



BOARD OF SUPERVISORS MEETING

Wednesday, February 19, 2025 at 6:30 PM

Town Hall Meeting Room, 8348 Hickory Ave, Larsen, WI 54947

AGENDA

CALL TO ORDER

- A. Pledge of Allegiance
- B. Verification of Notice
- C. Meeting Roll

APPROVAL OF MINUTES

- A. Approval of the Minutes of the Wednesday, February 5, 2025 Town Board Special Meeting
- B. Approval of the Minutes of the Wednesday, February 5, 2025 Town Board Meeting

OPEN FORUM – TOWN RELATED MATTERS NOT ON THE AGENDA

Individuals properly signed in may speak directly to the Town Board on non-repetitive Town Matters whether on or not on the agenda. Commentators must wait to be called, must speak from the podium, directing their comments to the Board. Comments must be orderly, and will be limited to a maximum of **2 minutes** per person. ***Public comment is not permitted outside of this public comment period.*** **Note:** The Board's ability to act on or respond to the public comments is limited by Chapter 19, Wis. Stats. Please complete the "Request to Speak at Meeting" form located on the agenda/sign-in table and submit the form to the Town Clerk for in-person attendance.

CORRESPONDENCE

- A. Distribution of the January 2025 Building Inspection Report
- B. Distribution of the January 2025 Winnebago County Tonnage Report.
- C. Distribution of the January/February 2025 issue of the BoardmanClark Municipal Law Newsletter

DISCUSSION ITEMS (NO ACTION WILL BE TAKEN)

- A. Winnebago County Sheriff's Department – Public Concerns and Issues
- B. Larsen/Winchester Sanitary District Report
- C. Administrator's Report
- D. Chair & Supervisor Reports

BUSINESS REFERRED BY THE PLAN COMMISSION

- A. Plan Commission Discussion: Town Board review & discussion on proposed changes to the Minimum Road Standards Policy.
- B. Plan Commission Discussion: Town Board review & discussion on proposed changes to the Town's Plat Review process.

BUSINESS

- A. Review/Discussion: Town Board review & discussion of refinancing town debt & next steps in 2025.
- B. Discussion/Action: Town Board review & consideration of renewal of the contract with Migratory Bird Management for the AVIX Mark II installed at the regional stormwater pond located near Eagle Heights Dr.
- C. Discussion/Action: Town Board review & consideration of payment for Invoice 2038939 from KerberRose S.C. in the amount of \$10,250.00 for progress billing for audit of the year ending December 31, 2024.

UPCOMING MEETING ATTENDANCE

- A. Town Board (6:30 pm start unless otherwise noted) - March 5 & 19; Apr 2 & 16; May 7 & 21
- B. Plan Commission (6:30 pm start unless otherwise noted) - March 12; April 9; May 14
- C. 175th Annual Meeting of the Town's Electors - April 15, 2025
- D. Annual Reorganizational Meeting - April 16, 2025

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS

ADJOURNMENT

Respectfully submitted,

Russell D. Geise
Town Chairperson

Pursuant to Wisconsin Statute 19.84 (2) and (3) notice is hereby given to the public and the media that two or more members of any or all Boards, Commissions, and Committees of the Town of Clayton, may attend the meeting of the Town Board in order to gather information. For purposes of the Open Meetings Law only; attendance at a meeting by a quorum of members of the Town Boards, Commissions, and Committees constitutes a meeting of the Board, Commission, or Committee, pursuant to Badke Vs. Village Board of Village of Greendale, 173 Wis2d 553, 494 NW2d 408 (1993), and must be noticed as such, although it is not contemplated that any formal action by those bodies will be taken. The only business to be conducted is for Town Board action.

Upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, please call the Town Office at 920.836.2007.

This agenda has been posted at the following locations in the Town of Clayton:

- 1. The Town Hall Posting Board – 8348 Hickory Ave, Larsen, WI 54947
- 2. The Town’s Web Page: --



BOARD OF SUPERVISORS SPECIAL MEETING

Wednesday, February 05, 2025 at 6:30 PM

Town Hall Meeting Room, 8348 Hickory Ave, Larsen, WI 54947

MINUTES

CALL TO ORDER – Vice Chair Reif called the meeting to order at 6:30 pm

- A. Pledge of Allegiance
- B. Verification of Notice
- C. Meeting Roll

PRESENT

Supervisor Lettau
 Supervisor Grundman
 Supervisor Christianson
 Supervisor Reif

EXCUSED

Town Chair Geise

STAFF

Administrator Wisnefske
 Clerk Faust-Kubale
 Attorney LaFrombois - virtual

CLOSED SESSION OF THE TOWN BOARD

- A. Discussion/Action: Town Board review & consideration of a motion to move into a Closed Session pursuant to Wis. Stats. §19.85(1)(g):

Wis. Stats. §19.85(1)(g) - Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

The Town Board of Supervisors of the Town of Clayton will consider a motion and roll call to adjourn to a Closed Session to confer with legal counsel in response to a legal claim related to a development agreement, which is likely to result in litigation.

MOTION

Motion made by Supervisor Grundman, **Seconded** by Supervisor Lettau to move into closed session pursuant to Wis. Stats. §19.85(1)(g).

Voting Yea: Supervisor Lettau, Supervisor Grundman, Supervisor Christianson, Supervisor Reif

Motion carried 4-0.

- B. Discussion/Action: Pursuant to Wis. Stats. §19.85(2), the Town Board will reconvene into open session and may formally act on those matters discussed in closed session.

Wis. Stats. §19.85(2) - No governmental body may commence a meeting, subsequently convene in closed session and thereafter reconvene again in open session within 12 hours after completion of the closed session, unless public notice of such subsequent open session was given at the same time and in the same manner as the public notice of the meeting convened prior to the closed session.

MOTION

Motion made by Supervisor Christianson, **Seconded** by Supervisor Lettau to reconvene into open session pursuant to Wis. Stats. §16.85(2).

Voting Yea: Supervisor Lettau, Supervisor Grundman, Supervisor Christianson, Supervisor Reif

Motion carried 4-0.

ADJOURNMENT

MOTION

Motion made by unanimous consent to adjourn at 6:44 pm.

Motion carried by unanimous voice vote.

Respectfully submitted,

Kelsey Faust-Kubale
Town Clerk



BOARD OF SUPERVISORS MEETING

Wednesday, February 05, 2025

Immediately following a Prior Scheduled Meeting

Town Hall Meeting Room, 8348 Hickory Ave, Larsen, WI 54947

MINUTES

THIS MEETING IS IMMEDIATELY FOLLOWING THE BOARD OF SUPERVISORS SPECIAL MEETING.

CALL TO ORDER – Vice Chair Reif called the meeting to order at 6:45 pm

- A. Pledge of Allegiance
- B. Verification of Notice
- C. Meeting Roll

PRESENT

Supervisor Lettau
 Supervisor Grundman
 Supervisor Christianson
 Supervisor Reif

EXCUSED

Town Chair Geise

STAFF

Administrator Wisnefske
 Clerk Faust-Kubale
 Attorney LaFrombois - virtual

APPROVAL OF MINUTES

- A. Approval of the Minutes of the Wednesday, January 22, 2025 Town Board Meeting

MOTION

Motion made by unanimous consent to approve the Minutes of the Wednesday, January 22, 2025 Town Board Meeting as presented.

Motion carried by unanimous voice vote.

OPEN FORUM – TOWN RELATED MATTERS NOT ON THE AGENDA – NONE

DISCUSSION ITEMS (NO ACTION WILL BE TAKEN)

- A. County Board Supervisor Report
- B. Winnebago County Sheriff's Department – Public Concerns and Issues
- C. Department of Public Safety Report
- D. Larsen/Winchester Sanitary District Report
- E. Administrator's Report

F. Chair & Supervisor Reports

OPERATOR LICENSES ISSUED BY THE TOWN CLERK

- A. New - Makenzie Perry, The Woodshed
- B. New - Yudda KC, Kitchen Comfort
- C. New - Suman Bhandari, Ridgeway BP

BUSINESS

- A. Discussion/Action: Town Board review & consideration of adopting Ordinance 2025-002 regarding Short-Term Rentals.

MOTION

Motion made by Supervisor Grundman, **Seconded** by Supervisor Christianson to approve Ordinance 2025-002 and direct Staff to publish and post accordingly.

Voting Yea: Supervisor Lettau, Supervisor Grundman, Supervisor Christianson, Supervisor Reif

Motion carried 4-0.

- B. Discussion/Action: Town Board review & consideration of an amendment to the Town's Development Agreement with Clayton Development Group LLC.

MOTION

Motion made by unanimous consent to approve the amendment to the Development Agreement as presented.

Motion carried by unanimous voice vote.

REVIEW OF DISBURSEMENTS

- A. Check Summary Register

UPCOMING MEETING ATTENDANCE

- A. Town Board (6:30 pm start unless otherwise noted) - Feb 19; March 5 & 19; Apr 2 & 16
- B. Plan Commission (6:30 pm start unless otherwise noted) - Feb 12; March 12; April 9

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS

ADJOURNMENT

MOTION

Motion made by unanimous consent to adjourn at 6:58 pm.

Motion carried by unanimous voice vote.

Respectfully submitted,

Kelsey Faust-Kubale
Town Clerk

INTERMUNICIPAL REPORT JANUARY 2025 PERMITTING

Item A.

DATE	PERMIT #	OWNER	ADDRESS	DESCRIPTION	CONTRACTOR	EST. PROJECT COST	PERMIT FEE	BLDING INSPECTOR FEE
TOWN OF CLAYTON PERMITS:								
1/6/2025	1-25-1B	MARK WINTER HOMES	8379 ST NORBERT	NSFD	HOME PATH PROPERTIES	\$ 425,000.00	\$ 785.00	\$ 628.00
1/7/2025	2-25-1E	MARK WINTER HOMES	8379 ST NORBERT	NSFD ELECT	PJ KAMPO	\$ 11,000.00	\$ 298.44	\$ 238.75
1/7/2025	3-25-1E	SANDY DIXON	8201 CTY T	SOLAR INSTALL	ENDRIES ELECT	\$ 15,000.00	\$ 100.00	\$ 80.00
1/7/2025	4-25-1P	OAKWOOD HOMES	2658 LAWRENCE	NSFD PLUMB	TIM RAUSCH	\$ 14,000.00	\$ 329.04	\$ 263.23
1/7/2025	5-25-1H	OAKWOOD HOMES	2658 LAWRENCE	NSFD HVAC	HAAK HEATING	\$ 12,000.00	\$ 329.04	\$ 263.23
1/7/2025	6-25-1E	OAKWOOD HOMES	2658 LAWRENCE	NSFD ELECT	QUANTUM ELECT	\$ 11,000.00	\$ 329.04	\$ 263.23
1/7/2025	7-25-1B	NATHAN SIMINGTON	3006 OAKRIDGE	REPLACE WINDIWS & SIDING	WRIGHTWAY IMPROVEMENTS	\$ 28,929.00	\$ 75.00	\$ 60.00
1/7/2025	8-25-1H	JORDAN STECKLER	8372 ST NORBERT	GARAGE UNIT HEATER	BLACK-HAAK	\$ 4,000.00	\$ 75.00	\$ 60.00
1/20/2025	9-25-1E	SANDRA ARPS	2547 OAKCREST	GENERATOR INSTALL	BLACK-HAAK	\$ 14,000.00	\$ 100.00	\$ 80.00
1/20/2025	10-25-1H	JIM COWLING	4378 BREEZEWOOD	FURNACE REPLACEMENT	BLACK-HAAK	\$ 5,000.00	\$ 75.00	\$ 60.00
1/20/2025	11-25-1P	MARK WINTER HOMES	8379 ST NORBERT	NSFD PLUMB	EDW.F.& SONS PLUMB	\$ 22,000.00	\$ 298.44	\$ 238.75
1/20/2025	12-25-1H	MARK WINTER HOMES	8379 ST NORBERT	NSFD HVAC	VAN HANDEL HVAC	\$ 18,000.00	\$ 298.44	\$ 238.75
1/20/2025	13-25-1E	BBS PROPERTIES	2680 & 2682 PRINCETON	NSFD ELECT	CUMINGS ELECT	\$ 18,000.00	\$ 485.46	\$ 388.37
1/20/2025	14-25-1E	BBS PROPERTIES	2668& 2670 PRINCETON	NSFD ELECT	CUMINGS ELECT	\$ 18,000.00	\$ 485.46	\$ 388.37
1/20/2025	15-25-1H	DENNIS MANEY	7940 CTY T	FURNACE REPLACEMENT	MODERN SHEET METAL	\$ 4,899.00	\$ 75.00	\$ 60.00
1/23/2025	16-25-1B	ERIC MAYER	9362 BROAD MEADOW	BASEMENT REMOD	SELF	\$ 15,000.00	\$ 261.40	\$ 209.12
1/23/2025	17-25-1E	ERIC MAYER	9362 BROAD MEADOW	BASEMENT REMOD ELECT	SELF	\$ 1,000.00	\$ 118.20	\$ 94.56
1/23/2025	18-25-1H	ERIC MAYER	9362 BROAD MEADOW	BASEMENT REMOD HVAC	SELF	\$ 1,500.00	\$ 118.20	\$ 94.56
1/23/2025	19-25-1P	ERIC MAYER	9362 BROAD MEADOW	BASEMENT REMOD PLUMB	SELF	\$ 1,000.00	\$ 118.20	\$ 94.56
1/27/2025	20-25-1B	LUKE FISCHENICH	9085 PIONEER	BASEMENT REMOD	SELF	\$ 1,000.00	\$ 239.80	\$ 191.84
1/27/2025	21-25-1E	LUKE FISCHENICH	9085 PIONEER	BASEMENT REMOD ELECT	SELF	\$ 8,000.00	\$ 107.40	\$ 85.92
1/27/2025	22-25-1P	LUKE FISCHENICH	9085 PIONEER	BASEMENT REMOD PLUMB	SELF	\$ 9,000.00	\$ 77.40	\$ 61.92
1/27/2025	23-25-1B	DAVID SLEIK	7547 GREEN MEADOW	ADDN	ADAM ROSEK	\$ 200,000.00	\$ 256.24	\$ 204.99
1/28/2025	24-25-1H	LARSEN POST OFFICE	8284 HICKORY	REPLACE BOILER	BLACK-HAAK	\$ 10,000.00	\$ 75.00	\$ 60.00
1/29/2025	25-25-1B	ARLEN BAUMANN	8365 ST NORBERT	NSFD	BAUMANN CONSTRUCTION	\$ 350,000.00	\$ 750.00	\$ 600.00
1/29/2025	26-25-1E	ARLEN BAUMANN	8365 ST NORBERT	NSFD ELECT	JENSEN ELECT	\$ 8,000.00	\$ 321.48	\$ 257.18
1/29/2025	27-25-1H	ARLEN BAUMANN	8365 ST NORBERT	NSFD HVAC	KIMBERLY HARDWARE	\$ 12,000.00	\$ 321.48	\$ 257.18
1/29/2025	28-25-1P	ARLEN BAUMANN	8365 ST NORBERT	NSFD PLUMB	TIM RAUSCH	\$ 12,500.00	\$ 321.48	\$ 257.18
TOTALS						\$ 1,249,828.00	\$ 7,224.64	\$ 5,779.71

TOWN OF WINNECONNE PERMITS:								
1/7/2025	1-25-1B	TIM LUX	5043 RIVERMOOR	DETACHED GARAGE	BRIAN BERNIER	\$ 38,000.00	\$ 131.40	\$ 105.12
1/8/2025	2-25-1B	SCOTT OPPOR	7118 SHORELINE	ADDN	SELF	\$ 40,000.00	\$ 132.70	\$ 106.16
1/8/2025	3-25-1E	STEVE STERNARD	6507 WOODVIEW	NSFD ELECT	1ST ELECTRICAL	\$ 10,500.00	\$ 179.55	\$ 143.64
1/8/2025	4-25-1H	STEVE STERNARD	6507 WOODVIEW	NSFD HVAC	VANHANDEL HVAC	\$ 13,300.00	\$ 179.55	\$ 143.64
1/16/2025	5-25-1E	DIVERSIFIED REAL ESTAT	6875 WENTZEL SHORE	SERVICE CHANGE	CR FOCHS	\$ 7,000.00	\$ 60.00	\$ 48.00
1/16/2025	6-24-1E	DAVID ABERWALD	5893 LAKEWIND	GENERATOR INSTALL	HOME BACK UP	\$ 13,000.00	\$ 60.00	\$ 48.00
1/16/2025	7-25-1E	MARK SHEPHERD	6774 FOREST PARK	WIRE GARAGE	LUXURY ELECT	\$ 1,000.00	\$ 65.16	\$ 52.13
1/16/2025	8-25-1B	QUIGLEY FARMS	7014 QUIGLEY	RAZE SHED	SELF	\$ 4,500.00	\$ 40.00	\$ 32.00
1/16/2025	9-25-1E	ROBERT STUMPF	6741 FOREST PARK	GENERATOR INSTALL	HOME BACK UP	\$ 14,000.00	\$ 60.00	\$ 48.00
1/22/2025	10-25-1B	CURT MARX	6445 PAULSON	RAZE HOUSE	TIMBER INNOVATIONS	\$ 2,000.00	\$ 55.00	\$ 44.00
1/22/2025	11-25-1B	CURT MARX	6554 PAULSON	NSFD	TIMBER INNOVATIONS	\$ 741,000.00	\$ 500.00	\$ 400.00
1/22/2025		CURT MARX	6554 PAULSON	TOWN FEES	TIMBER INNOVATIONS		\$ 510.00	
1/22/2025	12-25-1P	RANDALL ARONSON	7173 WINDMILL	NSFD PLUMB	POWELL PLUMB	\$ 16,600.00	\$ 198.33	\$ 158.66
1/22/2025	13-25-1H	RANDALL ARONSON	7173 WINDMILL	NSFD HVAC	BOUCHERS HVAC	\$ 13,850.00	\$ 198.33	\$ 158.66
1/22/2025	14-25-1E	RANDALL ARONSON	7173 WINDMILL	NSFD ELECT	QUANTUM ELECT	\$ 14,000.00	\$ 198.33	\$ 158.66
1/22/2025	15-25-1P	STEVE STERNARD	6507 WOODVIEW	NSFD PLUMB	SBS PLUMB	\$ 19,300.00	\$ 179.55	\$ 143.64
1/28/2025	16-25-1B	JULIAN OLSON	5803 POINT WEST	BASEMENT REMOD	SELF	\$ 2,000.00	\$ 217.56	\$ 174.05
1/28/2025	17-25-1E	JULIAN OLSON	5803 POINT WEST	BASEMENT REMOD ELECT	SELF	\$ 500.00	\$ 66.36	\$ 53.09
1/28/2025	18-25-1H	GARY HOFFMANN	5135 WASHINGTON	FURNACE REPLACEMENT	MODERN SHEET METAL	\$ 4,999.00	\$ 45.00	\$ 36.00
1/28/2025	19-25-1E	TIM LUX	5043 RIVERMOOR	ELECT DETACHED GARAGE	LUXURY ELECT	\$ 1,500.00	\$ 70.92	\$ 56.74
TOTALS						\$ 957,049.00	\$ 3,147.74	\$ 2,110.19

**WINNEBAGO COUNTY SOLID WASTE MANAGEMENT BOARD
2024 RECYCLING TONNAGE REPORT**

	January	February	March	April	May	June	July	August	September	October	November	December	YTD	
	SS Tons	SS Tons	SS Tons	SS Tons	SS Tons	SS Tons	SS Tons	SS Tons	SS Tons	SS Tons	SS Tons	SS Tons	SS Tons	
001	T. Algoma	64.10											64.10	T. Algoma
002	T. Black Wolf	21.21											21.21	T. Black Wolf
003	T. Clayton	32.22											32.22	T. Clayton
004	V. Fox Crossing	119.59											119.59	V. Fox Crossing
005	T. Neenah	29.20											29.20	T. Neenah
006	T. Nekimi	10.28											10.28	T. Nekimi
008	T. Omro	9.81											9.81	T. Omro
013	T. Vinland	11.96											11.96	T. Vinland
014	T. Winchester	16.40											16.40	T. Winchester
015	T. Winneconne	26.60											26.60	T. Winneconne
016	T. Wolf River	9.51											9.51	T. Wolf River
017	V. Winneconne	18.98											18.98	V. Winneconne
018	C. Menasha	131.18											131.18	C. Menasha
019	C. Neenah	169.09											169.09	C. Neenah
020	C. Omro	29.79											29.79	C. Omro
021	C. Oshkosh	315.79											315.79	C. Oshkosh
	Other SS	278.51											278.51	Other SS
	TOTAL TONS	1294.22											1294.22	TOTAL TONS

	<u>Population</u>	<u>SS lbs./person</u>		<u>Population</u>	<u>SS lbs./person</u>		<u>Population</u>	<u>SS lbs./person</u>
T. Algoma	6,939	18.48	T. Omro	2,375	8.26	C. Menasha	18,576	14.12
T. Black Wolf	2,422	17.51	T. Vinland	1,757	13.61	C. Neenah	27,560	12.27
T. Clayton	4,394	14.67	T. Winchester	1,784	18.39	C. Omro	3,629	16.42
V. Fox Crossing	19,113	12.51	T. Winneconne	2,637	20.17	C. Oshkosh	66,986	9.43
T. Neenah	3,669	15.92	T. Wolf River	1,210	15.72			
T. Nekimi	1,325	15.52	V. Winneconne	2,519	15.07	Total	166,895	12.17

*Population updated on 1/31/23 from Dept. of Admin. "January 1, 2022 Final Population Estimates"

https://doa.wi.gov/DIR/Final_Ests_Muni_2023.pdf

https://doa.wi.gov/Pages/LocalGovtsGrants/Population_Estimates.aspx

** Other SS - in 2017 include all direct haul to OC (City Disposal, etc.)

Item B.

Municipal Law Newsletter

VOLUME 30, ISSUE 1 JANUARY/FEBRUARY 2025

In this issue

- *Cell Tower Leases: What to Do When You Get "The Letter"*
- *Wisconsin's Open Meetings Law: Three Cautions*
- *Attorneys Brian P. Goodman and Jared Walker Smith Named Partners*

RECEIVED
FEB 07 2024

Cell Tower Leases: What to Do When You Get "The Letter"

If your municipality leases water tower space to cellphone carriers or ground space to a tower owner, you have no doubt received some form of "the Letter." The Letter comes in two basic types: an "Extension Letter" that contains an offer to extend the lease term in exchange for lower rent and more favorable terms for the carrier or a "Buyout Letter" that offers to buy out the municipality's interest in the lease. Either way, beware.

The Extension Letter usually comes from a company (e.g., MD7) hired by the carrier to audit its tower leases throughout the carrier's service territories and to negotiate more favorable terms for the carrier. High up on the list of proposed terms are a reduction in the current rent amount; reducing any rent escalator; obtaining greater latitude in modifying the carrier's facilities on the tower and land space; and adding a right of first refusal to purchase the land should the municipality wish to sell to a third party. The Extension Letter warns that the municipality should consider accepting the proposed terms, lest the carrier be forced to shut down your site to remain competitive. The expectation is that the municipality will be so wary of losing this income stream that it will accept the offer despite the much less favorable terms, figuring that a long-term revenue stream is better than none.

The Buyout Letter usually offers a lump-sum payment to the municipal property owner in exchange for a tower company's purchase of a perpetual or long-term right to use the municipal property or for the right to collect rents that the municipality is receiving by leasing space to carriers. The thinking behind the Buyout Letter is that the municipality will be so blinded by the amount of the lump-sum payment, that it will accept the offer without fully considering the long-term impact of the deal being offered.

After having evaluated such offers with many clients over the years, we generally recommend that they decline these offers. The offers, of course, are made in the best interests of the carrier or tower owner. And there's usually nothing but downside for the municipality, especially if the deal results in the loss of control over municipal property (especially, a water tower). There's generally little downside in rejecting such offers. In our experience, it is very unlikely that a carrier will walk away from an ex municipal site—they've already made a significant investment to g

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BOARDMANCLARK.COM/PUBLICATIONS

Cell Tower Leases

Continued from page 1

site up and running, and the search for and buildout of a replacement site is time-consuming and costly for the carrier.

But that's not the end of the story. It may be worthwhile to use the Letter as an opening to engage in negotiations, especially if you can identify any leverage you might have to negotiate better lease terms. Is the lease about to expire? Is the carrier seeking your approval to upgrade its facilities in the leased space? If so, then this may be an excellent time to negotiate a new long-term lease with better terms for the municipality.

Considering an Extension Letter

Having identified your bargaining leverage, the first step in determining how to respond to a Extension Letter is to evaluate the weaknesses of the terms of the existing lease. The goal is to negotiate a replacement agreement that gets rid of any onerous terms and potential liability traps and replaces them with terms that allow the municipality to maintain control over how its land or water tower is to be used, thereby protecting the integrity of municipal property and protecting the municipality from the risks associated with allowing third-party commercial uses of municipal property.

Municipal Liability. *Does the lease expose the municipality to unwarranted financial risk?*

No amount of rent is worth exposing the municipality to potentially catastrophic damages. Many older leases with mutual indemnification provisions do just that. Generally, under a mutual indemnification provision, both parties agree to reimburse each other for damages, losses, attorney fees, and the costs of litigation resulting from the other party's contract-related negligent acts or omissions resulting in harm to the other party or a third party.

By agreeing to indemnify the carrier, the municipality may waive its statutory protections limiting the municipality's liability for its own negligence. For example, under Wis. Stat. § 893.80, a municipality's liability for certain acts of negligence is limited to \$50,000. Waiving such protections may result in the municipality paying the carrier for damages for which it would not otherwise be liable—potentially, millions of dollars depending on

the nature and extent of the damage caused. And, if the municipality does not have insurance coverage for contractual liability (and many do not), this will be an out-of-pocket expense for the municipality. It is essential that any replacement agreement include only a one-way indemnification provision, under which the carrier indemnifies the municipality.

In addition, if the older lease does not address environmental liability except to have the municipality warrant that the property is free from any environmental contamination, the replacement agreement should address this issue. The agreement should require the carrier to indemnify the municipality from any environmental harm that the carrier causes, and the municipality should never warrant that the property is contamination free.

Description of Premises & Equipment. *Is it clear what equipment the carrier may install and what tower or land space they are allowed to use?*

Some older leases lack specifics as to the type, size, and location of the equipment that the carrier is allowed to install or are unclear as to the identification of the premises, easements, and the carrier's right of access to the site. To further complicate matters, the carrier's initial installation may bear no resemblance to the equipment it currently has on the site. It is important that a replacement agreement correct any such deficiency by requiring that the carrier provide a new site survey with accurate legal descriptions for the land space portion of the premises and, in the case of a water tower, that the carrier provides up-to-date as-built drawings showing the location of the carrier's equipment on the water tower and providing an inventory of such equipment.

Modifications. *Is there an approval process for upgrade projects and modifications?*

In the past, it was standard practice for a carrier to ask the municipality to sign a letter giving consent for the carrier to upgrade or modify the equipment at the site without providing sufficient information regarding the scope or potential impact of the upgrade project. For leases of space on a water tower, it is vitally important that the replacement agreement set out a clear processes for approval of any upgrade or modification projects, construction oversight, and post-construction inspection.

The agreement should specify what information the carrier must submit when requesting approval

Continued on page 3

Cell Tower Leases

Continued from page 2

of an upgrade or modification project, which may include detailed construction drawings, a structural analysis that determines whether there is enough loading capacity on the water tower to accommodate the carrier's proposed installation, a mount analysis to determine whether the location of the new antennas is structurally sound, and an updated site survey if additional ground space or easements are needed.

The agreement should allow the municipality to hire a technical consultant at the carrier's expense to supervise the construction. Such supervision should include: a pre-construction meeting with the carrier's contractors to review the construction plans, site supervision as necessary, and a post-construction inspection to determine whether the project was installed according to the approved specifications and to develop, if necessary, a punch-list of items that need to be addressed before the carrier can power up its new installation. The carrier should also be required to provide as-built construction drawings once the work has been completed.

Obtaining detailed information from the carrier for each project and active oversight over the construction of the project is one of the best ways to ensure the on-going structural integrity of the water tower.

For leases that do not include space on a water tower, it is less vital (though still desirable) for the municipality to have approval authority over upgrades or modification projects. If nothing else, the municipality may want to retain the right to approve certain types of projects such as increasing the height of a cell tower or adding a generator to the site.

Compensation. *Is the rent reasonable, and is there reimbursement for legal and technical consultant fees?*

Older leases often undervalued municipal sites, setting rent at an unreasonably low rate with either no rent escalator or a low escalator that applies only once every five years at the beginning of a renewal term. The goal of the replacement agreement is to negotiate a reasonable rent escalator that applies annually and a base rent that better reflects the value of the site by considering such things as the tower's location (best to be near a busy highway) and the nature of the carrier's equipment (a site that has been upgraded to 5G is more valuable than one that hasn't).

Developing and negotiating a replacement agreement can be an expensive undertaking. If, at the same time, the carrier is seeking approval of an upgrade or modification project, the undertaking will be even more expensive as the municipality will incur both attorney's fees and consulting fees. The attorney, of course, will draft and negotiate the agreement. The technical consultant will be responsible for reviewing the carrier's construction drawings, reviewing any required structural analysis and mount analysis, and supervising the construction. If there is a proposed upgrade project, that should give the municipality enough leverage to require that the carrier reimburse the municipality for all of its professional costs—both legal and consulting. Some agreements require that the carrier provide some amount of money upfront before the consultant or attorney begins their work and before the replacement agreement is drafted. If you don't succeed in getting all your costs reimbursed, then consider negotiating a higher rent increase.

Access. *Does the carrier have unfettered access to the water tower?*

Today's municipal water utility managers are much more cognizant of the need to have a secure water tower. Some older leases, however, allow carriers to have their own keys and unfettered access to the water tower, putting the security of the municipal water supply in jeopardy. A replacement agreement should place reasonable restrictions on the carrier's access, such as reasonable advance notice of the carrier's intent to access the site and only supervised access to the water tower itself, with the carrier reimbursing the municipality for the cost of supervision. In ground leases, on the other hand, it is common for the carrier to have 24/7 access to the leased site without any supervision by or notice to the municipality and, barring any unique circumstances, that arrangement is generally fine.

Considering a Buyout Letter

Water Tower Leases

Just say no! No matter how much the buyer is offering to pay to buy out the municipality's water tower leases, the risk associated with losing control of the municipality's water tower is not worth it.

Wisconsin's Open Meetings Law: Three Cautions

Wisconsin law strongly favors transparency regarding government affairs. Wisconsin's Open Meetings Law requires governmental bodies to conduct official business in a meeting open to the public that is posted, as required by law, and provides specific notice of the matters to be addressed. Governmental bodies can only convene in closed session if a specific statutory exception applies. Here are three key areas of caution with respect to the Open Meetings Law for municipalities to have on their radar.

No Meetings Over Email

Some electronic communications may constitute a meeting under Wisconsin's Open Meetings Law, requiring public notice. Under the law, the definition of "meeting" requires only one-half or more members of the governmental body to convene to exercise their duties and responsibilities. The definition of a meeting under the Open Meetings Law does not require members to gather in the same physical location. Therefore, some electronic communication, such as email and instant messaging, may constitute a "convening of members" if multiple members are messaging back and forth in a way that resembles an in-person discussion. The courts may consider this a meeting, triggering the requirements under the Open Meetings Law. Information can be shared with governmental bodies via email without violating the law. But such one-way distribution of information should include a reminding not to "reply all" to the message to avoid a potential violation of the Open Meetings Law.

Proper Notice

Wisconsin's Open Meetings Law allows certain items to be discussed in closed session under Wis. Stat. 19.85. However, the governmental body must provide proper notice of the closed session. Closed session notices must be specific and detailed. A closed session notice that simply lists or quotes from the applicable statutory exception does not satisfy this requirement. The notice must include the subject matter to be considered in the closed session and must provide enough information for the public to determine if it falls under one of the authorized exceptions.

Closed Sessions

Generally, members of a governmental body should only take action in open session. In the *Wisconsin Open Meetings Law Compliance Guide*, the Wisconsin Attorney General advises that a vote should only be taken in closed session if the vote "is clearly an integral part of deliberations authorized to be conducted in closed session under Wis. Stat. § 19.85(1)." If there is not a legal basis to act in closed session, the board must return to an open session to conduct a vote to take action on matters discussed in closed session, which itself must be properly noticed.

Wisconsin's Open Meetings Law reflects the state's commitment to transparency and public participation in government affairs. By understanding and adhering to the cautions outlined above, officials can uphold the principles of this law while conducting their work effectively.

—Aiyannah S. Simms

Cell Tower Leases: What to Do When You Get "The Letter"

Continued from page 3

Ground Leases

There is one type of buyout offer that a municipality may wish to consider—an offer from a major tower owner (e.g., American Tower) to buy out its ground lease with the municipality by purchasing outright the land it is currently leasing. In making the offer, the tower company is looking to guarantee its control over the site in perpetuity, eliminate the municipal approval or reporting requirements in the lease and eliminate rent payments to the municipality going forward.

Depending on the value of the land at issue to the municipality, it may be worth at least exploring a buyout deal with the carrier. If the property is in an area that is not close to important municipal facilities, if the municipality has no plans for the future use of the property, and if you are able to negotiate a reasonable price, then it might be time to say "yes."

—Julie K. Potter & Anita T. Gallucci

This article was originally published in the November 2024 issue of The Municipality by the League of Wisconsin Municipalities (LWM) and is reprinted with permission of LWM.

Attorneys Brian P. Goodman and Jared Walker Smith Named Partners

We are proud to announce that Brian P. Goodman and Jared Walker Smith have both been named partners as of January 1, 2025. Brian first joined the firm 10 years ago, initially working as a law clerk for the firm while completing law school and then joining the firm as an associate. He is a member of the firm's Municipal Law, School Law, and Labor & Employment Law Practice Groups. Jared joined the firm 7 years ago after having previously worked in private practice and public interest law for 5 years. He is a member of the firm's Municipal Law, Municipal Utility Law, and Real Estate Practice Groups.

Brian P. Goodman

Brian's practice includes advising public and private sector employers in various challenging legal situations. In his municipal practice, Brian represents municipalities, including municipal utilities, in areas such as employee performance issues, employee leaves of absence and accommodations, FMLA compliance, separation agreements, and employment handbooks.

Brian uses his prior experience as a teacher to assist his clients and frequently gives presentations, trainings, and in-services to clients and professional organizations. He is a sought-after speaker due to his engaging and practical style.

In 2023, Brian was named one of In Business Magazine's 40 under 40, and Brian was selected by his peers for inclusion in the 2025 Edition of the Best Lawyers in America®, Ones to Watch, in Education Law.*

Brian graduated *magna cum laude* from the University of Wisconsin Law School and was named to the Order of the Coif. He also has a master's degree in educational leadership from Northern Illinois University and a bachelor's degree in Music Education and Jazz Studies from DePaul University.

Outside of the office, Brian enjoys spending his time cooking and watching cooking shows with his wife and child. He also loves going to musicals and playing his saxophone.

Jared Walker Smith

Jared's practice includes assisting municipal utilities, municipalities, public inland protection and rehabilitation districts, individuals, and businesses with a wide variety of legal matters—including representation before the Public Service Commission of Wisconsin; drafting and negotiating contracts, intergovernmental agreements, easements, ordinances, and other documents; counseling municipalities and their utilities on regulatory and legal compliance issues; and advising local governments on land use and development matters. Jared routinely writes and presents on issues impacting his local government clients.

In addition, Jared serves as legal counsel and lobbyist for the Municipal Environmental Group – Water Division, a coalition of Wisconsin municipal water systems that lobby on water supply legislation and regulation.

Jared is the past chair and current secretary of the Public Utilities Section of the State Bar of Wisconsin, is an active committee member of the Wisconsin Section of the American Water Works Association, and has a long history of serving on and leading non-profit boards. In 2024, Jared was selected by his peers for inclusion in the 2025 Edition of the Best Lawyers in America®, Ones to Watch, in Municipal Law.*

Outside of the office, Jared enjoys spending time with his family outdoors in all of Wisconsin's many seasons or huddled around a table playing board and card games. Jared received his J.D. from the University of Wisconsin Law School, with honors in its real estate law concentration, and his B.A., *magna cum laude*, in Biology and Environmental Studies from St. Olaf College.

*See the firm's disclaimer regarding third-party awards at <https://www.boardmanclark.com/pages/third-party-award-disclaimers>

MEMORANDUM

Business Referred by Plan Commission

From: Administrator/Staff

To: Town Board

Re: Town Board review & discussion on proposed changes to the Minimum Road Standards Policy.

AND

Town Board review & discussion on proposed changes to the Town's Plat Review process.

DISCUSSION ITEMS ONLY – NO ACTION TO BE TAKEN

Respectfully Submitted
Kelsey



PLAN COMMISSION

Wednesday, February 12, 2025 – 6:30 PM

Item A.

Town Hall Meeting Room, 8348 Hickory Ave, Larsen, WI 54947

MINUTES

CALL TO ORDER – Chair Knapinski called the meeting to order at 6:30 pm

- A. Pledge of Allegiance
- B. Verification of Notice
- C. Meeting Roll

PRESENT

Chair Knapinski
Commissioner Haskell
Commissioner Ketter
Commissioner Hopkins
Town Board Rep. Christianson

EXCUSED

Commissioner Nemecek

STAFF

Administrator Wisnefske
Clerk Faust-Kubale
Planner Jaworski
Code Administrator Kamke

APPROVAL OF MINUTES

- A. Approval of the Minutes of the Wednesday, January 15, 2025 Plan Commission Meeting

MOTION

Motion made by Commissioner Haskell, **Seconded** by Commissioner Hopkins to approve the Minutes of the Wednesday, January 15, 2025 Plan Commission Meeting as presented.

Voting Yea: Chair Knapinski, Commissioner Haskell, Commissioner Ketter, Commissioner Hopkins, Town Board Rep. Christianson

Motion carried 5-0.

OPEN FORUM – Public comments addressed to the Plan Commission - NONE

CORRESPONDENCE

- A. Distribution of the January 2025 Building Inspection Report

DISCUSSION ITEMS (NO ACTION WILL BE TAKEN)

- A. Administrator's Report

BUSINESS

- A. Review/Discussion: Plan Commission review & discussion on proposed changes to the Minimum Road Standards Policy.

DISCUSSION ITEM ONLY - NO ACTION TAKEN

- B. Review/Discussion: Plan Commission review & discussion on proposed changes to the Town's Plat Review process.

DISCUSSION ITEM ONLY - NO ACTION TAKEN

UPCOMING MEETING ATTENDANCE

- A. Plan Commission (6:30 pm start unless otherwise noted) - March 12; April 9; May 14
- B. Town Board (6:30 pm start unless otherwise noted) - Feb 19; March 5 & 19; Apr 2 & 16
- C. 175th Annual Meeting of the Town's Electors - April 15, 2025
- D. Annual Reorganizational Meeting - April 16, 2025

ADJOURNMENT

MOTION

Motion made by Commissioner Haskell, **Seconded** by Town Board Rep. Christianson to adjourn at 7:32 pm.

Voting Yea: Chair Knapinski, Commissioner Haskell, Commissioner Ketter, Commissioner Hopkins, Town Board Rep. Christianson

Motion carried 5-0.

Respectfully submitted,

Kelsey Faust-Kubale
Town Clerk

MEMORANDUM

Business Item A

From: Administrator/Staff

To: Town Board

Re: Town Board review & discussion of refinancing town debt & next steps in 2025.

Administrator Wisnepske has consulted with Ehlers and will be providing an update to the Board.

DISCUSSION ITEM ONLY – NO ACTION TO BE TAKEN

If you have any questions about this information, please call or e-mail me.

Respectfully Submitted

Kelsey

MEMORANDUM

Business Item C

From: Administrator/Staff

To: Town Board

Re: Town Board review & consideration of renewal of the contract with Migratory Bird Management for the AVIX Mark II installed at the regional stormwater pond located near Eagle Heights Dr.

The renewal proposal is included in the packet and has the same scope pricing as 2024. Administrator Wisnefske will be available for questions.

SUGGESTED MOTION

Motion to approve/deny the proposal submitted by Migratory Bird Management.

If you have any questions about this information, please call or e-mail me.

Respectfully Submitted
Kelsey

AVIX Mark II Lease Proposal

Date: January 31, 2025 **MBM Job Name:** Town of Clayton-Eagle Heights Regional Stormwater
Contact: Kelly Wisnfske
Job Name: Town of Clayton-Eagle Heights Regional Stormwater
Job Address: Town Clayton
Job City/State: Clayton, WI 54001

We hereby submit specifications and proposals to, 8348 Hickory Avenue, Larson, WI 54947; Attention: Kelly Wisnfske; Phone:(920) 836-2007; Email: administrator@claytonwinnebago.gov.

Migratory Bird Management, Inc. (MBM) will provide the tools, technology, and training to above client's personnel to be able to initiate an integrated laser harassment program designed to deter target species of wild birds from utilizing the property for loafing and roosting. The proposal includes (1) automated Avix Mark II laser system to be installed on an elevated surface provided by client. Placement will be determined based upon on-site assessment information provided from facility location. MBM will also assist in determining the most effect location for placement of system. MBM will provide information for client to fabricate specialty mounting bracket for laser, and MBM will supply additional power cord, senior technician and one assistant to advise and assist with the installation and programing of the unit. The program will consist of month to month of service with installation and programming included. At the end of the lease program if Client chooses not to purchase the laser system, the lasers will be removed from the above listed location. Lease price includes removal of Avix Mark II systems. Migratory Bird Management, LLC will also supply all components for solar option, solar panels, low cycle 12v rechargeable batteries and other components for solar installations. **Town of Clayton to supply access via mechanical lift for installation.**

Risk of Loss or Damage. The Lessee assumes all risk of loss or damage to the equipment from any cause, and agrees to return it to the Lessor in the condition received from the Lessor, with the exception of normal wear and tear. The Lessor or their appointed agent will determine normal wear and tear. All determinations made by the Lessor are final. If the equipment is not returned to the Lessor for any reason, Lessee shall pay to the Lessor the Predetermined replacement Cost of the equipment. If no Replacement Cost is designated herein, Lessee shall pay the actual cost of replacing the equipment at the time of replacement.

Contract Period and Terms:

Contract Period and Terms

Initial set up, installation and programming of Avix Mark II
\$ 3,500.00
(Three Thousand and Five Hundred dollars and 00/100 cents)
Leasing Program
\$ 1,000.00
(One Thousand dollars and 00/100 cents)
per month for (7) months (April-October)

Full billing \$10,500.00 will occur for installation and (7) month lease once contract is approved

All work to be completed in a competent and professional manner using prevailing standards in the industry. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. Payment is due upon receipt of invoice. A service charge of 1 1/2% per month (18%) per year will be added to all balances not paid within thirty (30) days of invoice. If Purchaser is paying by credit card, then Purchaser agrees to pay .035% credit card processing fees. Purchaser agrees to pay any expenses incurred by Migratory Bird Management, LLC. in collecting amounts due: including court costs, attorney's fees, and any other costs of collection including just compensation for time spent in pursuit of delinquent accounts by those representing Migratory Bird Management, LLC be it the owner or an officer of the company. This proposal may be withdrawn if not accepted within 15 days.

Third Party Vendor Fees: All third party vendor fees required by Client listed above shall be charged back to client.

Termination of Agreement: Purchaser may terminate this Agreement with or without cause at any time upon thirty (30) days prior written notice thereof to Migratory Bird Management, LLC. Also, Migratory Bird Management, LLC may terminate this Agreement at any time by giving written notice thereof to Purchaser and/or Owner stating the date on which such termination shall be effective, which date shall be the last day of any month and at least sixty (60) days after the date such notice is given.

Payment on Termination: Immediately upon receiving, or giving notice of termination, Migratory Bird Management, LLC. shall inform Purchaser in writing of all work and other services currently being performed by Migratory Bird Management, LLC.

its employees, agents, subcontractors, on Purchaser's or Owner of Property behalf indicating the portion of the work or other services that each has performed with respect to this Agreement. Migratory Bird Management, LLC shall also advise Purchaser of any portion of the work which if stopped, might delay or preclude completion of the work by Purchaser or another contractor or which if stopped would decrease the likely value of the Work to Purchaser or Owner of Property. Migratory Bird Management, LLC. shall take all actions necessary or desirable to ensure the orderly transfer of responsibility for the performance of the Work to any new contractor selected by Purchaser, or to an agent or employee of Purchaser, at Purchaser's discretion. Upon transfer of responsibility for the performance of the Work in a manner reasonably acceptable to Purchaser and subject to Purchaser's rights contained herein, Purchaser shall pay Migratory Bird Management, LLC. as full and final payment for all labor, work and services actually performed in connection with the Work. Final payment shall include the payment of any remaining unamortized costs for equipment, materials or advance payments for work.

Force Majeure: Any delay or failure by either party in the performance of its obligations shall not constitute a default or give rise to any claim for damages if, and only to the extent and for such period of time that; (i) such delay or failure is caused by an event or occurrence beyond the control and without the fault or negligence of such party or any subcontractor, supplier, or other party acting under or through such party; and (ii) said party is unable to prevent such delay or failure through the exercise of reasonable diligence. Events that shall be deemed to be beyond the control of the parties hereto shall include, but not be limited to: acts of nature or the public enemy; expropriation or confiscation of facilities by governmental or military authorities; changes in laws; war, acts of terrorism, rebellion, sabotage or riots; floods, unusually severe weather that could not reasonably have been anticipated; fires, explosions, or other catastrophes; or other similar occurrences. If Service Contractor's performance is delayed, Service Contractor agrees to use its best efforts to secure alternate sources of services, equipment or materials, if available. To the extent that Service Contractor fails to secure available alternate sources of services, equipment or materials, Owner is entitled to secure such alternate sources and offset any amounts expended on such alternate sources from amounts due or owing to Service Contractor under this Agreement to the extent that such amounts exceed the price allocations for the goods and services agreed upon in this Agreement. Service Contractor shall not be paid for any services it has not performed, or any additional compensation due to an unforeseen or uncontrollable event or occurrence of the type described in this section. In order to be entitled to an excuse for any delay or failure to perform under this Agreement pursuant to this section, the party claiming such excuse shall promptly give written notice to the other party.

Insurance: At all times while performing the Contract Duties, both Client and Migratory Bird Management, LLC shall maintain, at its sole cost and expense, business insurance with, at minimum, basic limit standards for its industry.

Building Sale: In the event that the building is sold, it is understood that there is no obligation for Agreement assumption, and that it will be understood that the Agreement will be immediately cancelable by the Owner of Property or Purchaser and shall only require the Owner of Property to provide reasonable notice of his intent. Until such notification is given, Migratory Bird Management, LLC. shall continue to perform all contractual obligations and Owner/Purchaser will be responsible for incurred invoices for service performed up until written notification is received by Migratory Bird Management, LLC. of change in ownership/agent.

Upon termination of this Agreement, Migratory Bird Management, LLC. will provide Purchaser with a detailed accounting of all accrued benefits to the Property. Full and final payment to Migratory Bird Management, LLC. for all labor, work and services performed in connection with the work including a pro rata adjustment of all prepaid work/invoices or incomplete work, will be due within 30 days of termination notice.

Note: This proposal may be withdrawn if not accepted within 15 days.


 Migratory Bird Management, Inc.
 By: Susan Hagberg
 Its: President


 Migratory Bird Management, Inc.
 By: Michael Michalski - (414) 336-2382
 Its: Branch Manager

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: _____

 Authorized Signature (Title)

(PRINT NAME & TITLE)

MEMORANDUM

Business Item C

From: Administrator/Staff

To: Town Board

Re: Town Board review & consideration of payment of Invoice 2038939 from KerberRose S.C. in the amount of \$10,250.00 for progress billing for audit of the year ending December 31, 2024.

The Town has retained KerberRose S.C. for the 2024 audit. The Administrator has reviewed the invoice and recommends approval of payment.

SUGGESTED MOTION

Motion to approve payment of Invoice 2038939 in the amount of \$10,250.00 to KerberRose.

If you have any questions about this information, please call or e-mail me.

Respectfully Submitted
Kelsey

KerberRose S.C.**Certified Public Accountants**

487 Riverwood Lane

Green Bay, WI 54313

Town of Clayton
 8348 Cty Rd T
 Larsen, WI 54947

Invoice No. 2038939

Date: 01/31/2025

Client No. 0775698520

Progress billing for audit of the year ended December 31, 2024

\$10,250.00

Current Amount Due	\$10,250.00
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Prior Balance	\$0.00
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Total Amount Due	\$10,250.00
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Visit www.kerberrose.com/pay-online/ to make an online payment.

Due to increasing Credit Card fees, a 3% convenience fee will be added to Credit Card Payments. No fees for ACH transactions.

TERMS: DUE UPON RECEIPT; INVOICES 30 DAYS PAST DUE WILL RECEIVE A LATE CHARGE OF 1%