

TOWN OF CLAYTON
Town Board of Supervisors
Meeting Minutes
7:00 P.M. on Wednesday, March 16nd, 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 Engineer – Mary Jo Miller	PRESENT
Town Attorney – Ashley Lehocky	PRESENT

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

A. Notice is hereby given that the Town Board for the Town of Clayton will conduct a Public Hearing at 7:00 P.M. on Wednesday, March 16th, 2016, in the Town Office Meeting Room located at 8348 CTR “T”, Larsen WI 54947. The purpose of the Public Hearing is to receive Public Comment on the proposed creation of a Minimum Housing Elevation (elevation of the lowest opening in the structure) Ordinance for the Town of Clayton.

- Administrator Johnston reviewed the ordinance and the purpose of it. Trying to prevent future issues with water drainage into resident homes by having more defined standards to store with the property file for our records.
- Burt Drews, 3313 County Rd II, Neenah, WI. Mr. Drews asked about the minimum elevation requirements.
- Public Hearing closed at 7:05 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, March 2nd, 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, March 2nd, 2016.

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

A. Copy of correspondence from the State of Wisconsin Employment Relations Commission

- V. Correspondence:
- A. Copy of correspondence from the State of Wisconsin Employment Relations Commission
 - Letter from resident Greg Wisnefske regarding the failing of Oakwood Road construction. This issue will be added to the next agenda.
 - Letter from Building Inspector regarding complaints on Carden Lane of residents blowing snow into another resident's ditch. Administrator Johnston presented photos which were taken. This is an issue between neighbors and does not involve the Town of Clayton. A letter will be sent to residents in the neighborhood with ordinance information, etc.
- VI. Discussion Items (No action will be taken):
- A. County Supervisor Report
 - B. Winnebago County Sheriff's Department: – Public Concerns and Issues
 - Deputy Schoonover appeared. Gave information on the posted weight limit relative to semi delivery in a subdivision. There are no exceptions to the weight limits.
 - 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
 - Issued formal Request for Proposals due by March 30, 2016.
 - E. Administration Comments
 - Engineer Miller reported that the Clayton Avenue project will be starting with utility relocation in April. They will be having a preconstruction meeting around the end of March. She is hoping that the road construction will begin in May. Working on getting contracts processed and meetings set up.
 - Administrator Johnston discussed adding the Oakwood road condition in a future agenda. The road can be repaired but many asphalt patches would exist. Dig it down, build the road and pave it.
 - Chair Geise updated the Town Board on utilities on the east side of the Town of Clayton.
- 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 and recommendation to the Town Board on a 4-Lot Certified Survey Map (CSM) Application submitted by Mark E. and Laura C. Luebke, 3929 CTR II, Larsen, WI 54947 and Rosanne C. Keller, 5839 East Island Drive, Butte Des Morts, WI 54927 for property located south of 3919 and 3929 CTR II, Larsen, WI and specifically described as Tax ID # 006-0566-04, being part of Lot 4 of CSM 6693 and located in the southeast ¼ of the northwest ¼ of Section 21, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

Attached, please find a copy of the Draft Minutes from the Wednesday, March 9th, 2016 Plan Commission Meeting. The Board will find the details of the Commission's actions listed in the Draft copy of the Meeting Minutes. The Commission's motions are summarized in the following list of agenda items:

Business

A. Plan Commission Action:

Plan Commission recommendation to the Town Board on a 4-Lot Certified Survey Map (CSM) Application submitted by Mark E. and Laura C. Luebke, 3929 CTR II, Larsen, WI 54947 and Rosanne C. Keller, 5839 East Island Drive, Butte Des Morts, WI 54927 for property located south of 3919 and 3929 CTR II, Larsen, WI and specifically described as Tax ID # 006-0566-04, being part of Lot 4 of CSM 6693 and located in the southeast ¼ of the northwest ¼ of Section 21, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

Following a review of the staff report on the Luebke CSM the Commission made the following motion:

- Motion by: Commissioner Reif
- Seconded by: Commissioner Dorow
- Motion to: Approve the Luebke CSM as presented with staff recommended conditions.
- Vote: Unanimously Approved

B. Plan Commission Action:

Plan Commission recommendation to the Town Board on a preliminary Site Plan Approval Application for a Recreational Vehicle Sales and Service commercial building to be located at the east end of West American Drive in the Town of Clayton on property listed by Claymann Creek LLC, 5600 West Grand Market Drive, Suite 300 Appleton, WI 54913(new address) TAX ID # 006-0341.

Following a presentation by Town staff and some discussion by the Plan Commission staff was directed to complete the Staff review on the project and to place the Public Notice for the required Conditional Use Permit for the project.

C. Plan Commission Action:

Plan Commission recommendation to the Town Board on proposed updates 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.

Following a brief review of the documents presented by staff the Commission directed staff to place the item on the Plan Commission’s Wednesday, April 13th, 2016 meeting agenda for review and recommendation to the Board.

- Chair Knapinski appeared to discuss the four lot CSM submitted by Mark and Laura Luebke and Rosanne Keller. The Plan Commission recommended approval.

MOTION:

- Motion by: Supervisor Grundman
- Seconded by: Supervisor Schmidt
- Motion: To approve the Certified Survey Map (CSM) of Mark and Laura Luebke and Rosanne Keller for properties located at 3919 and 3929 County Rd II, Larsen, WI as described in VIII(A).
- Vote: Carried by unanimous consent.

B. Plan Commission recommendation to the Town Board on a preliminary Site Plan Approval Application for a Recreational Vehicle Sales and Service commercial building to be located at the east end of West American Drive in the Town of Clayton on property listed by Claymann Creek LLC, 5600 West Grand Market Drive, Suite 300 Appleton, WI 54913(new address) TAX ID # 006-0341.

- Chair Knapinski appeared to discuss the preliminary Site Plan Approval Application as presented by Claymann Creek LLC, TAX ID # 006-0341. The Plan Commission did not take any action on this issue. He answered questions regarding the potential of changing the zoning of the property.

C. Plan Commission recommendation to the Town Board on proposed updates 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.

- Chair Knapinski reviewed section 2 of the Town's CY 2015/16 Comprehensive Plan Update. At this time there was no action taken by the Plan Commission but it will be presented at next month's meeting for final review.

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 recommendation to the Town Board on developing a categorized trail network for the Town of Clayton to include types of uses, parking sites, and directional signage.

- Directed staff to research this further.

X. Business:

A. Discussion/Action: First reading and referral of Ordinance 2016-001 An Ordinance establishing a Minimum Housing Elevation (elevation of the lowest opening in the structure) for the Town of Clayton.

Attached please find a draft of Ordinance 2016-001 that would require that the lowest opening or the garage floor of any new home constructed in the Town have a minimum 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. The Ordinance is being proposed to minimize the number of future complaints the Town will receive because of drainage issues. Specifically, Town staff can track the source of many drainage issues in the Town to houses that were constructed with poor drainage plans and little concern given to the elevation of the structure and the flow line of adjacent drainage courses. The Board is scheduled to hold a Public Hearing on the Draft Ordinance and to hold a first reading of the document at its Wednesday, March 16th, 2016 meeting. If the Board agrees with the Draft Ordinance language, a motion would be in order to direct staff to include any edits the Board would like to make based on Public Input and to schedule a second reading and action at its Wednesday, April 6th, 2016 meeting.

- This was referred to the second meeting in April.

B. Discussion/Action: Town Board review and consideration of a request by a Developer to Special Assess the costs of constructing new public infrastructure in an approved Plat in the Town of Clayton.

The Administration has been approached by a number of area developers relative to the Town financing the construction of new public infrastructure and special assessing the costs to the Developer over a 10-year period. Based on conversations the Administration has had over the past few years this type of request has not been uncommon since the recent severe recession. As a result of the CY 2008 recession banks have chosen to exercise a significantly more ridged due diligence process when lending in the real estate market. This more ridged due diligence process holds true for individuals purchasing a home as well as for new development by real estate entrepreneurs. Specifically, bank lending criteria have become so strict that it can be said that a bank will only lend money for development to individuals that do not need the money. Based on recent State Legislative actions over the past years, other than borrowing, net new growth is the only way a municipality can increase its tax revenue from year to year. Net new growth has been defined by the State as new construction in the municipality minus any structures that have been demolished. Because of the limited number of lots available for new construction in Town the Administration has presented this process to the Board in the past. Specifically, the process would follow a schedule that would include:

1. A Plat recommended for approval by the Town's Plan Commission.
2. A Plat approved by the Town Board.
3. Approval by the Town Board of a Developer's Agreement for the construction of the required public infrastructure that includes an interest rate that is above the Town's borrowing rate. The interest premium is used to cover issuance and administrative costs related to the Town's borrowing and special assessment process.
4. The completion of the design and construction engineering for the public infrastructure for the Plat.
5. The completion of a public bid process for the construction of the public infrastructure in the project.
6. The awarding of a bid for the project by the Town Board.
7. The consideration and approval of a Preliminary Special Assessment Resolution for the project by the Town Board.
8. The completion of the construction of the project.
9. The consideration and approval of a Final Special Assessment Resolution for the project by the Town Board.
10. The recording of the Special Assessments for the construction of the public infrastructure against the lots in the Plat.

Once the project is completed and the Special Assessments levy, the Developer would be obligated to pay 1/10 of the principle and interest on the declining balance. Additionally, it is customary to require that a Special Assessment be satisfied when a lot in the Plat is purchased by a third party.

In this process the protection for the Town is provided in the following manner:

1. A special assessment is a lien superior to the real property taxes; this position requires that the first to the last dollar required of a tax payment would go to satisfy the Town's special assessment lien.
2. A second source of protection for the Town is the County's policy of holding municipalities harmless for delinquent real property tax payments. The County's policy pays the Town for any delinquent real property taxes and assessments in August of the calendar year and centralizes the real property tax delinquency process at the County level.

If the Town uses a 10-year special assessment window the maximum term of the payback process would be 10 years if none of the lots created by the Plat and served by the public infrastructure sold. The expected duration of the payback process for the development and lot sale process is 3 to 5 years; this timeline allows the Developer to exit the project and realize a possible profit. The benefit that accrues to the Town is in the form of net new construction in the development and the municipal taxes generated by

that net new construction. The value of this benefit starts with the first new home constructed, ends with the last new home constructed and accrues for the life of the structures.

The Administration believes that this request is not unreasonable, however, there are certain concerns including the following:

1. The Town Board should run a background and financial review of the Developer.
2. The Town Board should consider these applications for financial assistance on a case by case basis based on the merits of the project.
3. The Town Board should make a finding of a public interest before agreeing to finance a development project by special assessing the costs of construction of the public infrastructure for the project.
4. The Town Board should limit the number of lots that it is willing to finance at any given time. This limit should be set at a percentage of the lots built on over the course of the previous 5-years.
5. The Town Board should limit the total dollar value of the Town’s debt capacity that it is willing to commit to the project; the Administration recommends that the Board limit its total commitment to the project to \$1,000,000.00.

If the Board would like to proceed with this type of project, a motion would be in order to direct staff to contact a willing Developer, draft the required documentation for the project and identify the source of the funding for the project and present the documents to the Board for approval at the next regularly scheduled Town Board meeting.

- Administrator Johnston stated that the banks have become more restrictive in lending in the current economy. In the last 8 years we have consistently had approximately 25 lots built on per year. Special assessments get paid first over the outstanding property taxes. He gave a description of how special assessments on properties work.
- Extensive discussion regarding the special assessments and the Town of Clayton paying for them with debt service payments. The storm water retention pond has already been installed.
- Mark Luebke, 3929 Cty Rd II, Larsen, WI. Discussed having passing installed per the guidelines of Winnebago County. Looking at up to 12 lots being developed.

MOTION:

Motion by: Supervisor Schmidt

Seconded by: Supervisor Grundman

Motion: To order to direct staff to contract a willing developer, draft the required documentation for the project and identify the source of the funding for the project and present the documents to the board for approval at the next regularly scheduled Town Board meeting.

Vote: Carried by a 4 to 1 vote. Supervisor Lettau voted no.

- C. Discussion/Action: Town Board review and consideration of an Agreement for Professional Services submitted by Martenson & Eisele, Inc. for construction-related services for the Town’s CY 2016 Capital Reconstruction Project.

Attached please find a copy of the Agreement for Professional Services for construction related work for the Town’s CY 2016 Capital Construction Project (Clayton Avenue from CTH II

approximately 4,900 feet south toward Larsen Road) submitted by the Town's Engineering Firm, Martenson & Eisele, Inc. The proposal provides the Town with a degree of certainty that the projects are built as designed and that the billing from the general contractor is accurate and correct. The Administration is recommending that the Town Board approve the Agreement for Professional Services at a cost not to exceed \$19,810.00 with the funding to come from the Town's Debt Service Fund. If the Board Agrees with the Administration's recommendation, a motion would be in order to approve the Agreement for Professional Services at a cost not to exceed \$19,810.00 with the funding to come from the Town's Debt Service Fund.

MOTION:

Motion made by unanimous consent to approve the Martenson & Eisele Agreement for Professional Services at a cost not to exceed \$19,810.00.

- D. Discussion/Action: Town Board review and consideration of the purchase of VHF radio system components from the Town of Neenah Fire Department to be used by the Town's Fire Rescue Department and the Town's Public Works Department.

Attached please find a copy of a proposal for the sale of used radio communications equipment from the Town of Neenah Fire Department. A few years ago the County replaced and updated the radios for all of the public safety departments in the County. As a result of that process the radios used by the Town of Neenah Fire Department were taken out of service. Unlike the radios used by the Clayton/Winchester Joint Fire Department which are now obsolete, the ones used by the Town of Neenah Fire Department can be reprogrammed and used by the Town's Public Works Department. The Administration has been looking for an opportunity to equip the Town's Public Works Employees with a two-way radio communication system. The radios offered by the Town of Neenah will provide the Town with two-way communication between the Town Office and the Town's Public Works Department employees. Additionally, because of the number of radios available the Town would be able to establish emergency communications between the Public Works Department and the Clayton Fire Rescue Department. Please be advised that the most economical way to purchase the proposed radios is to purchase the package for \$1,600.00. In addition to purchasing the radios staff would need to apply for a Federal Communications Commission FCC broadcasting license and install the equipment in the Town Hall. Staff can apply for the license and install the radios and required antenna. The Administration is recommending that the Board authorize the purchase of the radios at a cost not to exceed \$1,600.00. If the Board agrees with the Administration's recommendation, a motion would be in order to approve the purchase of the listed communications equipment from the Town of Neenah Fire Department at a cost not to exceed \$1,600.00 with the funding to come from the Public Works Department's CY 2016 Equipment Purchase Line Item and to apply for the required FCC broadcasting license for the Town.

MOTION:

Motion made by unanimous consent to approve the purchase of VHF radio system components from the Town of Neenah Fire Department at a cost not to exceed \$1,600.00 with the funding to come from the Public Works Department's CY 2016 Equipment Purchase Line Item and to apply for the required FCC broadcasting license for the Town.

E. Discussion/Action: Town Board review and direction to staff relative to Section 2 (Cost Allocation) of a Draft Special Assessment Policy for the Town of Clayton and its related Municipal Storm Water Management Utility, Municipal Sanitary Sewer Utility and Municipal Water Utility.

Attached please find a draft copy of the agenda for the 166th, Annual Meeting of The Town Electors scheduled for Tuesday, April 19th, 2016. The Administration is respectfully asking the Board for any agenda items it may wish to add to the agenda before it is published and posted.

- Page 10 street improvements.
- Discussed the issue relative to assessing benefiting the property owners. Part 3(D) has the redevelopment definition. Reference to page 11, part B.

NO ACTION TAKEN

F. Discussion/Action: Town Board review and consideration of any agenda items the Board may wish to place on the agenda for the April 19th, 2016, 166th Annual Meeting of the Town of Clayton Electors.

The Administration is respectfully asking the Board to use the distributed draft copy of a Special Assessment Policy for the Town of Clayton. The Town Attorney’s edits have been incorporated into the Draft Document as provided by the Administration and approved by the Board. Please be advised that the Board will be reviewing Section 2 (Cost Allocation) of the Draft Policy in detail with the understanding that the Policy needs to be considered and applied in its entirety and in concert with the referenced Special Assessment Ordinance. 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.

- Buying/selling land on the eastern border of the Town of Clayton.
- Directed staff to allow Winnebago County hospice.

XI. Review of Disbursements:

- Discussed repairs on a Public Works truck. Quality Truck will work out some sort of maintenance deal with the Town of Clayton on a new truck since there have been so many problems with the one we currently own.

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:

- PA system
- Price quotes on security cameras

XV. Adjournment:

MOTION:

Motion made by unanimous consent to Adjourn at 8:29 p.m.

Respectfully submitted, Laurie Goffard, Deputy Clerk