

TOWN OF CLAYTONRegular Meeting of the Town Board of Supervisors
Meeting MinutesJanuary 19, 2011
7:00 p.m. – 8:35 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 Pamenter	PRESENT
Town Engineer Madsen	PRESENT

Meeting properly posted; three locations in the Town.

II. Approval of Minutes

- Regular Town Board Meeting – January 5, 2011
MOTION: (unanimous consent) Approve Regular Town Board Meeting Minutes from January 5, 2011, as written.
CARRIED.

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

- Drainage Revisions Made During 2010 Along Larsen Road – Lawrence Wirth, 410 E. Wisconsin Ave., Neenah, WI 54956
- Winnebago County Board of Supervisors Agenda (Amended) – Tuesday, January 18, 2011
- Winnebago County Solid Waste Management Board (Received 1/17/2011) – 2010 Recycling Tonnage Report

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

- County Supervisor Report – Supervisor Joanne Sievert, District 29, present: Fond du Lac County had already reduced its County Board (saving approximately \$2,000.00 per year) prior to 2010, Winnebago County Board of Supervisors will hear resident input regarding reduction of County Board of Supervisors number and Board will hear it in its February meeting
- Winnebago County Sheriff's Dept. – Deputy Sleeter: no questions for the deputy
- Clayton-Winchester Fire Chief Report – Fire Chief Mathison not present: 5 calls YTD
- Administration Comments –
 - Town Administrator: Snow plowing issue in the timing of plowing during the most recent snow event
 - Clerk: February 15, 2011, Spring Primary Election
 - Public Works Foreman: Most recent snow event timing issue
 - Town Engineer: lighted stop signs for Larsen Road are still on backorder
 - Supervisor Klingenberger: Update from most recent Joint Fire Board (JFB) Meeting – items to be addressed by the Fire Board in future are 1) Town of Clayton pays approximately 76% of the Fire Department budget, and the make-up of the JFB is 50/50 (3 members each from Town of Clayton and Town of Winchester) the JFB may consider making the JFB representative based upon the

proportion of percentage paid, 2) JFB is currently made up of Town Supervisors, proposing appointment to JFB not necessarily be Town Supervisors, and 3) Fire Chief status in the future may need to be a full-time employee of FD and should be an appointed position by JFB versus being elected by fire fighters; Next Joint Fire Board meeting is at 7:00pm on Monday, April 25, 2011, in the Town of Clayton Meeting Room

VI. Zoning – Receipt of Information from Plan Commission

- A. Plan Commission review and recommendation on a Certified Survey Map (CSM) for Martin and Suzette Nikodem and Laura Dueitt 4085 Winnegamie Drive, Neenah WI 54956, for property located at 4063 Winnegamie Drive in the Town of Clayton and described as Tax ID #s 006-009501, 006-009500, and 006-009401, specifically known as: Part of Tract 1 of Certified Survey Map Number 554 as recorded in Volume 1 of Certified Survey Maps on page 554 and Part of the Northeast ¼ of the Fractional Northwest ¼ and the Northwest ¼ of the Fractional Northwest ¼ of Section4, Township 20 North, Range 16 East, Town of Clayton, Winnebago County, Wisconsin
- B. Commission review with staff of the Town’s proposed wind energy device Ordinance
- C. Commission review with staff of the Outagamie County’s Airport Zoning Overlay and Matrix process
- D. Staff review of a Draft CY 2011 Town of Clayton Minimum Road Design Standards Policy

VII. Licenses

- A. **Discussion / Action** – Operator Licenses
 - New – Dawn G. Davis
 - New – Janiece M. Zastrow
 - New – Ken R. Zastrow
 - New – Neo Suardini
 - New – Gina L. Combs
 - New – Kayla A. Bentle
 - New – Michael C. Osnoe

MOTION: (unanimous consent) Approve the new operator license for Dawn G. Davis.
CARRIED.

MOTION: (unanimous consent) Approve the new operator license for Janiece M. Zastrow.
CARRIED.

MOTION: (unanimous consent) Approve the new operator license for Ken R. Zastrow.
CARRIED.

MOTION: (Geise, Schmidt) Approve the new operator license for Neo Suardini.
CARRIED by 4-1 voice vote. (Lettau = no)

MOTION: (unanimous consent) Approve the new operator license for Gina L. Combs.
CARRIED.

MOTION: (unanimous consent) Approve the new operator license for Kayla A. Bentle.
CARRIED.

MOTION: (Geise, Schmidt) Approve the new operator license for Michael C. Osnoe.
CARRIED by 4-1 voice vote. (Lettau = no)

- B. **Discussion / Action** – Consideration and approval of a Change in Agent for the following Reserve Class B Beer/Class B Liquor Licensee:
 - Boe, LLC, d.b.a. Ridgeway Bar, 8386 State Road 76, Suite B, Neenah, WI 54956 (Proposed agent, Michael C. Osnoe, to replace current agent, Jeffrey A. Boe)

Michael C. Osnoe present.

MOTION: (Geise, Schmidt) Approve Change of agent for the Reserve Class B Beer/Class B Liquor License of Boe, LLC, d.b.a. Ridgeway Bar, 8386 State Road 76, Suite B, Neenah, WI 54956, to make that change from the current agent, Jeffrey A. Boe, to Michael C. Osnoe.
CARRIED by unanimous voice vote.

- C. **Discussion / Action** – Consideration and approval of Original Class B Beer/Class B Liquor License application, in and for the Town of Clayton, for the period of January 21, 2011, to June 30, 2011, subject to compliance with State Statutes and Municipal Ordinances, for the following applicant:
 - Pubs and More, LLC (d.b.a. Headliners), 2788 Towne Court, Neenah, WI 54956 (Agent: Kenneth R. Zastrow)

Kenneth R. Zastrow present.

MOTION: (Geise, Klingenberger) Approve the Original Class B Beer/Class B Liquor License application, in and for the Town of Clayton, for the period of January 21, 2011, to June 30, 2011, subject to compliance with State Statutes and Municipal Ordinances, for Pubs and More, LLC (d.b.a. Headliners), 2788 Towne Court, Neenah, WI 54956 (Agent: Kenneth R. Zastrow).
 CARRIED by unanimous voice vote.

Deputy Sleeter arrived at 7:41pm.

VIII. Business

- A. **Discussion / Action** – Plan Commission review and recommendation on a Certified Survey Map (CSM) for Martin and Suzette Nikodem and Laura Dueitt 4085 Winnegamie Drive, Neenah WI 54956, for property located at 4063 Winnegamie Drive in the Town of Clayton and described as Tax ID #s 006-009501, 006-009500, and 006-009401, specifically known as: Part of Tract 1 of Certified Survey Map Number 554 as recorded in Volume 1 of Certified Survey Maps on page 554 and Part of the Northeast ¼ of the Fractional Northwest ¼ and the Northwest ¼ of the Fractional Northwest ¼ of Section4, Township 20 North, Range 16 East, Town of Clayton, Winnebago County, Wisconsin

Site Location: Part of Tract 1 of Certified Survey Map Number 554 as recorded in Volume 1 of Certified Survey Maps on page 554 and Part of the Northeast ¼ of the Fractional Northwest ¼ and the Northwest ¼ of the Fractional Northwest ¼ of Section4, Township 20 North, Range 16 East, Town of Clayton, Winnebago County, Wisconsin

Applicants: Martin and Suzette Nikodem and Laura Dueitt

Owners: Martin and Suzette Nikodem and Laura Dueitt, 4085 Winnegamie Drive, Neenah, WI 54956

Consultant: Tom Halverson, Wisconsin Registered Land Surveyor, Carow Land Surveying Co. Inc., 615 North Lyndale Drive, P.O. Box 1297, Appleton, WI 54912-5673

Staff Comments on the CSM:

The proposed CSM creates three (3) reconfigured lots out of the three original parcels of land (Tax ID #s 006-0095-01, 006-0095-00, and 006-0094-01). The purpose of the proposed CSM is to create a conforming lot (Lot 2 of the proposed CSM) for the newly-constructed home of Laura Dueitt (4063 Winnegamie Drive). The house was originally built on tax parcel # 006-0095-00. The construction was legal and in conformance with the County Zoning Code of Ordinance, however, in order to have title to the property and to be able to finance the construction of the house, a separate parcel was needed (Lot 2 of the proposed CSM). The proposed CSM is in compliance with the County’s Code of Zoning Ordinances and the Town’s Comprehensive Plan.

Staff Comments on Lot Access:

All three (3) of the existing and the proposed parcels have access issues. Based upon the Town’s Access Ordinance, the minimum separation between driveways is 600 feet. The four (4) access points on what is Lot 1 of the proposed SCSM were likely constructed prior to CY 2001 and therefore, as specified in the language of the Town’s Access Ordinance, should be grandfathered.

The Administration’s difficulty is in providing access to Lot 3 of the proposed CSM. The applicant has an access point directly in front of the newly-constructed home on Lot 2 of the proposed CSM. Since the Administration considers the access points on Lot 1 of the proposed CSM to be grandfathered, the separation between one (1) of those access points and the access point proposed for Lot 2 of the CSM would have to be 600 feet to comply with the Town’s Access Ordinance. If the westernmost

driveway on Lot 1 of the proposed CSM is used as the measured access point, an Ordinance compliant driveway could be placed on the center of Lot 2 of the proposed CSM.

When the new home was constructed on Tax Parcel #006-0095-01, the Administration issued an access permit based upon the position that the existing access points (2 driveways) were farm access points. The position is based upon the agricultural function of the Anderson Sod Farm business. The applicant's CSM now creates a separate lot (Lot 2 of the proposed CSM) for the new home. The location of the access driveway has not changed and the Administration's position relative to the access point granted to the new home remains the same.

The only real problem is access to Lot 3 of the proposed CSM. A solution to the problem with Lot 3 of the proposed CSM is a shared driveway between Lots 2 and 3 of the proposed CSM with mutual ingress and egress easements shown on the face of the CSM. The other alternative to access to Lot 3 of the proposed CSM is to petition the Town Board to revisit the Town's Access Ordinance and make it consistent with the County's Zoning Code of Ordinances minimum lot frontage requirements. The risk with this option is if the Board does not change the Town's Ordinance and Lot 3 of the proposed CSM is only accessible by means of a shared driveway with Lot 2 of the proposed CSM.

The Town's Access Ordinance allows the Plan Commission and the Town Board to authorize a variance from the Code based upon practical difficulty and hardship as long as the public interest is served. The Administration believes that the extant conditions merit a Variance from the strict interpretation of the code and that this problem will continue as long as the Town's Access Ordinance and the County's minimum lot frontage requirements are not compatible.

Staff Comments on Zoning Issues:

Both Lots 2 and 3 of the proposed CSM will need to be rezoned to Zone R-1 (RURAL RESIDENTIAL DISTRICT – NONSUBDIVIDED).

Staff recommends approval of the proposed CSM subject to the following conditions:

1. Lot 3 of the proposed CSM have a shared driveway between Lots 2 and 3 of the proposed CSM with mutual ingress and egress easements shown on the face of the CSM.
2. Rezoning both Lots 2 and 3 of the proposed CSM to R-1 (RURAL RESIDENTIAL DISTRICT – NONSUBDIVIDED).
3. Documentation of the approval for the proposed CSM by any overlying unit of government having jurisdiction.

Marty Nikodem, 4085 Winnegamie Drive, Neenah, WI 54956, present.

MOTION: (Lettau, Kligenberger) Approve Certified Survey Map (CSM) for Martin and Suzette Nikodem and Laura Dueitt 4085 Winnegamie Drive, Neenah WI 54956, for the property located at 4063 Winnegamie Drive in the Town of Clayton and described as Tax ID #s 006-009501, 006-009500, and 006-009401, specifically known as: Part of Tract 1 of Certified Survey Map Number 554 as recorded in Volume 1 of Certified Survey Maps on page 554 and Part of the Northeast ¼ of the Fractional Northwest ¼ and the Northwest ¼ of the Fractional Northwest ¼ of Section 4, Township 20 North, Range 16 East, Town of Clayton, Winnebago County, Wisconsin, with the following three (3) conditions:

1. Lot 3 of the proposed CSM have a shared driveway between Lots 2 and 3 of the proposed CSM with mutual ingress and egress easements shown on the face of the CSM.
2. Rezoning both Lots 2 and 3 of the proposed CSM to R-1 (RURAL RESIDENTIAL DISTRICT – NONSUBDIVIDED).
3. Documentation of the approval for the proposed CSM by any overlying unit of government having jurisdiction.

CARRIED by unanimous voice vote.

- B. **Discussion / Action** – Town Board action on Resolution 2011-001: A Resolution Expressing the Town Board’s Position on Reducing the Size of the Winnebago County Board

Chair Luebke read aloud Resolution 2011-001.

Administration believes that the document as drafted accurately represents the position of the Town Board relative to the subject of reducing the size of the Winnebago County Board. Should this not be true, the document can be edited by the Board as a part of the motion to approve. Any edits to the draft document can be edited by the Board as a part of the motion to approve. Any edits to the draft document would be incorporated into the document prior to the Town Clerk and the Town Chair signing the Resolution.

MOTION: (Lettau, Schmidt) Approve Resolution 2011-001: A Resolution Expressing the Town Board’s Position on Reducing the Size of the Winnebago County Board.
CARRIED by 4-1 voice vote. (Klingenger = no)

- C. **Discussion / Action** – Town Board action on Resolution 2011-002: A Resolution Rescinding the April 1, 1997, Tax Collection Ordinance and replacing the Ordinance with a Treasurer’s Bond

Chair Luebke read aloud Resolution 2011-002.

The following documents submitted to the Town Board:

1. A copy of Wisconsin Statute 70.67 Municipal treasurer’s bond; substitute for.
2. A copy of Town of Clayton Ordinance dated April 1, 1997, indemnifying the Town Treasurer for taxes collected for the County and the State under Wisconsin Statute 70.67 (2).
3. A copy of a Liberty Mutual, The Ohio Insurance Company Bond for the Town Treasurer.

The insurance bond allows the Town Board to rescind its Ordinance indemnifying the Town Treasurer. As an alternative, the Town could keep both the Indemnification Ordinance and the Insurance Bond, however, this would be redundant and may result in coverage questions should the Treasurer fail to meet the State and County tax obligations. The Administration recommends that the Town’s Indemnification Ordinance be rescinded and that the Clerk notify the County of the Board’s action.

MOTION: (Klingenger, Lettau) Approve Resolution 2011-002: A Resolution Rescinding the April 1, 1997, Town’s Indemnification Ordinance for taxes collected for the County and the State under Wisconsin Statute 70.67(2) and replace the Ordinance with a Treasurer’s Bond.
CARRIED by unanimous voice vote.

- E. **Discussion / Action** – Town Board approval of a labor representation contract with Gill and Gill, S.C., to include a not-to-exceed lump sum payment of \$5,000.00 in January of CY 2011

Attorney Pat P. Gill, of Gill & Gill, S.C., the Town’s Labor Attorney, has agreed to provide the Town with legal representation for labor issues for a not-to-exceed fee of \$5,000.00 for CY 2011. The only condition of this agreement is that the lump sum payment be made on or before January 31, 2011. Administration believes that, barring unforeseen circumstances, the Town will have relatively little use for the labor law representation over the course of CY 2011. However, the not-to-exceed agreement of \$5,000.00 is a small price to pay for protection from the possibility of a grievance clam from the unionized employees of the Town. Both the Town and the unionized employees are in the first years of the newly-created contract; if there are going to be issues that need to be clarified this would be the time when that would occur. Administration recommends making the lump sum payment of \$5,000.00 to Gill & Gill, S.C., for labor law representation for CY 2011.

MOTION: (Klingenger, Lettau) Approve labor representation contract with Gill and Gill, S.C., to include a not-to-exceed lump sum payment of \$5,000.00 in January of CY 2011.
CARRIED by unanimous voice vote.

D. **Discussion / Action** – Town Board direction to staff on a draft County Industrial Development Board Funding application

Administration has drafted the application to the Winnebago County, Industrial Development Board, Per Capita Funding requesting funding for training the Town’s Treasurer in the area of web page design and implementation. The application indicates that the Town has been updating its website to:

- make it more user-friendly
- provide mapping information to commercial/industrial developers regarding Town Policy, and
- provide Town Ordinance information to potential customers

This process involves updating the Town’s web-based application forms and the public’s ability to access current documents. As the Town updates its development-related documents, they will be made available on the Town website. These are mechanical processes that the Town Board, Plan Commission, and staff are working on.

The funding application asks for money to train a staff member (the Town’s Treasurer) on the creation and updating of the Town’s website. This training will allow the Town to regularly update its website and to post the new and revised documents the Board approves in an orderly fashion. This resource will be particularly important if the Town opts out of County Zoning and creates its own Zoning Code of Ordinance. Staff has visited multiple municipal websites to create a concept site that will be user-friendly and informative to the public. The concept model for the Town’s revised website has been informally created and a concept plan will be available to the Board to review in early February of CY 2011.

MOTION: (Lettau, Schmidt) Direct staff to submit the County Industrial Development Board Funding application.

CARRIED by 4-1 voice vote. (Klingenberger = no)

F. **Discussion / Action** – Town Board direction to staff relative to draft Job Descriptions for the Town Administrator, the Town Clerk, and the Town Treasurer

Administration has drafted the job descriptions for the Town Administrator, Town Clerk, and Town Treasurer using resources from past jobs, from different communities, and from the manner in which these jobs are currently performed in the Town of Clayton.

Administration asks the Board to review these job descriptions at its January 19, 2011, meeting to see if the Board agrees with the way they are drafted and with the way the job responsibilities are assigned. Any changes the Board wishes to make will be incorporated in the final job descriptions with final approval by the Board scheduled for Wednesday, February 2, 2011. The final documents will be signed by the respective employees and placed in their personnel files. Additionally, the job descriptions will be placed on file with the Town’s Employee Manual.

Refer the final approval of the Job Descriptions for the Town Administrator, the Town Clerk, and the Town Treasurer to the February 2, 2011, Town Board Meeting.

G. **Discussion/Recommendation:** – Town Board direction to staff relative to the Town’s Right-Of-Way Maintenance Policy and mowing practices in Town-maintained ditch lines

We have received additional material from the WI DOT, MN DOT, and the mowing restrictions from ASCS which disallow mowing between May 15 and August 1 of the calendar year, this memorandum is a copy of the same information provided to the Board at its Wednesday, January 5, 2011, meeting. Highlighted in yellow on the copy of the Town’s Right-Of-Way Maintenance Policy is the element of the Clear Zone portion of the Policy relating to the mowing of the Town’s ditch lines.

At the Board’s direction staff has been mowing only the flow line and the front slope of the ditches for the past few years. Staff mows the back slope of the ditches only in the fall. This process has placed some stress on staff and on the Town’s mowing equipment. The problems with mowing the back slope of the ditches only in fall are the inordinate amount of time spent mowing the back slope of the ditch and the necessity of using a flail mower to mow the extremely long vegetation. Flail mowers are good for short vegetation. Therefore, once the vegetation gets long it tends to wrap itself on the mowing drum and stress the drive belts.

To minimize the wear on the mower, staff makes multiple passes to cut down the vegetation on the back slope of the ditch. It is the Administration's belief that the process of multiple mowing passes takes much more time than mowing the back slope of the ditch on a regular basis. The downside to the proposed process is the impact on wildlife nesting in the ditch area. The Administration believes that starting the mowing of the back slope of the ditch lines in spring will minimize the negative impact on area wildlife by removing the vegetative cover before the wildlife starts to reproduce in the spring of the year. The routine mowing of all the Town's ditch lines will minimize the wear on the Town's equipment. Should the Board authorize the change in the mowing process, Administration will revise the Town's Right-Of-Way Maintenance Policy to reflect the change in mowing policy.

MOTION: (Geise, Schmidt) Approve the Town's Right-Of-Way Maintenance Policy and mowing practices in the Town-maintained ditch lines to include the mowing restrictions from the ASCS which disallow mowing between May 15 and August 1 of the calendar year.
CARRIED by 4-1 voice vote. (Lettau = no)

X. Upcoming Meeting Attendance

- WTA District Meetings

XI. Board Member Requests for Future Agenda Items – none

XII. Approval of Disbursements

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

XIII. Adjournment – 8:35p

MOTION: (Unanimous consent) Adjourn.
CARRIED.

Respectfully Submitted, Susan Nester-Huebner, *Clerk*