

TOWN OF CLAYTON
Board of Supervisors
Meeting Minutes
7:00 p.m. on Wednesday, April 3rd, 2019
Town Meeting Room, 8348 County Road T, Larsen, WI 54947

- I. Call to Order: Town Board Chairman Geise called the meeting to order.
 - A. Pledge of Allegiance
 - B. Verification of Notice
 - C. Meeting 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
 - Asst Admin/Treasurer Straw PRESENT
 - Clerk Stevens PRESENT
 - Town Engineer – Mary Jo Miller PRESENT
 - Town Attorney – Ben Lafrombois PRESENT

- II. Public Hearing(s) and/or Public Information Meeting(s):
 - A. No Public Hearing

- III. Approval of Minutes:

- A. Approval of the Minutes of the Wednesday, March 20th, 2019 Town Board Meeting

MOTION:

Motion by unanimous consent to approve the minutes from the Wednesday, March 20th, 2019 Town Board Meeting.

- IV. Open Forum:

- A. Please complete the “Request to Speak at Meeting” form located on the agenda/sign-in table and submit the form to the Town Clerk. Pursuant to Wisconsin Statutes 19.32 (2) and 19.84(2), Town Related matters not on the Agenda may be presented; however, only limited discussion may occur and no action may be taken until specific notice of the subject matter of the proposed action can be given.
 - NONE

- V. Correspondence:

- A. CY 2018 Town of Clayton Annual Building Inspection Report.
 - B. March CY 2019 Building Inspection Report.

- C. Update to the Board on Intermunicipal Agreement for Municipal Court Services with the Village Winneconne.
- D. Update on the purchase of replacement chairs for the Town Board Room.

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

- A. County Supervisor Report
 - NO REPORT
- B. Winnebago County Sheriff's Department – Public Concerns and Issues
 - NO REPORT—NO PUBLIC ISSUES
- C. Clayton Combined Protective Services Department (First Meeting of the Month)
 - a. Clayton Fire Rescue Department
 - 35 calls year-to-date, 22 EMR, 8 Fire, 4 which were both
 - b. Clayton Fire Rescue First Responder
 - NO REPORT
 - c. Clayton Police Officer
 - Officer application is with the state to be rostered as an officer
 - Officer Zeinert has participated in several ride-alongs with the Omro Police Department
- D. Larsen-Winchester Sanitary District
 - NO REPORT
- E. Administrative Comments
 - Engineer Miller
 - Nothing new to discuss at this time
 - Administrator Johnston
 - Wisconsin Towns Association, Winnebago County Unit Meeting to be hosted by the Town of Clayton on Thursday, April 4, 2019
 - Hosting a planning meeting with several Town consultants and attorneys on Friday, April 5, 2019
 - Clerk Stevens
 - Election ran smoothly. Will complete required reporting in the next few weeks.
 - Public Works Union recertified
 - Chairman Geise
 - Went to court regarding annexation case. Court sided with Clayton. Will go to next hearing in June.
 - Attended a Fox Cities Development Corp meeting regarding the future of the region.
 - Meeting with the PSC Thursday, April 4, 2019

VII. Operator Licenses Issued by the Town Clerk:

- A. New:
 - i. Andrew Stanczak—Type A Operator (C-Store Only)
 - ii. Taegen A. Baird
 - iii. Pamela A. Gibbons
- 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. No Referrals.

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. No Referrals.

X. Business:

A. Discussion/Action: Town Board review and consideration of a request by Steven and Susan Schmidt to allow a tree to remain in the Clayton Cemetery in violation of the Town Ordinance #4.9 Town of Clayton Cemetery and Burial Site Ordinance.

The Board reviewed copies of the Town's Cemetery and Burial Site Ordinance (Ordinance 4.9), copies of correspondence and photographs from the Town to the Schmidt family relative to a tree planted in the cemetery, and copies of correspondence and photographs from the Schmidt Family to the Town Board. Town staff had received a complaint from the family of the individual buried in the gravesite adjoining the Schmidt burial site. The complaint relates to the evergreen tree planted by the Schmidt family next to their son's burial site. Specifically, the complaint relates to the encroachment of the tree over their family members gravesite. As evidenced by the Town's Cemetery and Burial Site Ordinance, Section 13 (A), planting of trees and shrubs is only allowed by consent of the Authority (the Town). Mr. Schmidt contended that there are many other trees planted in the Cemetery. The Administration did not contest that fact, however, over the past ten years the Town has removed, at the Town's cost, many plantings (trees and shrubs) that were planted by individuals as memorials to their deceased relatives that now encroach on adjoining gravesites. When informed that the tree in question was encroaching on another gravesite and needed to be removed, Mr. Schmidt advised Town staff that the family wanted to donate the tree as a Christmas Tree to a local organization. Rather than donate and remove the tree, the Schmidt family trimmed the branches to reveal the adjoining gravesite without Town knowledge. The Administration reported that they understand the sensitivity of this issue; however, they noted that the sensitivity extends to both families and the Ordinance applies to both the Town's Cemeteries. The Administration asked the Board for direction with this issue.

- Chairman Geise stated he understands this is a very sensitive and emotional situation but he also realizes that the ordinance must be applied to everyone.
- Steve Schmidt, 8227 County Road T, Larsen, spoke to the Board stating that someone had given him permission to plant the tree years ago

- Administrator Johnston explained that permission was granted by someone who did not have the authority to do so. However, permission is no longer the issue as the tree has grown to a size which now is impeding on other gravesites.
- Chairman Geise stated he understands the tragedy of Mr. Schmidt losing his son, but he also understands the tragedy of all of the other people in the cemetery as well. He said the principal is that the rules have to be fairly applied.
- Mr. Schmidt noted that there are many other trees throughout the cemetery which are worse than this one. He asked if they were going to all be taken down.
- Administrator Johnston explained that the Town has removed a number of trees and has many more to yet remove. He explained that the process is time intensive because of the caution and care that is required when working around gravesites.
- Supervisor Reif noted the storm damage which occurred at Royer Cemetery about 2 years ago which is still being cleaned up. He noted that cost the Town in excess of \$12,000.00.
- Supervisor Lettau noted the tree was a beautiful tree and she didn't understand why it had to come down.
- Administrator Johnston explained that the tree was impeding on an adjacent gravesite visually and likely underground as well.
- Supervisor Lettau inquired as to when the tree was planted and asked if it wouldn't be grandfathered as allowable.
- Administrator Johnston noted that trees are growing and changing constantly and therefore cannot be grandfathered. Additionally, it cannot be grandfathered if it is impeding on another gravesite
- Mr. Schmidt stated it is no longer impeding because he trimmed the branches.

MOTION:

Motion by Supervisor Reif to abide by the Cemetery and Burial Ordinance #4.9 with no grandfather clause.

Second by Chairman Geise

- Supervisor Lettau asked for clarification of the motion.
- Chair Geise clarified that the motion would effectively require the removal of the non-conforming tree.
- Supervisor Lettau restated that a negative vote on the motion would allow the tree to remain.

Motion failed by a 2-3 vote with Supervisors Lettau, Grundman, and Schmidt voting nay.

- B. Discussion/Action: Town Board review and consideration of the Draft CY 2018 Town Audit presented by Mike Konecny, (CPA Managing Member of MWK, LLC) as prepared by CLA (CliftonLarsonAllen LLP) under the supervision of Virginia Hinz, CPA Manager, Government and Not-For-Profit Group.

The Board reviewed a draft copy of the Town's CY 2018 Annual Audit. Mike Konecny, MWK, LLC presented the Town's CY 2018 Audit to the Town Board for its consideration and acceptance. Copies of the Town's CY 2018 Audit will be made

available to the public at the Town’s Electors Annual Meeting and placed on file in the Town Offices.

MOTION:

Motion by unanimous consent to accept the Town’s CY 2018 Audit and place it on file at the Town Offices.

- C. Discussion/Action: Town Board review and consideration of Resolution 2019-004, A Resolution Allocating the Proceeds from the Sale of Town Owned Land on the South Frontage of USH “10” between STH “76” and Clayton Avenue to Re-Capitalize the Town’s General Fund, Reserve Funds, Utility Funds, and Special Revenue Funds.

The Board reviewed a draft copy of Resolution 2019-004, A Resolution Allocating the Proceeds from the Sale of Town Owned Land on the South Frontage of USH “10” between STH “76” and Clayton Avenue to Re-Capitalize the Town’s General Fund, Reserve Funds, Utility Funds, and Special Revenue Funds. They also reviewed a spreadsheet prepared by the Town’s Finance Department that outlines the proposed distribution of the proceeds from the sale of the listed Town owned land. As the Board is aware from the discussion at its Wednesday, March 20th, 2019 Town Board Meeting, in order to meet the conflicting goals of protecting the east side of the Town from annexation and not severely impacting the Town’s Levy, staff has spent down much of the Town’s Reserve Funding. The proposed distribution of the proceeds would re-capitalize the Town’s accounts and increase the funding in the specified CY 2019 Budget Accounts. Staff along with Mike Konecny, (CPA Managing Member of MWK, LLC) reviewed the proposed allocations.

MOTION:

Motion by Supervisor Grundman

Second by Supervisor Lettau

Motion to approve Resolution 2019-004, A Resolution Allocating the Proceeds from the Sale of Town Owned Land on the South Frontage of USH “10” between STH “76” and Clayton Avenue to Re-Capitalize the Town’s General Fund, Reserve Funds, Utility Funds, and Special Revenue Funds.

ROLL CALL VOTE:

Supervisor Reif	Aye
Supervisor Schmidt	Aye
Chairman Geise	Aye
Supervisor Lettau	Aye
Supervisor Grundman	Aye

Motion carried with a 5-0 vote

- D. Discussion/Action: Town Board review and consideration of Resolution 2019-005, A Resolution Authorizing the Early Repayment of a \$1,500,000.00 Loan from the Wisconsin Board of Commissioners of Public Lands.

The Board reviewed a draft copy of Resolution 2019-005, A Resolution Authorizing the Early Repayment of a \$1,500,000.00 Loan from the Wisconsin Board of Commissioners of Public Lands. The Town borrowed funds totaling \$1,500,000.00 from the Wisconsin Board of Commissioners of Public Lands (Commissioners). The loan was to be used to fund that portion of the City of Appleton’s CY 2019 capital infrastructure project that would serve the Town of Clayton’s municipal sanitary sewer and municipal water project. Because of some revisions to the City of Appleton’s capital project the Town only needed to pay the City \$144,000.00. Based on the reduced cost of the project the Town no longer needs the \$1,500,000.00 it borrowed from the Commissioners. In order to repay the Commissioners, the Town needs to provide a 30-day notice of its intent to the Commissioners. The Resolution authorizes staff to provide the Commissioners with the required notice and to re-pay the loan following the 30-day period.

MOTION:

Motion by Supervisor Schmidt

Second by Supervisor Lettau

Motion to approve of Resolution 2019-005, A Resolution Authorizing the Early Repayment of a \$1,500,000.00 Loan from the Wisconsin Board of Commissioners of Public Lands. Additionally, staff should re-pay the loan following the 30-day notice period.

ROLL CALL VOTE:

Supervisor Grundman	Aye
Supervisor Schmidt	Aye
Supervisor Reif	Aye
Chairman Geise	Aye
Supervisor Lettau	Aye

E. Discussion/Action: Town Board review and consideration of the following Standard Operating Guidelines and Standard Operating Policies for the Town’s Combined Protective Services Department:

- i. Patrol Officer Duties
- ii. Rules of Conduct
- iii. Chapter 1 Discipline Policy
- iv. Chapter 2 Departmental Duty Uniforms Policy
- v. Chapter 3 Identification of Officer Policy
- vi. Chapter 4 Off-Duty Officer Responsibility Policy
- vii. Chapter 5 Political Activities Policy
- viii. Chapter 6 Lateral Transfer Policy
- ix. Chapter 7 Arrest Without Warrant Policy
- x. Chapter 8 Stop and Frisk Policy
- xi. Chapter 9 Law Enforcement Services for Private Employers Policy

The Board reviewed draft copies of the listed Standard Operating Guidelines and Standard Operating Policies for the Town’s Combined Protective Services Department. The draft copies were reviewed by staff and the Town’s Attorney.

MOTION:

Motion by unanimous consent to approve the listed documents as listed on the agenda and to place them on file with the Department.

- F. Discussion/Action: Town Board review and consideration of Intermunicipal Agreements between the Town of Clayton and the following Towns:
 - i. the Town of Neenah
 - ii. the Town of Vinland
 - iii. the Town of Winneconne

The Board reviewed draft copies of the Intermunicipal Agreements with the listed Municipalities. The documents had been prepared by the Municipalities respective legal Counsels. Chair Geise had presented the documents to the Chairs of the respective Municipalities. The only extraterritorial jurisdiction the Town wishes to have is regarding the border access points so that the connection of roads is developed in a smooth and logical manner.

MOTION:

Motion by Schmidt
Second by Supervisor Grundman
Motion to conditionally approve the Intermunicipal Agreement between the Town of Clayton and the Town of Neenah as presented.

ROLL CALL VOTE:

Chair Geise	Aye
Supervisor Reif	Aye
Supervisor Lettau	Aye
Supervisor Grundman	Aye
Supervisor Schmidt	Aye

Motion carried by a vote of 5-0

MOTION:

Motion by Grundman
Second by Supervisor Lettau
Motion to conditionally approve the Intermunicipal Agreement between the Town of Clayton and the Town of Vinland as presented.

ROLL CALL VOTE:

Supervisor Schmidt	Aye
Supervisor Grundman	Aye
Supervisor Lettau	Aye
Supervisor Reif	Aye
Chairman Geise	Aye

Motion carried by a vote of 5-0

MOTION:

Motion by Schmidt
Second by Supervisor Lettau
Motion to conditionally approve the Intermunicipal Agreement between the Town of Clayton and the Town of Winneconne as presented.

ROLL CALL VOTE:

Supervisor Reif	Aye
Supervisor Grundman	Aye
Supervisor Lettau	Aye
Chairman Geise	Aye
Supervisor Schmidt	Aye

Motion carried by a vote of 5-0

- G. Discussion/Action: Town Board review and consideration of hiring summer staff for the Storm Water Management Utility and the Solid Waste and Recycling Special Revenue Fund.

The Administration would like to advise the Board that it would like to hire the summer staff for the for the Storm Water Management Utility and the Solid Waste and Recycling Special Revenue Fund. Summer staff for the Solid Waste and Recycling Special Revenue Fund will staff the Yard Waste Site from April 4th, 2019 through November 30th, 2019. The Payroll Budget for the position is \$15.00 per hour. Staff is recommending that the Board approve hiring Eli Luebke as the primary attendant and James McLeod as the alternate attendant. The Board reviewed the relative employment applications. Staff is recommending that the Board continue to employ Tom Celichowski for the mowing position in the Storm Water Management Utility at the same rate of \$15.00 per hour.

MOTION:

Motion by unanimous consent to approve hiring the listed individuals for the summer staff positions at the hourly rate of \$15.00 per hour.

- H. Discussion/Action: Town Board review and consideration of the Town’s participation in the CY 2019/2020 Wisconsin Department of Transportation Salt Contract and Salt Shed Inspection.

The Board reviewed the material provided by the State Department of Transportation (DOT), relative to the State’s CY 2019/20 road salt purchase program. The Administration requested the Board’s input on the Town’s continued participation in the program. The DOT continues to ask the Town to provide information on its salt storage capacity, salt inventory, and its ability to take more inventory earlier in the fall. To date the Town has not had any issues with participating in the DOT’s salt purchase program and staff does not anticipate that the program will have any effect on the Town’s activities. The DOT’s documentation indicates it is shifting the self-reporting of the salt storage facility to an outside contractor. This process should have no impact on the Town. The Administration recommended that the Town continue to purchase its road salt through the DOT’s program.

MOTION:

Motion by unanimous consent to direct staff to proceed with the CY 2019/20 salt purchase using the DOT's salt purchase program.

- I. Discussion/Action: Town Board review and consideration of approving an easement for stormwater conveyance in the Plat of Sunburst, specifically, on property located at 7436 Sunwood Drive and identified as Tax ID # 006-1297.

The Board reviewed a Draft easement for stormwater conveyance in the Plat of Sunburst Estates, specifically, on property located at 7436 Sunwood Drive and identified as Tax ID # 006-1297. They also reviewed copies of the documents creating the lot in question. Staff had many contacts with the adjoining property owners, staff from JJ Keller, and the individual farming the adjoining property owned by JJ Keller to the east of the site. The Administration advised the Board that the area has had significant drainage issues over the past decade. Many of these issues relate to channeling farm tile drainage through the platted area. Over the course of the past few years the Town has been working to correct the drainage issues by using reconstructed roadside ditches and drain tile systems in the bottom of the roadside ditches and the drainage courses. The Board has approved Ordinances which require new construction have a lowest opening a minimum of 18-inches above the crown of the road to minimize future stormwater issues in the Town. However, staff noted that errors from the past still need to be corrected. The proposed easement will allow stormwater from the adjoining lots and the farming activities to the east of the site to be included in the drainage system for the development. Staff explained that if the Board approve accepting the drainage easement and the property owners grant the easement, staff will construct a drainage swale with drain tile in the easement from the east property line to Sunwood Drive. The water will then be routed into the proposed CY 2019 improvements to storm water management system for the Plat.

MOTION:

Motion by unanimous consent to approve an easement for stormwater conveyance in the Plat of Sunburst, specifically, on property located at 7436 Sunwood Drive and identified as Tax ID # 006-1297 subject to the property owner granting the easement.

- J. Discussion/Action: Town Board review and consideration of any agenda items the Board may wish to place on the agenda for the 169th Annual Meeting of the Town Electors

The Board reviewed a draft copy of the Agenda for the 169th Annual Meeting of The Town Electors scheduled for Tuesday, April 16th, 2019. The only change the Administration had made reflects the Board's desire to ask the Town's Electors for an additional 3-year authorization to buy and sell land on the Clayton Avenue corridor from CTR "II" to the north Town Limits and authorization to purchase land for the purposes of installing a metering station on the Town's municipal water line as it runs from the City of Appleton to the Town of Clayton.

- The Board had no additional items for the Annual meeting at this time.

NO ACTION WAS TAKEN

XI. Review of Disbursements

XII. Review of General Fund Budget Update (Second Town Board Meeting of the month)

XIII. Upcoming Meeting Attendance:

- Wisconsin Towns Association Unit Meeting—April 4, 2019 6:00 p.m., Town of Clayton Municipal Meeting Room, 8348 County Road T, Larsen
- Town of Clayton Annual Meeting—April 16, 2019 7:00 p.m., Town of Clayton Municipal Meeting Room, 8348 County Road T, Larsen

XIV. Board Member Requests for Future Agenda Items:

XV. Adjournment

MOTION:

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

Respectfully submitted, Holly Stevens, Clerk