



BOARD OF SUPERVISORS MEETING

Wednesday, February 21, 2024 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 7, 2024 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 2024 Winnebago County Tonnage Report
- B. Distribution of a Memo from the Wisconsin US Attorneys concerning Threats to Election Workers & Administrators
- C. Distribution of the Municipal Law Newsletter form BoardmanClerk received February 13, 2024

DISCUSSION ITEMS (NO ACTION WILL BE TAKEN)

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

BUSINESS REFERRED BY THE PLAN COMMISSION

- A. Plan Commission Recommendation: Motion to postpone a Conditional Use Application submitted by Kunes Appleton Properties LLC for a proposed addition to the existing heavy vehicle sales and rental principal building located at 2615 West American Drive, specifically described as Tax ID #006-0341-01.
- B. Plan Commission Recommendation: Motion to postpone a Site Plan Application submitted by Kunes Appleton Properties LLC for a proposed addition to the

existing heavy vehicle sales and rental principal building located at 2615 West American Drive, specifically described as Tax ID #006-0341-01.

- C. Plan Commission Discussion: Plan Commission review & discussion on a Concept Plan Review Application submitted by Scott Andersen on behalf of the Arden & June Schroeder Joint Revocable Trust, for a proposed Certified Survey Map (CSM) dividing/reconfiguring Tax ID #006-0035, Tax ID #0036-0033 (9457 State Rd 76), and Tax ID #006-1204-01 into two lots with a proposed road extension of Memory Lane.

BUSINESS

- A. Discussion/Action: Town Board review & consideration of approving the CY 2024 farm leases for the following Town-owned properties:
 - Leslie Ory: Tax ID #006-0391-05; Total of 7.11 acres
 - Mall View Farms LLC: Tax ID #s 006-0339-06; 006-0339-07; 006-0344; 006-0345; Total of 22.51 acres
 - Van De Loo Farms LLC: Tax ID #006-0319-04-02; Total of 1.75 acres
 - Daniel Seelow: Tax ID #006-0328-01; Total of 22.37 acres
- B. Discussion/Action: Town Board review & consideration of changes to the Town of Clayton Yard Waste Site operations.
- C. Discussion/Action: Town Board review & consideration of Resolution 2024-001 Authorizing Appointment of Agent - Nicholas Blythe KBN LLC, DBA Willie Beamons

REVIEW OF DISBURSEMENTS

- A. Check Summary Register

UPCOMING MEETING ATTENDANCE

- A. Town Board (6:30 pm start unless otherwise noted) - March 6 & 20; Apr 3 & 17; May 1 & 15
- B. Plan Commission (6:30 pm start unless otherwise noted) - March 13; Apr 10; May 8
- C. Annual Town Meeting - April 16
- D. Annual Reorganizational Meeting - April 17

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 MEETING

Wednesday, February 07, 2024 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 6:31 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
 Treasurer Fietzer
 Attorney LaFrombois - arrived 6:35 pm

APPROVAL OF MINUTES

- A. Approval of the Minutes of the Wednesday, January 17, 2024 Town Board Meeting

MOTION

Motion made by unanimous consent to approve the Wednesday, January 17, 2024 Town Board Meeting Minutes.

Motion carried by unanimous voice vote.

OPEN FORUM – TOWN RELATED MATTERS NOT ON THE AGENDA

Eugene Reeser, 2622 Oakcrest Dr, Neenah, WI - shared concerns with refuse piling up on neighboring property & road shoulder damage during this snowplowing season.

CORRESPONDENCE

- A. Distribution of the 2023 Annual Building Inspection Report
- B. Distribution of the January 2024 Building Inspection Report
- C. Distribution of an invitation to a Superintendent Search Focus Group for the Neenah Joint School District

- D. Distribution of the Northeast Wisconsin Stormwater Consortium (NEWSC) 2023 Annual Report
- E. Distribution of the meeting materials for the February 7, 2024 Fox West Regional Sewerage Commission Meeting

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

BUSINESS

- A. Discussion/Action: Town Board review & consideration of hiring Ron Kohler for a Public Works Laborer position at a wage of \$23.20 per hour with a start date of February 12, 2024.

MOTION

Motion made by unanimous consent to approve hiring Ron Kohler for an open Public Works Laborer position at a wage of \$23.20 per hour and start date of February 12, 2024.

Motion carried by unanimous voice vote.

- B. Discussion/Action: Town Board review & consideration of hiring Meghan Lederhaus for the Janitorial Position for the Town Hall & Park Facilities at a wage of \$18.03 per hour with a start date of February 1, 2024.

MOTION

Motion made by unanimous consent to approve hiring Meghan Lederhaus for the open Janitorial position at a wage of \$18.03 per hour and start date of February 1, 2024.

Motion carried by unanimous voice vote.

- C. Discussion/Action: Town Board review & consideration of retaining KerberRose to perform the Town's 2023 audit at a quoted cost of \$25,000.00.

MOTION

Motion made by unanimous consent to approve retaining KerberRose to perform the 2023 audit at their quoted cost of \$25,000.00 and direct Staff to execute the contract.

Motion carried by unanimous voice vote.

UPCOMING MEETING ATTENDANCE

- A. Town Board (6:30 pm start unless otherwise noted) - Feb 21; March 6 & 20; Apr 3 & 17

- B. Plan Commission (6:30 pm start unless otherwise noted) - Feb 14; March 13; Apr 10

BOARD MEMBER REQUESTS FOR FUTURE AGENDA ITEMS

ADJOURNMENT

MOTION

Motion made by unanimous consent to adjourn at 6:50 pm.

Motion carried by unanimous voice vote.

Respectfully submitted,

Kelsey Faust-Kubale
Town Clerk

JOHN M. RABE, P.E.
Director

www.winnebago-county-solid-waste.com
solidwaste@winnebago-county-wi.gov



LANDFILL/ADMINISTRATIVE
100 W. COUNTY RD. Y
OSHKOSH, WI 54901

PHONE (920) 232-1800
FAX (920) 424-1189

Item A.

Winnebago County

Solid Waste Management Board

The Wave of the Future

DATE: February 12, 2024

TO: Contracted Responsible Units

FROM: Kelly Reyer – Education & Outreach Specialist KR
kreyer@winnebago-county-wi.gov
920-232-1802

RE: February 2024 Signing Municipality Update & Monthly Scale Reports

John Rabe, Director of Solid Waste, Retires – John Rabe, a fixture of the Solid Waste Department for many years, submitted retirement papers in early January 2024 and worked his official last day on February 2, 2024. Mike Elder, Director of Facilities & Property Management, will serve as Acting Director of Solid Waste as the County Executive's Office works on filling the vacancy. Mike may be reached via email melder@winnebago-county-wi.gov or telephone 920-236-4790. Responsibilities of the remaining Solid Waste Staff have not changed so feel free to reach out to your regular contacts as needed. We wish John well in his retirement years! *Submitted by K. Hutter, Operations Manager*

Holiday String Light Recycling was a HUGE SUCCESS! – For the third season, we coordinated the Holiday String Light Recycling Program in Winnebago County. In total, 1,989 pounds of lights were collected from 11 Winnebago County communities during the 2023-24 season! This is more than double the amount (in pounds) collected during the last season.

Outreach & Education Updates – We had an interview and educational booth at the February 1st Wisconsin HERD "Go Green" basketball game. We used this opportunity to showcase our updated outreach materials, including our new "Recycling is a Slam Dunk" basketball hoop. Attendees learned about recycling right with this interactive outreach tool. There were several informational handouts provided to attendees including Household Hazardous Waste, Winnebago County Recycling Guide, and Waste Wizard/Betterbin QR code cards.

Our social media content is doing well, with an overall organic reach of 11,546 for the month of January. We have created a February Paper Series of social media posts that are shared every Thursday this month and educate on the recyclability of five different paper products (receipts, tissue paper, egg cartons, drink carriers, and pizza boxes). We have also been sharing "Did you Know" recycling facts on Mondays, and (recycling) Pop Quiz posts every Wednesday.

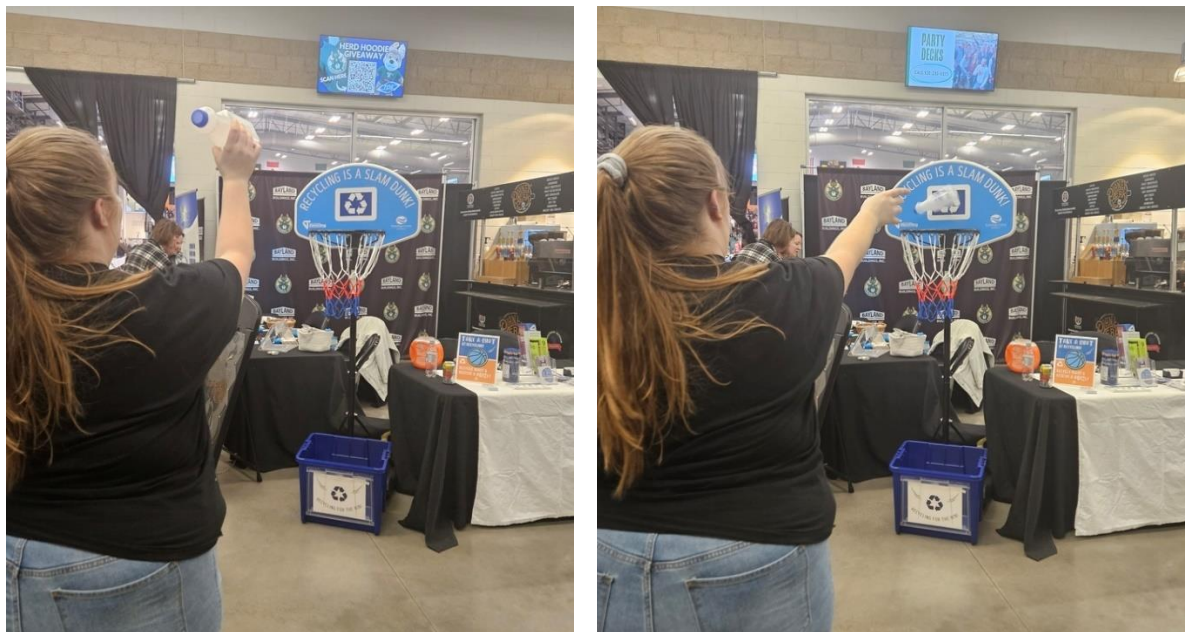
Working in partnership with Outagamie County Solid Waste & Recycling, we are excited to offer our first Recycle Right Master Class of 2024. This Recycling 101 class will take place on Wednesday, March 6th starting at 5:30 p.m. in the Shattuck Community Room at the Neenah Public Library. There is no cost to participate.

Legislative Action & Funding for Rechargeable Battery Disposal – As mentioned in last month's Program Update, Wisconsin Council on Recycling's request for legislation to address rechargeable battery disposal and battery fires in the waste industry has received favorable response from our State Legislators. **2023 Assembly Bill 987** and partner **2023 Senate Bill 906** - An Act to amend 20.370 (4) (hq) and 287.21 (intro.); and to create 287.25 of the statutes; Relating to: education about rechargeable batteries and providing grants for collecting and recycling rechargeable batteries. (FE) were introduced in late-January, 2024.

First, this act requests increased funding for WDNR to improve education/outreach for proper disposal/recycling of rechargeable batteries. Second, the act requests the funding and means to create a grant program for municipalities, businesses or non-profits to properly collect and transport rechargeable batteries to recycling sites. Third, the grant funding request also includes a provision for fire suppression/fire detection system updates at solid waste/recycling facilities. Bill details and updates can be found at: <https://docs.legis.wisconsin.gov/2023/proposals/ab987> and <https://docs.legis.wisconsin.gov/2023/proposals/REG/SB906>

The legislation is supported by Solid Waste Association of North America (SWANA) and Associated Recyclers of Wisconsin (AROW) and we anticipate many other industry organizations, municipalities and businesses will support it. While we work on a response and letters of support from our Brown, Outagamie and Winnebago County Solid Waste Department governing committees and boards, we encourage you to familiarize yourself with this upcoming legislation and support it. We feel this will help overcome some of the barriers to effective end-of-life management for rechargeable batteries. *Submitted by K. Hutter, Operations Manager*

SAVE-THE-DATE: MRF Open House & Meet the Robots event scheduled for March 20th at 11:30 a.m. More details to come.



Photos from the 2.1.24 Wisconsin HERD "Go Green" Night in Oshkosh

**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	
T. Algoma	48.78												48.78	T. Algoma
T. Black Wolf	16.36												16.36	T. Black Wolf
T. Clayton	41.50												41.50	T. Clayton
V. Fox Crossing	118.23												118.23	V. Fox Crossing
T. Neenah	28.08												28.08	T. Neenah
T. Nekimi	9.23												9.23	T. Nekimi
T. Omro	12.75												12.75	T. Omro
T. Vinland	17.76												17.76	T. Vinland
T. Winchester	12.58												12.58	T. Winchester
T. Winneconne	17.27												17.27	T. Winneconne
T. Wolf River	9.05												9.05	T. Wolf River
V. Winneconne	13.28												13.28	V. Winneconne
C. Menasha	136.60												136.60	C. Menasha
C. Neenah	182.85												182.85	C. Neenah
C. Omro	12.75												12.75	C. Omro
C. Oshkosh	337.77												337.77	C. Oshkosh
Other SS	257.02												257.02	Other SS
TOTAL TONS	1271.86												1271.86	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	14.06	T. Omro	2,375	10.74	C. Menasha	18,576	14.71
T. Black Wolf	2,422	13.51	T. Vinland	1,757	20.22	C. Neenah	27,560	13.27
T. Clayton	4,394	18.89	T. Winchester	1,784	14.10	C. Omro	3,629	7.03
V. Fox Crossing	19,113	12.37	T. Winneconne	2,637	13.10	C. Oshkosh	66,986	10.08
T. Neenah	3,669	15.31	T. Wolf River	1,210	14.96			
T. Nekimi	1,325	13.93	V. Winneconne	2,519	10.54	Total	166895	12.16

From: Scott Rieckmann, Fire Chief, Town of Clayton <FireChief@CLAYTONWINNEBAGOWI.GOV>
Sent: Wednesday, February 14, 2024 6:12 AM
To: Kelly Wisnefske, Administrator, Town of Clayton <administrator@CLAYTONWINNEBAGOWI.GOV>
Subject: FW: Threats to Election Workers & Administrators

FYI

Scott Rieckmann
 Director of Public Safety
 Town of Clayton
 920-836-2170 office
 920-594-3070 cell

Starting November 20,2023 my email will be changing from firechief@townofclayton.net to firechief@claytonwinnebagowi.gov. Please update your address book so messages sent to the new address are not blocked.

NOTE: E-mail correspondence to/from this e-mail address may be subject to the Open Records Law and may be disclosed to outside parties.

CONFIDENTIALITY NOTICE: The information contained in this communication may be confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, or any of its contents, is strictly prohibited. If you have received this communication in error, please return it to the sender immediately and delete the original message and any copy of it from your computer system

“Prevent, Respond and Minimize the harm to the people we serve”

From: Jensen, Aaron (USAWIW) <Aaron.Jensen@usdoj.gov>
Sent: Tuesday, February 13, 2024 3:24 PM
To: Jensen, Aaron (USAWIW) <Aaron.Jensen@usdoj.gov>
Cc: Caballero, Steven (USAWIE) <Steven.Caballero@usdoj.gov>
Subject: Threats to Election Workers & Administrators

A message from Wisconsin’s U.S. Attorneys Concerning Threats to Election Workers & Administrators

Wisconsin Police Chiefs, Sheriffs, District Attorneys, Election Administrators, and Election Workers:

Wisconsin is justifiably proud of our long history of fair elections. Fair Wisconsin elections happen year in and year out because of the dedication of Clerks, Election Officials, and Poll Workers. From Port Wing to Beloit, from Prescott to Kewaunee, Wisconsin election administrators and poll workers make democracy happen. In no small way, we owe our gratitude and our democracy to election administrators and poll workers.

Unfortunately, recent years have seen an uptick in threats against public servants in law enforcement, the judiciary, education, elections, and public health. The possibility of threats and harassment against election staff is a grave concern this election

cycle. Plainly put, it is cowardly and undemocratic to harass or threaten election administrators and poll workers.

Typically, threats cases are first reported to local law enforcement and prosecuted by our colleagues in District Attorneys' offices. However, as in other areas where federal and local law enforcement partners successfully work together – with regard to drugs, guns, child exploitation, violent crimes, computer crimes, financial offenses, human trafficking and more – it may be appropriate to hold the person accountable in federal court. Where, for example, the person communicates a serious threat in interstate commerce, crosses state lines to threaten a Wisconsin citizen, or where the case is more feasibly investigated using federal law enforcement resources or the grand jury.

As always, if such a situation were to arise, we would seek to jointly assess the matter with our federal, state, and local partners, discuss the charging options, and make a decision together. For example, that process resulted in a May 2022 guilty plea in the Eastern District of Wisconsin of a Georgia man who sent interstate threats to kill the Kenosha County Sheriff, Kenosha Police Chief, and City of Kenosha Mayor. See *U.S. v. Cao*, Case No. 21-CR-186 (E.D. Wis.). With that usual process in mind, please see attached a chart describing some state and federal options in threat cases.

Please call with questions or concerns regarding such cases or if we can be of assistance in any other matter.

Timothy M. O'Shea, U.S. Attorney
Western District of Wisconsin U.S. Attorney's Office
District Elections Officers: Chadwick Elgersma and Barbara Oswald
Madison, Wisconsin (608) 264-5158

Gregory Haanstad, U.S. Attorney
Eastern District of Wisconsin U.S. Attorney's Office
District Elections Officers: Christopher J. Ladwig and Philip T. Kovoor
Milwaukee, Wisconsin (414) 297-1700

FBI Milwaukee Field Office, 414-276-4684

United States Department of Justice

*United States Attorney's Office for the Western
District of Wisconsin*

*United States Attorney's Office for the Eastern
District of Wisconsin*



To: Wisconsin Law Enforcement Partners, Election Officers, and Election Administrators

Nationwide, there has been a sharp uptick in threats against law enforcement, judges, election officials, and other public servants. If your community is confronted with a situation that escalates from spirited debate and legitimate exercise of free speech into possible threats of violence, harassment, or intimidation, this guide to federal and state crimes involving threats may be of assistance.

No one should be targeted because of who they are or what they believe. When hateful words become hateful acts, the Wisconsin U.S. Attorney's Offices will use every tool at hand to protect the public and secure justice.

I. Offenses under Federal Law

Offense	Description
Threats by Interstate Communications 18 U.S.C. § 875(c)	This statute makes it unlawful to transmit in interstate commerce any communication containing a threat to injure another person. The sender must have intended or known that the communication would be viewed as a threat. Threats sent over social media or via email could fall under this statute.
Threats by Mail 18 U.S.C. § 876(c)	This statute makes it unlawful to use the U.S. mail to transmit a threat to injure another person. The sender must have intended or known that the communication would be viewed as a threat.
Interstate Stalking 18 U.S.C. § 2261A(1)	This statute makes it unlawful to travel in interstate commerce with intent to kill, injure, or harass another person. The course or result of such travel must have caused substantial emotional distress or placed a person in reasonable fear that the person, an immediate family member, spouse, or intimate partner would be killed or suffer serious bodily injury.
Cyberstalking 18 U.S.C. § 2261A(2)	This statute makes it unlawful to use the mail, an interactive computer service, or other facility of interstate or foreign commerce to engage in a course of conduct that: (1) places a person in reasonable fear of death or serious bodily injury to that person, an immediate family member, a spouse / intimate partner, or that person's animal; or (2) causes, attempts to cause,

	or would be reasonably expected to cause substantial emotional distress to that person, an immediate family member, or a spouse or intimate partner. The statute requires a showing that the offender acted with the intent to kill, injure, harass, or intimidate.
Interfering with Voting Rights 18 U.S.C. §§ 594 and 245(b)(1); and 52 U.S.C. §20511(1)	Several federal statutes make it unlawful to intimidate, threaten, coerce, or use force against a person to interfere with that person’s right to vote, register to vote, or act as an election worker or poll watcher.

II. Offenses under Wisconsin Law

Offense	Description
“True Threat” in Wisconsin	‘True threat’ means that a reasonable person making the threat would foresee that a reasonable person would interpret the threat as a serious expression of intent to do harm. It is not necessary that the person making the threat have the ability to carry out the threat. You must consider all the circumstances in determining whether a threat is a true threat. WI JI-Criminal 1238, 1240B, 1240D, 1241B, 1242, 1244, as examples, citing to State v. Perkins, supra, 2001 WI 46, ¶ 28-29
Disorderly Conduct § 947.01	This statute makes it unlawful to engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct under circumstances in which the conduct tends to cause or provoke a disturbance.
Unlawful Telephone Use § 947.012	This statute makes it unlawful to use a telephone: <ul style="list-style-type: none"> • With intent to frighten, intimidate, threaten, abuse, or harass, calls and threatens to inflict injury or harm on a person or property • Uses obscene, lewd, or profane language with intent to frighten, intimidate, threaten or abuse or suggest any lewd or lascivious act or • Calls another or causes another’s telephone to repeatedly ring with intent to harass anyone at the called number
Unlawful Computer/Computerized Communication System	This statute makes it unlawful to use a computer or computerized communication system:

<p>Use § 947.012</p>	<ul style="list-style-type: none"> • With intent to frighten, intimidate, threaten, abuse, or harass, emails or sends any other electronic communication and threatens to inflict injury or harm on a person or property or • Uses obscene, lewd, or profane language in an email or other electronic communication with intent to frighten, intimidate, threaten or abuse or suggest any lewd or lascivious act
<p>Harassment § 947.013</p>	<p>This statute makes it unlawful to do the following with intent to harass or intimidate:</p> <ul style="list-style-type: none"> • Strike, shove, kick, or otherwise subject another person to physical contact or attempt or threaten to do so or • Engage in a course of conduct or repeatedly commit acts which harass or intimidate another person and which serve no legitimate purpose. <p>The penalties for harassment increase if the act is accompanied by a credible threat that places the victim in reasonable fear of death or great bodily harm or if the actor is violating a court order or injunction limiting contact with the victim.</p>
<p>Terroristic Threats § 947.019</p>	<p>This statute makes it a felony to threaten to cause the death of or bodily harm to any person or to damage any person's property under any of the following circumstances:</p> <ul style="list-style-type: none"> • The actor intends to prevent the occupation of or cause the evacuation of a building, dwelling, school premises, vehicle, facility of public transportation, or place of public assembly or any room within a building, dwelling, or school premises; • The actor intends to cause public inconvenience; • The actor intends to cause public panic or fear; • The actor intends an interruption or impairment of governmental services; or • The actor creates an unreasonable and substantial risk of causing a result described above and is aware of that risk.
<p>Threats to Injure §943.32(4)</p>	<p>The statute makes it a felony for a person either verbally or in any written or printed communication to maliciously threaten to commit or commit any injury to the person, property, calling or profession of the person where, if the person is a public official in an attempt to influence the official action of any public official. All the people the subject of this notice are public officials as defined in Wis.</p>

	Stat. §939.22(30).
Bomb Scare §947.015	“Bomb Scares,” makes it a crime to convey a threat to destroy property with an explosive.
Stalking §940.32	<p>Stalking, §940.32(2), has three elements:</p> <p>(a) The actor intentionally engages in a course of conduct, defined below, directed at a specific person*, that would cause a reasonable person under the same circumstance as that specific person, to fear bodily injury or death to themselves or a member of their family or household, or to suffer serious emotional distress, that is, (940.32(1)(d)) feel terrified, intimidated, threatened, harassed or tormented, and</p> <p>(b) The actor knows or should know that at least one of the acts that constitute the course of conduct, which requires two or more acts, will cause the specific person to suffer serious emotional distress or fear bodily injury or death to themselves or a member of their family or household, and</p> <p>*in other words, a business, an organization, agency, or office cannot be stalked</p> <p>(c) The actor’s act, NOT the course of conduct necessarily but the actor’s act, (or acts) causes the specific person to suffer serious emotional distress or to fear bodily injury or death to themselves or a member of their family or household.</p> <p>The Stalking statute is a threats statute even though, “. . . §940.32, Stats., does not require that the defendant threaten the victim,” State v. Sveum, 220 Wis. 2d 396, 412 (1998), so long as the defendant’s acts, whether or not included in the course of conduct, cause the victim to fear bodily injury or death to themselves or a member of their family or household, or to feel terrified, intimidated, threatened, harassed or tormented.</p> <p>§ 940.32(1)(a): Course of Conduct means 2 or more acts carried out over time, however short or long, that show a continuity of purpose, including (and therefore not limited to):</p>

1. Maintaining a visual or physical proximity to the victim;
2. Approaching or confronting the victim;
3. Appearing at the victim's workplace or contacting the victim's employer or coworkers;
4. Appearing at the victim's home or contacting the victim's neighbors;
5. Entering property owned, leased or occupied by the victim;
6. Contacting the victim by telephone, text message, electronic message, electronic mail, or other means of electronic communication or causing the victim's telephone or electronic device or any other person's telephone or electronic device to ring or generate notifications repeatedly or continuously, regardless of whether a conversation ensues;
 - 6m. Photographing, videotaping, audiotaping, or, through any other electronic means, monitoring or recording the activities of the victim;
7. Sending to the victim any physical or electronic material or contacting the victim by any means including any message, comment, or other content posted on any Internet site or web application;
 - 7m. Sending to a member of the victim's family or household, or any current or former employer of the victim, or any current or former coworker of the victim, or any friend of the victim any physical or electronic material or contacting such person by any means, including any message, comment, or other content posted on any Internet site or web application for the purpose of obtaining information about, disseminating information about, or communicating with the victim;
8. Placing an object on or delivering an object to property owned, leased or occupied by the victim;
9. Delivering an object to a member of the victim's family, or household, or an employer, coworker, or friend of the victim or placing an object on, or delivering an object to, property owned, leased or occupied by such a person with the intent that the object be delivered to the victim;
10. Causing a person to engage in any of the acts described in subds. 1. to 9. (i.e., the mail carrier, for instance)

Any two or more, or two or more of any, of the potential courses of conduct listed above, if they have the effect on

	the victim of causing fear of injury or death or causing severe emotional distress, and the defendant knows or should know that would happen from at least one of the behaviors, and a reasonable person under the circumstances would be similarly affected, then that is stalking.
Battery: Special Circumstances 940.20(5)(b)	Whoever intentionally causes bodily harm to a technical college district or school district officer or employee acting in that capacity, and the person knows or has reason to know that the victim is a technical college district or school district officer or employee, without the consent of the person so injured, is guilty of a Class I felony.

Contacts

If you have questions about whether a situation brought to your department's attention may involve a possible criminal offense, in addition to your local district attorney's office, you should feel free to contact any of the following entities as applicable:

FBI: (414) 276-4684

U.S. Attorney's Office for the Eastern District of Wisconsin: (414) 297-1700

U.S. Attorney's Office for the Western District of Wisconsin: (608) 264-5158

Municipal Law Newsletter

VOLUME 30, ISSUE 1 JANUARY/FEBRUARY 2024

In this issue

- *On Tap - Changes to Wis. Stat. Ch. 125 (Alcohol Beverage) Under 2023 Wisconsin Act 73*
- *EV Charging Bill Would Restrict Local Governments From Owning and Operating Charging Stations*
- *Julia K. Potter Named Partner*
- *Municipal Airports Must Comply With New Law Requiring Improvements Owned by Private Citizens on Tax Exempt Land*

On Tap - Changes to Wis. Stat. Ch. 125 (Alcohol Beverage) Under 2023 Wisconsin Act 73

2023 Wisconsin Act 73 ushers in significant changes to the regulation of alcohol beverages. While the Act addresses many facets of Wisconsin's Alcohol Beverages Law, Wis. Stat. ch. 125, municipalities should be aware of the changes discussed below.¹

Effective December 8, 2023

The Act reorganized state agency enforcement by creating the Division of Alcoholic Beverages (DAB) as a new subunit of the Department of Revenue (DOR).² All of DOR's regulation and enforcement authority over the manufacture, distribution, and retail sale of alcohol beverages was transferred to DAB on December 8, 2023. Within DAB there will be two separate bureaus—one for enforcement and another for legal services, permitting, and reporting.

Effective May 1, 2024

The Act increases the amount of time under Wis. Stat. § 125.04(3)(h) an applicant has to notify a licensing authority of any changed fact set out in an application from 10 days to 30 days. Under the Act, a changed fact includes any change in restricted investors under Wis. Stat. § 125.20(6)(a)5.

The Act broadens the definition of malt beverages (beer) to include any beverage recognized by the Federal Department of the Treasury as beer under 27 CFR part 25, except sake or similar products. This means gluten-free beer and hard seltzers, which were previously considered intoxicating liquor under Wisconsin law, will now be considered malt beverages.

The Act expands the ability of producers (brewers, wineries, manufacturers, and rectifiers) to make retail sales on the production premises. While the prior law allowed producers to engage in limited retail sales with varying requirements based on the type of producer, the Act creates a more uniform standard for retail sales applicable to all types of producers. Under the Act, any type of producer may sell their alcohol beverages from the production premises. The Act allows a producer to make retail sales of alcohol beverages that it manufactured on its premises or on other premises of the producer, for consumption on or off premises. A producer that meets specified production thresholds also may engage in full-service retail sales from the producer's premises.³ The Act defines "full-service retail sales" as the sale of beer or liquor, for on-premises or off-premises consumption, and the provision of taste samples of beer or liquor. Because the Act allows certain producers to engage in full-service retail sales, it eliminates the option for a producer to also hold a retail license.

Read us online at:

BOARDMANCLARK.COM/PUBLICATIONS

On Tap

Continued from front page

The Act allows producers to establish full-service retail outlets dependent on the producer's maximum production in any of the three previous calendar years. Producers that meet specified production thresholds may establish between one and three full-service retail outlets and make full-service retail sales from those premises.⁴ A producer must obtain the approval of both the municipality in which the full-service retail outlet is located and DAB. Municipal approval must be based on the same standards and criteria that the municipality established by ordinance for the evaluation and approval of retail license applications. Municipalities may not impose requirements or restrictions on producers that it does not impose on retail licenses. Municipalities may limit the scope of alcohol beverages that the producer may offer for sale at the outlet, but only with respect to alcohol beverages that are not the same type as those produced by the producer.

The Act also allows producers to operate a restaurant on its premises and at any full-service retail outlet operated by the producer.

The Act establishes more uniform closing hours for retailers and producers by subjecting producers to the same closing hours that apply to a Class 'B' beer retailer in the municipality where the producer's premises or off-site retail location is located. Outside of these hours, producers are prohibited from selling alcohol beverages at retail for on-premises or off-premises consumption, providing taste samples, or allowing any member of the public or invited guest to be on the premises of the producer.

The Act changes the requirements to transfer a "Class B" liquor retail license from one municipality to another that has already met its quota for "Class B" licenses under Wis. Stat. § 125.51(4). Under the previous law, up to three "Class B" liquor retail licenses could be transferred from one municipality to a neighboring municipality that is contiguous or located within two miles. Under the Act, the requesting municipality and the transferring municipality need only be located in whole or in part in the same county.

Under the Act, "Class C" wine-only retail licenses are no longer required to be issued to a restaurant the sale of alcohol beverages accounts for less than 50% of gross receipts. The Act also allows a "Class C" wine-only retail license to be issued to a foreign corporation or LLC.

The Act allows a "Class B" liquor retailer to prepare, store, and dispense mixed drinks containing intoxicating liquor in advance of sale for consumption on premises or as a to go cocktail if all the following applies:

- Provided to the consumer in glass or container not exceeding 72 ounces.
- Not stored more than 48 hours prior to sale to the consumer.
- If stored or dispensed from a container exceeding 1.75 liters, the container does not exceed 5 gallons and complies with certain labeling requirements, including ingredients of the batch and expiration date.

- Liquor purchased only from a liquor wholesaler.
- Not stored or dispensed from a wine bottle and no refilling of original containers with alcohol.
- Compliance with any other applicable state or federal food safety regulation and federal alcohol regulation.

Under the Act, axe throwing facilities are excluded from the "other business" restrictions and underage persons on premises restrictions. The Act defines "axe throwing facility" to mean "an establishment that provides customers with a venue to engage in the activity of axe throwing and that either derives at least 51 % of its revenue from fees associated with axe throwing or maintains at the venue at least five axe throwing lanes."

Effective January 1, 2025

The Act creates a new operator's permit that is similar to an operator's license but is issued by DAB rather than a municipality. Unlike an operator's license, the new operator's permit is valid in all Wisconsin municipalities. DAB must issue an operator's permit to applicants who meet the same qualifications applicable to operator's licenses under Wis. Stat. § 125.04(5). DAB still needs to determine whether the operator's permit is valid for one or two years and what the permit fee will be.

Effective January 1, 2026

The Act contains significant changes to the requirements for the consumption of alcohol at public places and private events. While the previous law generally prohibited an owner, lessee, or person in charge of a public place from permitting the consumption of alcohol beverages on the property of the public place without an appropriate retail license or permit,⁵ the law did not define "public place." Under the Act, an owner, lessee, or person in charge of a "public place" is prohibited from allowing the consumption of alcohol beverages on the property, unless the person has the appropriate retail license or permit, or a newly created no-sale event venue permit. Under the Act, a "public place" now includes event venues such as wedding barns, as the Act defines a "public place" to include a venue, location, open space, room, or establishment that is any of the following:

- Accessible and available to the public to rent for an event or social gathering;
- Held out for rent to the public for an event or social gathering; or
- Made available for rent to a member of the public for an event or social gathering.

Excluded from the definition of "public place" are rooms in a hotel/motel/bed and breakfast, short-term rentals with sufficient beds for all adult guests, campsites licensed by the Department of Agriculture, Trade, and Consumer Protection, tailgating for a professional or collegiate sporting event,

Continued on page

On Tap

Continued from page 2

and property within professional baseball park or local professional football stadium districts.

The Act creates a new “no sale event venue permit” to be issued by DAB. A “no-sale event venue permit” authorizes property owners to rent or lease property for use as an event venue where beer and wine are consumed up to six days per year and one day per month. A no-sale event venue permittee is authorized to:

- Allow a renter or lessee to bring their own beer and wine for service without charge.
- Allow guests of a renter or lessee to bring beer and wine for consumption without charge.
- Allow a renter or lessee to obtain temporary Class “B” and “Class B” licenses for an event to sell beer and wine. If 20 or more people, service must be performed by a licensed/permitted bartender.
- Allow a renter or lessee to contract with a caterer that holds a Class “B” and “Class B” licenses to provide beer and wine.

No-sale event venue permittees are prohibited from selling alcohol beverages or from allowing a person to possess distilled spirits at the event venue when used by a renter or lessee.

The Act creates a limited exception to allow a municipality to issue a “Class B” liquor license above the quota imposed by Wis. Stat. § 125.51(4). Only an event venue certified by DAB as meeting the criteria to be considered a “qualifying event venue” may take advantage of this limited exception. A “qualifying event venue” is real property that is rented or leased for use as an event venue for private events, and in the prior 12-month period at least five events were held with at least 50 guests in attendance and the venue owner received at least \$20,000 in revenue from renting or leasing for these events. From January 1, 2026, to July 1, 2026, DAB must certify an owner of a “qualifying event venue” as eligible for the quota exception if all of the following apply:

- The venue has been in operation for the 12-month period immediately preceding the date of the application.
- The venue has not been a “Class B” liquor licensed premises in the preceding 12-month period immediately preceding the date of the application.
- The venue owner has not applied for a no-sale event venue permit.
- The venue owner provides documentation to DAB that the municipality in which the venue is located has reached its liquor license quota and is unable to issue a “Class B” liquor license to it.
- The venue owner provides documentation and DAB confirms the venue meets the definition of a qualifying event venue and has been in operation for the 12-month period immediately preceding the date of application.

- The venue owner provides notice to DAB by April 1, 2026, that the owner is applying for a “Class B” license and is not seeking a no-sale event venue permit.

A municipality may only issue an above-quota “Class B” liquor license under the quota exception if a license application is received by July 1, 2026. If an above quota “Class B” license is revoked or not renewed, a municipality may only reissue the license if all the following apply:

- The licensee sells or transfers ownership of the licensed premises or a business operated on the licensed premises.
- The license is surrendered or not renewed in connection with the sale or transfer of the property or business.
- The licensee continued to operate as a qualifying event venue as defined by the Act from the time of issuance until the time the license is surrendered or not renewed.
- The license is reissued for the same location.
- The applicant for reissuance of the license satisfies the requirements to hold the license.
- The applicant certifies to the municipality that the applicant will continue to operate the licensed premises as a qualifying event venue.

— Eric Hagen

¹ This article does not cover all the changes to Wis. Stat. ch. 125 under 2023 Wisconsin Act 73. Municipalities should check with their attorney for further information.

² See Wis. Stat. § 15.433(2).

³ For a brewer, at least 250 barrels of beer in any of the three preceding calendar years. For a manufacturer or rectifier, 1,500 liters of liquor. For a winery, 1,000 gallons of wine.

⁴ One outlet for a brewer that produced at least 250 barrels of beer in a year, a winery that produced at least 1,000 gallons of wine in a year, or a manufacturer or rectifier that produced at least 1,500 liters of liquor in a year. Two outlets for a brewer that produced between 2,500 – 7,500 barrels of beer in a year, a winery that produced between 5,000 and 25,000 gallons of wine in a year, or a manufacturer or rectifier that produced between 5,000 and 35,000 liters of liquor in a year. Three outlets for a brewer that produced more than 7,500 barrels of beer in a year, a winery that produced more than 25,000 gallons of wine in a year, or a manufacturer or rectifier that produced more than 35,000 liters of liquor in a year.

⁵ Under the previous law, this prohibition does not apply to municipalities, buildings and parks owned by counties, regularly established athletic fields and stadiums, school buildings, campuses of private colleges at the place and time of an event sponsored by the private college, churches, premises at State Fair Park, or clubs. This exception is retained by the Act but renumbered from Wis. Stat. § 125.09(1) to § 125.09(1)(d).

EV Charging Bill Would Restrict Local Governments From Owning and Operating Charging Stations

A bipartisan bill designed to unlock 78 million dollars in federal funds to support EV charging infrastructure has passed the Budget Committee unanimously. To obtain access to the funds, which were approved by the United States Department of Transportation in 2022, the legislature has until March 31st to approve and implement the legislation.

The proposed bill (LRB 2813/1) is primarily designed to exempt private businesses from being regulated by the State as public utilities by allowing owners of charging stations to sell electricity obtained from incumbent utilities on a dollar/kilowatt hour basis. To help defray the cost of road upkeep caused by the anticipated increase in electric vehicle usage, the proposed law would also impose a 3 cent per kilowatt hour excise tax on the electricity sold through charging stations (unless the charging station is located on a private residence).

A product of legislative compromise among a number of stakeholder groups, the proposed bill also includes a number of provisions designed to allow state agencies and local governments to participate in the EV infrastructure buildout, albeit with several important restrictions.

Specifically, the law would allow state agencies and local governments, including cities, towns, villages, counties, special purpose districts and school districts, to own and operate EV charging stations that utilize Level 1 and Level 2 chargers—if the electricity is made available to members of the public for free. Level 3 chargers may be utilized by state agencies and local governments only for their own fleets.

State agencies and local governments, however, would be allowed to lease or rent their property to private entities, who could then own and operate Level 3 chargers for sale.

A Level 1 charger converts alternating current (AC) to direct current (DC) and operates on electric circuits up to 120 volts; Level 2 chargers operate on circuits up to 240 volts. Level 3 chargers are the so-called DC “fast chargers.”

Under the proposed law, municipally-owned utilities would not be subject to the restrictions otherwise imposed on local governments. Like investor-owned utilities, municipal utilities would be permitted to charge customers for electricity from EV charging stations on a dollar/kWh basis under rates approved by the Wisconsin Public Service Commission. The only caveat being that the municipal utility may not transfer revenues from the charging stations to the municipality’s general fund and cannot subsidize the cost of the charging stations with tax revenue.

Although some legislators have expressed reservations about the excise tax and other aspects of the proposed law,

Continued on page 5

Julia K. Potter Named Partner

We are proud to announce that Attorney Julia K. Potter has been named partner. Julia, who has been with the firm for eight years, works primarily with the firm’s municipal and real estate practice groups.

“Julia is a gifted and hardworking attorney who’s passionate about working with our clients on a wide range of real estate, land use, business, energy, and municipal utility matters,” says Attorney Richard Heinemann, chair of the firm’s Municipal Law Practice Group. “We are thrilled to welcome her into the partnership.”

In her practice, Julia assists municipalities, businesses, and individuals with legal issues involving real estate, land use, and municipal law—from drafting and negotiating purchase and sale agreements, easements, leases, and declarations to assisting clients with development issues, right-of-way regulation, tax increment financing, telecommunications siting, zoning changes and variances, conditional use permits, and all manner of disputes regarding real estate.

Outside of the office, Julia sits on the City of Fitchburg Zoning Board of Appeals and is a member of the Rotary Club of Madison – After Hours. She also teaches a course at UW-Madison for law students and urban planning graduate students about the law of land use controls. Julia is a member of the State Bar of Wisconsin and the American, Dane County, and Sauk County Bar Associations, as well as the American Planning Association.

Julia has been recognized by several industry publications for her contributions to the legal field. She was named an “Up and Coming Lawyer” by the Wisconsin Law Journal in 2018, listed in Super Lawyers®: Rising Stars (2021-Present), and listed in Best Lawyers®: Ones to Watch (2021-Present) in the areas of municipal law and land use and zoning law. Julia received her J.D., summa cum laude, from the University of Michigan Law School and her B.A., magna cum laude, from Brown University.

Municipal Airports Must Comply With New Law Requiring Improvements Owned by Private Citizens on Tax Exempt Land

Many municipalities across the State of Wisconsin own municipal airports. Municipal airports can provide many benefits to a municipality and its residents, including creating jobs, providing recreation, and making the municipality an accessible and attractive place for economic development.

As a part of these benefits, municipalities often permit private individuals and businesses to own aircraft hangers at the airport for convenience. It is common practice that the municipality rents land to the private individual or business, who will then build a hanger. The building/improvements are then owned by the private individual or business, while the underlying land is owned by the municipality.

Up until this year, in the above situation, municipalities could tax the owners of the improvements as personal property.

In June of 2023, Wisconsin passed Wis. Stat. § 70.17(3), which requires manufactured and mobile homes, buildings, improvements, and fixtures on leased land, exempt land, or managed forest land to be assessed as real property. The new law applies to aircraft hangers owned by private individuals or businesses located in a municipal airport. Starting in 2024, the improvements (aircraft hangers) will be taxed as real property.

As a part of the new law, assessors must create separate tax parcels for the buildings, improvements, and fixtures and assess them as real property. The owner of the aircraft hanger will then receive a tax bill for the real property.

Many municipalities around the State have already or will have to go through this process, which is new to everyone. There has been some debate on what type of document is required to be executed and recorded to create these new tax parcels.

The Wisconsin Real Property Listers Association has come out with a proposed form titled "Building(s), Fixture(s), and/or Improvement(s) Document." Their document is drafted as a conveyance, where the municipality conveys the building, fixture, or improvement to the private individual or business. Because it is drafted as a conveyance, the document must be filed with a real estate transfer return, although will likely be exempt from a transfer fee. Depending on the number of privately owned hangers at an airport, the requirement to complete transfer returns for each hanger could be time-consuming.

Some municipalities have been successful in filing and recording a declaration or notice of ownership and being able to avoid the requirement to file a transfer return. The declaration or notice may be appropriate when the improvements are already owned by the private individual or business. However, this approach will be subject to the approval of the register of deeds in your county.

Any municipality that owns an airport must be proactive in creating these new tax parcels. Below is the text of the new law, Wis. Stat. § 70.17(3), for reference:

Beginning with the property tax assessments as of January 1, 2024, manufactured and mobile homes, not otherwise exempt from taxation under s. 66.0435 (3), buildings, improvements, and fixtures on leased lands, buildings, improvements, and fixtures on exempt lands, buildings, improvements, and fixtures on forest croplands, and buildings, improvements, and fixtures on managed forest lands shall be assessed as real property. If buildings, improvements, and fixtures, but not the underlying land, are leased to a person other than the landowner or if the buildings, improvements, and fixtures are owned by a person other than the landowner, the assessor may create a separate tax parcel for the buildings, improvements, and fixtures and assess the buildings, improvements, and fixtures as real property to the owner of the buildings, improvements, and fixtures. The assessor may also create a tax parcel, as provided under s. 70.27, for buildings, improvements, and fixtures on exempt lands, buildings, improvements, and fixtures on forest croplands, and buildings, improvements, and fixtures on managed forest lands and assess the buildings, improvements, and fixtures as real property to the owner of the buildings, improvements, and fixtures. For purposes of this subsection, "buildings, improvements, and fixtures" does not include any property defined in s. 70.04.

—*Maximillian J. Buckner*

EV Charging Bill Would Restrict Local Governments from Owning and Operating Charging Stations

Continued from page 4

Senate Majority Leader Devin LeMahieu has expressed support for the bill, while Assembly Speaker Robin Vos has indicated "openness" to the idea, but skepticism about using federal dollars to spur development of EV infrastructure. Wisconsin is one of only two states that has not thus far passed legislation to utilize the federal money.

—*Richard A. Heinemann*

Department of Public Safety

February 15th. 2024

DPS Report to Town Board

As of February 15th. 2024 the Dept. has been paged-out for 31 calls. Nineteen were EMR calls and nine were fire calls, and three that were both. This compares to 31 to date in 2023 and 25 in 2022

The rubber fan mount on the engine cooling fan of engine 43 has degraded to the point that if failed during our recent driver training. Fortunately, it did not damage anything. Apparently, this is a very common problem this vintage fire truck. Red Power Diesel Service said Pierce does not make a replacement rubber mount. Red Power gave us a quote to repair the fan with a pneumatic clutching system. The quote was over \$6,000.00. The members were able to have two rubber grommets custom made at Appleton Packing & Gasket for \$25.00. The members provided the labor to install the fan. The total cost of the repair is less than \$100.00. (Red Power said they can not manufacture a part like that because of liability.)

We have received a grant from the Larsen-Winchester Lions Club towards our Rescue Task Force gear. The gear has been purchased and delivered. Chief Rieckmann is working on setting up the specialized training needed to respond to a mass casualty incident in our area.

We are looking for rescue heroes to join our department. Your help in spreading the word is appreciated.

Please consider donating blood. The need is great and donors are in short supply.

Please contact me with questions or concerns,

Director Rieckmann

MEMORANDUM

Business Referred by Plan Commission

From: Administrator/Staff

To: Town Board

Re: Plan Commission Recommendation – to postpone a Conditional Use Application submitted by Kunes Appleton Properties LLC for a proposed addition to the existing heavy vehicle sales and rental principal building located at 2615 West American Drive, specifically described as Tax ID #006-0341-01.

The Plan Commission voted to postpone the Conditional Use Application until no later than August 31, 2024. The Applicants can submit revisions before that date if revised information/plans are available.

Staff recommends the Board take no action on this item, as the Plan Commission has voted to postpone to a later date.

Re: Plan Commission Recommendation – to postpone a Site Plan Application submitted by Kunes Appleton Properties LLC for a proposed addition to the existing heavy vehicle sales and rental principal building located at 2615 West American Drive, specifically described as Tax ID #006-0341-01.

The Plan Commission voted to postpone the Site Plan Application until no later than August 31, 2024. The Applicants can submit revisions before that date if revised information/plans are available.

Staff recommends the Board take no action on this item, as the Plan Commission has voted to postpone to a later date.

Re: Plan Commission review & discussion on a Concept Plan Review Application submitted by Scott Andersen on behalf of the Arden & June Schroeder Joint Revocable Trust, for a proposed Certified Survey Map (CSM) dividing/reconfiguring Tax ID #006-0035, Tax ID #0036-0033 (9457 State Rd 76), and Tax ID #006-1204-01 into two lots with a proposed road extension of Memory Lane.

DISCUSSION ITEM ONLY – NO ACTION TO BE TAKEN

Chair Knapinski is planning to attend the meeting to provide a summary of the Plan Commission actions and discussions on all 3 of the items referred by the Commission.

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

Respectfully Submitted,
Kelsey



PLAN COMMISSION

Wednesday, February 14, 2024 at 6:30 PM

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 Nemecek
 Commissioner Ketter
 Town Board Rep. Christianson

EXCUSED

Commissioner Dorow
 Commissioner Hopkins

STAFF

Administrator Wisnefske
 Clerk Faust-Kubale
 Code Administrator Kussow

PUBLIC HEARING(S) AND/OR PUBLIC INFORMATION MEETINGS

- A. Public Hearing on a Conditional Use Application submitted by Kunes Appleton Properties LLC for a proposed addition to the existing heavy vehicle sales and rental principal building located at 2615 West American Drive, specifically described as Tax ID #006-0341-01.

NO COMMENTS RECEIVED FROM PUBLIC - HEARING CLOSED AT 6:31 PM

APPROVAL OF MINUTES

- A. Approval of the Minutes of the Wednesday January 10, 2024 Plan Commission Meeting

MOTION

Motion made by Commissioner Haskell, **Seconded** by Commissioner Nemecek to approve the Minutes of the Wednesday, January 10, 2024 Plan Commission Meeting as presented.

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

Motion carried 5-0.

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

CORRESPONDENCE

- A. Distribution of the December 2023 Building Inspection Report
- B. Distribution of the 2023 Annual Building Inspection Report
- C. Distribution of the January 2024 Building Inspection Report

BUSINESS

- A. Review/Recommendation: Plan Commission review & recommendation on a Conditional Use Application submitted by Kunes Appleton Properties LLC for a proposed addition to the existing heavy vehicle sales and rental principal building located at 2615 West American Drive, specifically described as Tax ID #006-0341-01.

MOTION

Motion made by Commissioner Ketter, **Seconded** by Commissioner Nemecek to postpone the Conditional Use Application submitted by Kunes Appleton Properties LLC until no later than August 31, 2024 due to non-compliance with the minimum standards of the Town's Zoning Ordinance as outlined in the 9 Issues & Outstanding Items described in the submitted Staff Memo:

1. Gravel outdoor camper display area does not comply with the 2017 Site Plan Approval & the 25 ft. outdoor setback display area setback requirement per Sec. 9.08-291.
2. Applicant did not provide Winnebago County and Wisconsin Department of Natural Resources (DNR) stormwater management and erosion control permits/approvals.
3. Applicant did not provide Wisconsin Department of Natural Resources (DNR) approval for wetland disturbance/filling.
4. The proposed exterior wall materials do not comply with the requirements of Attachment C for the Tier 1 architectural design zone (i.e., "Acceptable Exterior Building Materials" shall cover at least 75% of all exterior wall surfaces of the proposed addition).
5. Applicant did not provide specifications identifying compliance with the Solar Reflective Index (SRI) requirement for roofing material.
6. New overhead doors are proposed facing street yards (i.e., USH 10 & West American Dr.).
7. Applicant did not submit a landscape plan; the existing landscaping does not comply with the 2017 Site Plan Approval; and the existing landscaping does not comply with Attachment E for the proposed building addition and expansion of the outdoor display/storage area.
8. The refuse/recycling area and screening in compliance with Section 9.08-209 was not identified on or provided with the submitted plans.
9. Applicant did not provide specifications verifying the proposed exterior lighting is certified by the International Dark Sky Association (IDA),

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

Motion carried 5-0.

- B. Review/Recommendation: Plan Commission review & recommendation on a Site Plan Application submitted by Kunes Appleton Properties LLC for a proposed addition to the existing heavy vehicle sales and rental principal building located at 2615 West American Drive, specifically described as Tax ID #006-0341-01.

MOTION

Motion made by Commissioner Haskell, **Seconded** by Commissioner Nemecek to postpone the Suite Plan Application submitted by Kunes Appleton Properties LLC until no later than August 31, 2024 due to non-compliance with the minimum standards of the Town's Zoning Ordinance as outlined in the 9 Issues & Outstanding Items described in the submitted Staff Memo:

1. Gravel outdoor camper display area does not comply with the 2017 Site Plan Approval & the 25 ft. outdoor setback display area setback requirement per Sec. 9.08-291.
2. Applicant did not provide Winnebago County and Wisconsin Department of Natural Resources (DNR) stormwater management and erosion control permits/approvals.
3. Applicant did not provide Wisconsin Department of Natural Resources (DNR) approval for wetland disturbance/filling.
4. The proposed exterior wall materials do not comply with the requirements of Attachment C for the Tier 1 architectural design zone (i.e., "Acceptable Exterior Building Materials" shall cover at least 75% of all exterior wall surfaces of the proposed addition).
5. Applicant did not provide specifications identifying compliance with the Solar Reflective Index (SRI) requirement for roofing material.
6. New overhead doors are proposed facing street yards (i.e., USH 10 & West American Dr.).
7. Applicant did not submit a landscape plan; the existing landscaping does not comply with the 2017 Site Plan Approval; and the existing landscaping does not comply with Attachment E for the proposed building addition and expansion of the outdoor display/storage area.
8. The refuse/recycling area and screening in compliance with Section 9.08-209 was not identified on or provided with the submitted plans.
9. Applicant did not provide specifications verifying the proposed exterior lighting is certified by the International Dark Sky Association (IDA),

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

Motion carried 5-0.

- C. Review/Discussion: Plan Commission review & discussion on a Concept Plan Review Application submitted by Scott Andersen on behalf of the Arden & June Schroeder Joint Revocable Trust, for a proposed Certified Survey Map (CSM) dividing/reconfiguring Tax ID #006-0035, Tax ID #0036-0033 (9457 State Rd 76), and Tax ID #006-1204-01 into two lots with a proposed road extension of Memory Lane.

DISCUSSION ITEM ONLY - NO ACTION TAKEN

UPCOMING MEETING ATTENDANCE

- A. Plan Commission (6:30 pm start unless otherwise noted) - March 13; Apr 10; May 8
- B. Town Board (6:30 pm start unless otherwise noted) - Feb 21; March 6 & 20; Apr 3 & 17

ADJOURNMENT

MOTION

Motion made by Commissioner Haskell, **Seconded** by Commissioner Nemecek to adjourn at 7:38 pm

Voting Yea: Chair Knapinski, Commissioner Haskell, Commissioner Nemecek, Commissioner Ketter, 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 & consideration of approving the CY 2024 farm leases for the following Town-owned properties:

- Leslie Ory: Tax ID #006-0391-05; Total of 7.11 acres
- Mall View Farms LLC: Tax ID #s 006-0339-06; 006-0339-07; 006-0344; 006-0345; Total of 22.51 acres
- Van De Loo Farms LLC: Tax ID #006-0319-04-02; Total of 1.75 acres
- Daniel Seelow: Tax ID #006-0328-01; Total of 22.37 acres

A sample of one of the leases is attached for the Board to review. The terms are the same for all the proposed leases. The list of farm leases as presented includes the Town owned lands including the property on the south frontage of US Hwy 10 between Clayton Avenue and STH 76. Staff is recommending that the Board approve the renewal of the leases at a price per acre of \$110.00.

Historic Lease Rates:

<u>2013-2015</u>	<u>2016-2021</u>	<u>2022</u>	<u>2023</u>
\$75.00/acre	\$90.00/acre	\$100.00/acre	\$110.00/acre

If the Board agrees, a motion to approve the leases would be in order.

SUGGESTED MOTION:

Motion to approve the renewal of the leases with Leslie Ory, Mall View Farms LLC, Van De Loo Farms, LLC, and Daniel Seelow as presented at a lease price of \$110.00 per acre.

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

Respectfully Submitted
Kelsey

TOWN OF CLAYTON
FARM LEASE AGREEMENT

1. NAMES OF PARTIES AND DESCRIPTION OF PROPERTY:

This Lease, made by and between the Town of Clayton, County of Winnebago, State of Wisconsin, a body politic and Municipal Corporation, by its Town Board of Supervisors, Town of Clayton, 8348 Hickory Ave, Larsen, WI 54947 (“Town”) and, Daniel P. Seelow, 3476 Shady Lane, Neenah, WI 54956 (“Tenant”); on this 1st day of January 2024. Under the terms and conditions that follow, the Town hereby leases to the Tenant approximately 37.4 acres of farm property to use for agricultural purposes. Said property is situated in the Town of Clayton, County of Winnebago, and specifically known as Tax ID # 006-0328-01 located in Section 12, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

2. TERM OF LEASE:

The term of this lease shall be from January 1st, 2024, to December 31st, 2024, and the Tenant shall surrender possession at the end of the term or at the end of any extension thereof. Extensions must be placed in writing on this lease, and both parties agree that failure to execute an extension at least 2 months before the end of the current term shall be constructive notice of intent to allow the lease to expire. Amendments and alterations to this lease may be made in writing in the space provided on the back of this form at any time by mutual agreement. In the event of failure to agree on a proposed alteration, the existing provisions of the lease shall control operations.

3. RENTAL RATES AND ARRANGEMENTS:

a. Option 1. Cash Rent

- i. As rent for the property, the Tenant agrees to pay the total sum of dollars \$110.00 per acre, per year.

4. CONSERVATION PRACTICES:

Tenant agrees to keep in good repair all terraces, open ditches, inlets and outlets of tile drains; preserve all established watercourses or ditches including grassed waterways, and refrain from any operations or practice that will injure such structures. The Tenant agrees to remain in compliance with any conservation plan for the property.

5. IMPROVEMENTS AND REPAIRS:

The costs of any improvement to the property undertaken during the term of the lease shall be the responsibility of the Tenant. The Tenant shall have prior consent of the Town before making any improvement to the property.

6. PROPERTY RIGHTS:

a. Right of Entry:

The landowner reserves the right for them, their agents, their employees, or their assigns to enter the property at any reasonable time for purposes of:

- i. Consultation with the Tenant;

- ii. Making repairs, improvements, and inspection;
- iii. Developing mineral resources;
- iv. After notice of termination of the lease is given, for purposes of plowing, seeding, fertilizing, and such customary seasonal work, none of which is to interfere with the Tenant in carrying out regular farm operations.

7. **TRANSFER OF PROPERTY:**

If the landowner should sell or otherwise transfer title to the property, he or she will do so subject to the provisions of this lease.

8. **NO RIGHT TO SUBLEASE:**

The landowner does not convey to the Tenant the right to lease or sublease any part of the property or to assign the lease to any person or persons, unless prior approval is obtained from the landowner.

9. **HEIRS AND SUCCESSORS:**

The terms of this lease shall be binding upon the heirs, executors, administrators, and successors of both landowner and Tenant in like manner as upon the original parties. However, in event the lease is for more than one year, the heirs or successors of the Tenant shall have the option to give written notice of termination effective at the end of the lease year in which death occurs.

10. **ADDITIONAL AGREEMENTS REGARDING PROPERTY RIGHTS:**

- a. Crop Residue Grazing: The Tenant shall not allow any crop residue grazing on the property.
- b. Hunting: The Tenant shall not allow any firearm hunting on the property.
- c. Recreation: The Tenant shall not allow the property to be used for any recreational purposes.

11. **NON-PARTNERSHIP:**

This lease does not give rise to a partnership. Neither party shall have the authority to bind the other without written consent. Neither party shall be liable for debts or obligations incurred by the other without written consent.

12. **ARBITRATION:**

If parties to this lease cannot reach an agreement on any matter, or problem, the question shall be submitted to an Arbitration Committee for decision. This committee shall be composed of three disinterested persons, one selected by each party hereto and the third by the two thus selected. The decision of the Arbitration Committee shall be accepted by both parties.

13. **DEFAULT:**

If either party willfully neglects or refuses to carry out any provision, the other party shall have the right, in addition to compensation for damages, to terminate the lease. He or she shall do so by written notice on the party at fault, specifying the violations of the agreement. If violations are not corrected within 30 days, the lease shall be terminated.

14. **OPT OUT CLAUSE:**

If the Town requires that the tenant vacate the land prior to the end of lease term, the Town shall reasonably compensate the Tenant for the crop inputs or the value of the lost harvest. Value shall be determined by the market value of the crop inputs or the market value of the crop at maturity.

Approved by the Town Board on this 21st day of February 2024

The term of this lease shall be from January 1st, 2024, to December 31st, 2024

Russell D. Geise, Town Chair

Daniel P. Seelow, Tenant

Attest:

Kelsey Faust-Kubale, Clerk

MEMORANDUM

Business Item B

From: Administrator/Staff
To: Town Board
Re: Town Board review & consideration of changes to the Town of Clayton Yard Waste Site operations.

Staff are proposing several changes to the Town Yard Waste Site operations. The Administrator & Public Works Supervisor are in the process of hiring a new Site Attendant. The site within the Town Municipal Complex was completed and opened for the first year of service in 2023. The new site allows for the potential for an extended collection season.

Staff is proposing new operating hours of:

- Monday 1 pm to 6 pm
- Wednesday 1 pm to 6 pm
- Saturday 8 am to 2 pm

With a new opening date of April 15th (or closest Monday) and closing date of October 31st.

The cost to the Town to provide the Yard Waste Site service is between \$25,000 and \$30,000 a year. Approximately \$10,000 to \$15,000 (depending on the volume collected) is the cost of grinding what is brought in at the end of the season. For the past 3 years, there have been inorganic materials that have damaged the grinding contractor’s equipment that the Town has had to pay for the repairs of.

The Yard Waste Site is also non-revenue generating, and the cost of offering the site is not offset by anything other than the General Fund. There has been steadily increased resident demand for more hours and more services. Staff also receive many complaints regarding the site from residents, for example:

- Not delivering the service at the Yard Waste Site residents are expecting
- The site does not take enough variety of materials
- The site is not open for tree collection in December/January every year
- The site is not open early enough in the Spring
- The site is not open late enough in the Fall
- The site is not open enough days/times during the week
- Having to use the County facilities if the Town Yard Waste Site is closed

With all of that in mind, Staff are discussing the implementation of a fee for use of the Yard Waste Site in the 2025 season. As the population of the Town grows, particularly with the new residential growth already happening at the end of 2023 and into 2024, the cost to operate the site will only grow. Staff is hoping to recover some of the cost to the General Fund to be able to provide all Town services for residents. Staff is not ready at this time to implement such a program for the 2024 season.

If the Board agrees, a motion to approve the proposed hour and opening date changes would be in order.

SUGGESTED MOTION:

Motion to approve the hours and opening date changes for the Town-operated Yard Waste Site.

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

Respectfully Submitted
Kelsey

MEMORANDUM

Business Item C

From: Administrator/Staff

To: Town Board

Re: Town Board review & consideration of Resolution 2024-001 Authorizing Appointment of Agent - Nicholas Blythe KBN LLC, DBA Willie Beamons

The Clerk received the Appointment of Successor Agent form requesting an agent change for KBN, LLC. Any changes in Agent or to an existing liquor license need to be approved by the Town Board.

If the Board agrees, a motion **AND ROLL CALL** to approve the Appointment of a new Agent would be in order.

SUGGESTED MOTION:

Motion to approve Resolution 2024-001 Authorizing Appointment of Agent Nicholas Blythe for KBN LLC, DBA Willie Beamons.

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

Respectfully Submitted
Kelsey

**TOWN OF CLAYTON
Resolution 2024-001**

Item C.

**APPOINTMENT OF AGENT – NICHOLAS BLYTHE FOR KBN LLC, DBA
WILLIE BEAMONS, 2590 COUNTY RD II**

WHEREAS, KBN LLC has submitted a *Schedule for Appointment of Agent* with the Town Clerk to appoint Nicholas Blythe as Agent for KBN LLC, DBA Willie Beamons, located at 2590 County Rd II, Neenah; and

WHEREAS, the Town Clerk has certified that upon checking municipal and state criminal records, to the best of their knowledge, said Agent was found satisfactory and they have no objection to the Agent appointment.

NOW, THEREFORE, BE IT RESOLVED, by the Town of Clayton Board of Supervisors that the appointment of Nicholas Blythe as Agent for Willie Beamons is hereby approved.

This resolution was adopted by the Town of Clayton Board of Supervisors on the 21st day of February, 2024.

TOWN BOARD OF THE TOWN OF CLAYTON, WISCONSIN

By: _____
Russell Geise, Town Chair

ATTEST: _____
Kelsey Faust-Kubale, Clerk

2/14/2024 3:18 PM

Reprint Check Register - Quick Report - ALL

Page: 1
ACCT

NICOLET NATIONAL BANK (POOLED)

ALL Checks

Posted From: 2/01/2024 From Account:
Thru: 2/14/2024 Thru Account:

Check Nbr	Check Date	Payee	Amount
30723	2/06/2024	AIT BUSINESS TECHNOLOGIES LLC	2,375.98
30724	2/06/2024	ASSOCIATED APPRAISAL CONSULTANTS INC	1,692.54
30725	2/06/2024	ASSOCIATED BANK	33,932.00
30726	2/06/2024	CINTAS CORPORATION	202.31
30727	2/06/2024	CONTREE	76.10
30728	2/06/2024	COUNTRY VISIONS COOPERATIVE	151.74
30729	2/06/2024	DARRELLS AUTO REPAIR	1,160.00
30730	2/06/2024	EMERGENCY MEDICAL PRODUCTS	8.33
30731	2/06/2024	FOX CITIES CONVENTION & VISITORS BUREAU	708.37
30732	2/06/2024	FOX VALLEY TECHNICAL COLLEGE	359.44
30733	2/06/2024	GFL ENVIRONMENTAL	23,728.98
30734	2/06/2024	KRUEGER TRUE VALUE	170.94
30735	2/06/2024	KUNDINGER FLUID POWER INC	188.62
30736	2/06/2024	LANGE ENTERPRISES INC	45.78
30737	2/06/2024	MCMAHON ASSOCIATES INC	309.00
30738	2/06/2024	MONROE TRUCK EQUIPMENT	1,084.26
30739	2/06/2024	N&M AUTO SUPPLY	170.41
30740	2/06/2024	NEENAH JOINT SCHOOL DISTRICT	2,184.40
30741	2/06/2024	ONWARD ACCOUNTING AND CONSULTING LLC	800.00
30742	2/06/2024	STERICYCLE/SHRED-IT	141.50
30743	2/06/2024	TEAMSTERS LOCAL UNION 662	200.00
30744	2/06/2024	TRUCK EQUIPMENT INC	120.28
30745	2/06/2024	WERNER PEST & ODOR CONTROL	196.35
30746	2/06/2024	WI DEPT OF JUSTICE	14.00
30747	2/06/2024	WI PUBLIC SERVICE	949.60
30748	2/06/2024	WINNEBAGO COUNTY TREASURER	1,960.91
30749	2/06/2024	WINNECONNE COMMUNITY SCHOOL DISTRICT	898.96
30750	2/06/2024	WISCONSIN HOUSING ALLIANCE	80.00
30751	2/14/2024	AIRWAY AIRCRAFT INC	2,642.30
30752	2/14/2024	AMANDA SOWIN	1,845.71
30753	2/14/2024	CHAD AND RHEA RINDT	226.18
30754	2/14/2024	DAVID AND STACY FIEBER	127.94
30755	2/14/2024	GUARANTY TITLE	76.83

2/14/2024 3:18 PM

Reprint Check Register - Quick Report - ALL

Page: 2
ACCT

NICOLET NATIONAL BANK (POOLED)

ALL Checks

Posted From: 2/01/2024 From Account:
Thru: 2/14/2024 Thru Account:

Check Nbr	Check Date	Payee	Amount
30756	2/14/2024	HASKELL, REBECCA	5.00
30757	2/14/2024	JASON EHRMENTRAUT	4,567.95
30758	2/14/2024	KEVIN AND TAYLOR STEINKE	140.82
30759	2/14/2024	LERETA	6,863.36
30760	2/14/2024	LESTER AND PAMELA HOLLNAGEL	126.28
30761	2/14/2024	OAKWOOD BARN LLC	230.00
30762	2/14/2024	RIECKMANN, SCOTT	2.06
30763	2/14/2024	ROBERT PRINDLE	5.00
30764	2/14/2024	STEVEN AND SHARI SITZBERGER	810.06
30765	2/14/2024	STEVEN HANSEN	230.00
30766	2/14/2024	TOWN OF WINCHESTER	13,259.09
30767	2/14/2024	TOWN OF WINCHESTER	7,219.55
30768	2/14/2024	WINNEBAGO COUNTY TREASURER	20,634.13
30769	2/14/2024	WINNEBAGO COUNTY TREASURER	13,803.98
30770	2/14/2024	ABEDNEGO FIRE PROTECTION LLC	185.35
30771	2/14/2024	APPLETON PACKING & GASKET CO., INC	25.00
30772	2/14/2024	ASCENSION MEDICAL GROUP	371.00
30773	2/14/2024	CINTAS CORPORATION	431.70
30774	2/14/2024	CONWAY SHIELD	98.50
30775	2/14/2024	DWD - UNEMPLOYMENT INSURANCE	64.46
30776	2/14/2024	FOX CROSSING UTILITIES	378.00
30777	2/14/2024	FOX WEST REGIONAL SEWERAGE COMMISSION	5,632.80
30778	2/14/2024	KEN'S YARD SERVICE, LLC	320.00
30779	2/14/2024	KRUEGER TRUE VALUE	15.98
30780	2/14/2024	LAPPEN SECURITY PRODUCTS INC	1,688.32
30781	2/14/2024	MCPMAHON ASSOCIATES INC	1,842.00
30782	2/14/2024	RICK'S AUTO GLASS	370.00
30783	2/14/2024	RIDGEWAY BP	47.82
30784	2/14/2024	WI PUBLIC SERVICE	2,199.44
30785	2/14/2024	WINNEBAGO COUNTY TREASURER	161.21
Grand Total			160,558.62

2/14/2024 3:18 PM

Reprint Check Register - Quick Report - ALL

Page: 3
ACCT

NICOLET NATIONAL BANK (POOLED)

ALL Checks

Posted From: 2/01/2024 From Account:
Thru: 2/14/2024 Thru Account:

	Amount
Total Expenditure from Fund # 100 - GENERAL FUND	96,877.90
Total Expenditure from Fund # 230 - SOLID WASTE/RECYCLING	23,728.98
Total Expenditure from Fund # 300 - DEBT SERVICE	33,932.00
Total Expenditure from Fund # 400 - GENERAL CAPITAL PROJECTS	161.21
Total Expenditure from Fund # 420 - TID #1	100.00
Total Expenditure from Fund # 620 - SANITARY DISTRICT	5,632.80
Total Expenditure from Fund # 640 - STORM WATER	125.73
Total Expenditure from all Funds	160,558.62