

TOWN OF CLAYTON

Town Board of Supervisors

Meeting Minutes

7:00 P.M. on Wednesday, January 20<sup>th</sup>, 2016

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

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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	ABSENT

b. Staff

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

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

III. Approval of Minutes:

- A. Approval of the Minutes of the Regular Town Board Meeting held at 7:00 P.M. on Wednesday, January 6<sup>th</sup>, 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, January 6<sup>th</sup>, 2016.

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

- None.

V. Correspondence:

- A. Wisconsin Department of Administration Documents on the proposed Village of Fox Crossing Incorporation.
- B. Winnebago County Solid Waste Management Board 2015 Recycling Tonnage Report.

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

## A. County Supervisor Report

- Chuck Farrey reporting. Discussed resolution relative to the County Lake Management Plan. The DNR will not act on this.
- Urged supervisors to contact other County supervisors.
- Mike Pfankuch expressed concern with resolution and this should be the DNR.

## B. Winnebago County Sheriff's Department – Public Concerns and Issues

## C. Clayton-Winchester Fire Department

## D. Larsen-Winchester Sanitary District

- Mike Pfankuch gave the 2015 yearend report.

## E. Administration Comments

- Engineer Miller discussed the Clayton Avenue design for reconstruction in CY 2016. Soil testing has been done and it is recommended to use a geo grid material for under the new roadway. Wants the asphalt put down in two separate layers. Martenson and Eisele will not be re-doing the ditches and drain tile. Talked to someone from the DNR grant and MS-4 and something should be coming in the mail in the next two three weeks (staffing issues).
- Administrator Johnston discussed getting ready for the February election and new voting machine. Paper ballots will still be used. There are no offices for the Town of Clayton on the ballot.
- Treasurer Straw discussed tax collection. The December 2015 report for the rental property was given to the Town Board.
- Chair Geise discussed the close session on the Town of Clayton border agreement which they do not want to sign. Tom from the Grand Chute treatment plant said that they will not object to the Town of Clayton hooking into it. Still trying to figure out how we will hook into it. The former Clayton-Winchester Fire Department has come to an agreement on how to split the trucks up. There will be a meeting with Ben Joas tomorrow night (January 21, 2016).

## VII. Operator Licenses Issued by the Town Clerk:

## A. New:

- i. No new licenses issued.

## B. Renewal:

- i. No renewal licenses issued.

## 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 changes to the Draft Comprehensive Plan Maps and Documents based on input from the Public Listening Session for the Town's CY 2015/16 Comprehensive Plan Update.

With some 50 to 75 residents in attendance, the Plan Commission held an informational session and presentation of the text material and the maps for the Town's CY 2015/16 Comprehensive Plan Update. Staff and the Town's Planner reviewed the proposed new Future Land Use Map and the Working Lands and Green Space map that were brought forward as a result of the Public Informational Session held before the Commission's November Meeting. Following the Informational Session the Plan Commission reviewed the draft language in the first section of the

CY 2015/16 update to the Town's Comprehensive Plan. Staff was directed to make some minor edits to the language and present the entire Draft CY 2015/16 Comprehensive Plan Update to the Plan Commission at its Wednesday, February 10<sup>th</sup>, 2016 meeting. Specifically, staff was asked to provide the Commissioners with the Draft Document in late January so that the Commissioners have sufficient time to review the Draft prior to their February Meeting.

IX. Business referred by the Green Space Committee:

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

A. The Wednesday, January 13<sup>th</sup>, 2015 Green Space Committee Meeting was cancelled.

X. Business:

A. Discussion/Action: Town Board review and consideration of a Plan Commission recommendation on a Conditional Use Application submitted by the petitioner(s): Jeff Howts, owner of Cruisin Safely Motorcycle & Driving Instruction, LLC, 2211 Oregon Street, Oshkosh, WI 54901 for a Home Occupation Major on property located at the north end of Black Top Way, Neenah, WI 54956 and specifically described as Lot 2 of the recently approved CSM of Tax ID # 006-0896, being all of Lot 2 of CSM 5026 being part of the Northwest ¼ of the Northwest ¼ and the Southwest ¼ of the Northwest ¼ of Section 36, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

The Plan Commission held a Public Hearing on the Conditional Use Application and then Staff reviewed the Application with the Commission. Several residents spoke in opposition to granting the Conditional Use with the primary concern being the noise generated by the facility, see the following list of concerns:

- Jim Heiser, 2830 Oakridge Rd, Neenah, WI. Expressed concern regarding the noise and the number of days and times of the business. Open at 9:00 a.m. and close at 8:00 p.m. all days of the week. Didn't feel there was enough notice of the meeting, thus Chair Knapinski mentioned that the notice met the Wisconsin statutory requirements.
- Bob Flemming 1537 Ames Street, Neenah, WI. He is the son-in-law of Robert and Audrey Bellin and spoke on their behalf; they live at 2741 Oakridge Rd, Neenah, WI. Mr. Flemming went into detail about what the Bellin's do and do not want with this business and how it affects their property value. Spoken on behalf of the Bellin's who are against this conditional use permit.
- Chair Knapinski discussed the "right to farm" language on the CSM. Typically when development comes into a development, property values tend to rise.
- Administrator Johnston discussed the details of a conditional use permit. The permit would be limited to what was previously approved by the Town Board.
- Tom Flemming, 7363 Carden Dr, Neenah, WI. Concerned about the noise and he also lives near State Rd 76. Spoken against this conditional use permit.
- Debbie Drake, 7578 State Rd 76, Neenah, WI. She expressed concern on the short notice. She does not want additional noise in her neighborhood from motorcycles. Concerned about livestock and traffic increase. She wants to know what type of building and would more asphalt be in the business area.
- Jeff Howts, 2348 Comet St, Oshkosh, WI 54901. He presented his site plan to the Public. He explained his business operation. The motorcycles his students will be trained on will be 125 to 250cc; street bikes will be no higher than 500cc. Some lawnmowers and the sound from State Rd

76 will be louder than the motorcycles he will be running. He plans to plant some berms around the property. Discussed the safety classes, the building layout and the business hours.

- Commissioner Wisnefske asked what the size of the motorcycles would be and Mr. Howts said 125 to 250cc street bikes.
- Bob Flemming 1537 Ames Street, Neenah, WI on behalf of Robert and Audrey Bellin, who live at 2741 Oakridge Rd, Neenah, WI. Asked about car parking vs. parking lot use for cycle training.
- Administrator Johnston commented about parking on Public Right of Way.
- Amelia Klinka, 228 Mandella Ct, Neenah, WI. Commented that there is a retention pond and was wondering if more than one could be added.
- Chair Knapinski discussed retention ponds in other areas of the Town of Clayton.
- Public hearing on this issue closed at 7:37 p.m.

Mr. Howts reviewed his plans with the Commission and the concerned residents. Following its consideration process the Plan Commission made a motion to recommended approval of the Conditional Use Application subject to the conditions recommended by staff and the added conditions:

1. The property will be considered to be divided into three general areas. The southernmost area is intended to provide access to the property, the residential structure, the parking lot area, and the Shop/Classroom facility. The center area is a green space. The northern end of the Lot is intended to house the residential structure.
2. All three areas shall be accessed by a driveway that runs along the western property line.
3. The driver training business will be run from an office facility in the residential structure, the educational process can be conducted in the classroom in an accessory building, and the maintenance facility can be housed in the shop portion of the same accessory building.
4. The parking lot/paved training area is intended to be developed as a 100-foot by 200-foot paved area. Any expansion of the paved area shall require an amendment to the Conditional Use Permit.
5. All structures on the site shall be Zoning Code compliant, Uniform Dwelling Code compliant, and State Code compliant.
6. Access for all of the development on the site shall come from a single driveway at the northern terminus of the cul-de-sac on Black Top Way.
7. The driveway shall run in a 33-foot corridor along the western boundary that extends to the northern property line.
8. The purpose of the corridor shall be to preserve a 66-foot road right-of-way in order to reserve the ability to subdivide the property in the future.
9. The parking lot/training area shall be bermed on all four sides with a vegetative barrier on the berm to provide a visual barrier for the site.
10. The Plan Commission and the Town Board shall waive the requirements for parking islands on the paved parking lot/training area.
11. A Zoning Code compliant onsite paved parking area shall be provided for the customers of the business.
12. There shall be no customer and/or resident parking on the Public Rights-Of-Way of Black Top Way and/or Fox Valley Drive.
13. Any and all vehicles used in the business shall be Department of Transportation (DOT) compliant and shall have no modifications made to their respective exhaust systems.
14. Any and all maintenance and storage of vehicles involved in the business shall be done within the confines of the shop building.
15. Any trailers used in the business shall be stored in an orderly fashion adjacent to the principal structure on the site.

16. The hours of operation for any and all outside activities shall be between 9:00 A.M. and 8:00 P.M. seven day per week.
  17. There shall be a limit on the number of riders on the parking/training lot to 20 students at any single time.
  18. There shall be no off-road motorcycle training and/or schooling on the site.
  19. The Applicant shall pay any and all fees levied by the Town for the application process.
  20. The Applicant shall have approval of the proposed Conditional Use by any overlying unit of government having jurisdiction.
    - Administrator Johnston discussed the zoning in an A-2 zone for a parking lot. Mr. Howts could also rent part of the parking lot from possibly Headliners or Willie Beamon's and we could not control that being done. Mr. Howts would not be able to teach motocross but he could ride his own motocross cycle. The Town of Clayton can put conditions on the use permit that would allow or disallow some activities.
    - Chair Knapinski discussed the Staff Recommendations numbers 1 through 20 as listed above. Water flow issues with the addition of parking lots and buildings, etc. should go into the retention pond and stream near the property.
    - Administrator Johnston recommended that the parking lot be placed as far south as possible so the water would go south of the berm.
    - Commissioner Haskell discussed the types of lighting to be used in the parking lot and around the property. The training would generally be run during the season where night time lighting would not be needed. He would like to see the site development and drainage plan.
    - Planner Jaworski suggested the use of the Howts proposal for the home occupation business.
    - Chair Knapinski discussed other additions to the conditional use application.
- No motorcycles used in training should be larger than 500cc.
  - Outdoor training will not be conducted more than 8 hours in a single day between the hours of 8:00 a.m. and 8:00 p.m. Monday through Friday.
  - Outdoor Training shall be limited to the hours of 8:00 A.M. to 7:00 P.M. on Saturday and Sunday.
  - Training shall be limited to no more than 5 days in any calendar week.
  - That any lighting on the site be limited to residential lighting with no lighting of the parking lot area.

**MOTION:**

Motion by: Commission Chair Knapinski

Seconded by: Commissioner Dorow

Motion: To recommend approval of a Conditional Use Application submitted by the petitioner(s): Jeff Howts, owner of Cruisin Safely Motorcycle & Driving Instruction, LLC, 2211 Oregon Street, Oshkosh, WI 54901 for a Home Occupation Major on property located at the north end of Black Top Way, Neenah, WI 54956 and specifically described as Lot 2 of the recently approved CSM of Tax ID # 006-0896, being all of Lot 2 of CSM 5026 being part of the Northwest ¼ of the Northwest ¼ and the Southwest ¼ of the Northwest ¼ of Section 36, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin

Vote: Motion carried. (Is it carried with Knapinski's recommendations which are more restrictive).

- Administrator Johnston reviewed the Plan Commission meeting and direction to stay.

- Bob Flemming, 1555 Ames St, Neenah, WI. He is the son-in-law of Robert and Audrey Bellin who live in the Town of Clayton. Expressed concern relative to the parking lot and the drainage/retention pond. He requested that the motocross bikes not be allowed on the property.
- Chair Geise stated that this issue has already been taken into consideration.
- Glenn McCann, 646 Fourth St, Menasha, WI. Asked about the noise ordinance to take care of the noise of the motocross bike?
- Administrator Johnston stated it would not be under the noise ordinance.
- The Town Board stated that they will not restrict the owner from riding his own vehicles on his property.
- Jim Heiser, 2830 Oakridge Rd, Neenah, WI. Expressed the appreciation of dealing with this permit. He asked about the limit to the amount of students during one session which is 20 students. All motorcycles will be owned by the business.
- Chair Geise asked if the limit could be reduced from 20 to 12 students with 250cc motorcycles and Jeff Howts agreed.

**MOTION:**

Motion by: Supervisor Schmidt

Seconded by: Supervisor Grundman

Motion: To approve the Conditional Use Application submitted by the petitioner(s): Jeff Howts, owner of Cruisin Safely Motorcycle & Driving Instruction, LLC, 2211 Oregon Street, Oshkosh, WI 54901 for a Home Occupation Major on property as described previously with two changes from what the Plan Commission were and to change it to motorcycle engines no larger than 250cc and change the student number from 20 to 12 students per class.

Vote: Carried by unanimous consent.

- B. Discussion/Action: Town Board review and consideration of the January Settlement of the CY 2015 Taxes Payable in CY 2016.

**NO ACTION TAKEN**

- C. Discussion/Action: Town Board review and consideration of a request by the Town Treasurer to approve refunds on Tax Payment Check s that exceeded the Taxes due.

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 refund checks as identified on the attached list prepared by the Town Treasurer.

Vote: Approved by unanimous consent.

- D. Discussion/Action: Town Board review and consideration of a request by the Best Friends of Neenah/Menasha to hold the Clayton Park rental fee at \$60.00 for their 30<sup>th</sup> Annual Best Friends Gourmet Bike Tour, scheduled for Sunday, July 24<sup>th</sup>, 2016.

Best Friends of Neenah/Menasha is requesting that the Board reduce the rental fee for Clayton Park to \$60.00 for the organization's Annual Best Friends Gourmet Bike Tour. The Town's current fee for renting Clayton Park is \$80.00. Over the past few years the organization has made this request and the Board has routinely denied the request; however, an individual has made a donation to cover the rental fee for the Organization. The Administration recommends that the Board reject the request for consideration by Best Friends of Neenah/Menasha. The recommendation is based on the uncertainty of what criteria the Board would use to agree to the consideration. Barring a Board Policy that defines the conditions that would merit consideration of the rental fee reduction, staff recommends not reducing the fee for any individual and/or organization. Staff is comfortable that a donation will be made to cover the cost of renting Clayton Park by Best Friends of Neenah/Menasha. A Motion to deny the request of Best Friends of Neenah/Menasha for consideration would be in order.

Vote: Denied by unanimous consent.

- E. Discussion/Action: Town Board review and consideration of a Wisconsin Department of Transportation project to locate a Salt Storage Facility on West American Drive East of STH "76" in the Town of Clayton.

Attached please find documentation provided by the State Department of Transportation (DOT) relative to a new salt storage facility the DOT would like to construct on West American Drive in the Town of Clayton. The salt storage facility is replacing an existing unit that is being destroyed as part of the USH "41" "441" and "10" reconstruction project.

As part of the project the DOT will repave approximately 600' +/- of West American Drive; the area that is being repaved is in relatively poor condition and would likely be repaved at the Town's expense in the near future. Based on a conversation with the Town's Public Works Foreman staff would recommend that the radii of the curves highlighted in yellow on the DOT plan have curb returns installed.

Relative to the property, the DOT will purchase land from the Developer to construct the salt storage project and that land will be tax exempt. The DOT already owns land in the area of Campers Way (see attached material); the DOT is willing to sell that land for development purposes. This process will put that land back on the market and should mitigate most of the tax exempt status of the new land purchased by the DOT.

The DOT has asked staff to review this project with the Board in order to gauge the Board's comfort level with the project. If the Board is comfortable with the project, a motion would be in order to indicate that the Board has no objections to the project and would request that the DOT install the curb returns as recommended by staff.

- The Wisconsin DOT is asking for curb returns near the new salt shed being built on W. American Drive.
- The building cannot be enclosed for structural reasons.

**MOTION:**

Motion by: Supervisor Schmidt

Seconded by: Supervisor Lettau

Motion: To approve the project to locate the salt storage on West American Drive east of State Hwy 76 in the Town of Clayton and that we are going to request them to install a curb returns on West American Drive when they repave.

Vote: Carried by unanimous consent.

- F. Discussion/Action: Town Board review of an Agreement for Professional Services with McMahon Engineers and Architects to determine the cost of purchasing sanitary sewer treatment capacity from the Grand Chute-Menasha West Wastewater Treatment Facility.

Attached please find a copy of an Agreement for Professional Services with McMahon Engineers and Architects for the purchase of sanitary sewer treatment capacity from the Grand Chute-Menasha West Wastewater Treatment Facility. The Town Chair has authorized the Agreement, however, he wanted to let the Board know what the Agreement was for and how much it is going to cost. Specifically, the agreement is intended to place a value on the Town's access to the Grand Chute-Menasha West Wastewater Treatment Facility and to determine the fee that would be charged to the Town based on the CY 2030 effluent flow and loading parameters. To simplify the process, the Agreement will determine how much the Town of Clayton will have to pay for access to the treatment facility now and in the future. Based on the Chair's approval of the Agreement the Board does not need to take any action on the agenda item. The Administration would like to advise the Board that it will be paying the not-to-exceed cost of \$4,400.00(from the Town's CY 2016 General Fund Budget Engineering Line Item) and tracking the costs so that the Town of Clayton Sanitary District #1 can refund the General Fund for the Costs associated with the project.

**NO ACTION TAKEN**

- G. Discussion/Action: Town Board review and consideration of a draft of a minimum garage floor and/or lowest opening elevation Ordinance for new construction in the Town of Clayton.

Based on direction from the Board relative to drainage and flooding issues in the Town of Clayton, attached please find a draft of the text for an Ordinance that would require that the lowest opening or the garage floor of any new home constructed in the Town have a minimum garage floor and/or lowest opening elevation that is 18 inches above the crown of the Town Road used to access the property. The draft Ordinance language has an opt-out clause requiring that the builder provide a site specific drainage plan signed by a registered engineer at the time of applying for a building permit. Should the Board be comfortable with the draft Ordinance language, the Administration will finalize a draft Ordinance, have the Town's Attorney review the draft Ordinance, schedule a Public Hearing, and present the Draft Ordinance to the Board for review and consideration. The Town's Building Inspector will be in attendance at the Board's January 20<sup>th</sup>, 2016 meeting to review the Draft Ordinance with the Board. If the Board agrees with the Draft Ordinance language, a motion would be in order to direct staff to finalize the Draft Ordinance and schedule the required Public Hearing before the Board considers approval of the Ordinance.

- Administrator Johnston reviewed the draft ordinance. Addressed the drainage issues of water leaking into a basement. Directed staff to finalize the ordinance and post notices of Public Hearing.

H. Discussion/Action: Town Board review and direction to staff relative to a Draft Special Assessment Policy for the Town of Clayton and its related Municipal Sanitary Sewer and Municipal Water Utilities.

Attached please find a draft copy of Section 1 of a Special Assessment Policy for the Town of Clayton. The Administration has prepared the draft policy by reviewing the Special Assessment Policies of area communities and past policies drafted by the Administrator. Please be advised that the Draft Policy is being reviewed by section for simplicity of review and understanding; however, the Policy needs to be considered and applied in its entirety and in concert with the referenced Special Assessment Ordinance. This item was distributed to the Board so that it had time to review and digest the document in its entirety. The Administration expects to go through edits of each Section of the document before it presents the Board with a Special Assessment Ordinance and the related Policy for consideration.

- Tabled to the February 3<sup>rd</sup>, 2016 Town Board meeting.

- 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:
- XV. Adjournment:  
**MOTION:** Motion made by unanimous consent to Adjourn at 8:25 p.m.

Respectfully submitted,

Laurie L. Goffard, Deputy Clerk