

TOWN OF CLAYTON

Regular Meeting of the Town Board of Supervisors Meeting Minutes

September 15, 2010
7:00 p.m. – 8:45 p.m.

8358 County Road T Larsen, WI 54947

I. Call to Order

Called to order at 7:00 p.m. by Chairperson Luebke

Present: Town Chairperson Luebke, Supervisors Geise, Klingenberger, Lettau, and Schmidt

Staff Present: Town Administrator Johnston, Clerk Nester-Huebner, Interim Treasurer Bowen, Public Works Foreman Pamerter, Town Engineer Brueggeman, Town Engineer Madsen

Meeting properly posted; three locations in the Town.

II. Approval of Minutes

- Regular Town Board Meeting – September 1, 2010

MOTION: (unanimous consent) Approve Town Board Meeting Minutes from September 1, 2010, as written.

CARRIED.

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

IV. Correspondence

- WI Division of Transportation Investment Management (received 9/2/2010) – Miles of Public Highway Open and Used for Travel as of January 1, 2011
- WI Public Service Commission (received 9/2/2010) – Wind Siting Rule
- Winnebago County Sheriff (received 9/2/2010) – Alcohol Sales Compliance Checks Conducted in the Town of Clayton (Woodshed = passed, McCarthy's Mart = passed, Willie Beamon's = operator cited)
- WTA Winnebago Unit (received 9/7/2010) – July 1, 2010 Meeting Minutes, October 7, 2010 Agenda
- WI Drainage District Program (received 9/8/2010) – Newsletter/Summer 2010
- Winnebago County Solid Waste Management Board (received 9/14/2010) – August 2010 Tonnage Report
- Building Inspector August, 2010, Permits (received 9/2/2010)
- Wisconsin Towns Association Urban Towns Committee – Annual Meeting Minutes of October 12, 2009 & UTC Executive Board Meeting Minutes of September 8, 2010

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

- County Supervisor Report – Supervisor Joanne Sievert, District 29, not present: no update as County Board Meeting is next week
- Winnebago County Sheriff's Dept. – Deputy Vinghi present: Clayton Park parking lot teenagers were located and citation was issued for criminal damage to property
- Clayton-Winchester Fire Chief Report – Fire Chief not present, 62 calls Year-To-Date, Family Movie Night on Friday, September 17, 2010, at Winchester Town Complex
- Administration Comments –
Town Administrator: Introduced our new Interim Treasurer, Tori Bowen
Clerk: September Primary = 729 votes cast (approx. 28% of TOC registered voters); ClaytonFest financial summary update
Town Engineer: Larsen Road reconstruction update (finishing up gravel work, fine grading yet to do, some storm sewer to complete, expecting paving in approximately 3 weeks,), Aaron Madsen will be taking Steve Brueggemann's place as our Town Engineer with M&E
Chair Luebke: Larsen Road project – lots of trees dug out (used to bridge the road when built)

Resident comments:

Carol Ihde, 7834 State Road 76 (Topic: ClaytonFest designation and split of profits); Ben Hamblin, 2986 W. Shady Lane (Topic: borings on Larsen Road for project)

VI. Zoning – Receipt of Information from Plan Commission

Plan Commission Chair, Dick Knapinski, presented Plan Commission recommendations on the following:

- A. Plan Commission review of a Draft 2010 Town of Clayton Minimum Road Design Standards Policy
- B. Staff review of the Town’s proposed Wind Energy Device Ordinance
- C. Staff review of Outagamie County’s Airport Zoning Overlay process
- D. Plan Commission review and recommendation on a drainage easement relocation on Lots 15, 16, and 17 of the Plat of Highland Wood in the Town of Clayton.
- E. Plan Commission review and recommendation on a CSM for Craig J. & Lisa L. Lang Riegel and Timothy W. Wrase, 411 Kittiver Court, Neenah, WI 54956, for properties located at 3692 and 3680 Forest Heights Lane, in the Town of Clayton (Tax ID #006-1350 and #006-1351), Lots 14 and 15 of the Plat of Highland Wood, Town of Clayton, County of Winnebago
- F. Plan Commission review of the preliminary work completed by the Town’s Engineering Consultant on the engineering required for the Plan Commission report to the Town Board on the Town’s Fire Department Structures

VII. Business

- A. **Discussion / Action** – Operator Licenses
 - Appeal – Joseph T. Lehocky (not present)
 Board direction: Place on hold until time when Mr. Lehocky wishes to appeal.
- B. **Discussion / Action** – Town Board action on a Plan Commission recommendation to approve a drainage easement relocation on Lots 15, 16, and 17 of the Plat of Highland Wood in the Town of Clayton

The Plan Commission recommended approval of the drainage easement relocation on Lots 14, 16, and 17, of the Plat of Highland Wood in the Town of Clayton.

Plan Commission recommends the following condition of approval:

- The applicants provide as-built drawings showing that any existing drainage ditch has been relocated into the relocated easement.

MOTION: (Geise, Lettau) Approve relocation of the drainage easement relocation on Lots 15, 16, and 17 of the Plat of Highland Wood in the Town of Clayton, subject to all conditions indicated by Plan Commission.

CARRIED by unanimous voice vote.

- C. **Discussion / Action** – Town Board action on a Plan Commission recommendation to approve a CSM for Craig J. & Lisa L. Lang Riegel and Timothy W. Wrase, 411 Kittiver Court, Neenah, WI 54956 for properties located at 3692 and 3680 Forest Heights Land, in the Town of Clayton (Tax ID# 006-1350-00 and 006-1351-00) Lots 14 and 15 of the Plat of Highland Wood, Town of Clayton County of Winnebago.

The Plan Commission recommended approval of a CSM for Craig J. & Lisa L. Lange Riegel and Timothy W. Wrase, 411 Kittiver Court, Neenah, WI 54956, for properties located at 3692 and 36980 Forest Heights Land, in the Town of Clayton (Tax ID# 006-1350-00 and 006-1351-00) Lots 14 and 15 of the Plat of Highland Wood, Town of Clayton County of Winnebago

Plan Commission recommends the following condition of approval:

- Documentation of the approval for the proposed CSM by any overlying unit of government having jurisdiction.

MOTION: (Lettau, Schmidt) Approve the CSM for Craig J. & Lisa L. Lang Riegel and Timothy W. Wrase, 411 Kittiver Court, Neenah, WI 54956, for properties located at 3692 and 3680 Forest Heights Land, in the Town of Clayton (Tax ID# 006-1350-00 and 006-1351-00) Lots 14 and 15 of the Plat of Highland Wood, Town of Clayton County of Winnebago, subject to conditions as stated by Plan Commission.

CARRIED by unanimous voice vote.

- D. **Discussion / Action** – Town Board action on approval of a Revised Developer’s Agreement with Ms. Holly Galassi for the extension of Darrow Road approximately 180 feet to the north in the existing road right-of-way.

Ms. Holly Galassi contacted us today and is unable to attend tonight’s meeting. She would like this item to appear on the next regularly-scheduled Town Board meeting.

- E. **Discussion / Action** – Town Board action on a petition by area residents to reduce the speed limit on Shady Lane from STH”76” to approximately 2,500 feet west of the intersection of Shady Lane and STH’76”.

The Petition to reduce the speed limit on Shady Lane in the area west of STH “76” was circulated by area residents.

Staff has reviewed the Petitioners’ request and makes the following comments relative to the documents presented:

Driveway Density – The document as presented is accurate; there are similar driveway densities in all four areas. However, the Town Board has set the speed limit in platted areas of the Town at 25 miles per hour; it has not set the speed limit on Town Roads at less than 35 miles per hour no matter the driveway density.

Traffic Count – The Traffic counts in the specific area are sufficient to merit the reduction in the Speed Limit.

Road Ditch Data – The ditches in the area are substantial; however, reduction the Speed Limit in the area will not mitigate any danger the roadside ditches may cause. If the intent was to mitigate the impact of the roadside ditches on traffic, the Town would place intrusion barriers along the road.

In the specific area requested by the Petitioners, reducing the Speed Limit to 45 miles per hour fits within the State Department of Transportation (DOT) guidelines. The administration has some concerns with consistency and enforceability of the Town’s Ordinances; specifically, speed limits should not change in a haphazard fashion. In this case, that is what would happen.

The speed limit on Shady Lane in the Town of Menasha goes from 45 miles per hour to 55 miles per hour. At the Clayton Town Line (Clayton Avenue), it stays at 55 miles per hour until its terminus at Pioneer Road.

Should the Board agree to the reduction in the speed limit, that transition should occur at the Town line. It would be more appropriate if the speed limit on Shady Lane, in the Town of Menasha, remained at 45 miles per hour up to Clayton Avenue.

Before it takes any action on the Petition, the Board may wish to consider asking the Town of Menasha if it would consider reducing the speed limit on Shady Lane in the Town to 45 miles per hour up to its west Town line (Clayton Avenue). At that point, the Town Board could set the speed limit on Shady Lane from the east Town line (Clayton Avenue) to 2,500 feet west of the intersection o Shady Lane and STH “76” at a consistent 45 miles per hour.

Residents commented on item: Ben Hamblin, Mike Morrissey (2967 Shady Lane)

Joseph T. Lehocky arrived at 7:46pm for appeal of operator license.

MOTION: (Geise, Lettau) Reduce the speed limit on Shady Lane from STH ”76” to approximately 2,500 feet west of the intersection of Shady Lane and STH “76”.

CARRIED by 3-2 voice vote. (Schmidt = no, Klingenberger = no)

- F. **Discussion/Recommendation:** – Town Board direction to staff on a revised proposal for a Flood Study for the area west of STH “76”, south of Winnegamie Drive, north of Shady Lane to the Rat River Preserve area.

The Administration has had several conversations with the Board relative to some significant stormwater drainage issues on the north side of Town; more specifically in the area bounded by STH “76”, south of Winnegamie Drive, and north of Shady Lane to the Rat River Preserve area.

This problem came to a head when the Kesler family experienced significant flooding of their barn and riding arena after the recent rain events. Additionally, several residents of the Lind Lane area experienced minor flooding and water over-topping the road at the culverts.

Staff has traced some of the stormwater management problems to what we believe are undersized road culverts and poorly-maintained regional drainage ditches.

In order to qualify the problem and generate a plan to solve the issues, the Administration would like to conduct a flood study of the above-referenced area. The Board has had some reservations on the value and the costs of the proposed flood study. To that end, the Town Engineer has provided a revised Flood Study proposal at a cost of \$4,550.00. This study will identify the existing problems, any potential problems, and allow staff to incorporate some solutions in the Town’s Capital Road Reconstruction Plans and Annual Road Maintenance Plans. Funding for the project would come from the Town’s CY 2010 and 2011 Public Works Engineering Budget line item.

MOTION: (Lettau, Schmidt) Approve the revised flood study for the area west of STH “76”, south of Winnegamie Drive, north of Shady Lane to the Rat River Preserve area, for \$4,550.00
CARRIED by unanimous voice vote.

Residents commented on item: Ben Hamblin

Board unanimously agreed to address Item A next, as Mr. Lehocky arrived at the meeting.

- A. **Discussion / Action** – Operator Licenses
- Appeal – Joseph T. Lehocky (now present)

MOTION: (Geise, Schmidt) Approve operator license for Joseph T. Lehocky.
CARRIED by 3-2 voice vote. (Klingenberger = no, Lettau = no)

- G. **Discussion/Recommendation:** – Town Board direction to staff on a long grass and weed mowing issue raised by Pat Keesler of MEK Development (the developers of the Breaker Ridge Plat).

Mr. Keesler and MEK Development are the parties that developed Breaker Ridge in the Town of Clayton. Relative to the issue of the Town’s Contractor not mowing lots to a required height, staff has reviewed the issue with the contractor and this mistake will not occur again.

Relative to the two (2) lots owned by MEK in the Plat of Breaker Ridge, as Mr. Keesler states in his e-mail, the length of the vegetation was 8 to 12 inches. This statement is an priori concession that at least a portion of the lots exceeded the Town’s long grass limitation of 10 inches.

As indicated in Mr. Keesler’s email, staff indicated that if the lots in question were not mowed it would likely result in a second letter being sent by Ton staff.

The Administration’s position on the question raised by Mr. Keesler was based upon an aggressive complaint about long grass on undeveloped lots raised by a resident of the Plat of Breaker Ridge. Mr. Keesler has asserted that the Town’s application of the Ordinance is illegal because, based upon the Board’s prior actions, the application of the Ordinance has been based on a complaint-basis.

However, as long as the Town’s enforcement of citizen complaints is not arbitrary and capricious, Code enforcement on a complaint-basis is not illegal, it simply allows the residents of a platted area of the Town to set a standard for their neighborhood. Some residents will tolerate unkempt grass on undeveloped lots, others will not. Some are more tolerant on more remote lots in the Plat but not on lots adjacent to their property.

The issue that the Administration has with the blanket complaint is the same issue that brought the Board to change its policy to an on-complaint enforcement process. Specifically, how does staff deal with purposely wild areas of an individual’s lawn? How does staff deal with areas that cannot be mowed because of wet soils or drainage courses? How does staff deal with stormwater storage areas that are purposely allowed to grow for water clarification purposed?

