

## TOWN OF CLAYTON

## Town Board of Supervisors

## Meeting Minutes

7:00 P.M. – 8:20 P.M. on Wednesday, February 5<sup>th</sup>, 2014

Town Office Meeting Room, 8348 County Road T, Larsen, WI 54947

## I. Call to Order:

## A. Notice Verification, Roll

1. Town Board Chairman Luebke called the meeting to order at 7:00 P.M.
2. Pledge of Allegiance recited.
3. Meeting properly posted at three locations in the Town.
4. Roll

## a. Board of Supervisors

Chair Luebke	PRESENT
Supervisor Geise	PRESENT
Supervisor Lettau	PRESENT
Supervisor Grundman	PRESENT
Supervisor Schmidt	PRESENT

## b. Staff

Administrator Johnston	PRESENT
Treasurer Bowen	PRESENT
Town Engineer – Mary Jo Miller	PRESENT

## II. Public Hearing:

- A. Town Board Public Hearing on Draft Ordinance 2014-001. The Town Board for the Town Of Clayton is scheduled to hold a Public Hearing on proposed amendments to the Town's Ordinance No. 5.2 Intoxicating Liquor and Fermented Malt Beverages at 7:00 P.M. on Wednesday, February 5<sup>th</sup>, 2014. The Public Hearing will be held at the Town Office Board Room, 8348 County Road T, Larsen, WI 54947. Copies of the proposed amendments to the Town's Ordinance No. 5.2 Intoxicating Liquor and Fermented Malt Beverages are available at the Town Hall, or by contacting the Town Clerk at (920) 836-2007. If you cannot attend the Public Hearing, you may submit written comments to the Town Clerk on or before the date of the Public Hearing.

- Draft Ordinance 2014-001 read for the record
- Administrator Johnston reviewed the reason for amending the Ordinance

Public Hearing opened to Public at 7:05 p.m.

Jeff Boe, 8350 State Road 76, Neenah, WI 54956

- Asked for clarification on the contents of the revised Ordinance relative to property taxes
- Chair Luebke clarified the wording of the Ordinance relative to the payment of property taxes

**MOTION:**

Motion: Supervisor Grundman  
Second: Supervisor Lettau  
Motion made to close the Public Hearing  
Motion carried by unanimous voice vote  
Public Hearing Closed at 7:10 p.m.

III. Approval of Minutes:

- A. Approval of the Minutes of the Regular Town Board Meeting held at 7:00 P.M. on Wednesday, January 15<sup>th</sup>, 2014.

**MOTION:**

Motion made by unanimous consent to approve the Minutes of the Regular Town Board Meeting held at 7:00 P.M. on Wednesday, January 15, 2014.

IV. Open Forum – Non-Agendized Town-related Matters:

- A. No Referrals

V. Correspondence:

- A. Letter of resignation from Administrative Assistant Jenna Prange
- B. Wisconsin DNR Forestry Notes for February 2014
- C. Thank you letter from 56<sup>th</sup> Assembly District State Representative Dave Murphy
- D. Thank you letter from 53<sup>rd</sup> Assembly District State Representative Michael Schraa
- E. Thank you letter from State Senator 19<sup>th</sup> District Michael Ellis
- F. Larsen-Winchester Sanitary District 2013 Annual Report

VI. Discussion Items (No action will be taken.):

- A. County Supervisor Report
  - 1. County Supervisor Chuck Farrey present
  - 2. No Report
- B. Winnebago County Sheriff's Department – Public Concerns and Issues
  - 1. No Report
- C. Clayton-Winchester Fire Department
  - 1. No Report
- D. Larsen Winchester Sanitary District
  - 1. Mike Pfankuch present
  - 2. Discussed the Fall drawn-down
  - 3. Rag issues continue
  - 4. Plover meeting discussion
  - 5. Discussed the Sanitary District annual report handout
  - 6. Discussed the Sanitary District levy relative to the purchase of equipment upgrades and improvements
  - 7. Had Public Hearing involving boundaries of the District – all boundaries approved Monday, February 3, 2014
- E. Administration Comments
  - 1. Engineer
    - a. Engineer Miller will review her agenda item later in the meeting
  - 2. Administrator/Clerk

- a. Administrator Johnston strongly advises Board to review long range community plan
  - b. Kimberly-Clark had emergency at their facility at 2600 Kline Street and emergency vehicles could not find Kline Street. Address change effective March 1, 2014 to 8556 Martin Drive. (Information to Fire Chief also)
3. Public Works Foreman:
- a. No Report
4. Treasurer/Deputy Clerk:
- a. Treasurer Bowen reports insurance premiums to increase an estimated 10.3% for our buildings, non-aggregate deductible, contractor equipment, motor vehicles and comprehensive/collision. Since February of 2010 there have been six claims filed.
  - b. Treasurer Bowen advised on the tax settlements and tax refunds
  - c. Update on Banyon software and fund accounting audit
5. Town Board:
- a. No Report

VII. Licenses and Permits:

A. New:

- i. Brandon Hoppe
- ii. Nicole Clauson
- iii. Cheryl L Klotz

B. Renewal:

- i. No Renewal Licenses Issued

VIII. Business referred by the Plan Commission - Town Board receipt, review, and consideration of Plan Commission Referrals:

A. No Referrals

IX. Green Space – Town Board receipt, review, and consideration of Green Space Committee Referrals:

- A. Green Space Committee direction to staff relative to generating a Town Policy for the use of chemicals, herbicides, and pesticides on Town property.

**NO ACTION TAKEN**

X. Business:

- A. Discussion/Action: Town Board review, consideration and first reading of Draft Ordinance 2014-001 on proposed amendments to the Town's Ordinance No. 5.2 Intoxicating Liquor and Fermented Malt Beverages.

Attached please find a copy of Draft Ordinance 2014-001 on the proposed amendments to the Town's Ordinance No. 5.2 Intoxicating Liquor and Fermented Malt Beverages. The significant clarification in the revised Ordinance language is in the interpretation of who is owed delinquent real property tax monies. The Administration's interpretation of the original Ordinance language is that when an individual owes delinquent real property taxes, the taxes are not owed to the Town but to the County. The Administration's interpretation is based on the fact that the County makes the Town whole for any delinquent real property taxes in August of the calendar year. The Administration believes that the Town always intended to require that all taxes, fees, and special assessments levied

by the Town be paid prior to issuing any Municipal License, however, the language, as drafted, allows for the loophole. The revised Ordinance language uses the term “taxes levied” by the Town, since the Town levies all fees, forfeitures, fines, personal property taxes and real property taxes. The fact that the County makes the Town whole becomes a mute point since the encumbrances were still levied by the Town. Should the Board wish to move forward with the Ordinance revision after considering the Public Hearing input, a motion would be in order to refer the item to a second reading at the Board’s Wednesday, February 19<sup>th</sup>, 2014 meeting.

**MOTION:**

Motion: Supervisor Schmidt

Second: Supervisor Lettau

Motion made to refer the Draft Ordinance 2014-001 on proposed amendments to the Town’s Ordinance No. 5.2 Intoxicating Liquor and Fermented Malt Beverages to a second reading at the Town Board’s Wednesday, February 19<sup>th</sup>, 2014 meeting.

Motion carried by unanimous voice vote.

- B. Discussion/Action: Town Board review and consideration of the Treasurer’s partial list of Tax Refunds for CY 2013 Taxes payable in CY 2014.

Attached, please find a partial list of tax refund checks that the Treasurer has prepared for the Board’s approval. The refunds occur as a result of bank escrow checks that are issued for more than the property tax bill. Town Policy is to not issue a refund until the check has cleared and the Board has approved the list of checks prepared by the Treasurer. If the Board agrees with the Treasurer’s recommendation, a motion would be in order to issue the refunds checks as identified on the attached list prepared by the Town Treasurer.

- Discussed various reasons for the overpayment of tax checks received

**MOTION:**

Motion by: Supervisor Schmidt

Seconded by: Supervisor Grundman

Motion made to approve the partial list of Tax Refunds for CY 2013 Taxes payable in CY 2014.

Motion carried by unanimous voice vote.

- C. Discussion/Recommendation: Town Board review and direction to staff relative to the Town’s CY 2014 Capital Construction Projects that include but are not limited to the following:

- i. Phase 2 of the Ridgeway Drive Capital Reconstruction Project.
- ii. The Ridgeway Drive/Ridgeway Golf Course storm water management project.
- iii. The Braun Court Capital Reconstruction Project.

Attached, please find a copy of the Engineering Services Proposals provided by the Town's Engineer for the CY 2014 Capital Reconstruction Projects. The Administration has finalized its review of the proposed projects with the Town's Engineer and the Town's Public Works Foreman. At this time, staff is looking for direction from the Board relative to several minor variations from the Town's "Minimum Road Standards Ordinance" before completing the final engineering design of the projects. The Town Engineer will be in attendance at the Board's meeting to review the proposed variances with the Board. Specifically, staff would like to use a minimum of a 0.5% slope in the roadside storm water management ditches in the project area. This is a variance from the 1.00% slope required by the "Minimum Road Standards Ordinance". The use of the 0.5% slope in the roadside ditches will minimize the depth of the roadside ditches in the area. The use of drain tile in the bottom of the roadside ditches should eliminate most, if not all, of the standing water in the roadside ditches. Additionally, for traffic safety reasons, staff would like to enclose the radii of Braun Court. The Engineering costs for the projects are as follows:

▪ Phase 2 Ridgeway Drive Capital Reconstruction Project:	\$ 2,870.00
▪ Ridgeway Golf Course storm water management project:	\$ 6,050.00
▪ The Braun Court Capital Reconstruction Project:	\$ 3,560.00
▪ Bidding Documentation and Reimbursable Expenses:	<u>\$ 3,800.00</u>
Total Engineering Costs	\$17,030.00

The only change in the Town's plan from CY 2013 is the addition of a Storm water Management Utility Project at the western corner of Ridgeway Drive. The project is intended to provide storm water management relief where the area storm water accesses the golf course property. In general, staff would like to complete the storm water project in conjunction with the road project rather than using heavy equipment after the fact on a newly paved road. Should the Board wish to proceed with the Engineering and bidding, a motion would be in order to direct staff to proceed with the project engineering at a cost of \$17,030.00 including the variances from the Town's "Minimum Road Standards Ordinance" as presented. Funding for the project will come from the Town's CY 2014 Budget, Engineering Line Item.

- Discussed the options for ditches, drain tile and ponds relative the projects
- Discussed a variance from the Minimum Road Standards Ordinance

Burt Drews, 3113 County Road II, Neenah, WI 54956

- Asked if there is pipe going under the golf course
- Expressed concern regarding his issues with drainage on his property

**MOTION:**

Motion: Supervisor Schmidt

Second: Supervisor Geise

Motion made to direct staff to proceed with the project engineering at a cost of \$17,030.00 including the variances from the Town's "Minimum Road Standards Ordinance" as presented. Funding for the project will come from the Town's CY 2014 Budget, Engineering Line Item.

Discussion:

- Supervisor Grundman asked if the PW staff had problems with the plowing on the corner of Ridgeway Drive and Westfield Ridge
- Discussed the salt inventory levels

- The staff is considering using sand with salt for the CY 2014/2015 winter season
- Motion carried by unanimous voice vote.

D. Discussion/Action: Town Board review and consideration of a Planning Services Proposal for CY 2014 by Jonathan P. Bartz, submitted at the Administration's request.

Attached please find a copy of a proposal submitted by Jonathan P. Bartz (Jon) for providing Planning Services to the Town of Clayton for CY 2014. As presented, Jon would provide routine planning support to the Town's Plan Commission and staff for \$365.00 per month and Planning Project Services on a scope of services basis at a cost of \$100.00 per hour. The funding for the planning support function (\$365.00) would come from a reduction in the monthly fee paid to Martenson & Eisele, Inc. as part of the Town's Engineering and Planning Services Contract. Funding for the Planning Services function would come from the Town's CY 2014 Budget, Planning Services Line Item. As a point of clarification, the Board would always have to approve any individual non-routine Planning Services Proposal with Mr. Bartz. Should the Board wish to proceed with Mr. Bartz, the Administration will prepare an amended Engineering Services Contract with Martenson & Eisele, Inc. for the Board's approval. For reasons of project continuity, the Administration is recommending approval of the Planning Services Proposal submitted by Mr. Bartz for a monthly fee of \$365.00 as well as the Planning Project Services proposal on a scope of services basis.

- Discussed the proposal submitted by Mr. Bartz
- Discussed the contract with Martenson & Eisele, Inc. and the Town's future relationship with Martenson & Eisele, Inc.

**MOTION:**

Motion made by unanimous consent to approve the Planning Services Proposal submitted by Mr. Bartz for a monthly fee of \$365.00 as well as the Planning Project Services proposal on a scope of services basis.

E. Discussion/Action: Town Board review and consideration of adjustments to and the continuation of the Town's Engineering Contract with Martenson & Eisele, Inc. 1377 Midway Road, Menasha WI 54952-0449.

As part of the Board's consideration to proceed with the Planning Services Proposal submitted by Mr. Bartz, the Town Chair has asked the Administration for a recommendation relative to the balance of the 3-year Engineering Services Contract with Martenson & Eisele, Inc. Simply put, other than the adjustments to the Town's Contract with Martenson & Eisele, Inc needed to proceed with the proposal submitted by Mr. Bartz, the Administration is recommending that the Board continue to use Martenson & Eisele, Inc. for the balance of CY 2014. This recommendation is based on the ongoing CY 2014 Capital Construction Contracts that carried over from CY 2013. However, the Administration is keenly aware of the Board's and the Community's lack of confidence in the Town's engineering process. In order to put this issue to rest the Administration is recommending that the Board direct staff to exercise its option under the existing Engineering Services Contract language to seek comparative proposals for any additional work completed during the course of CY 2014. This will allow the Board to make an educated decision on how to proceed for the balance of the Contract period. Should the Board agree with the Administration's recommendation, a motion would be in order to direct staff to proceed with the process as outlined.

**MOTION:**

Motion: Supervisor Geise

Second: Supervisor Grundman

Motion made to recommend that the Town continues to use Martenson & Eisele, Inc. for the remainder of CY 2014 with the contract carry over from CY 2013 and direct the Town staff to seek current work and additional future work with Martenson & Eisele, Inc. through CY 2014.

Motion carried by unanimous voice vote.

F. Discussion/Action: Town Board review and consideration of a Change of Agent Application and a Change of Establishment Name for the following Reserve Class “B” license to sell fermented malt beverages, and a Reserve “Class B” license to sell intoxicating liquors License:

i. Boe, LLC (dba The ReMixx), 8386 State Road 76, Suite B, Neenah, WI 54956. Agent: Michelle Baumann.

Attached please find a copy of the Change of Agent application for the above referenced Reserve Class “B” license to sell fermented malt beverages, and a Reserve “Class B” license to sell intoxicating liquors License: Staff has reviewed the applications and completed the background check on Ms. Michelle Baumann and has no concerns with either the Change of Agent or the change in the name of the establishment. Should the Board be comfortable with the Administration’s recommendation, a motion would be in order to approve the Change of Agent Application and the change in the name of the establishment.

Jeff Boe

- Asked Board about a tax credit or refund on the Reserve Liquor License that he holds for this establishment
- Chair Luebke asked Mr. Boe to talk with the Town Staff about putting that discussion on a future meeting agenda
- Discussion on Ms. Baumann completing the Auxiliary Questionnaire that was included in the application

**MOTION:**

Motion: Supervisor Schmidt

Second: Supervisor Geise

Motion made to approve the Change of Agent Application and the change in the name of the establishment to The ReMixx subject to completing the Auxiliary Questionnaire as required by the Town Treasurer.

Motion carried by unanimous voice vote.

G. Discussion/Action: Town Board review and consideration of Resolution 2014-001 a Resolution presenting the Administration’s recommendation that the Town accept approximately 1,700 feet +/- of new Town Roads known as Fox Valley Drive and Black Top Way.

Attached, please find a copy of Resolution 2014-001 presenting the Administration’s recommendation that the Town Board accept approximately 1,700 feet +/- of new town roads known as Fox Valley Drive and Black Top Way along with other material relating to the project. At this time, staff has paid Vinton Construction and the Town’s Engineer for

the work completed to date. Any additional work on the project is scheduled for CY 2014 and CY 2015. The work that needs to be completed includes fixing any soft spots in the based course of the road, two layers of asphalt pavement, signage, and curb and gutter. These items are scheduled to be completed with additional funding provided by the developer. Approval of the attached Resolution allows the Town to assume the responsibility for maintaining the new town road and requires that staff include the new town roads in the Town's CY 2014 PACER report to the State Department of Transportation. Should the Board agree with the Administration's recommendation, a motion would be in order to approve Resolution 2014-001 accepting approximately 1,700 feet +/- of new Town Roads known as Fox Valley Drive and Black Top Way, and to direct staff to include the new town roads in the Town's CY 2014 Wisconsin Department of Transportation PACER Report.

- Discussed additional costs to the Town relative to accepting the Roads
- Discussed project completion schedule and paving of roads

**MOTION:**

Motion: Supervisor Geise

Second: Supervisor Schmidt

Motion made to approve Resolution 2014-001 accepting approximately 1,700 feet +/- of new Town Roads known as Fox Valley Drive and Black Top Way, and to direct Town staff to include the new town roads in the Town's CY 2014 Wisconsin Department of Transportation PACER Report.

Motion carried by unanimous voice vote.

- H. Discussion/Action: Town Board review and consideration of issuing a refund for the Garbage and Recycling Fee for Mary Kutchenriter on a duplex unit located at 9258 STH "76" (Tax ID # 006-0332) that has been converted back to a single family residence.

Attached please find a copy of a Tax bill for the above referenced property. As is evidenced by the \$376.18 Garbage & Recycling Fee for which the property owner is being billed, the Garbage and Recycling is for two units. The unit used to consist of a single family home that at some time was divided into an upper and lower two-family residence. At some point, the upper unit was reconnected to the lower unit as a single family home. However, the Town's assessor was not aware of the change in use and never removed the duplex designation from the housing unit. Based on that designation, staff placed the Garbage & Recycling Fee for two units on the property tax bill. The Administration has confirmed that the unit is a single family home and should be charged for one Garbage & Recycling Fee. Since the Garbage and Recycling Fee was placed on the tax bill, the only way to refund the Fee was for the property owner to pay the fee and the Town to refund the Fee. The Administration advised the property owner that the Board would have to approve the refund and that staff would recommend that the refund be approved. Should the Board agree with the Administration's recommendation a motion would be in order to direct staff to pay the Garbage & Recycling Fee refund of \$187.59 and have the Town's Assessor remove the duplex designation from the property.

- Administrator Johnston discussed the issues involved with requesting the refund.

**MOTION:**

Motion made by unanimous consent to direct staff to pay the Garbage & Recycling Fee refund of \$187.59 and have the Town's Assessor remove the duplex designation from the property.

- I. Discussion/Action: Town Board review and consideration of issuing a refund for the mowing of a vacant lot on Guardian Lane (Tax ID # 006-1631) owned by Justin Pietrangelo. Overlap during transition of property sale.

Attached please find copies of material relating to the request for a refund for the mowing of a vacant lot on Guardian Lane (Tax ID # 006-1631) owned by Justin Pietrangelo. It appears that the cost of mowing the vacant lot was assessed to Winding Road LLC and placed on the tax bill of Justin Pietrangelo. Specifically, when staff received the complaint on the lot, the property was owned by Winding Road LLC., but when staff placed the bill on the Tax Roll the property was owned by Justin Pietrangelo. It appears that the sale of the lot occurred at the same time as the mowing and in this case, the assessment for the mowing rightly belongs to the seller (Winding Road LLC) not the buyer (Justin Pietrangelo). The Administration believes that the Town should try to collect the Fee from Winding Road LLC and to refund the fee to Justin Pietrangelo. The refund is based on the fact that Justin Pietrangelo has paid the taxes on the property, including the Special Assessments and Fees. Additionally, the Administration will be reviewing staff's procedures relating to this process in order to mitigate the possibility of it happening again. If the Board agrees with the Administration's recommendation, a motion would be in order to direct staff to refund the vacant lot mowing fee to Justin Pietrangelo, to try to collect the fee from Winding Road LLC, and to review the Town's fee assessment process.

**MOTION:**

Motion made by unanimous consent to direct staff to issue refund to Justin Pietrangelo for mowing of vacant land.

- J. Discussion/Recommendation: Town Board update on the process of filling the vacancy in the Town's Administrative Assistant position created by the resignation of Ms. Jenna Prange.

As the Board knows, Jenna has given notice that her last day of work will be Friday, January 31<sup>st</sup>, 2014. Jenna has indicated that she is leaving for personal reasons and to continue her education. The Administration received Jenna's notice on Monday, January 20<sup>th</sup>, 2014. At that time the issue was discussed with the Board's Personnel Panel. The Administration advised the Panel that it wanted to use the same process (a temp to hire through CADRE) to fill the vacancy as it has in the past; however, the timing of the process created a possible issue. Staff wanted to fill the position with some overlap so that Jenna could help train the new employee. This process would require that staff sign a Contract with CADRE before the February 5<sup>th</sup>, Town Board Meeting. Both the Town Chair and the Vice Chair agreed that it would be preferable to have Jenna help with the training and in order to make that possible they agreed that the Administration should start the hiring process subject to the Board approving the eventual hire. For clarity, the individual hired (Laurie Goffard) is an employee of CADRE, is being paid \$12.00 per hour, and will only become a Town Employee following the 400 hour temp period. At that time the Board will have the option of approving the hiring of a full time employee.

**NO ACTION TAKEN**

- K. Discussion/Recommendation: Town Board update on the approval of the Town's Certified Survey Map (CSM) and the pending sale of the Elmer property.

The Administration would like to advise the Board that it has received the signed CSM of the properties adjoining the Town/Fire Hall from Mr. Clauson and Mr. Wiedenbeck. At this time staff is going to finish the CSM approval and recording process. Once that process is complete staff will ask the Town Attorney to draft the property sale documents and present them to the Board for approval. Once that process has been completed staff will set closing dates for the property transfer and finish the process of selling and purchasing the properties in question.

**NO ACTION TAKEN**

- XI. Upcoming Meeting Attendance
  - A. Special Town Board Meeting set for Tuesday, February 11<sup>th</sup>, 2014 from 8:00 a.m. – 10:00 a.m.
  
- XII. Board Member Requests for Future Agenda Items
  - A. Chair Lettau wants to discuss snowmobiles in the town road
  - B. Chair Luebke wants to discuss refund on reserve license for Jeff Boe (Boe, LLC)
  
- XIII. Review of Disbursements
  - A. Disbursements
  
- XIV. Adjournment – \_\_\_ P.M.  
**MOTION:**  
Motion made by unanimous consent to Adjourn.

Respectfully submitted,  
Laurie L. Goffard, Administrative Assistant