

**VILLAGE OF GERMANTOWN
N112 W17001 MEQUON ROAD
GERMANTOWN, WI 53022**

MEETING: REGULAR MEETING OF THE VILLAGE BOARD

DATE AND TIME: MONDAY, May 16, 2016 7:00 p.m.

LOCATION: Germantown Village Hall Board Room

- I. **CALL TO ORDER:** *This meeting has been given public notice in accordance with Section 19.83 and 19.84, Wis. Stats, in such form that will apprise the general public and news media of subject matter that is intended for consideration and action.*
- II. **ROLL CALL**
- III. **PLEDGE OF ALLEGIANCE**
- IV. **PRESIDENT'S REPORT**
To Include:
1. Proclamation for "Parents Who Host Lose the Most: Don't be a party to underage drinking month".
2. Proclamation for National Emergency Medical Services Week May 15-21, 2016
3. Flight for Life Presentation of 'Call of the Year' award to Germantown Fire Department
- V. **ANNOUNCEMENTS OF FORTHCOMING EVENTS OF PUBLIC INTEREST/COMMITTEE REPORTS:**
The following individuals will be given the opportunity to make announcements of future municipal activities: Village President, Village Board Members, Village Administrator, Village Attorney and Village Clerk.
- VI. **CITIZEN INPUT/PUBLIC APPEARANCE on items not subject to a public hearing:**
Please be advised per §19.84(2), information will be received from the public. It is the policy of this municipality that there be a three (3) minute time period, per person, with time extension per the Chief Presiding Officer's discretion; be further advised that there may be limited discussion on the information received, however, no action will be taken under public comments. (15 minutes)
- VII. **CONSENT AGENDA:**
A. Approval of Village Board Minutes: April 18, 2016 and May 2, 2016 Regular meetings
B. Accounts payable/payroll
 1. April 2016 Accounts Payable \$ 89,561.70
 2. May 3, 2016 Payroll (hourly) \$ 216,184.41
 3. May 10, 2015 Accounts Payable \$2,799,464.73
 4. May 13, 2016 Payroll (salary) \$ 749,269.89

VII. CONSENT AGENDA continued:

- C. Operator Licenses: July 1, 2016 – June 30, 2017: [Recommended Approval]
Renewals: Eric Ashlock; Therese Bach; Hannah Bingham; Jane Boudreau; Simon Bouwman; Marie Chilicki; Jewelia Cook; Bridget Delean; Mary Erickson; Carol Feit; Daniel Frailina; Michael Gorzynski; Catherine Habron; Pamela Halverson; Anita Hauner; James Heimann; Jamie Hewitt; Julia Huggler; Cheryl Jacobs; Jeffrey Jacobs; Timothy Jacobs; Joshua Kau; Amy Keller; Ronald Kohls; Heather Lazar; Lisa Leider; Michael Nardelli; Ruth Numrich; William Numrich; Cameron Ottoson; Michelle Pawlukiewicz; Dawn Reith; James Schramm; Heather Smith; Tara Smith; Sarah Soby; Teri Staude; Anthony Streng; Randy Strumberger; Carlton Tatreau; Thomas Wood; Lisa Zamiatowski
New: Arturo Contreras

The following items were forwarded from the Public Works Committee with a unanimous recommendation:

- D. Request to Award the 2016 Sealcoat Projects Contract to Fahrner Asphalt Sealers for a Cost not to Exceed \$225,000 Based on Unit [Recommended Approval]
- E. Request to Approve Village's Commitment to Approximately 2,700 Tons of Salt for 2016-2017 Season as Part of the WisDot Salt Bid Process [Recommended Approval]
- F. Request to Approve Blanket Purchase Order Authorization with Adaptor, Inc. in an Amount not to Exceed \$15,100 for the Continued Purchase of Chimney Seals to be Utilized for the 2016 Road Projects and Other Areas on a Time and Need Basis, with Funds to be Allocated from Acct. #60-830-530-8313 [Recommended Approval]
- G. Request for Blanket Purchase Order Authorization with HD Supply Waterworks in an amount not to Exceed \$9,800 for the Purchase of Ladtech HDPE Manhole Adjusting Rings for the 2016 Road Projects and Other Areas on a Time and Need Basis with Funds to be Allocated from Acct. #60-830-530-8313 [Recommended Approval]
- H. Request for Blanket Purchase Order Authorization with Ferguson Waterworks in an Amount not to Exceed \$32,800 for the purchase of Miscellaneous Manhole Repair Materials for the 2016 Road Projects and other Areas on a Time and Need Basis with Funds to be Allocated from Acct. #60-830-530-8313 [Recommended Approval]

The following items were forwarded from the Public Safety Committee with a unanimous recommendation:

- I. Request to Approve Purchase of 29 Trijicon Rifle Sights from Kiesler's Police Supply for a cost of \$11,942.49. Funding to be provided by EoTech through refund of 30 Sights Returned for Defects. Refunds to be Placed in Account #10-480-489-9600 with Expenditures Taken from Account #10-521—570-8100 per Finance Dept. [Recommended Approval]
- J. Request Approval of Purchase of Furniture Items for Roll Call Room and Interview Room from BSI Interiors for \$12,112.86 with Funds Allocated from Account #40-521-570-8410 [Recommended Approval]

VIII. UNFINISHED BUSINESS:

- A. Ordinance No. XX-16 to Create Section 8.065 of the Germantown Municipal Code to Provide for the Regulation of Activities Within Public Rights-of-Way

IX. PUBLIC HEARINGS – 7:00 P.M. OR LATER: *The purpose of said hearing(s) is to hear any and all parties, their attorneys or agents, for or against the application(s) filed by the petitioner(s).* None

X. NEW BUSINESS:

- A. Action on Application for Secondhand Article Dealer License: ecoATM, Inc., 10121 Barnes Canyon Road, San Diego CA 92121, to be Located Inside Walmart W190N9855 Appleton Ave., Germantown WI 53022
- B. Request Direction to Proceed with Non-Renewal Proceedings for "Class B" Fermented Malt Beverage and Intoxicating Liquor License Application of Maple Road, LLC, Radomir Buzdum, Agent, N9661 Boje Ct., Watertown, WI 53094, d/b/a **Buzdum's Pub & Grill**, W188 N10515 Maple Road, Germantown, WI 53022. (Includes an outdoor patio area and bleacher area until 9:00 p.m.)

XI. ADJOURNMENT

The next Village Board meeting will be on June 6, 2016 at 7:00 p.m.

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 contact the Village Clerk at (262)250-4740 at least 2 days prior to the meeting.

IV 10

PROCLAMATION



Whereas; Wisconsin has the highest rate of underage drinking and current alcohol use among high school students in the United States, and

WHEREAS, adults who provide alcohol to those below the legal drinking age of 21 are placing those youth at risk for health, safety and legal problems, and

WHEREAS, alcohol use by young people is dangerous, not only because of the risks associated with acute impairment, but also because of the grave threat to their long-term development and well-being, and

WHEREAS, it is illegal to give or allow your teen's friends to drink alcohol in your home, even with their parents' permission, and

WHEREAS, anyone found guilty of purchasing or providing alcohol to any youth other than your offspring or legal ward is subject to both state and local sanctions in addition to any civil action that may occur as a result of damages or injury related to the offense, and

WHEREAS, adults have the authority and responsibility to our youth to provide them with alternative opportunities by creating alcohol free activities, and

WHEREAS, Prevention Network of Washington County, through the "Parents Who Host, Lose The Most: Don't be a party to teenage drinking" campaign provides the educational materials to raise community awareness regarding this illegal and unhealthy practice, and

WHEREAS, the Germantown Police Department will conduct both alcohol age compliance checks at local licensed establishments and rigorously enforcing laws against selling or serving alcohol to underage youth.

WHEREAS, the Village and Town of Germantown strongly encourages residents to refuse to purchase, provide or pour alcoholic beverages to underage youth and to take the necessary steps to hold those who engage in this illegal and unhealthy practice to be responsible.

NOW, THEREFORE, be it resolved that the Village and Town of Germantown not only discourages the use of alcohol by those below the legal age of consumption but also exhorts all residents of Germantown to refuse to provide alcoholic beverages to those underage youth, and pledges to support the Germantown Police Department efforts to identify and this illegal and unhealthy activity.

NOW, THEREFORE, I, Dean Wolter, President of the Village and Town of Germantown, do hereby proclaim, the month of May 2016 to be:

"Parents Who Host, Lose The Most: Don't be a party to underage drinking" month

A program of Germantown Youth Futures, The Prevention Network of Washington County and Elevate Inc.

Dated this 16th day of May, 2016.

ATTEST:

Dean M. Wolter, Village President

Barbara K. D. Goeckner, Village Clerk

PROCLAMATION:
NATIONAL EMERGENCY MEDICAL SERVICES WEEK
May 15-21, 2016

***WHEREAS**, emergency medical services is a vital public service of the Germantown Fire Department; and*

***WHEREAS**, the members of the Germantown Fire Department Emergency Medical Services Teams are ready to provide lifesaving care to those in need 24 hours a day, seven days a week; and*

***WHEREAS**, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and*

***WHEREAS**, the GFD Emergency Medical Service Providers consists of first responders, emergency medical technicians, paramedics, firefighters, educators and others; and*

***WHEREAS**, the members of the GFD Emergency Medical Service Providers whether career or paid-on-call, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and*

***WHEREAS** it is appropriate to recognize the values and the accomplishments of the GFD Emergency Medical Services Providers by designation of Emergency Medical Services Week.*

***NOW, THEREFORE**, I Dean Walter, President of the Village of Germantown, do hereby proclaim **May 15-21, 2016** as **NATIONAL EMS WEEK** by officially recognizing the Germantown Fire Department Emergency Medical Services Providers that serve the Village of Germantown.*

Dated this 16th day of May, 2016

Dean M. Wolter, Village President

ATTEST:

Barbara K. D. Goeckner, Village Clerk

BUSINESS OF THE PUBLIC WORKS & HIGHWAYS COMMITTEE
GERMANTOWN, WI + Village Board

MEETING DATE: May 11, 2016

May 16, 2016

AGENDA ITEM: New Business

Unfinished Business

ITEM TITLE: Ordinance to Create Section 8.065 of the Germantown
Municipal Code Relating to the Regulation of Rights-of-
Way

SUBMITTED BY: Lawrence Ratayczak, P.E.- Director of Public Works

SUMMARY EXPLANATION:

The Village staff along with the Village Attorney has reviewed the current Municipal Code and more specifically as it relates to regulation of its Rights-of-Ways and has determined that the creation of a new section of Code is required to address regulation of its Right-of Ways. The void of the Municipal Code was made evident by the submittal of a Permit Application for the installation of a 100' plus tall antenna within Village Right-of-Way. Regulations are required to safe guard the Municipal Rights-of-Way, private property adjacent to the Right-of Way and people who travel within the Right-of Way.

ATTACHMENT: ORDINANCE__ (Proposed)__ RESOLUTION__ OTHER__

Proposed Ordinance

RECOMMENDATION:

Staff recommends that the Committee forward to the Village Board with a positive recommendation to approve the creation of Section 8.065 of the Germantown Municipal Code

COMMITTEE ACTION:

Proper parliamentary procedure to deny a request is to have a motion made in the affirmative and by voting NAY would deny the request if a majority vote.

STATE OF WISCONSIN VILLAGE OF GERMANTOWN WASHINGTON COUNTY

ORDINANCE NO. ____-16

AN ORDINANCE CREATING SECTION 8.065 OF THE
GERMANTOWN MUNICIPAL CODE
RELATING TO THE REGULATION OF RIGHTS-OF-WAYS

WHEREAS, the passage of the Telecommunications Act of 1996 and advances in technology have resulted in increased use of the public rights-of-way and increased costs to the taxpayers of the Village and that these costs are likely to continue into the foreseeable future; and

WHEREAS, the Village is granted the authority to regulate the rights-of-ways within its boundaries under 47 U.S.C. 253(c) and Wis. Stat. §§ 61.34(1), 66.0425, 66.0915, 86.16, 182.017, 196.58, 196.499(1); and

WHEREAS, the regulation of the rights-of-ways within the Village of Germantown is a matter in the interest of the public's health, safety and welfare;

NOW, THEREFORE, the Village Board of the Village of Germantown, Wisconsin, do ordain as follows:

SECTION I:

Section 8.065 of the Municipal Code of Germantown is hereby created to read in the form as attached hereto and incorporated herein by reference as Exhibit A.

SECTION II:

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III:

All ordinances or parts of ordinances contravening the terms of this ordinance are hereby to that extent repealed.

SECTION IV:

This ordinance shall take effect and be in full force upon its passage and the day after publication.

EXHIBIT A

8.065 REGULATION OF RIGHT-OF-WAYS

A. Findings and Purpose.

The Village finds that the passage of the Telecommunications Act of 1996 has resulted in increased use of the public rights-of-way and increased costs to the taxpayers of the Village and that these costs are likely to continue into the foreseeable future.

The Village finds that excavation and occupancy of the public rights-of-way causes direct and indirect costs to be borne by the Village and its taxpayers, including but not limited to:

1. Administrative costs associated with public right-of-way projects, such as registration, permitting, inspection and supervision, supplies and materials.
2. Management costs associated with ongoing management activities necessitated by public right-of-way users.
3. Repair costs to the roadway associated with the actual excavation into the public right-of-way.
4. Degradation costs defined as depreciation caused to the roadway in terms of decreased useful life, due to excavations into the public rights-of-way.

In response to the foregoing facts, the Village hereby enacts this ordinance relating to administration of and permits to excavate, obstruct and/or occupy the public rights-of-way, together with an ordinance making necessary revisions to other Code provisions. This ordinance imposes reasonable regulations on the placement and maintenance of facilities currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies.

The Village's authority to enact this ordinance is pursuant, but not limited to, the following federal, state and local authority: 47 U.S.C. 253(c); Wis. Stat. § 61.34(1); Wis. Stat. § 66.0425; Wis. Stat. § 66.0915; Wis. Stat. § 86.16; Wis. Stat. § 182.017; Wis. Stat. § 196.58; and Wis. Stat. § 196.499(1).

The purpose of this ordinance is to provide the Village a legal framework within which to regulate and manage the public rights-of-way, and to provide for recovery of costs. This ordinance provides for the health, safety and welfare of the residents of the Village as they use the rights-of-way of the Village, as well as to ensure the structural integrity of the public rights-of-way. The Village desires to minimize and anticipate the number of excavations taking place thereon and to regulate the placement of facilities within the rights-of-way to ensure that they remain available for public services. The taxpayers of the Village bear the financial burden for the upkeep of the rights-of-way. A primary cause for the early and excessive deterioration of its rights-of-way is the frequent excavation by Persons who locate facilities therein. Under this Chapter, all Persons who excavate, obstruct and/or occupy the public rights-of-way will reimburse the Village's administrative, ongoing management and degradation costs. Right-of-way users will bear a fair share of the financial responsibility for the integrity of the public rights-of-way.

"Person" means, municipality, corporation, company, association, firm, partnership, limited liability company, limited liability partnership and individuals and their lessors, transferees and receivers.

"PSC" means the Public Service Commission of the State of Wisconsin.

"Public Utility" has the meaning provided in Wis. Stats. § 196.01.

"Registrant" means any person who has registered with the Village (1) to have its facilities located in any right-of-way, or (2) to use or seek to occupy or use the right-of-way or any facilities in the right-of-way.

"Repair" means to perform construction work necessary to make the right-of-way useable for travel, according to department specifications, or to return facilities to an operable condition.

"Repair Bond" means a performance bond, a letter of credit, or cash deposit posted to ensure the availability of sufficient funds to assure that right-of-way excavation repair work is completed in both a timely and quality manner, per Department specifications.

"Restore or Restoration" means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is reconstructed according to Department specifications.

"Restoration Bond" means a performance bond, a letter of credit, or cash deposit posted to ensure the availability of sufficient funds to assure that right-of-way excavation restoration work is completed in both a timely and quality manner, per Department specifications.

"Right-of-Way" means the surface and space above and below a public roadway, highway, street, bicycle lane and public sidewalk in which the Village has an interest, including other dedicated rights-of-way for travel purposes.

"Service" or "Utility Service" includes municipal sewer and water services and also includes, except as provided herein, but is not limited to (1) those services provided by a public utility as defined in Wis. Stat. § 196.01(5); (2) telecommunications, pipeline, fire and alarm communications, water, electricity, light, heat, cooling energy, or power services; (3) the services provided by a district heating or cooling system; and (4) cable service as defined and regulated under 47 U.S.C. 521 through 573. Wireless telecommunications service and cellular mobile radio telecommunications (CMRS) services as defined by Section 332(d) of the Federal Communications Act of 1996 (47 U.S.C. 332 (d)(1)) are excluded, unless these services have a presence in the right-of-way.

"Supplementary Application" means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

2. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in any right-of-way without first being registered with the Department.
3. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a Village ordinance requiring persons to plant or maintain the tree lawn in the area of the right-of-way between their property and the street curb, construct sidewalks, install street signs or perform other similar activities. Persons performing such activities shall not be required to obtain any permits under this Chapter.

E. Registration Information.

1. Information Required. The information provided to the Department at the time of registration shall include, but not be limited to:
 - a. Each registrant's name, Diggers Hotline registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.
 - b. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
 - c. All right-of-way users shall demonstrate to the satisfaction of the Village the financial capability to cover any liability which might arise out of their presence in the right-of-way.
 - d. If the person is a corporation, a LLC or LLP, a copy of any certificate required to be filed under Wisconsin statute as recorded and certified to by the Department of Financial Institutions.
 - e. A copy of the person's certificate of authority from the Wisconsin Public Service Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.
 - f. Execution of an indemnification agreement in a form prescribed by the Department, which is consistent with, and shall not exceed the obligations provided in, Section 1.24 herein.
2. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the Department information as to changes within fifteen (15) working days following the date on which the registrant has knowledge of any change.

- d. When an excavation permit is requested for purposes of installing additional facilities, and the posting of a restoration bond for the additional facilities is insufficient, the posting of an additional or larger restoration bond for the additional facilities may be required.
- e. The Department shall not deny a registrant an excavation permit because of a dispute between the Village and the registrant, related to sub. b and/or c if the dispute has been adjudicated in favor of the registrant or if the dispute is the subject of an appeal filed by the registrant and no decision in the matter has at yet been rendered.

I. Excavation Permit Fee.

- 1. Fee Calculation. The Excavation Permit Fee shall be established by the Department in an amount sufficient to recover the costs incurred by the Village. This fee shall recover costs incurred by the Village for each of the following categories as provided herein:
 - a. Administrative: The general formula for computing the administrative fee shall be the average per-permit costs for labor plus indirect and other costs.
 - b. Repair: No repair fee shall be collected by the Village, however the Permittee shall be required to repair the public right-of-way to Department specifications, subject to inspection and acceptance by the Department, as per Section J, and to pay a degradation fee.
 - c. Degradation: The general formula for computing the degradation fee shall be the cost per square yard for street, overlay and seal coat multiplied by the appropriate depreciation rate for that street multiplied by the area of the patch. The area of the patch shall be calculated by adding two feet to each side of the actual street cut. Depreciation schedules shall be provided by type of street.
 - d. The total excavation permit fee shall be calculated as follows:
$$\text{Total Excavation Permit Fee} = \text{Administrative Cost} + \text{Degradation Fee (if applicable)}.$$
- 2. Village Exemption. Notwithstanding Subd. 1(c), the Village and its contractors shall not pay degradation fees.
- 3. Payment of Permit Fees. No excavation permit shall be issued without payment of applicable fees.
- 4. Non refundable. Permit fees paid for a permit that the Department has revoked for a breach as stated in Section Q are not refundable.

J. Right-of-Way Repair.

within thirty (30) days of billing, the cost of repairing the right-of-way. If Permittee fails to pay as required, the Village may exercise its rights under the repair bond.

- K. Restoration in Lieu of Repair and Degradation. The Permittee may elect to restore the excavation and surrounding pavement in lieu of repair and a degradation fee. If restoration is elected, the Department shall specify the area to be restored, and the methods and materials to be used for the restoration. The Permittee shall then also comply with the preceding Sec. J, as applied to restoration instead of repair.

L. Inspection.

1. Notice of Completion. When the work under any permit hereunder is completed, the Permittee shall notify the Department.
2. Site Inspection. Permittee shall make the work site available to the Department and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
3. Authority of Department. At the time of inspection, the Village may order the immediate cessation of any work which poses a threat to the life, health, safety or well being of the public. The Village may issue an order to the registrant for any work that does not conform to the applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the registrant shall present proof to the Department that the violation has been corrected. If such proof has not been presented within the required time, the Department may revoke the permit pursuant to Sec. Q.

M. Ongoing Management Fees.

1. Fee Basis. Fees shall reflect the ongoing or long-term costs to the Village of managing access to the right-of-way. These costs are exclusive of Administrative costs collected under Excavation Permit Fees. Fees shall be initially set, and may be annually re-computed, to recover the costs incurred by the Village in ongoing management of the right-of-way. Ongoing management costs include, but are not limited to, inventory maintenance, facility tracking, GIS, tree trimming, grass mowing, right of way maintenance, location marking and general inquiries related to public right-of-way users. The fee shall be based on the number of feet of right-of-way occupancy by a Telecommunications Right-of-Way User. The per foot management fee shall be calculated as follows: Annual management fee per foot = Total annual management cost / Total ROW occupancy feet.
2. Payment of Fees. Ongoing management fees shall be subject to adjustment and correction at the conclusion of the calendar year. Such fees shall be paid for all and any part of a calendar year, prorated on a daily basis, during any time period

County, State, or Federal rules, laws or regulations. A Permittee shall comply with all requirements of local, state and federal laws. A Permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

2. Prohibited Work. Except in an emergency, or with the approval of the Department, no right-of-way excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Q. Revocations, Suspensions, Refusals to Issue or Extend Permits.

1. Grounds. The Department may refuse to issue a permit or may revoke, suspend or refuse to extend an existing permit if it finds any of the following grounds:
 - a. The applicant or Permittee is required by Sec. D to be registered and has not done so;
 - b. The applicant or Permittee is seeking to perform work not included in its construction and major maintenance plan required under Section G; which work was reasonably foreseeable by the applicant or Permittee at the time said plan was filed;
 - c. Issuance of a permit for the requested date would or interfere with an exhibition, celebration, festival, or other event;
 - d. Misrepresentation of any fact by the applicant or Permittee;
 - e. Failure of the applicant or Permittee to maintain required bonds and/or insurance;
 - f. Failure of the applicant or Permittee to complete work in a timely manner;
 - g. The proposed activity is contrary to the public health, safety or welfare, including factors related to clear zones, fall zones and other similar concerns;
 - h. The extent to which right-of-way space where the permit is sought is available;
 - i. The competing demands for the particular space in the right-of-way;
 - j. The availability of other locations in the right-of-way or in other rights-of-way for the facilities of the permit applicant;
 - k. The applicability of ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;

S. Supplementary Notification. If the excavation of the right-of-way begins later or ends sooner than the date given on the permit, Permittee shall notify the Department of the accurate information as soon as this information is known.

T. Location of Facilities.

1. Undergrounding. Under conformity with local, state and federal law, unless existing aboveground facilities is used, the installation of new facilities and replacement of old facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes except where otherwise authorized by the Department.
2. Corridors. The Department may assign specific corridors within the right-of-way, consistent with Wisconsin Public Service Commission standards. All excavation or other permits issued by the Department involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue consistent with the Wisconsin Public Service Commission's corridor selection standards.
3. Limitation of Space. The Department may prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of Persons to occupy and use the right-of-way. In making such decisions, the Department shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but may prohibit or limit the placement of new or additional facilities when required to protect the public, health, safety or welfare.

U. Relocation of Facilities. Except as prohibited by State or Federal law, a Registrant must promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the right-of-way whenever the Department requests such removal and relocation, and shall restore the right-of-way to the same condition it was in prior to said removal or relocation. The Department may make such request to prevent interference by the Company's facilities with (i) a present or future Village use of the right-of-way, (ii) a public improvement undertaken by the Village, (iii) an economic development project in which the Village has an interest or investment, (iv) when the public health, safety and welfare require it, or (v) when necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way.

Notwithstanding the foregoing, a person shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the person therefor.

V. Interference with Other Facilities during Municipal Construction. When the Village performs work in the right-of-way and finds it necessary to maintain, support, shore, or move a registrant's facilities, the Village shall notify the local representative. The

nuisance, (ii) take possession of the facilities, or (iii) require removal of the facilities by the registrant, or the registrant's successor in interest.

3. Public Utilities. This section shall not apply to a public utility as defined by Wis. Stat. § 196.01(5).

Y. Reservation of Regulatory and Police Powers. The Village, by the granting of a permit to excavate, obstruct and/or occupy the right-of-way, or by registering a person under this Chapter does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or maybe hereafter granted to the Village under the Constitution and statutes of the State of Wisconsin to regulate the use of the right-of-way by the Permittee; and the Permittee by its acceptance of a permit to excavate, obstruct and/or occupy the right-of-way or of registration under this Chapter agrees that all lawful powers and rights, regulatory power, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the Village, shall be in full force and effect and subject to the exercise thereof by the Village at any time. A Permittee or registrant is deemed to acknowledge that its rights are subject to the regulatory and police powers of the Village to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general law, and ordinances enacted by the Village pursuant to such powers.

Z. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

LICENSE APPLICATION

for

**PAWNBROKER
SECONDHAND JEWELRY DEALER
SECONDHAND ARTICLE DEALER
SECONDHAND ARTICLE DEALER MALL or FLEA MARKET**

APR 25 2016

OFFICE OF VILLAGE CLERK
VILLAGE OF GERMANTOWN

CHECK ALL THAT APPLY:

☒ Original application ☐ Renewal

TYPE:

☐ Pawnbroker ☐ Secondhand Jewelry Dealer
☒ Secondhand Article Dealer ☐ Mall or Flea Market

fee 27.50

INSTRUCTIONS:

NATURAL PERSON (INDIVIDUAL) LICENSE – Complete Sections 1, 2, 3 and 6

PARTNERSHIP LICENSE – Complete Sections 1, 2, 3, 4 and 6

CORPORATE LICENSE – Complete Sections 1, 2, 3, 5, and 6

(SECTION 1) APPLICANT INFORMATION

Applicant Name (Last, First, MI) eco ATM, Inc.	Sex n/a	Race n/a	Date of Birth Inc.: 11/6/08	Place of Birth (City, State, Country) State of Inc.: DE
Street Address / Mailing Address 10121 Barnes Canyon Rd.	City San Diego	State CA	ZIP 92121	Home Telephone Number 858-766-7244
List all states applicant previously resided: CA				
Is applicant a: ☐ Natural Person (Individual) ☒ Corporation ☐ Limited Liability Company ☐ Partnership				

(SECTION 2) CONVICTION RECORD

Has the applicant, been convicted or adjudicated of any of the following within the last 10 years where the circumstances of the offense substantially relate to the circumstances of the licensed activity :

a felony?	☐ YES	☒ NO
a misdemeanor?	☐ YES	☒ NO
a statutory violation punishable by forfeiture?	☐ YES	☒ NO
a county or municipal ordinance violation?	☐ YES	☒ NO

For each "YES" response provide the date of arrest, the nature of the offense and conviction or penalty information:
Attach additional sheets if necessary.

(SECTION 3) BUSINESS INFORMATION

Business Name ecoATM, Inc.	Street Address W190 N9655 Appleton Ave	City Germantown	State WI	ZIP 53022	Telephone Number 858-766-7244
Owner's Name Outerwall, Inc.	Street Address 1800 114th Ave SE	City Bellevue	State WA	ZIP 98004	Telephone Number 858-766-7244
Business Manager's Name Hunter Bjorkman	Street Address 10121 Barnes Canyon Rd.	City San Diego	State CA	ZIP 92121	Telephone Number 858-766-7244
Building Owner's Name Walmart	Street Address P.O. Box 8050	City Bentonville	State AR	ZIP 72712	Telephone Number 262-255-1285

(Over)

(SECTION 4) LIMITED LIABILITY COMPANY INFORMATIONLimited Liability Company Name: n/aList name, address, and date of birth (DOB) of all members. *Attach additional sheets if necessary.*

Name (Last, First, MI)	DOB	Street Address	City	State	ZIP

(SECTION 5) PARTNERSHIP INFORMATIONPartnership Name: n/aList name, address, and date of birth (DOB) of all partners. *Attach additional sheets if necessary.*

Name (Last, First, MI)	DOB	Street Address	City	State	ZIP

(SECTION 6) CORPORATE INFORMATIONCorporation Name: eco ATM, Inc.State of Incorporation: DEList name, address, and date of birth (DOB) of all corporation officers and directors. *Attach additional sheets if necessary.*

Name (Last, First, MI)	DOB	Street Address	City	State	Zip
Maquera, David, D.		10121 Barnes Canyon Rd.	San Diego	CA	92121
Mersten, David, R.		10121 Barnes Canyon Rd.	San Diego	CA	92121

(SECTION 7) PENALTY NOTICE

I understand that this license may be denied or revoked for fraud, misrepresentation or false statement contained in the application or for any violation of Wis. Stat. §§ 134.71, 943.34, 948.62 or 948.63.

Under penalty of law, I swear that the information provided in this application is true and correct to the best of my knowledge. I agree to inform the clerk within ten (10) days of any change in the information supplied in this application.

Signature of Applicant: _____

Print Name of Applicant: Hunter Bjorkman**FOR ADMINISTRATIVE USE ONLY**

Licensing Authority VILLAGE OF GERMANTOWN	License Number Assigned	Date Effective	Clerk
FEES RECEIVED:	Pawnbroker Bond \$ <u>500.00</u>	Secondhand Article License \$ <u>27.50</u>	
	Pawnbroker License \$ <u>210.00</u>	Secondhand Dealer Mall/Flea Market License \$ <u>165.00</u>	
	Secondhand Jewelry License \$ <u>30.00</u>	TOTAL FEE: \$ _____	

FOR LAW ENFORCEMENT USE ONLY☐ Recommend Approval ☐ Recommend Denial (Attach explanation.)

Investigating Office Signature _____ Date: _____

Print Name of Investigating Officer: _____

X B.

**BUSINESS OF THE VILLAGE BOARD
VILLAGE OF GERMANTOWN**

MEETING DATE: May 16, 2016

AGENDA ITEM: New Business

ITEM TITLE: Request Direction to Proceed with Non-Renewal Proceedings for "Class B" Fermented Malt Beverage and Intoxicating Liquor License Application of Maple Road, LLC, Radomir Buzdum, Agent, N9661 Boje Ct., Watertown, WI 53094, d/b/a **Buzdum's Pub & Grill**, W188 N10515 Maple Road, Germantown, WI 53022. (Includes an outdoor patio area and bleacher area until 9:00 p.m.)

SUBMITTED BY: Barbara K. D. Goeckner, Village Clerk

SUMMARY EXPLANATION:

At its meeting on May 2, 2016 the Public Safety Committee did not approve the "Class B" Fermented Malt Beverage and Intoxicating Liquor License Application of Maple Road, LLC, Radomir Buzdum, Agent, N9661 Boje Ct., Watertown, WI 53094, d/b/a **Buzdum's Pub & Grill**, W188 N10515 Maple Road, Germantown, WI 53022. (Includes an outdoor patio area and bleacher area until 9:00 p.m.) due to delinquent real estate taxes. Taxes and interest for 2012, 2013 and 2014 real estate taxes through April 30, 2016 are \$36,197.07. There is an additional delinquent amount of \$9,361.97 for 2015 taxes.

I am attaching the minutes from the June 15, 2015 and June 29, 2015 Village Board meetings where this issue was discussed for the 2015 license renewal to assist you with knowledge of discussion and action taken regarding that renewal.

ATTACHMENT: ORDINANCE _____ RESOLUTION _____ OTHER X

RECOMMENDATION:

Recommendation is to authorize Village Clerk and Village Attorney to move forward with procedures and requirements for non-renewal proceedings for the Maple Road LLC d/b/a Buzdum's Pub & Grill liquor license application for 2016.

CONSENT AGENDA continued:

J. "Class B" Winery License – July 1, 2015 – June 30, 2016:

[Recommended Approval]

1. **(Renewal)** Apple Works Winery LLC, Kevin H. Behnke, Agent, W179 N12536 Fond Du Lac Ave., Germantown, WI 53022 d/b/a Apple Works Winery/Behnke Estates, W179 N12536 Fond Du Lac Ave., Germantown, WI 53022 (Includes an Outside Premises Extension which includes an outdoor patio area and tent until 9:00 p.m.)

- K. Recommended Approval of Application for Amendment of "Class B" Fermented Malt Beverage & Intoxicating Liquor License Outside Premises Extension, Gamroth's Kuhburg Junction, W140 N10385 Fond Du Lac Ave., Germantown WI, 20' x 30' tent, back yard area, southwest of building, June 27, 2015, 2:00 p.m. – 10:00 p.m.

The following items were forwarded from the Public Works Committee with a unanimous recommendation:

- L. Recommended Approval to Purchase a New 3500 Chassis and Dump Body Pickup Truck for the Highway Dept. from Bob Fish for an Amount not to Exceed \$40,563.00 with Funds to be Allocated from Account #40-542-570-8520

- M. Recommended Approval to Purchase a New Dodge Ram 5500 for the Parks Dept. from 5 Corners Dodge for an Amount not to Exceed \$45,693.00 with Funds to be Allocated from Account #40-553-570-8520

- N. Recommended Approval for the Letter Agreement Between the WISDOT and the Village Regarding the Responsive Signal Control Along the CTH "Q" Corridor

MOTION (Baum/Warren) to approve Consent Agenda Items A-N, by roll call vote, carried.

UNFINISHED BUSINESS:

- A. Contract for TID #6 Sanitary and Water Services

Developers Agreement not ready for this project yet. Will need to bring back to later date. **MOTION (Zabel/Myers) to postpone to June 29th for Special Village Board meeting agenda. Discussion. Carried.**

PUBLIC HEARINGS – 7:00 P.M. OR LATER: None

NEW BUSINESS:

MOTION (Hughes/Baum) to go to item G. President Wolter requested to wait until items A & B are completed first as the parties for the hearing are present.

- A. In The Matter Of The Complaint Against: Maple Road, LLC, Holder Of "Class B" Alcohol Beverage Licenses For Buzdum's Pub & Grill, Radomir Buzdum, Agent, Premises At W188 N10515 Maple Road, Germantown, Wisconsin; Hearing Pursuant To Wis. Stat. § 125.12(2) And §§12.02(1) And (12) Of The Municipal Code Of The Village Of Germantown, Wisconsin

1. Rules Of Evidence, Burden Of Proof, Impartial Decision-Maker And Other Procedural Matters.
2. Hearing Pursuant To Wis. Stat. §125.12(2)(B)1. Or 2. And 3.

President Wolter opened the hearing at 7:20 p.m.

NEW BUSINESS continued:

Village Attorney Sajdak stated this item was before us last year also. It involves Buzdum's on Maple Road. Property taxes are unpaid and Village Code of Ordinances requires them to be paid prior to issuance of their license. The attorney for the Receiver that had been appointed indicated they would be taken care of. Paid one year of taxes but did not pay current year and balance is the same amount as this time last year. Administrator Schornack filed the complaint just as they did last year. Attorney Vincent Bobbitt representing the property owner, Radomir Buzdum, spoke, stating the property had been foreclosed upon and a company called Colliers was looking to finalize it and pay the property taxes. Maple Road LLC (Buzdum's) has been current in their payments to Collier's, but they are not forwarding the funds to Washington County. Radomir Buzdum also testified to this effect. Attorney Sajdak confirmed Collier's was appointed as the receiver and tasked with operating the property including payment of bills, maintenance etc. The tenant's payments go to receiver. Tenant would have to file suit to force them to be sure this is done and no suit has been filed by Mr. Buzdum to force them to be sure the taxes are paid, as it impacts their business materially. Further testimony by Attorney Bobbitt regarding the non-payment of taxes and the need to take action. Discussion between Trustees, both attorneys and Mr. Buzdum regarding the unpaid taxes, verification of ownership and tenant and receivership responsibilities. Mr. Buzdum was instructed to come up with something by Monday June 29th when another meeting could be held before the expiration of the current license. **MOTION (Hughes/Baum) to postpone the item until June 29th, carried.**

- B. Action on Buzdum's License (Approval or Non-Renewal) The Village Board May Enter Closed Session During The Meeting Pursuant To Wis. Stat. § 19.85(1)(A) To Deliberate Upon Any Proposed And Submitted Stipulated Disposition And/Or Upon A Failure To Appear Or The Conclusion Of A Hearing To Discuss Its Determination, And To Reenter Open Session At The Same Place Thereafter To Act On Such Matters As Discussed Therein As It Deems Appropriate
Item 'B' removed by action under #8.

Motion Hughes/Kaminski to move to Item G., carried.

- G. Contract for Donges Bay Road Construction Inspection
Interim DPW Director/Engineer Bischke presented information regarding the request to contract for an inspector for the Donges Bay Road project due to workload in the department following retirement of DPW Director Ludwig and new staff engineer with limited practical experiences, as well as several other projects being worked on at the same time. Public Works Committee voted 3 to 1 for the contract. Discussion regarding projects, cost of contract and need for inspector on this project who can respond timely to any issues. Concerns of process, work delays, funding for project vs. TIF funding on TIF project. **MOTION (Hughes/Warren) to accept RA Smith's inspection contract, with estimate not to exceed \$27,952.** Further discussion of estimated cost and possible extenuating circumstances. Verification motion was 'not to exceed'. Concerns of requirements to go over this amount and need to return for further approvals.

VILLAGE OF GERMANTOWN
SPECIAL VILLAGE BOARD MEETING MINUTES
JUNE 29, 2015

CALL TO ORDER: The meeting was called to order at 8:00 p.m. by President Wolter

ROLL CALL: President Wolter, Trustees Baum, Daniels, Hughes, Kaminski, Miller, Myer, Warren and Zabel. Also present: Administrator Schornack, Attorney Sajdak, Engineer Bischke, and Clerk Goeckner.

NEW BUSINESS:

All license approvals to be conditional upon compliance of all code violations/requirements and monies owed to the village paid prior to issuance of licenses in addition to any other conditions.

A. **(Renewal) "Class B" Fermented Malt Beverage and Intoxicating Liquor License, July 1, 2015 – June 30, 2016** for Gtown Pub LLC, Craig Scott Braidigan Agent, 2385 Scenic Hill Trail, Richfield WI 53076, d/b/a **The Public House**, W201N10466 Appleton Ave., Germantown, WI 53022, *(to include deck on rear of building for outside premises)*
MOTION (Hughes/Baum) to approve the license for The Public House. Clerk Goeckner explained the deck on the rear of the building has been cleared of all issues. However there remains a non-conforming zoning related issue with the use of the adjacent property for a parking lot, which is not owned by the Public House operator Craig Braidigan. A letter from the Village Planner to Mr. Braidigan from 2013 was provided to all Trustees regarding the outstanding zoning issue. Mr. Braidigan spoke stating he was in the process of trying to buy the property and he has no problem getting the required Conditional Use Permit (CUP) if that is what it comes down to but he feels Planner Retzlaff has made this a personal vendetta. His issue to complete the purchase and CUP is money, but he stated he will get the CUP within the next 3 months. President Wolter stated the issue is the adjacent lot is used extensively by Public House patrons and because it is not combined with your lot it creates an off-site parking situation therefore CUP is required. The Village Planner is sworn to uphold the laws and is required to enforce the municipal code of ordinances and this is not a personal vendetta for him – it is the law. President Wolter recommended Mr. Braidigan post the lot for no parking and then if someone parks there it would be at their own risk and this would be the quickest resolution to this issue. Mr. Braidigan stated it is safer for his patrons to be able to park there and he doesn't want to post it. Discussion regarding posting of the lot and related requirements. Concern by Trustees this will come back again next year without any change or compliance with zoning requirement. Attorney Sajdak spoke regarding the non-renewal process should the Board choose to go that route. If so, business would function in place with expired license until hearing for non-renewal was held. **Motion to approve carried.**

B. In The Matter Of The Complaint Against: Maple Road, LLC, Holder Of "Class B" Alcohol Beverage Licenses For Buzdum's Pub & Grill, Radomir Buzdum, Agent, Premises At W188 N10515 Maple Road, Germantown, Wisconsin; Hearing Pursuant To Wis. Stat. § 125.12(2) And §§12.02(1) And (12) Of The Municipal Code Of The Village Of Germantown, Wisconsin

1. Rules Of Evidence, Burden Of Proof, Impartial Decision-Maker And Other Procedural Matters.
2. Hearing Pursuant To Wis. Stat. §125.12(2)(B)1. Or 2. And 3.

NEW BUSINESS continued:

Attorney Sajdak stated Attorney Bobbitt representing Maple Road LLC is present and prepared to inform the board of progress since the last meeting on June 15th. Attorney Bobbitt spoke concerning the unpaid property taxes for the business location. Spoke with the receiver company and have come to the conclusion they will have to litigate the issue with them for payment of the taxes. Mr. Buzdum has a cashier's check for \$20,000 toward the taxes which is just under half of the amount owed. Requesting renewal of his license with that payment while he pursues court action on behalf of Maple Road LLC regarding the receivership for past due taxes. Discussion of lease and related terms between tenant and original owner vs. receivership company and responsibilities of receivership as well as process for suit.

- C. Action on Buzdum's License (Approval or Non-Renewal) The Village Board May Enter Closed Session During The Meeting Pursuant To Wis. Stat. § 19.85(1)(A) To Deliberate Upon Any Proposed And Submitted Stipulated Disposition And/Or Upon A Failure To Appear Or The Conclusion Of A Hearing To Discuss Its Determination, And To Reenter Open Session At The Same Place Thereafter To Act On Such Matters As Discussed Therein As It Deems Appropriate

MOTION (Baum/Zabel) to approve license as presented tonight with payment of \$20,000 toward property taxes by cashier's check payable to Washington County Treasurer. 7 in favor, 2 opposed (Miller, Hughes), carried. Check given to Village Clerk to be provided to Washington County Treasurer

- D. Contract for TID #6 Sanitary and Water Services

Discussion of project and Developers Agreement with prospective tenant for TID #6.

MOTION (Baum/Zabel) to postpone until Developers agreement is finalized. 8 in favor, 1 opposed (Daniels), carried.

- E. **MOTION (Baum/Myers) to enter into closed session for the Review of Applicants for the Park and Recreation Director position per Wis. Stats. §19.85(1)(c) Considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility and then re-enter open session to take such action as it deems appropriate and include Administrator Schornack and Clerk Goeckner, by roll call vote, carried.**

Committee of the Whole meeting scheduled for Tuesday, July 7th at 5:00 p.m. for interviews.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:00 p.m.

Barbara K. D. Goeckner MMC/WCPC
Village Clerk