

TOWN OF CLAYTON

Board of Supervisors

Meeting Minutes

7:00 p.m. on Wednesday, April 17th, 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	EXCUSED
Town Engineer – Schultz	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, April 3<sup>rd</sup>, 2019 Town Board Meeting

**MOTION:**

Motion by unanimous consent to approve the minutes from the Wednesday, April 3<sup>rd</sup>, 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.

- Dan Allen, 2746 Cassy Lane, Neenah expressed concerns with water issues in Breaker Ridge explaining that the farm field to the west is dumping water on his and his neighbors’ yard
- Administrator Johnston indicated the drainage does in fact flow that way
- Mr. Allen stated he had spoken with Earthscapes who indicated it appears Mr. Salm has not maintained his field tile likely due to cost

- Administrator Johnston explained he would like to speak with the County. He would like to establish a ditch line on the west side of the subdivision to direct the water flow, and he would add it to the Town Board Agenda for the May 1, 2019 meeting.
- Supervisor Grundman asked if anyone had contacted any of the Salm.
- Administrator Johnston indicated Mr. Salm is not interested in helping
- Mr. Allen also indicated there is water coming back from the trail on Larsen Road onto his property as well.

V. Correspondence:

- A. A copy of the Winnebago County Solid Waste Board March of CY 2019 Recycling Tonnage Report.
  - Discussed contaminated Recycling—no plastic bags. Recycle bags at local retailers
- B. A copy of the Minutes of the February 28, 2019 Oshkosh Public Library Board Meeting.
- C. Distribution to the Town Board of the Public Works Department work schedule for CY 2019 (subject to revision based on weather and other unanticipated events).
  - Already a week behind due to rain

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
    - 44 calls year-to-date, 27 EMR, 11 Fire, 7 which were both
  - b. Clayton Fire Rescue First Responder
    - NO REPORT
  - c. Clayton Police Officer
    - NO REPORT
- D. Larsen-Winchester Sanitary District
  - NO REPORT
- E. Administrative Comments
  - Engineer Schultz
    - Nothing new to discuss at this time
  - Administrator Johnston
    - Annual Meeting held April 17, 2019
    - Open Book on May 3, 2019 from 2:00-4:00 p.m.
    - Board of Review on May 21, 2019 at 10:00 a.m.
  - Chairman Geise
    - Met with the PSC in Madison regarding Water Utility
    - Met with Outagamie County Executive about the possibility for an easement on airport property

VII. Operator Licenses Issued by the Town Clerk:

- A. New:
  - i. Katie Mae Becker
- B. Renewal:
  - i. No Renewal Licenses Issued
- C. Consideration of a Temporary Class “B” / “Class B” Retailer’s License:
  - i. Application by the Drifters Snowmobile Club.

The Board reviewed the Application for a Temporary Class “B” / “Class B” Retailer’s License by the Drifters Snowmobile Club. The Drifters Organization is a bonified 501-C3 Tax Exempt organization and therefore eligible for a Temporary Class “B” / “Class B” Retailer’s License. The Club has 2 Licensed Servers and intends to use their facility located at 8348 CTR “T” for the event on Saturday, May 4<sup>th</sup>, 2019.

**MOTION:**

Motion by unanimous consent to approve the Application as submitted for a Temporary Class “B” / “Class B” Retailer’s License by the Drifters Snowmobile Club

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 a Certified Survey Map (CSM) Application submitted by Breaker Girls LLC C/O Sue Edminster, 36 Corvette Circle, Fond Du Lac, WI 54935 for property located at 2595 Larsen Road, Neenah, WI 54956 and specifically described as Tax ID # 006-0637-01, and Part of Tax ID# 006-0638, located in Section 25, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

- Plan Commission recommends approval as presented

**MOTION:**

Motion by unanimous consent to approve the CSM as submitted for Tax ID # 006-0637-01, and Part of Tax ID# 006-0638.

- B. Plan Commission recommendation to the Town Board on a Certified Survey Map (CSM) Application submitted by the Town of Clayton, 8348 CTR “T”, Larsen, WI 54947 for property located at 8879 Clayton Avenue, Neenah, WI 54956 and specifically described as Tax ID # 006-0348-01 located in Section 13, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

- Item tabled to the May 10, 2019 Plan Commission Meeting

**TABLED**

C. Plan Commission recommendation to the Town Board on proposed Amendments to the Town of Clayton Zoning Code of Ordinances relating to Short Term Lodging Rentals.

- Plan Commission recommends approval as presented

**MOTION:**

Motion by unanimous consent to forward the amendments for two readings, one each at the May 1, 2019 and May 15, 2019 Town Board Meetings

D. Plan Commission recommendation to the Town Board on a Conditional Use Application, submitted by Shawn Flieman for short-term lodging rentals. The property is located at 2545 Wrenwood Lane, Neenah, WI 54956; specifically described as Tax ID #006-0004-03, being located in Section 1, Town 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

- Plan Commission Chair Knapinski reported Wrenwood is a private road and the applicant will need to work with his neighbors regarding any covenant restrictions
- Plan Commission recommends approval with conditions

**MOTION:**

Motion by unanimous consent to forward to the May 15, 2019 Town Board Meeting for final review

E. Plan Commission recommendation to the Town Board on a Site Plan Approval Application submitted By Craig Locy, CRL Surveying LLC, N1674 Medina Drive, Greenville for property located at the northern termini of Black Top Way, Neenah and specifically described as Tax ID# 006-0895-06, being a part Section 36, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

- Plan Commission Site Plan Review is for Phase 1 which includes the first 12 structures
- Mini-storage has not been approved and has been recommended for a separate Site Plan Review
- Site Plan includes a storm water management pond. The Plan Commission added conditions to the Site Plan which allows for the Town to access the pond to conduct required maintenance if the Condo Association does not properly maintain it; and it allows for special assessment of the costs for any maintenance performed by the Town

**MOTION:**

Motion by unanimous consent for approval of the Site Plan Application submitted By Craig Locy, CRL Surveying LLC, N1674 Medina Drive, Greenville for property located at the northern termini of Black Top Way, Neenah with Staff and Plan Commission recommendations as follows:

1. That the Applicant provide the Commission with a Zoning Code compliant Landscaping Plan for the storm water management pond in phase-1 of the development and a concept Landscaping Plan for the balance of the development.

2. That the Applicant work with Town Fire Department staff to site and provide the design requirements for a hydrant on the proposed storm water management ponds.
  3. That the Applicant install mountable curb returns on the proposed driveway apron accessing Black Top Way.
  4. That the Commission recommend roof overhangs on all of the building facades to enhance the esthetic appeal of the structure.
  5. That a Knox Box security system be installed on each building to give the Fire Department restricted access to the building.
  6. That the Plan Commission recommend and Town Board approve the steel building materials.
  7. That the Plan Commission agree that the only public frontage to the site is on the Black Top Way Cul-de-Sac.
  8. Any additional Site Plan requirements the Plan Commission may wish to recommend to the Town Board.
  9. A Condo Association Agreement shall provide for the Town to access the storm water management pond to perform maintenance if the Condo Association fails to properly maintain the pond; and the agreement shall provide for the Town to special assess the cost of any storm water management pond maintenance to the Condo Association.
  10. The Condo Association Agreement must be recorded with the Winnebago County Register of Deeds prior to the issuance of any building permits
  11. A Maintenance Agreement for the shared access road be recorded with the Winnebago County Register of Deeds prior to the issuance of any building permits
  12. Under no circumstances may any of the structures be utilized as residences
  13. No external storage is allowed at any of the buildings
  14. Lighting is to be limited to one hooded, LED light above the entrance door and one hooded, LED light above the garage/overhead door on each building
  15. No Signage may be placed on the STH "76" frontage
  16. Signage on the individual condo units is limited to a wall sign only which follows the Town's adopted Zoning Code as it relates to signs
  17. This Plan Commission recommendation for approval to the Town Board is for Phase I of the project consisting of the first 18 condo buildings.
  18. The mini/self-storage buildings are NOT approved and will require a separate Site Plan Review prior to their construction.
- F. Plan Commission recommendation to the Town Board on proposed Amendments to the Town of Clayton Zoning Code of Ordinances relating to Signs.
- Plan Commission recommends approval as presented

**MOTION:**

Motion by unanimous consent to forward the amendments for two readings, one each at the May 1, 2019 and May 15, 2019 Town Board Meetings

- G. Plan Commission review, consideration and direction to staff relative to the creation of the project plan for Tax Incremental District #1 in the Town of Clayton.

- Chair Knapinski noted that the Plan Commission will accept the responsibility to create the TID plan and will be working on its development

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 report and update to the Board on the following park improvement programs started by staff in CY 2018 with the intent of finishing them in CY 2019:

1. Completing the drainage improvements in Trailhead Park.
  2. Completing the drainage improvements on the WIOWASH Trail south of the Trailhead Park Access Point.
  3. Completing the pavilion improvement in Clayton Park.
  4. Completing the reconstruction of the dugout benches in the east ball diamond of Clayton Park.
  5. Planning for replacing the playground surface in both Clayton Park and Trailhead Park.
  6. Starting the planning for the park on the former Noffke property on CTR “JJ” in the Town of Clayton.
  7. Completing the installation of the surveillance equipment in Trailhead Park and Clayton Park.
- Chair Geise stated a resident had asked if ropes were going to be installed between the posts at Clayton Park
  - Administrator Johnston stated that is the intention

X. Business:

A. Discussion/Action: Town Board review and direction to staff relative to the Larsen Road Pedestrian Trail element of the planned CY 2020 re-construction of Larsen Road from STH “76” through the intersection of Oakwood Avenue, the pulverizing and repaving of Larsen Road from Oakwood Avenue to CTR “T”.

The Board reviewed a memorandum from the Town’s Engineer (Mary Jo Miller) outlining the estimated cost for the proposed Trail construction of Larsen Road from STH “76” through the intersection of Larsen Road and Oakwood Avenue, as well as the cost of extending the Larsen Road Trail to CTR “T”. The estimated cost of the 2-mile section of 6-foot wide paved trail from STH “76” to CTR” T” is \$1,021,000. A significant portion of the trail cost is caused by the need to enclose the south storm water management ditch of Larsen Road so that the trail can be constructed over the enclosed ditch. The Town’s experience with the trail on the south side of Larsen Road between STH “76” and Clayton Avenue demonstrates the need to enclose the storm water management ditch in order to create a quality trail system. This need becomes clear when the different legs of the existing trail are studied, i.e. the enclosed trail in front of

EarthScapes vs the open ditch of the rest of the trail. The Administration has reviewed the Trail Project with staff. Staff believes that the enclosed drainage system that is required to build the trail has many benefits to the stormwater drainage function in the area and would improve the Town's ability to convey stormwater more efficiently. The Town's Engineer had some reservations relative to the benefits generated by the enclosed stormwater management system and the Administration's position on the enclosed stormwater management system. However, the Administration is of the belief that given the Town's existing financial needs and staff's workload, it would be reasonable to limit the Town's CY 2020 Capital Project to the re-construction of Larsen Road from STH "76" through the intersection of Oakwood Avenue, the pulverizing and repaving of the Larsen Road from Oakwood Avenue to CTR "T", and to repair the roadside ditches. The Administration is recommending that the Board keep the Larsen Road Trail project in its Comprehensive Plan with the intent of constructing the Trail at some point in the future.

- Rock Suutala, 3215 Larsen Road, Neenah requested clarification of the Larsen Road construction
- Administrator Johnston explained the project sections
- Work postponed to 2020

#### **DIRECTION TO STAFF**

Direction to staff to keep the trail/storm water planning for future reference and possible implementation.

- B. Discussion/Action: Town Board review and consideration of payment of an invoice from Miller & Associates for repairs to the playground equipment in Trail Head Park necessitated to repair damage caused by acts of vandalism.

The Board reviewed a copy of an invoice from Miller & Associates for repairs to the playground equipment in Trail Head Park necessitated to repair damage caused by acts of vandalism. The Administration has referred this issue to the County Sheriff and the Juvenile Court system for restitution. Staff is of the belief that the Town may eventually recover some of the costs of the repairs to the Town's Park equipment, however, this process will take time. The Administration asked the Board for authorization to pay the invoice from Miller & Associates from the Town's CY 2019 General Fund Budget, Trial Head Park Line Item with the intent of refunding the Budget with any restitution funds the Town may receive.

#### **MOTION:**

Motion by unanimous consent to pay the invoice from Miller & Associates from the Town's CY 2019 General Fund Budget, Trial Head Park Line Item with the intent of refunding the Budget with any restitution funds the Town may receive and should no monies be recovered by yearend, the funds should be included in a yearend Budget adjustment Resolution.

- C. Discussion/Action: Town Board review and direction to staff relative to the repair of stormwater (flooding) damage to Medina Junction from the Canadian National Railroad tracks to its intersection with North Loop Road.

The Board reviewed photographs of the road surface of Medina Junction Road between the Canadian National Railroad tracks and North Loop Road. The road surface was pulverized and double chip sealed approximately 10 years ago, at which time, the project costs were \$25,000.00+/- . Based on a visual inspection of the damage to the road surface, a significant amount of the major damage occurred when individuals drove on the road while the subgrade was saturated and the road was closed to traffic. This activity pushed the surface into the wet subgrade causing the pumping of mud through subgrade. The Administration advocated for the abandonment of the road from the Canadian National Railroad tracks to its intersection with North Loop Road. However, they noted this option would likely cause significant disruption in the traffic patterns of residents in the area. The Administration, as an alternative, suggested the Board direct staff to gather estimates of the cost of placing and compacting additional gravel on the road surface with the intent of double chip sealing the surface when it has reached its driest condition in late summer of the calendar year.

- The Board asked if the DNR would share in the cost of reconstruction
- Administrator Johnston said it is more likely the DNR would share in the cost to abandon the road

#### **DIRECTION TO STAFF**

Direction to staff to gather cost estimates for the repair/reconstruction and to bring the information back to the Board at a future meeting for consideration

- D. Discussion/Action: Town Board review and direction to staff on how to proceed with soliciting and awarding the work for the Town's Budgeted CY 2019 crack sealing, chip sealing, and line painting.

The Administration requested direction from the Board relative to how Town maintenance work should be solicited. Specifically, State Statutes allow units of government to award specific maintenance road work under \$25,000.00 in value by Board Action and Public Notice. If the Board elects to award a contract based on a solicitation for the work and the work qualifies for the bidding exemption, the Statutes require the publication of a Class 1 Notice in the newspaper of record before the work contract can be signed. The Town's CY 2019 Budget for the referenced work is \$130,000.00. The Administration asked the Board for authorization, subject to approval by the Chair, to award the crack sealing and line painting work budgeted in CY 2019 at \$20,000.00 based on a solicitation and the Publication of a Class 1 Notice in the newspaper of record. Over the past 5 years the Administration has bid this type of maintenance work, which has created significant work for Town staff with little savings in cost and/or quality of product. The goal of the Administration's change is to develop a process that uses the expertise of the market suppliers to recommend road maintenance options and to develop a plan that is to be implemented over the course of a 5-year term.

#### **MOTION:**

Motion by unanimous consent to approve the award of maintenance contract under the Statutory limit by solicitation as well as approval by the Town Chair.

- E. Discussion/Action: Town Board review and consideration of authorizing the Town Chair to engage in discussions with Developers on potential Town funded development incentives for residential development on the Town.

The Administration explained that the Town has been approached by a number of residential developers looking to do development work in the Town. It appears that in today's residential development world, communities have been asked to participate in development projects to facilitate the success of the projects. The Administration believes that there are development functions that the Town could participate in that would benefit both parties to the projects. Additionally, there are costs associated with residential development that are driven by the Town that should be cost shared by the Town. Examples of this type of work are stormwater management systems and road construction. A specific example of a stormwater management system that would benefit the Town is regional systems. These systems look at the larger drainage basin rather than the limited development site. Another specific area that would benefit the Town is the construction of arterial roads and roads that facilitate interconnectivity between developments. For example, the Plat of the Ridges and the Ridgeway development both have approximately 50 residential units each on single access points. The connection between the development areas would provide a second access point to both developments. However, because there is little incentive to build the road, the developers of both projects opted to not build the connecting road. For the health and safety of the residents the connecting access point should have been constructed even if it required Town participation. The Administration is not asking for the authority to commit the Town, but simply to authorize the Town Chair to participate in developing proposals for Board consideration that would include Town participation and be subject to Town Board Approval.

- Rock Suutala, 3215 Larsen Road, Neenah asked if these discussions would occur at the Plan Commission meetings expressing his concern over the authority which is given to the Chairman
- Supervisor Schmidt stated allowing the Chair to negotiate helps to speed the process and encourages development while maintaining control
- Chair Geise stated anything he negotiates he brings back to the Town Board for their review and approval without having to hold special meetings and closed session meetings

**MOTION:**

Motion by unanimous consent to authorize the Town Chair to negotiate with developers regarding Town participation in development projects with any negotiation agreements being subject to Town Board review and approval.

- F. Discussion/Action: Town Board review and consideration of allowing the Larsen/Winchester Lions Club to use the Town Board Meeting Room for the organization's Board Meeting on the first Wednesday of the month from 8:30 A. M. to 9:30 A.M.

Following the CY 2014 renovation work to the Town Hall facility, the Town discontinued the public use of the Town Hall Meeting Room. The primary reason for change was the limited public use of a meeting room, the cost of reconfiguring the room

for alternate uses and the public access to the Town Office Facility. The Larsen/Winchester Lions Club has asked to use the Town Board Meeting Room for the organization's Board Meeting on the first Wednesday of each month from 8:30 A.M. to 9:30 A.M. The Administration explained they were of the opinion that the Board should not allow non-governmental organizations to use the Town Hall. The reasoning behind this position was that the Board Room was designed for a single use and the cost of converting the room for an alternate use would not be recovered by a rental fee. Additionally, the Board Room also has unimpeded access to the Town Hall Offices, and staff routinely uses the Board Room for Municipal purposes. The Administration asked the Board for direction relative to this issue.

- Attorney Lafrombois noted there are legal issues with allowing organizations to use the facility

**DIRECTION TO STAFF**

Direction to staff to keep the meeting room for municipal use only.

XI. Review of Disbursements

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

XIII. Upcoming Meeting Attendance:

- Board of Review May 21, 2019 at 10:00 a.m.

XIV. Board Member Requests for Future Agenda Items:

- Supervisor Lettau requested staff look into getting a microphone for presenters

XV. Adjournment

**MOTION:**

Motion made by unanimous consent to adjourn at 8:14 p.m.

Respectfully submitted,  
Tori Straw, Asst Administrator/Treasurer