

TOWN OF CLAYTONRegular Meeting of the Town Board of Supervisors
Meeting MinutesDecember 15, 2010
7:00 p.m. – 8:18 p.m.

8358 County Road T Larsen, WI 54947

I. Call to Order

Called to order at 7:00 p.m. by Chairperson Luebke.

Roll: Town Board

Chairperson Luebke	PRESENT
Supervisor Lettau	PRESENT
Supervisor Klingenberger	PRESENT
Supervisor Schmidt	PRESENT
Supervisor Geise	PRESENT

Roll: Staff

Administrator Johnston	PRESENT
Clerk Nester-Huebner	PRESENT
Public Works Foreman Pamerter	PRESENT
Town Engineer Madsen	PRESENT

Meeting properly posted; three locations in the Town.

II. Approval of Minutes

- Regular Town Board Meeting – December 1, 2010
MOTION: (unanimous consent) Approve Regular Town Board Meeting Minutes from December 1, 2010, as written.
CARRIED.

III. Open Forum – Non-Agendized Town-related Matters – none**IV. Correspondence**

- Winnebago County Solid Waste Management Board (Received 12/9/10) – November 2010 Tonnage Report (Town of Clayton #1 tonnage per person)
- IRS Standard Mileage Rates Increasing in 2011 to \$0.51/mile for employment-connected business

V. Discussion Items (No action will be taken.)

- County Supervisor Report – Supervisor Joanne Sievert, District 29, present: nothing to report
- Winnebago County Sheriff's Dept. – Deputy Brester present
- Clayton-Winchester Fire Chief Report – Fire Chief Mathison not present: 91 calls year-to-date, meeting with RW Management this evening for the needs assessment
- Administration Comments –

Town Administrator: Town spending more time and money trying to dispose of the water coming off the golf course than that is coming off the road

Clerk: Newsletter mailed last week, tax bills mailed yesterday and today, December 1st was the 1st opportunity to file a campaign finance statement and then circulate nomination papers, Candidate paperwork filing deadline is 5:00pm on Tuesday, January 4, 2011

Public Works Foreman: Larsen Road water coming out of Westridge Golf Course is excessive,

Town Engineer: Larsen Road erosion control matting placed last Friday, flashing STOP signs still on backorder, no additional work on Larsen Road planned, Oakwood Road culverts installed

VI. Zoning – Receipt of Information from Plan Commission – none

Plan Commission Chairperson Knapinski reviewed the following:

- Plan Commission review of a Winnebago County, Planning and Zoning Department notice of Land Use Plan Amendment(s)

- B. Plan Commission review and recommendation on a CSM for the Business Bank, P.O. Box 057, Appleton, WI 54912, for property located east of the northeast corner of Larsen Road and Center Road extended and west of the western terminus of Voyager Drive in the Town of Clayton (Tax ID #006-0590), specifically known as: All of the Southeast ¼ of the Southwest ¼ Section 22, Township 20 North, Range 16 East, Town of Clayton, Winnebago County, Wisconsin

VII. Licenses

- A. **Discussion / Action** – Operator Licenses
 - New – Jerit R. Merholtz
 - New – Samantha K. Van Dam

Operator License for Jerit Merholtz tabled to next Town Board meeting as Mr. Merholtz was unable to attend tonight’s meeting.

MOTION: (Geise, Schmidt) Approve the new operator license for Samantha K. Van Dam.
CARRIED by unanimous voice vote.

VIII. Business

- A. **Discussion / Action** – Town Board action on a Plan Commission recommendation on a Certified Survey Map (CSM) for the Business Bank, P.O. Box 057, Appleton, WI 54912, for property located east of the northeast corner of Larsen Road and Center Road extended and west of the western terminus of Voyager Drive in the Town of Clayton (Tax ID #006-0590), specifically known as: All of the Southeast ¼ of the Southwest ¼ Section 22, Township 20 North, Range 16 East, Town of Clayton, Winnebago County, Wisconsin.

Staff Comments:

1. The proposed CSM detaches a single lot (Lot 2) from the parent parcel Tax (ID #006-0590). Lot 2 of the CSM is approximately 4.91 acres. The proposed Lot 2 is a vacant farm field that abuts the balance of the parent parcel on its northeast property line. The proposed CSM divides what was to be the western extension of the Plats of High Point Estates. The parent parcel (Lot 1) contains a portion of the western extension of Voyager Drive (see attached copy of the Town’s Official Map). The Administration has not required the dedication of the Right Of Way (ROW) of the western extension of Voyager Drive as part of the CSM process. The Administration’s position is based on the fact that the parent parcel contains all of the officially mapped extension of Voyager Drive and only when the parent parcel is further subdivided will the exact location of the extension of Voyager Drive be known. The Official Map will act as a place holder for the proposed road until the exact location of the road is known. Should the Commission wish, it can require the dedication of the ROW as a condition of approval of the proposed CSM. The only down side to the dedication of the ROW at this time is the process of moving the ROW if the dedicated alignment is not correct. Access to Lot 1 of the proposed CSM is available from an existing farm access located on Larsen Road at the far eastern corner of the property. Access to Lot 2 of the proposed CSM for farming purposes is available from the adjoining farm field to the west. Access to Lot 2 for development purposes will come from Larsen Road. Based on a review of the Town’s Access Ordinance there is sufficient distance between the existing access points on Larsen Road to meet the Town’s Access Ordinance. If Lot 2 of the proposed CSM were to be further sub-divided access may become an issue.
2. The property is currently zoned R-2 (SUBURBAN RESIDENTIAL DISTRICT – SUBDIVIDED)
3. The proposed CSM is consistent with the Town’s approved Land Use Plan.
4. The property is in the Winneconne School District.
5. The property is in the Department of Natural Resources Special Well Casing Area.
6. The property is not in the County’s Floodplain Zoning Area.
7. The property is not in the County’s Wetland Identifier.
8. The property does contain a navigable waterway and is in the County’s Shore Land Jurisdiction Zoning.

The Plan Commission has recommended approval of the proposed CSM with the following staff recommended conditions:

1. Documentation of the approval for the proposed CSM by any overlying unit of government having jurisdiction.

MOTION: (Geise, Klingenberger) Approve Certified Survey Map (CSM) for the Business Bank, P.O. Box 057, Appleton, WI 54912, for property located east of the northeast corner of Larsen Road and Center Road extended and west of the western terminus of Voyager Drive in the Town of Clayton (Tax ID #006-0590), specifically known as: All of the Southeast ¼ of the Southwest ¼ Section 22, Township 20 North, Range 16 East, Town of Clayton, Winnebago County, Wisconsin, along with all staff recommendations and conditions.

CARRIED by unanimous voice vote.

- B. **Discussion / Action** – Town Board action on Resolution #2010-019: A Resolution Authorizing the Transfer of Reserve Account Funds to Pay for the Change Orders on the Larsen Road reconstruction project.

The Town’s project expenses year-to-date are \$792,107.26, including the \$59,694.81 that is to be authorized at the Board’s December 15, 2010, meeting.

The Town’s Budget for the project was \$750,000.00, leaving a year-to-date funding shortfall of \$42,107.26 (\$792,107.26 - \$750,000.00 = \$42,107.26). The Administration has prepared Resolution #2010-019 to transfer the balance of the old Park Impact Fee to cover the shortfall for the trail portion of the project.

Once the actual costs of the balance of the project are determined, the Administration will prepare an additional Resolution transferring the needed funds from the Town’s Reserve Accounts. In anticipation to that activity, the Administration recommends that a portion of the Town’s CY 2010 Fund Balance Carryover be allocated to deferring the Reserve Account transfer. The Board will know what its Fund Balance Carryover is when the CY 2010 Audit is completed in March of CY 2011. The estimated CY 2011 project shortfall is \$185,561.42 (\$144,051.22 + \$41,510.20 = \$185, 561.00). Please be advised that a Budget Funding Transfer Resolution requires an absolute majority of the Board to be approved.

MOTION: (Klingenberger, Lettau) Adopt Resolution #2010-019: A Resolution Amending the Town’s CY 2010 Budget to transfer funds from the Town’s Park Improvement Reserve Funds to the Town’s CY 2010 Capital Budget for the Larsen Road reconstruction project.

CARRIED by unanimous voice vote.

- C. **Discussion / Action** – Town Board action on a Bid Award for the Town’s CY 2011 Capital Paving Projects.

The low bid from MCC, Inc., exceeds the Administration’s project cost estimates. The Administration used the Town’s Draft Paving Standards when bidding the project (1 ¾ inch base course and 1 ¾ inch final course) rather than the 2 ½ inch single lift specified in the Town’s Developer’s Agreements. Based upon the bid results, the Administration is recommending that the Board reject all bids and re-bid the project with a revised paving standard option. The revised paving option would allow the Town to use the old paving standards to meet its funding requirements.

As a point of reference, one of the bidders (northeast Asphalt) delivered their bid to the Martenson & Eisele, Inc., office instead of the Town Office. They were advised of their error and tried to deliver the documents to the Town Office and still make the bidding timeline but failed. The Administration has the unopened NEA bid and has advised all bidders of its recommendation to the Board. If the Board accepts the Administration’s recommendation, the revised bids would be issued in January with a bid award scheduled for the Board’s Wednesday, February 2, 2011, meeting.

MOTION: (Klingenberger, Schmidt) Reject all bids received on the Towns CY 2011 capital paving projects and put them up for re-bid with the revised standards

CARRIED by unanimous voice vote.

- D. **Discussion / Action** – Town Board action on an Annual Performance Review of the Town Administrator.

The Administration would respectfully request direction from the Board on how it would like to complete the Administrator’s Annual Performance Evaluation. If the Board were to use the same evaluation document used for the Town’s department heads, the evaluation process would generate some consistency across the evaluations of the Town’s staff. Should the Board appoint a review panel to complete the performance evaluation, the results of that evaluation could be presented to the Board for review at its Wednesday, January 5, 2011, meeting.

MOTION: (Klingenger, Geise) All board members submit an evaluation for the Town Administrator to the Town Clerk to submit to Chair Luebke and Supervisor Schmidt by January 5, 2011, and address the evaluation at the second Town Board meeting in January.
CARRIED by unanimous voice vote.

- E. **Discussion / Action** – Town Board action on a Pro-Forma Performance Review of the Town’s Public Works Foreman.

The Administration has completed Public Works Foreman Pamerter’s Annual Performance Evaluation. Based upon Scott’s performance over the past year, the Administration is satisfied that he is progressing well in his job. A review of evaluation documents shows that there is significant agreement between Scott and the Town Administrator on his strengths and weaknesses.

If the Board would like to have a more detailed discussion relative to Scott’s performance, the Administration recommends that it be directed to schedule a Closed Session Meeting of the Board for the purposes of discussion of the Performance Evaluation for the Town’s Public Works Foreman. Simple questions of the Public Works Foreman should not require a Closed Session meeting.

No motion on this item.

- F. **Discussion / Action** – Town Board action on approval of a revised Town Fee Schedule for CY 2011.

The Administration highlighted adjustments to the fee schedule for CY 2011. The revised Building Inspection Fees are those presented to the Board, and approved by the Board at its December 1, 2010, meeting. The revised fee schedule will become effective as of January 1, 2011. Please be advised that the Board can adjust its fees as it sees fit over the course of the year.

MOTION: (Klingenger, Lettau) Approve the revised Town Fee Schedule with the addition of exhumation fee the same as an original burial.
CARRIED by unanimous voice vote.

- G. **Discussion/Recommendation:** – Town Board direction to staff relative to the possible Special Assessment of benefitted property owners for some of the Larsen Road Project Change Orders.

Town documents were found in the Town’s files relating to the development of Westridge Way (Golf Course Drive). The first document is a copy of the portion of the Site Plan for Westridge Golf Course showing the access points off Westridge Way. The second document is a copy of the Plat developed on the extension of Westridge Way. There are also copies of the Change Orders (Change Order #2) relating to the Salm properties. The total cost of the Salm related Change Order is \$7,770.84 (\$6,384.00 + \$2,386.84). The Board’s inquiry relates to the Town’s acceptance of certain anomalies, specifically with drain tile under Larsen Road and a sump drain under Westridge Way.

The house owned by Jim Salm was built in approximately CY 1953. Since Westridge Golf Course was developed in the early part of the decade (CY 2000), it is reasonable to believe that the sump drain existed when Westridge Way was constructed. Given the development standards at the time, the Board may not have been aware of the sump drain when it accepted the dedication and construction of Westridge Way. However, acceptance of the road by the Town is an implicit approval of the extant conditions at the time of acceptance.

The field drain under Larsen Road was intended to drain the farm fields in the area north of Larsen Road and west of STH “76”. Given the absence of evidence that Larsen Road was disturbed to install the drain tile from the north side of the road to the south side ditch line it is reasonable to believe that the drain tile was in place at the time that Larsen Road was last rebuilt (CY 1970+/-). Again, acceptance of the extant conditions is an implicit approval of the drain tile under Larsen Road.

Please be advised that the Board does have the authority to Special Assess the work required to remove the drain tile and the sump line from its right-of-way; however, the Administration does not believe that these items were placed in the road without either the explicit and/or implicit approval of the Town.

No motion on this item.

- H. **Discussion/Recommendation:** – Town Board direction to staff relative to the Town’s CY 2011 Winnebago County, Industrial Development Board, Per Capita Funding Application.

For the past two years (CY 2009 & CY 2010), the Town has applied for the County’s Industrial Development Board, Per Capita Funds for the purpose of rebuilding the Town of Clayton’s internet Home Page. To date, the Town has collected approximately \$3,000.00 that was to be used for the Home Page updating activity while being unable to update the website. With the changes in office staff, we have not been able to develop the expertise to do the Home Page update in house. The Administration believes that the best way to update the Home Page is to train the Town’s staff to do the work so that the home page can be continually updated. The Town’s Treasurer has expressed an interest in the project but would need training on website design and implementation. The Administration can schedule the training during the winter and spring months of CY 2011. The Home Page updating project could then take place during the summer months of the year.

Based upon this summary of the Town of Clayton’s recent use of the County’s money, the Administration respectfully requests that the Board allow the Town of Clayton’s 2011 Per Capita Funds to be used to supplement some other Community’s project. If authorized, the Administration would indicate to the County Industrial Development Board that it could re-allocate the Town of Clayton’s 2011 funds at its discretion.

If the Board has an alternative project that fits the County’s criteria, staff could make an application for the Per Capita Funds and apply the funds to the Board’s project.

MOTION: (Lettau, Schmidt) Submit an application to the Winnebago County Industrial Development Board to indicate that we wish to use the \$1,500.00 to continue the process we’ve begun.
CARRIED by 4-1 voice vote. (Klingenberger = no)

I. **Discussion/Recommendation:** – Town Board direction to staff relative to substituting a Tax Bond for the Town’s guarantee to pay the aggregate tax liability for the taxes collected by the Town’s Treasurer.

An April 1, 1997, Town Ordinance obligates the Town to pay the aggregate Town Tax liability should the Treasurer not be able to pay the funds for any reason. Essentially this Ordinance makes the Town liable for tax collections if for any reason the funds are lost or stolen. This is why the Town has a policy of requiring third-party-held collateral for all of its accounts including the Tax Holding Account. The collateral is intended to protect the Town from a potential bank failure.

The Town’s insurance consultant has indicated that many communities are moving away from the guarantee in favor of a Tax Bond Insurance policy. Should the Board opt for a Tax Bond, the funds could be budgeted in the CY 2012 Budget and the Town’s Ordinance would be repealed. This timeline would require that the Board allocate funds to purchase a Tax Bond for the CY 2012 Tax Collection period. This allocation would be made from the Town’s CY 2011 Undesignated Reserve Budget Line Item. The Tax Bond protects \$250,000, which is essentially the cash in the Town office before it is deposited into the bank.

MOTION: (Klingenberger, Schmidt) Take out a Tax Bond for the Town’s guarantee to pay the aggregate tax liability for the taxes collected by the Town’s Treasurer for 2011 and for 2012.
CARRIED by unanimous voice vote.

X. Upcoming Meeting Attendance – none

XI. Board Member Requests for Future Agenda Items – none

XII. Approval of Disbursements

MOTION: (Unanimous consent) Approve Wisconsin Public Service, Kelly Printing, and CenturyLink as presented.
CARRIED.

MOTION: (Unanimous consent) Approve disbursements as presented.
CARRIED.

XIII. Adjournment – 8:18p

MOTION: (Unanimous consent) Adjourn.
CARRIED.

Respectfully Submitted, Susan Nester-Huebner, *Clerk*