



P.O. Box 352 • 150 S. Bridge St. • Markesan, WI 53946 • P: (920) 398-3031 • F: (920) 398-3991

## **STREETS, BUILDINGS & UTILITIES COMMITTEE**

### Markesan City Hall

**July 6, 2023**  
6:00pm

### **AGENDA**

Call to Order

Roll Call

Citizen's Comments

Public Works Report

Water & Sewer Department Report

- Discussion and Action on 2022 CMAR Report – Correct Resolution # 02-2023

New Business

- Discussion and Action on Update from Tim Tripp on 309 E John Street
- Discussion and Action on Snow Removal from Church Parking Lots
- Discussion and Action on Sidewalk Inspections
- Discussion and Action on Purchasing Security Cameras for Outside City Garage
- Discussion and Action on Utilizing Part Time Public Works Employees
- Discussion and Action on Developing a Priority List for July
- Discussion and Action on Public Works Director CDL Training

Old Business

- Discussion and Action on Preventative Equipment Maintenance Reporting Form from Public Works and Water/Sewer Departments
- Discussion and Update on 531 W. John St., Lot 3 Property Maintenance

Review Land Use Permits

Adjournment

A quorum of the Markesan Common Council may be in attendance at this meeting to gather information about a subject over which they have decision making responsibility. Under Wisconsin Open Meeting Law, this may constitute a meeting of the Common Council pursuant to the Badtke Decision, however, the Council will not take action at this meeting.

Any person requiring special assistance to participate in this meeting should contact the Clerk-Treasurer at 398-3031 at least 24 hours prior to the meeting so appropriate accommodations can be made.

Posted: City Hall  
ERGO Bank Post Office  
[www.markesanwi.gov](http://www.markesanwi.gov)

Dated July 5, 2023  
Rachel Heiling, Deputy Clerk-Treasurer

CITY OF MARKESAN

**RESOLUTION NO. 02-2023**

COMPLIANCE MAINTENANCE RESOLUTION  
CMAR REPORT YEAR 2022

**BE IT RESOLVED**, that the City of Markesan informs the Wisconsin Department of Natural Resources that the following actions were taken by the Common Council:

1. Reviewed the Compliance Maintenance Annual Report which is attached to this Resolution.
2. Set forth the following actions necessary to maintain effluent requirements contained in the WPDES Permit:
  - a. That Jeffrey Heberer and Matt Mace of the Wastewater Treatment Plant be commended for continuing their successful maintenance program.
  - b. That this maintenance program be continued and revised, as necessary, to provide the best possible system for maintenance.

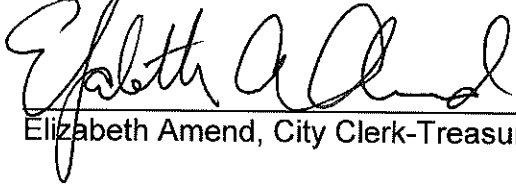
Adopted by the Common Council of the City of Markesan this 13<sup>th</sup> day of June, 2023, by a roll call vote of 5 Aye, 0 Nay, 1 Absent, 0 Abstain.

CITY OF MARKESAN



Rich Slate, Mayor

ATTEST:



Elizabeth Amend, City Clerk-Treasurer

Church Parking Lots(estimated costs)

Attached you find the estimated cost of snow removal from the church parking lots. Also you will find state statues from Attorney Sondalle.

Estimated Cost for '22-'23 snow removal

1st snowfall of winter '22 to January 1 2023 (4 lots)

Removed snow 3x with use of pick-up trucks Wages Todd 4 hrs- \$96 Jim 2 hrs- \$24  
Fuel 15 gallons @ \$3.09 = \$46.35 Total \$166.35

Jan 5th (4 lots)

Wages Todd 1 ½ hrs \$36 Chris ½ hr \$10.75 Fuel 4 gal diesel \$15.40 2 gal 6.18  
Total \$68.33

Jan 19th (3 lots)

Wages Todd 2 hrs \$48 Fuel \$36.97 Total \$84.97

Jan 26th (4 lots)

Todd 1 hr \$24 Fuel \$22 Chris 1 hr and fuel \$38 Total \$84

Jan 29th (2 lots)

Todd wages + fuel \$46 2 lots were cleared by others

Feb 10th (2 lots)

Wages + fuel (John & Todd) \$53

Feb 17th (4 lots)

Todd wage + fuel \$71

Feb 22nd ( 4 lots)

Todd(2 hrs) wages + fuel \$71

Feb 23rd (4 lots)

Jim & John \$64 + fuel \$34.32 Total \$98.82

Feb 25th ( 4 lots)

Todd(2 hrs) wages \$50 + fuel \$21 Total \$71

Mar 6th (3 lots)

Todd (1 ½ hrs) wages \$37.50 + fuel \$20 Total \$57.50

Mar 10th (4 lots)

Jim (4 hrs) \$48 + fuel \$28 Total \$76

Mar 13 &14th (4 lots)

Jim (4 hrs each day) \$96 + fuel \$56 Total \$152

Mar 25th ( 3 lots)

Chris (3hrs) \$66.45 + fuel \$25.52 Total 91.97

Grand estimated total \$1,191.94

- (3) Decedent approached the intersection as another vehicle was oncoming. Decedent applied his breaks, swerved and lost control of his vehicle, struck one of the barricades, rolled, and came to a stop in the ditch on the southeastern corner of the intersection.
- (4) Complaint alleges County was negligent in that it failed to place roadway signs of the impending construction zone prior to the intersection, relying on language in MUTCD concerning advanced warning signs prior to the road closure at all times.
- (5) County argues that Chapter 2B is not applicable in this instance. Rather, the case is governed by Chapter 6 because this was a temporary work zone and because the signs at issue were not “regulatory” as defined by the MUTCD. The Jefferson County Highway Department determined advanced warning signs were not necessary because this portion of the highway was a straightaway and the orange and flashing barricades were visible to oncoming traffic for approximately three quarters of a mile.
- (6) Summary judgment remains pending.

#### IV. Private Roads

A. Snow removal in private driveways. Section 86.105, municipality MAY enter into contracts to remove snow from private roads and driveways.

1. *Legal Issues of Plowing Private Roads.* Wisconsin statutes allow for municipalities to remove snow from private roads and driveways. Wis. Stat. §86.105 states the following:

*“The governing body of any county, town, city or village may enter into contracts to remove snow from private roads and driveways.”*

The reading of §86.105 makes clear that in order to remove snow from private roads or driveways, the municipality has to enter into a contract.

2. *Historic Guidance.* The League of Wisconsin Municipalities and the Wisconsin Attorney General (1978) have long held that municipalities can enter into contracts for plowing private roads only if all three of the following conditions exist:
  - (a) such work is necessary to provide ingress and egress to the public highway from the private property;

- (b) the contract sets forth a fee schedule for the work to be performed and requires payment of the fee; and
  - (c) there are no private persons in the municipality willing and capable of performing such work. See also Heimerl v. Ozaukee County, 256 Wis. 151 (1948) that invalidated a statute closely related to Wis. Stat. §86.105.
3. *Recent Caselaw.* The League's guidance was last revised in January of 2014. Since that time, there has been a Wisconsin Court of Appeals decision that casts doubt upon that guidance. In an unpublished decision, the Wisconsin Court of Appeals discussed Wis. Stat. §86.105, the League's guidance in FAQ 12, the Attorney General's Opinion from 1948, and the public purpose doctrine. *Samz v. Town of Argonne*.

The Town of Argonne had longstanding contracts with some of its residents to plow their private roads, until private companies challenged the validity of these contracts under the public purpose doctrine and the third condition of the Attorney General's Opinion.

The court in their opinion specifically mentions the League's legal opinion and FAQ, and states how it is incorrect because it is outdated and does not use the liberal interpretation of the public purpose doctrine from *Town of Beloit v. County of Rock*, 259 Wis.2d 37 (2003). The liberal interpretation of the doctrine says that it will be determined there is no public purpose only when the purpose is arbitrary or unreasonable. Further, the court determined that removing snow does provide benefit to the public because it prevents the hazard of vehicles getting stuck in their driveways.

The *Samz* case is a narrow reading of Wis. Stat. §86.105, and provides an exception in to the third condition laid out by the League. The important takeaway here is that Argonne still had a contract with the private citizens, it provided ingress and egress to public highways, and although there were private companies available to do the work, there was a public purpose. The court also rejected the argument that there can be no public benefit where a private entity could provide the same service as the municipality. This allows for municipalities to complete services such as snowplowing private roads, even if there are private entities available to do the same job, as long as there is a public purpose.

4. *Recommendation.* At a minimum, there should be a contract between the property owner and the municipality. The governing body should make a finding regarding the public purpose that is served by this practice.

B. Maintain them? No duty to maintain. Can require private owners do for emergency purposes, but responsibility is not on the municipality to do so.

SIDEWALK INSPECTION June 2023

Address	Issue
901 N Margaret St.	North Driveway 2 stubtoes 1 1/2" & 1" South Driveway 2 stubtoes 1/2" & 2"
877 N Margaret St	Culvert 3 stubtoes 1" - 1 1/2" - 2" Driveway approach broken/cracked
825 N Margaret St	Sidewalk 3 stubtoes 1" - 1 1/2"(2) Driveway approach Broken/cracked
New Construction	Sidewalk 2 stubtoes 1 1/2"
675 N Margaret St	Driveway 1 stubtoe 1 1/2"
649 N Margaret St	Sidewalk 1 stubtoe 1"
561 N Margaret St	Drive approach 1 stubtoe 1" Sidewalk 1 stubtoe 1"
527 N Margaret St	Sidewalk 2 Stubtoes 1" - 1 1/2"
513 N Margaret St	Sidewalk 1 stubtoe 1"
11 W Vista/Margaret St	Sidewalk 1 stubtoe 1 1/2"
450 N Margaret St	Sidewalk 3 stubtoes/cracked Driveway approach 1 stubtoe 1"
510 N Margaret St	Driveway approach chunks/cracks
544 N Margaret St	S Driveway approach cracks/stubtoe N Driveway approach broken square Sidewalk 2 stubtoe 1" each
650 N Margaret St	5 problem sections stubtoe, sunken, Shifted
868 N Margaret St	Sidewalk 3 stubtoe/shift 1"-2"
1 North St	Sidewalk 3 stubtoe 1" - 1 1/2"
301 Grand St	Culvert 1 stubtoe 1"

215 N Margaret St	Sidewalk 1 stubtoe 2"
111 N Margaret St	Sidewalk 1 stubtoe 1"
75 N Margaret St	Sidewalk 3 sunken,cracked, stubtoe
211 John/ N Margaret St	Sidewalk 1 stubtoe 1 cracked
36 N Margaret St	Sidewalk 3 stubtoe 1" - 1 ½" 2 cracked Driveway approach 6 cracked(east)
180N Margaret/Charles St	Sidewalk 4 spalled.(deteriorated)
120 N Margaret/Charles St	Sidewalk 3 stubtoe 1" - 3" 1 cracked square
150 N Margaret/Caroline St	Sidewalk 2 stubtoe 1" - 1 ½"
Property Line 210/250 N Margaret St	Sidewalk 1 cracked
250 N Margaret St	Sidewalk 2 stubtoe 2 sunken
340 N Margaret St	Sidewalk 1 stubtoe 1"
350 N Margaret St	Sidewalk 1 stubtoe 1"
6 E Vista/Margaret St	Sidewalk grade issue greater than 4"
535 E John St	Sidewalk 1 stubtoe 1"
225 E John St	Driveway approach (east) entire Driveway approach (west) 2 squares
223 E John St	Sidewalk 2 squares cracked Driveway approach 2 squares crack
131 E John St	Sidewalk 1 square cracked
75 E John St	Sidewalk 1 square cracked
47 E John St	Sidewalk 1 stubtoe 1"
37 E John St	Sidewalk 3 squares cracked/chunks



33 W John St	Sidewalk 1 stubtoe 1"
77 W John St	Sidewalk 1 stubtoe 1 ½"
159 W John St	Sidewalk 6 squares cracked/stubtoe
18 S Margaret St	Driveway approach 4 squares cracked/chunks(east) Driveway approach 2 squares chunks(north) Sidewalk 2 squares cracked
30 E John St	Sidewalk 2 stubtoes 1 ½" 4 sunken squares
38 E John St	Sidewalk 3 sunken squares 5 stubtoes
50 E John St	Sidewalk 1 stubtoe 1 chunk
Property line 58 / 64 E John St	Sidewalk 4 cracked/chunks 1 Stubtoe
80 E John St	Driveway approach(North) entire Approach cracked/ heaved
86 E Water St	Sidewalk 1 stubtoe 1"(High St)
65 S Bridge St/Water St	Sidewalk 1 Stubtoe 1 ½"
51 W Water St	Sidewalk Sunken/stubtoe(2) 1"
City Lot	Driveway approach 3 squares Cracked/chunks
150 E John St	Sidewalk 1 stubtoe 1"
40 E Manchester St	Sidewalk 2 stubtoe 1" 1 cracked/chunk
70 E Manchester St	Sidewalk 1 sunken
90 E Manchester St	Sidewalk 1 chunk

140 W Manchester St	Sidewalk 1 stubtoe 1"
210 W Manchester St	Sidewalk 1 Stubtoe 1 ½"
Property line 210 / 230 W Manchester St	Sidewalk 3 squares cracked
230 W Manchester St	Sidewalk 1 stubtoe 1"
260 W Manchester St	Sidewalk 1 stubtoe 1 chunk
77 S Margaret St	Driveway approach 4 holes
53 S Main St	Sidewalk 1 stubtoe 1"

"Stubtoe" refers to a step elevation greater than an ½"

"Spalled" refers to surface deterioration of a ½" or more in any one area of the concrete

Estimated Sq Ft of sidewalk that I think needs to be replaced or lifted.

877 N Margaret 11.5'x5'=57.5 sq ft

825 N Margaret 15 x 5 = 75 sq ft

510 N Margaret 5 x 5 = 25 sq ft

544 N Margaret 5 x 5 = 25 sq ft

650 N Margaret 1) sidewalk 9.5 x 5 =47.5 sq ft 2) driveway 13 x 5 = 65 sq ft 3) Hydrant 20 x 5 = 100 sq ft

77 N Margaret 4 x 8 = 32 sq ft

36 N Margaret 1) 4 x 24 = 96 sq ft 2) 4 x 5 = 20 sq ft 3) 10 x 4 = 40 sq ft

120 N Margaret 1) 4 x 5 = 20 sq ft 2) 5 x 4 = 20 Sq ft 3) 12 x 4 = 48 sq ft

250 N Margaret 1) 4 x 12 = 48 sq ft 2) 4 x 8 = 32 sq ft

18 S Margaret 4 x 20 = 80 sq ft

6 E Vista 5 x 10 = 50 sq ft

225 E John 1) 60 x 9.5 = 570 sq ft 2) 25 x 9.5 = 237.5 sq ft 3) 5 x 4 = 20 sq ft

4) 9.5 x 4 = 38 sq ft 5) 9.5 x 5 = 47.5 sq ft

159 W John 4 x 20 = 80 sq ft

30 to 38 A E John 8.5 x 56 = 476 sq ft

50 E John 5 x 3 = 15 sq ft

58 E John 22.5 x 9 = 202.5 sq ft

80 E John 78 x 12 = 936 sq ft

City Lot 26.5 x 9 = 238.5 sq ft

Total sq ft =3,742