

TOWN OF CLAYTON

Town Board of Supervisors

Meeting Minutes

7:00 P.M. on Wednesday, August 17th, 2016

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

I. Call to Order:

A. Notice Verification, Roll

1. Town Board Chairman Geise 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 Geise	PRESENT
Supervisor Lettau	PRESENT
Supervisor Grundman	PRESENT
Supervisor Schmidt	PRESENT
Supervisor Reif	PRESENT

b. Staff

Administrator Johnston	PRESENT
Treasurer Straw	PRESENT
Town Planner – Ken Jaworski	PRESENT
Town Engineer – Mary Jo Miller	PRESENT
Town Attorney – Ashley Lehocky	PRESENT

II. Public Hearing(s) and/or Public Information Meeting(s):

- A. No Public Hearings and/or Public Information Meetings.

III. Approval of Minutes:

- A. Approval of the Minutes of the Regular Town Board Meeting held at 7:00 P.M. on Wednesday, August 3rd, 2016.

MOTION:

Motion made by unanimous consent to approve the Minutes of the Regular Town Board Meeting held at 7:00 P.M. on Wednesday, August 3rd, 2016.

IV. Open Forum – Town-related Matters not on the Agenda:

- A. None.

V. Correspondence:

- A. Wisconsin Department of Administration Preliminary Estimate of the January 1st, 2016 Population.
- B. Minutes of the Larsen/Winchester Sanitary District Commission Meeting.

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

- A. County Supervisor Report
- B. Winnebago County Sheriff’s Department: – Public Concerns and Issues
- C. Clayton Fire Rescue Department (First Meeting of the Month)
 - a. Clayton Fire Rescue First Responder (First Meeting of the Month)
- D. Larsen-Winchester Sanitary District
- E. Administration Comments
 - Engineer Miller reviewed the Clayton Avenue and Whispering Meadows projects. Hickory Avenue is almost done.
 - Administrator Johnston discussed Chief Rieckmann working on dry hydrants in Strawberry Fields Estates. Discussed an issue with the resident paying.
 - Treasurer Straw discussed issues with the election on August 9th, 2016. Working on catching up with reports, budgets, etc. Will be at the last two days of a three-day WMCA conference in Appleton.
 - Chair Geise discussed meetings with Administrator Johnston the last two weeks.

VII. Operator Licenses Issued by the Town Clerk:

- A. New:
 - i. Vickie Chappell
- B. Renewal:
 - i. No Renewals

VIII. Business referred by the Plan Commission:

Town Board receipt, review and consideration of Plan Commission Referrals (second Town Board meeting of the month):

- A. Plan Commission recommendation to the Town Board on a Certified Survey Map (CSM) Application submitted by Peter D. Noffke, General Partner for the Noffke Limited Partnership, 1537 Hickory Hollow Lane, Menasha, WI 54952 for property located on the north side of CTR “JJ”, east of STH “76” and specifically identified as Tax ID # 006-0899, Tax ID # 006-0902, Tax ID # 006-0903, Tax ID # 006-0904-02, described as All of Lot 2 of Certified Survey Map No. 6648, Located in the Northwest ¼ of the Southwest ¼ , Part of the Northeast ¼ of the Southeast ¼, All of Lot 3 of Certified Survey Map No. 6094, Located in the Southeast ¼ of the Southwest ¼, Part of the Northeast ¼ and Northwest ¼ of the Southwest ¼, All in Section 36, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

Plan Commission Action:

Plan Commission recommendation to the Town Board on a Certified Survey Map (CSM) Application submitted by Peter D. Noffke, General Partner for the Noffke Limited Partnership, 1537 Hickory Hollow Lane, Menasha, WI 54952 for property located on the north side of CTR “JJ”, east of STH “76” and specifically identified as Tax ID # 006-0899, Tax ID # 006-0902, Tax ID # 006-0903, Tax ID # 006-0904-02, described as All of Lot 2 of Certified Survey Map No. 6648, Located in the Northwest ¼ of the Southwest ¼ , Part of the Northeast ¼ of the Southeast ¼, All of Lot 3 of Certified Survey Map No. 6094, Located in the Southeast ¼ of the Southwest ¼, Part of the Northeast ¼ and Northwest ¼ of the Southwest ¼, All in Section 36, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

Motion by: Commissioner Haskell

Seconded by: Commissioner Dorow

Motion: To recommend approval of Certified Survey Map (CSM) Application submitted by Peter D. Noffke, General Partner for the Noffke Limited Partnership, 1537 Hickory Hollow Lane, Menasha, WI 54952 for property located on the north side of CTR “JJ”, east of STH “76” and specifically identified as Tax ID # 006-0899, Tax ID # 006-0902, Tax ID # 006-0903, Tax ID # 006-0904-02, described as All of Lot 2 of Certified Survey Map No. 6648, Located in the Northwest ¼ of the Southwest ¼ , Part of the Northeast ¼ of the Southeast ¼, All of Lot 3 of Certified Survey Map No. 6094, Located in the Southeast ¼ of the Southwest ¼, Part of the Northeast ¼ and Northwest ¼ of the Southwest ¼, All in Section 36, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

Vote: Motion carried.

- Chair Knapinski not at meeting to present the findings from the Plan Commission meeting on August 10th, 2016.
- Administrator Johnston reported on the comments made by the Plan Commission which included the Town roads with the surveyor.

Vote: Approved by unanimous consent.

B. Plan Commission recommendation to the Town Board on a Resolution in support of the County’s proposed Text Amendments to Chapter 27 Shoreland-Wetland.

Plan Commission Action:

Plan Commission recommendation to the Town Board on a Resolution in support of the County’s proposed Text Amendments to Chapter 27 Shoreland-Wetland.

MOTION:

Motion by: Commissioner Haskell

Seconded by: Commissioner Linsmeier

Motion: To recommend approval of a Resolution in support of the County’s proposed Text Amendments to Chapter 27 Shoreland-Wetland and to request a line and strike version of the document.

Vote: Motion carried.

- Discussed the County amendments to Chapter 27.

MOTION:

Motion by: Supervisor Schmidt

Seconded by: Supervisor Grundman

Motion to approve the Resolution as presented.

Vote: Motion carried by Roll Call vote.

Chair requested roll call vote:

Supervisor Lettau: Aye.

Supervisor Reif: Aye.

Chair Geise: Aye.
Supervisor Grundman: Aye.
Supervisor Schmidt: Aye.
Vote: Motion carried unanimously.

IX. Business referred by the Green Space Committee:

Town Board receipt, review and consideration of Green Space Committee Referrals (second Town Board meeting of the month):

A. Green Space Committee update to the Town Board on a recommendation to the Town Board to grade the Friendship Trail from the west Town Line to the Trail’s intersection with the WIOUWASH Trail.

Business

A. Green Space Committee Action:

Green Space Committee update to the Town Board on a recommendation to the Town Board to grade the Friendship Trail from the west Town Line to the Trail’s intersection with the WIOUWASH Trail.

- Discussed/reviewed the agreement with Summers Construction for the grading of the Trail
- The grading will be done by Sommers Construction at the time when they are in the area which will postpone the project for a few weeks
- Committee Member Prusik inquired about the original estimate for repairing the Trail and where the funding would be coming from (i.e. grants)
- Discussed the alternative repairs that will be made in lieu of the original estimate and the funding as we stand today
- Committee Member Grundman asked about the ClaytonFest Revenue and was informed by the Staff that the money is not yet available
- Discussed the plans for parking signs along the Trail
- Discussed enclosing the ditch at Olsen’s Rest
- Committee Member Dorow asked to be updated on the proposed donation for the Trail from Northeast Asphalt
- Committee Member Prusik asked to be updated on the proposed donation for the Noffke property on the SE corner of Town – the Neenah Police Department is in the process of removing the Rifle Range Berm
- Discussed the possible uses of the Noffke property
- Discussed creating SWM ponds and DNR grants

• NO ACTION TAKEN

B. Green Space Committee update to the Town Board on a recommendation to the Town Board to enclose the roadside ditch on the south side of Larsen Road for approximately 500 feet from its intersection with STH “76”.

• NO ACTION TAKEN

X. Business:

A. Discussion/Action: Town Board review, discussion and consideration of calling a Special Town Electors Meeting to authorize the purchase of property within

the Town of Clayton Sanitary District #1 in the northeast quadrant of the Town.

The Town Chair has asked that this item be placed on the Board’s Agenda based on information that leads the Chair and the Administration to believe that certain property owners intend to request that the Village of Fox Crossing annex their property to the Village. Specifically, the owners of Midwest Properties (see attached map) have advised the Chair that they intend to start reviewing the annexation process with the Village within the next few weeks. During a conversation between the Town Chair and the property owner’s representative the subject of purchasing the property was discussed; the Chair advised the owner’s representative that he would need to schedule a meeting to ask the Town Electors for authorization to proceed with negotiating a price and purchasing the property. To start this process the Chair and the Administration are asking the Board to call a Special Electors Meeting to ask for authorization to purchase the property in order to stop the potential annexation. Attached please find a copy of Statutes 60.12 on the process for calling a Special Town Electors Meeting. Should the Board wish to proceed with the process, the Board should direct the Town Chair to negotiate a price and an Offer to Purchase subject to approval by the Town Electors. Funding for any purchase will need to come from a borrowing. The specific type of borrowing would be subject to a recommendation from the Town’s Financial Advisor and approval by the Board. In order to proceed, a motion would be in order directing staff to schedule a Special Town Electors Meeting for the purpose of authorizing the purchase of land; additionally, the Chair should be authorized to negotiate a price and an Offer to Purchase subject to approval by the Town Electors at the proposed Special Town Electors Meeting.

- Discussed conversation with Midwest Properties.
- Discussed the reason to hold a Special Electors meeting.
- Discussed conversation with financial advisor.
- Discussed the map presented by Planner Jaworski.
- Discussed financial options relative to not affecting the tax levy.
- Discussed the value of property with and without utilities.

MOTION:

Motion by: Supervisor Schmidt

Seconded by: Supervisor Grundman

Motion to direct staff to schedule a Special Electors meeting.

Vote: Motion carried by Roll Call vote.

Chair requested roll call vote:

Chair Geise: Aye.

Supervisor Grundman: Aye.

Supervisor Lettau: Aye.

Supervisor Schmidt: Aye.

Supervisor Reif: Aye.

Vote: Motion carried unanimously.

- B. Discussion/Action: Town Board second reading, review and consideration of Ordinance 2016-005 an Ordinance adopting the CY 2015/16 Update to the Town’s Comprehensive Plan.

Staff has provided the Board with a Draft copy of the Town’s CY 2015/16 Comprehensive Plan Update as well as a copy of the Plan Commission’s proposed addition of Society, Technology, Economy, Environment, and Politics (STEEP) “Reference Guide” to the update to the Town of Clayton’s Comprehensive Plan. The Board has held the requisite Public Hearing and First Reading of the Ordinance. The Board will now need to hold the second reading and consider approval of Ordinance 2016-005 an Ordinance adopting the CY 2015/16 Update to the Town’s Comprehensive Plan. Ken Jaworski, the Town’s Planner will be in attendance at the Board’s meeting to answer any questions on the process and the draft document from the Public and/or the Board. Should the Board wish to proceed with the CY 2015/16 Comprehensive Plan Update, a motion would be in order to approve Ordinance 2016-005. Additionally, the Board should direct staff to proceed with distributing the document as required by the State Statutes.

- Discussed Plan Commission recommendations.
- Discussed proper notices.
- Discussed the process of the Comprehensive Plan update.
- Chair Geise read the Ordinance.

MOTION:

Motion by: Supervisor Grundman

Seconded by: Supervisor Lettau

Motion to approve Ordinance 2016-005 and directed staff to proceed with distribution.

Vote: Motion carried by Roll Call vote.

Chair requested roll call vote:

Supervisor Grundman: Aye.

Supervisor Schmidt: Aye.

Supervisor Reif: Aye.

Supervisor Lettau: Aye.

Chair Geise: Aye.

Vote: Motion carried unanimously.

- C. Discussion/Action: Town Board review and consideration of an Agreement For Professional Services from the Town’s Engineer for gathering information relating to a preliminary Wisconsin Department of Natural Resources Dredging Permit for the Oakwood Avenue to Pioneer Road waterway project.

As the Board knows, Town resident Marc Caswell, 3380 CTR “II” has been ordered by the State Department of Natural Resources to remove the fill he placed in a wetland area of his property. Mr. Caswell and a number of area property owners have complained that storm water from the large open bottom culvert on Oakwood Avenue cannot find its way west through the navigable waterway/farm ditch that runs west, from east of Oakwood Avenue to west of Pioneer Road. Specifically, as water is unable to flow it tends to fan out into the adjoining properties. The State Department of Natural Resources (DNR) has advised the Town that it does not need a permit to clean the drainage course on property that is being actively farmed it only needs the property owner’s permission. However, there are areas in the vicinity of Oakwood Avenue where the waterway runs through residential property potentially making a DNR permit necessary. Attached please find a copy of an e-mail from the DNR relative to applicable Administrative Code; the e-mail outlines the preliminary information required for the Application. Also attached is an

Agreement for Professional Services, from the Town's Engineer, for completing the preliminary investigations required to make a Permit Application. The Scope of Services is based on time and materials at an estimated cost of \$500.00. Should the Board wish to take the next step in the process, a motion would be in order to approve the Agreement for Professional Services from the Town's Engineer for completing the preliminary investigations required to make a Permit Application at a cost not to exceed \$500.00, with funding to come from the Town's CY 2016 General Fund Budget Engineering Line Item.

- Discussed conversation with the DNR and not needing a Chapter 30 permit due to working/farm land.
- Discussed cost of service.
- Discussed cost to the property owners
- Discussed property owners to clean the ditch themselves

Vote: Approved by unanimous consent.

- D. Discussion/Action: Town Board review and consideration of a Cell Phone Use Policy for Town Employees while at work or when traveling for business using Town owned vehicles.

Given the recent issues with the use of cell phones when driving and/or operating equipment as well as pending legislation on the use of cell phones and inattentive driving, the Administration is asking the Board to consider the attached Draft Cell Phone Use Policy. If the Board agrees with the concept and the text of the Draft Policy, the Administration will ask the Town's Attorney to review the document and make any recommendations for changes prior to submitting the finalized Cell Phone Use Policy to the Board for approval.

- Discussed legality of using cell phone while driving.
- Discussed the purchase of a two-way radio from Neenah.
- Discussed emergency use.
- Directed staff to research these issues.

- E. Discussion/Action: Town Board review and consideration of authorizing a Physical Fitness Program for the Clayton Fire Rescue Department.

Tom Spierowski (Tom), the Town's Building Inspector, is in the process of completing his Fire Fighter 1 training at the Tech School. As part of several conversations between Tom, Chief Rieckmann (Chief) and myself, the issue of firefighter fitness has come to the forefront. Specifically, Tom has been surprised by the lack of physical fitness of trainees that are much younger than he is. Given the importance of physical fitness to the firefighting activity the Chief and I would like to investigate the possibility of creating a physical fitness program for the Department. The Chief would like to consult with Habit Smith, LLC, a business owned by Levi Van Stappen (trained in kinesiology, fitness coach at ThedaCare and family friend), 1030 W. Elm Dr #16, Little Chute, WI 54140. At this time the Administration is asking for permission to investigate the Department's option for a fitness training program with the intent of creating a proposal for the Board's consideration.

- Discussed training program for the fire department using Town of Clayton equipment.
- Discussed types of exercises to be implemented relative to fire fighting.

- Discussed monthly training vs. proposed training program as well as memory and muscle skills.
- Direct staff to proceed on these issues.

F. Discussion/Action: Town Board review and consideration of scheduling the Board's CY 2017 Budget, Workshop Meetings.

The Administration would like to schedule the Board's budget review hearings for the Town's CY 2017 Budget. Based on past practice, 4 budget hearings would probably be sufficient. As in the past, the Administration is recommending that each Budget Hearing cover specific sections of the Draft Budget and be limited to two hours. At the end of the Budget review process the Board will need to schedule the Special Town Electors Meeting to approve the CY 2017 Levy. As a point of reference, based on legislative action the Town is no longer required to approve the Public Works Road Budget. The Administration respectfully asks the Board to be ready to schedule the Town's CY 2017 Budget Review hearings.

- The meetings were scheduled as follows: Tuesday, September 6th, 13th, 20th and 27 from 10:00 a.m. to 12:00 noon.

G. Discussion/Action: Town Board review and consideration of authorizing the hiring of Special Counsel for potential litigation related to the Town of Clayton Sanitary District #1 and authorization for the Town Chair approve potential litigation actions.

Both the Town Chair and the Town Administrator have met with several attorneys relative to the Town's potential litigation related to the provision of sanitary sewer to the Town's Sanitary District #1. The attorneys and the law firms were Lawrie J. Kobza (Lawrie) of Boardman & Clark, and Ted Waskowski (Ted) of Stafford Rosenbaum. The Chair has asked that this item be placed on the Board's Agenda so that it can authorize the contracting with special counsel for the litigation process. Both of the law firms that the Chair met with are eminently qualified and would provide the Town with good representation. The Chair is scheduled to hold a telephone meeting with Ted on Monday, August 15th, 2016 to receive an update on their legal opinion of the facts of the case. Lawrie has asked that the Town provide copies of several documents she would like to review before rendering her opinion on the facts of the case. Based on these steps the Chair will report to the Board at its Wednesday meeting. The Chair would like to be delegated the authority to select a law firm and to start the legal action process. Once these actions have taken place the Board would be given regular updates on the process by the Town Chair, Special Counsel, and staff. Please be advised that the cost of this process depends on how successful the Town is and how much the Village chooses to challenge the Courts. Should the Board be comfortable with the Chair's request, a roll call motion would be in order to authorize the Chair to select a law firm and to start the legal action process at his discretion and subject to regular reporting to the Board on the progress of any legal action.

- Discussed meeting with other attorneys.
- Boardman and Clark firm out of Madison.
- Discussed time table.

MOTION:

Motion by: Supervisor Schmidt
Seconded by: Supervisor Reif
Motion to approve hiring of special counsel Boardman and Clark located in
Madison, Wisconsin.
Vote: Motion carried by Roll Call vote.

Chair requested roll call vote:
Supervisor Reif: Aye.
Supervisor Schmidt: Aye.
Chair Geise: Aye.
Supervisor Grundman: Aye.
Supervisor Lettau: Aye.

Vote: Motion carried unanimously.

- XI. Review of Disbursements:
- XII. Review of General Fund Budget Update (Second Town Board meeting of the month):
- XIII. Upcoming Meeting Attendance:
- XIV. Board Member Requests for Future Agenda Items:
 - The meetings were scheduled as follows:
Tuesday, September 6th, 13th, 20th and 27 from 10:00 a.m. to 12:00 noon.
- XV. Adjournment:
MOTION:
Motion made by unanimous consent to Adjourn at 8:23 p.m.

Respectfully submitted,
Laurie Goffard, Deputy Clerk