)**

- a. **Possible report regarding local nuisance/law enforcement issues (Constable Ryan Fitting)**

Constable Fitting summarized there were no new service reports for the month. He closed out an abandoned vehicle case for Beechwood Drive. There is an ongoing junk vehicle case on Sherman Road, and a barking dog complaint on Green Bay Road.

- b. **Report on recreation program revenues and expenditures (Dir. Rec. & Planning Eric Ryer)**

Dir. Rec & Planning Eric Ryer addressed the Board on the revenues & expenditures to date for the recreation program. Most, if not all bills have been paid. To date, recreation programming is completely self-supporting with a positive balance of \$453.

**8. PUBLIC HEARINGS**

None

**9. OLD BUSINESS**

- a. **Discussion and possible motion on the 2011/2012 Tax Levy \***

The Town Board did not request any edits to the draft Fiscal Year 2012 Budget at their November 2<sup>nd</sup> meeting. The proposed 2011/2012 assessed tax rate is \$2.323384/\$1,000 in assessed value, which is the same as the current tax rate. A home with an assessed value of \$300,000 will pay about \$697 in property taxes to the Town in 2012, which is the same as in 2011. The proposed tax rate will generate \$1,857,922 in property tax revenue, an increase of \$19,745. Therefore, the proposed tax levy for 2012 is \$1,857,922.

As the Board had previously held a public hearing on the proposed budget and the electors had set the highway expenditures for 2012, the Board now considered the '11/'12 tax levy.

Supervisor Wickert made a motion to adopt the proposed tax levy for \$1,875,922 for 2012. Supervisor Pipkorn seconded, and the motion passed unanimously.

- b. **Discussion and possible motion to approve the Fiscal Year 2012 Budget\***

This item continues from item 9a. Supervisor Rintelman voiced concern over the switch to a paperless newsletter, particularly that older residents and those that do not have ready access to a computer may have difficulty obtaining the newsletter. Administrator Culotta noted the Town has roughly 400 email addresses, but over 2,000 households in the Town. The cost of printing and mailing the newsletter runs about \$6,200-\$6,300 annually. Staff has been collecting email addresses at elections, but have many yet to collect. The consensus of the

Board was to decrease account #100-00-51400-005-001 (Planning & Five Corners master Plan) by \$6,700 and appropriate the sufficient amounts to the Postage (#100-00-51400-004-003) and Town Newsletter (#100-00-51400-004-008) accounts so that hard copy newsletters will be mailed to all households again in 2012 (and not be electronic). Supervisor Rintelman suggested formulating a plan for transitioning to electronic in 2013. Chairman Valentine directed Administrator Culotta to explain the costs of printing the newsletter and how the Town plans on transitioning to a paperless newsletter in 2013 in an article in the winter 2011 newsletter to educate residents.

Supervisor Wickert then made a motion to approve the 2012 budget for \$2,354,128, as noted in the proposed budget summary. Supervisor Rintelman seconded, and the motion passed unanimously.

**c. Discussion and possible action on preliminary designation of Farmland Preservation Areas in the Town of Cedarburg for the Farmland Preservation Plan for Ozaukee County\***

Chairman Valentine noted two Town residents have asked the Town Board to consider nominating their properties to be included within the Ozaukee County Farmland Preservation Plan. Ozaukee County Planning Director Andrew Struck then presented information and a draft map to the Board regarding this program. The draft map showed the parcels as requested by Town property owners. Only properties designated for inclusion within the plan by DATCP would be eligible for tax credits. The first step in moving the process forward is for the Board to approve the draft map presented by Mr. Struck. The Town would then need to amend the comprehensive plan, and lastly create an exclusive agricultural zoning district if properties are approved by DATCP for inclusion within the Ozaukee County Farmland Preservation Plan. Of note is that two of the individual parcels that were nominated for inclusion were excluded on the draft map as they did not meet criteria as established by Ozaukee County. Andrew Struck noted this ruling could be challenged if the property owners wished.

Supervisor Wickert made a motion to approve the draft Farmland Preservation map for the Town of Cedarburg as presented by Andrew Struck. Supervisor Pipkorn seconded, and the motion passed unanimously.

**d. Discussion and possible motion on proposed Ordinance 2011-10, “An Ordinance Correcting Chapter 48 of the Town of Cedarburg Code of Ordinances regarding redistricting, Town wards, and County Supervisor Districts”\***

Every ten years, following the decennial Census, all government bodies must realign their districts, based on population shifts. The Town Board formalized a Town ward plan at the July Board meeting through Resolution 2011-11. Ozaukee County then finalized their Supervisory Districts in October, and the Town Board approved Ordinance 2011-7 in November that revised Section 48 of the Town Code to reflect the new wards, the Town Supervisory Districts and the County Supervisory Districts as part of the new maps associated with the redistricting. However, staff overlooked the fact that Ward 10 moved from District 1 to District 3 as part of this redistricting, resulting in incorrect language in the ordinance that was approved by the Board in November. The proposed ordinance corrects this mistake.

Supervisor Rintelman made a motion to approve Ordinance 2011-10, “An Ordinance Correcting Chapter 48 of the Town of Cedarburg Code of Ordinances regarding redistricting, Town wards, and County Supervisor Districts.” Supervisor Pipkorn seconded, and the motion passed unanimously.

**e. Discussion and possible motion on Resolution 2011-19, “A Resolution to Amend the Town’s Employee Handbook related to Employees and the Concealed Carry Act”\***

Attorney Hoeft explained that staff has prepared changes to the employee handbook that would allow licensed employees to bring concealed weapons stored in their vehicles on to Town property. A new state law does not require such weapons to be in cases when in a vehicle, and Attorney Hoeft would like Board input on whether or not the Town would allow uncased storage in a vehicle on Town property. The consensus of the Board was to reflect state law in Town policy, which will require further revisions to the Town handbook.

Joe Rintelman then moved to table Resolution 2011-19. Wayne Pipkorn seconded, and the motion passed unanimously.

**f. Discussion and possible motion regarding proposed Resolution 2011-20, relating to the Town Constable and the use of a firearm\***

Chairman Valentine explained that the Town currently has a sworn police officer employed as Town Constable, and it makes sense for him to be able to carry a firearm when on duty.

David Salvaggio moved to approve Resolution 2011-20 that would authorize the appointed Town Constable while on duty to carry a weapon, including a fully loaded firearm, and any such weapon shall only be used for the physical preservation of self and/or others pursuant to Section 939.48, Wis. Stats. The appointed Town Constable must complete and maintain State of Wisconsin approved training and certification as a law enforcement officer in order to carry a weapon on duty as at Town Constable. Use of such weapon shall be consistent with the methods of training provided. A weapon may not be used for any arrest authority, which the office Town Constable does not possess. Joe Rintelman seconded, and the motion passed unanimously.

**g. Discussion on a possible speed limit change to Cedar Sauk Road between CTH I and Covered Bridge Road\***

A Town of Cedarburg resident that lives on Cedar Sauk Road has requested a reduction in the speed limit from 55 mph to 45 mph on Cedar Sauk Road between CTH I & Covered Bridge Road. This road is jointly owned; the Town of Saukville owns the north half and the Town of Cedarburg owns the south half. The entire length of Cedar Sauk Road is a designated heavy traffic route. The Town Board discussed this at the November 2nd meeting and asked staff to have the Sheriff’s Department do a speed study, the results of which are provided for this meeting.

Chairman Valentine noted this road is a populated road and 55mph did feel a little fast to him when he drove the stretch, and felt 45mph was more appropriate. Supervisor Wickert drove the stretch and felt 55mph was appropriate, and commented that it is common for people to want the speed limit reduced in front of their home. Joe Rintelman explained that the road does not have wide shoulders and affects perception of speed due to the lack of width improvement.

Supervisor Rintelman then moved to prepare an ordinance to reduce the speed limit on Cedar Sauk Road between CTH I and Covered Bridge Road to from 55mph to 45mph. Wayne Pipkorn seconded, and the motion passed 4-1, with Gary Wickert opposed. Chairman Valentine directed Administrator Culotta to inform the Town of Saukville of the intended speed limit change.

**10. NEW BUSINESS**

- a. **Discussion and possible motion on an application by Newman Chevrolet to amend their conditional use permit to construct a 3,093 square foot showroom addition and renovate the façade at 1181 Wauwatosa Road [NE ¼ of Section 21, 10.27 acres, zoned B-3 Business & C-1 Conservancy]\***

Newman Chevrolet has submitted an application to amend their conditional use permit to allow for a 3,093 square foot showroom addition to their existing building, add 32 parking spaces, and renovate the façade of the building per requirements of Chevrolet for the property located at 1181 Wauwatosa Road. The addition would extend out the south and east sides of the existing showroom.

Chairman Valentine noted the Plan Commission made a unanimous recommendation in favor of this project. Supervisor Salvaggio then made a motion to amend the Newman Chevrolet conditional use permit to construct a 3,093 square foot showroom addition and renovate the façade at 1181 Wauwatosa Road noting the conditions below are present. Supervisor Pipkorn seconded, and the motion passed unanimously.

(1) Welfare. The establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

(2) Compatible with adjacent land. The uses, values and enjoyment of other Town property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

(3) Not impede surrounding property development and improvement. The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding Town property for uses permitted in the district.

(4) Adequate infrastructure. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

(5) Ingress and egress. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(6) Conform to zoning district regulations. The conditional use application shall conform to all applicable regulations of the district in which it is located.

- b. **Discussion a possible motion on an architectural and site plan review for a 5,280 square foot shed located at 1051 Wauwatosa Road [Petitioner: Roger Bentz, A-2 Prime Agricultural & C-1 Conservancy, SE & NW ¼ Sec. 21, 80 acres]\***

Roger Bentz would like to construct a 5,280 square foot shed on his property located at 1051 Wauwatosa Road just south of Five Corners to store farm equipment. The building would consist of one long span measuring 60' x 88'. A principal building of this size is allowed in A-2, as there is no limit on size of agricultural buildings in A-2. However, Section 320-26 of the Code explains that new buildings greater than 1,500 square feet are required to go before the Plan Commission and Town Board for architectural and site plan review.

Chairman Valentine noted the Plan Commission made a unanimous recommendation in favor of this project. Supervisor Salvaggio then made a motion to approve the proposed architectural and site plan review for a 5,280 square foot shed located at 1051 Wauwatosa Road. Supervisor Pipkorn seconded, and the motion passed unanimously.

**c. Discussion on a possible amendment to Chapter 320 of the Town Code relating to pet day care as a home occupation in the R-2 single-family residential district\***

Debra and Carl Ward of 1558 Fielding Road have been operating a dog daycare business out of their home, which is not currently Code compliant. In order to become Code compliant, the Wards would need to apply for and successfully have the Town Board approve an ordinance that would amend the Town Code as needed to allow for the operation of a kennel as a home occupation in the R-2 district. Secondly, they would need to obtain two conditional use permits: one to operate a kennel, and a second to operate the home occupation out of her residence. This item is on the agenda to test the Board's receptiveness to such a Code amendment.

Supervisor Rintelman clarified this process started as the result of a barking dog complaint by a neighbor. Debra Ward noted she has support from her neighbors as demonstrated through a petition of signatures. The Board pointed out that with a conditional use permit, if there are issues, the permit may be revoked. Mrs. Ward noted the dogs are let outside and sometimes walked on the street for exercise. It was the consensus of the Board that Mrs. Ward submit a text amendment application.

**d. Discussion and possible motion regarding an environmental agreement related to the Prochnow landfill\***

On October 20, 2010, the Wisconsin Department of Natural Resources (WDNR) called on the four principally responsible parties (a.k.a. PRP group, which consists of Mercury Marine, Emerson Electric, City of Cedarburg, and Town of Cedarburg) to, "propose a plan for additional monitoring and potentially additional wells to define the groundwater plume and finish the Remedial Investigation" of the former Prochnow landfill within 30 days. This plan was submitted on November 19, 2010.

In June 2011, representatives of the PRP group interviewed two environmental engineering firms and unanimously selected Environ to prepare an implementation plan. The proposed environmental consulting services involve the investigation of groundwater conditions at the former Prochnow landfill/proposed Sports Complex, the identification and evaluation of remedial action alternatives, and the preparation and submittal to the WDNR of the reports necessary to determine what remedial actions are required based on site conditions. The Town portion of the payment for these services will be consistent with past practice, which is allocated as follows: Mercury Marine – 33.33%; Emerson – 33.33%; City of Cedarburg – 19.70%; and Town of Cedarburg – 13.64%. The Town portion could reach as high as 20.46% if Emerson Electric does not participate in this agreement.

Chairman Valentine noted this process has been ongoing for many years, and to this point money has been spent on lawyers and groundwater monitoring, not actual cleanup. The Town would prefer to place a parking lot on top of the landfill area and use the remainder of the property for recreation through the Town Sports Complex. Approximately 7 of the 95 acres are considered the landfill area. Supervisor Rintelman noted the Town and City agreed that cleanup is preferred.

Gary Wickert moved and Joe Rintelman seconded that the Board approve the proposed agreement with Environ. The motion passed unanimously.

**e. Discussion and possible motion approving Resolution 2011-21, “Appointing Roger Kison as the Building Inspector for the Town of Cedarburg and Approving the Agreement for Building Inspection Services for 2012” \***

It is Town policy to renew the Building Inspector contract on an annual basis. The proposed contract for 2012 is identical to the approved 2011 contract. Supervisor Salvaggio moved the Board approve Resolution 2011-21, “Appointing Roger Kison as the Building Inspector for the Town of Cedarburg and Approving the Agreement for Building Inspection Services for 2012.” Supervisor Rintelman seconded, and the motion passed unanimously.

**f. Discussion and possible motion regarding the appointment of election officials for a two-year term\***

December 31, 2011 marks the end of the current term of election inspectors (poll workers). Per Wis. State Statutes, Sec. 7.30, at a meeting in December, but not later than December 31, 2011, the municipal governing body shall appoint election inspectors for a two-year term which begins January 1, 2012 and ends December 31, 2013.

Supervisor Pipkorn moved the Board approve the provided list of elections officials for a two-year term. Supervisor Rintelman seconded, and the motion passed unanimously.

**11. CLOSED SESSION**

**a. The Town Board may go to closed session pursuant to:**

- i. Wisconsin Statutes Sec. 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,” regarding annual performance evaluations and filling the Director of Public Works position;**
- ii. Wisconsin Statutes Sec. 19.85(1)(e) to “Deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session,” regarding the Prochnow landfill.**

At 8:47 P.M. Supervisor Salvaggio made a motion that was seconded by Supervisor Rintelman for the Town Board to go to closed session pursuant to the noticed Wisconsin Statutes.

**Roll Call:** Joe Rintelman – Aye, David Salvaggio – Aye, David Valentine – Aye, Gary Wickert – Aye and Wayne Pipkorn – Aye.

**b. Reconvene to open session and the regular order of business**

At 10:20 pm, Supervisor Wickert made a motion that was seconded by Supervisor Salvaggio to reconvene to open session. The motion was unanimously approved.

**12. ADJORNMENT**

At 10:21 pm, Supervisor Salvaggio made a motion to adjourn that was seconded by Supervisor Rintelman. The motion was unanimously approved.

Respectfully Submitted,

Eric Ryer – Dir. of Rec. & Planning