

TOWN OF CLAYTON  
Town Board of Supervisors  
Meeting Minutes

7:00 P.M. – 8:20 P.M. on Wednesday, May 16<sup>th</sup>, 2012

Town Office Meeting Room, 8358 County Road T, Larsen, WI 54947

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I. Call to Order:

A. Pledge of Allegiance, Notice Verification, Roll

1. Town Board Chairman Luebke 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 Luebke	PRESENT
Supervisor Geise	PRESENT
Supervisor Lettau	PRESENT
Supervisor Grundman Erdmann	PRESENT
Supervisor Schmidt	PRESENT

b. Staff

Administrator Johnston	PRESENT
Town Treasurer Bowen	PRESENT
Public Works Foreman Pamentner	PRESENT
Town Engineer Miller	PRESENT

II. Public Hearing:

- A. No Public Hearing.

III. Approval of Minutes:

- A. Town Board Meeting – Wednesday, May 2<sup>nd</sup>, 2012

**MOTION:**

Motion carried by unanimous consent to approve the minutes of the Town Board Meeting of May 2<sup>nd</sup>, 2012 with no corrections.

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

- A. No Open Forum

V. Correspondence:

- A. Public Service Commission of Wisconsin, Notice of Prehearing Conference
- B. Winnebago County Zoning Department Zoning Complaint Correspondence.

- VI. Discussion Items (No action will be taken.):
- A. County Supervisor Report
    - 1. No Report
  - B. Winnebago County Sheriff's Department – Public Concerns and Issues
    - 1. Duane Luker Present
    - 2. No Report
  - C. Clayton-Winchester Fire Department
    - 1. No Report
  - D. Larsen Winchester Sanitary District
    - 1. Mike Pfankuch present
    - 2. Currently re-writing the Sanitary District Ordinances
    - 3. Proposing an increase to the fine for illegal dumping
    - 4. Discussed the water in the system after the rain – had the system checked and found leaks in several of the mains
    - 5. Started spring drawn-down on ponds
    - 6. Discussed the meaning of the term “illegal dumping”
  - E. Administration Comments
    - 1. Administrator/Clerk
      - a. PW foreman working on the Sunburst Estates project – will be contracting out to finish the work
      - b. Scott will be working Saturday with the contractor to finish the project
      - c. Shady and Gulf Wood – there is about 8-10 inches of asphalt – we will have to take the asphalt out
      - d. There is a need to establish a permit for driveways to eliminate the use of concrete to the apron of the roads.
      - e. Copy of Open book Notice – we will be publishing/posting the Friday before the meeting
      - f. The Bond Issue money was transferred to account today – May 16, 2012
    - 2. Public Works Foreman:
      - a. Discussed the Pioneer road culvert
    - 3. Treasurer/Deputy Clerk:
      - a. Primary Recall Election May 8<sup>th</sup>, 2012 has not been certified by the state – they have until 5:00 p.m. Friday, May 18<sup>th</sup>, 2012. No ballots will be issued until next week – per Winnebago County Clerk, hopefully we will have the ballots by Thursday, May 24<sup>th</sup>, 2012.
      - b. To date, there will be 102 Regular Absentee ballots going out, 26 Permanent Absentee ballots going out and 6 Military Absentee ballots going out for the June 5<sup>th</sup>, 2012 election.
      - c. Continuing to learn the SVRS system and will have the label printer up and running by the end of this week.
      - d. Working on liquor license applications for the June 6<sup>th</sup> Board meeting
    - 4. Engineer:
      - a. Discussed the Public information meeting Thursday, May 10<sup>th</sup>, 2012
      - b. Currently working on the drainage plans for the areas in Town that were presented at the meeting and incorporating the residents' comments.
      - c. Soil boring holes on Ridgeway drive need to be filled

Licenses and Permits:

A. Discussion/Action: Consideration and approval of Operator Licenses:

1. Holy Brecheen – New.
2. Ann Caxperson – New.
3. Justine Darling – New.
4. Kora Fellner – New.
5. Hayley Harding – New.
6. Jennifer Gregesich – New.
7. Nicolette Laux - New.
8. Brenda Ory – New.
9. Megan Rocque – New.
10. Hannah Van Krey – New.

**MOTION:**

Motion to approve Operator Licenses for Holy Brecheen, Ann Caxperson, Justine Darling, Hayley Harding, Nicolette Laux, Brenda Ory, Megan Rocque, and Hannah Van Krey by unanimous voice vote.

- Discussed the two underage drinking offenses that Ms. Fellner received.
- Discussed the interpretation of the State Statute relative to the underage drinking and the fact the underage drinking is not a criminal offense.

**MOTION:**

Motion to approve an Operator License for Kora Fellner by unanimous consent.

- Ms. Gregesich explained the serving of a minor offense from 2010.

**MOTION:**

Motion by: Supervisor Geise

Seconded by: Supervisor Schmidt

Motion to approve an Operator License for Jennifer Gregesich.

Motion carried by unanimous voice vote

B. Discussion/Action: Consideration and approval of Fireworks Permit for:

1. Fireworksfree.com (Chuck Krause); Location: 8616 STH 76, Neenah, WI 54956.
2. T&G Fireworks (Ted Bemis); Location 8386 STH 76, Neenah, WI 54956.

Attached please find the applications for the above referenced Fireworks sales permits. The applications are from the two individuals who have had sales sites in the Town in prior years. The Applications are complete and the fees will be paid prior to issuing any Permits. The only significant change is the location for T&G Fireworks (Ted Bemis); that site has been moved from the Grundman property on the corner of STH 76 and CTR II to the Boe property on STH 76. Staff recommends approval of the Fireworks Sales Permits subject to the following conditions:

- 1) That the Applicants pay any and all Permit Fees.
- 2) That the Applicants request the required Fire Department Inspection of the sales facilities and location.
- 3) That the Applicants abide by the Town's Sign Ordinance for any and all signage for the sites.

**MOTION:**

Motion by: Supervisor Grundman-Erdmann

Seconded by: Supervisor Geise

Motion to approve the Fireworks Permit application for Fireworksfree.com (Chuck Krause).

Motion carried by unanimous voice vote.

**MOTION:**

Motion by: Supervisor Grundman-Erdmann

Seconded by: Supervisor Schmidt

Motion to approve the Fireworks Permit application for T & G Fireworks (Ted Bemis).

Motion carried by unanimous voice vote

- VII. Zoning – Town Board receipt, review, and consideration of Plan Commission Referrals:  
Attached please find a copy of the Draft Minutes of the Wednesday, May 9<sup>th</sup>, 2012 Plan Commission Meeting. The Commission has reviewed and recommended conditional approval of the following Plan Commission Agenda items:

- A. Plan Commission recommendation to the Board on a Certified Survey Map (CSM) for Claymann Creek LLC, 17 Park Place, Appleton WI 54914 for property located on the north side of West American Drive east of STH 76 and specifically described as Tax ID # 006-0343, All of Lot 2 of Certified Survey Map No. 6305, being part of the Northwest ¼ of the Southwest ¼ and part of the Northwest ¼ of the Southeast ¼, Section 12, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

**MOTION:**

Motion by: Supervisor Geise

Seconded by: Supervisor Grundman-Erdmann

Motion to approve the Certified Survey Map (CSM) for Claymann Creek LLC, 17 Park Place, Appleton WI 54914 for property located on the north side of West American Drive east of STH 76 and specifically described as Tax ID # 006-0343, All of Lot 2 of Certified Survey Map No. 6305, being part of the Northwest ¼ of the Southwest ¼ and part of the Northwest ¼ of the Southeast ¼, Section 12, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin along with all recommendations of the Town Staff and the Plan Commission.

Carried by unanimous voice vote

- B. Plan Commission recommendation on a Site Plan Approval for Fire Stopping Specialist, LLC, 1100 ½ Wittman Drive, Menasha, WI 54952, for property located on the north side of West American Drive east of STH 76 and specifically described as Tax ID # 006-0343 in the Town of Clayton.
- Discussed the handout of the site plan for plantings around the outside of the building.
  - Discussed the Town Ordinance relative to the design of the site plan.

**MOTION:**

Motion by: Supervisor Geise

Seconded by: Supervisor G-E

Motion to approve the Site Plan Approval for Fire Stopping Specialist, LLC , 1100 ½ Wittman Drive, Menasha, WI 54952, for property located on the north side of West American Drive east of STH 76 and specifically described as Tax ID # 006-0343 in the Town of Clayton along with all the recommendations of the Plan Commission and the Town Staff.

Motion carried by unanimous voice vote.

- C. Plan Commission recommendation on a Site Plan Amendment Approval for MAG Properties LLC 1219 Appleton Road, Menasha, WI 54956, dba Headliners Bar and Grill, 2788 Towne Court, Neenah WI 54956 for property located at 2788 Towne Court and specifically described as Tax ID # 006-062006 in the Town of Clayton.
- Discussed the landscaping and the requirements made by the Plan Commission and the Town Staff.
  - Discussed the venting of the burn pit – Staff requires the establishment to build to code.
  - Everything will be in writing for the owners to sign upon approval.
  - Discussed concerns of plastic being used during the winter months.

**MOTION:**

Motion by: Supervisor Grundman-Erdmann

Seconded by: Supervisor Geise

Motion to approve the Site Plan for MAG Properties LLC 1219 Appleton Road, Menasha, WI 54956, dba Headliners Bar and Grill, 2788 Towne Court, Neenah WI 54956 for property located at 2788 Towne Court and specifically described as Tax ID # 006-062006 in the Town of Clayton including all of the conditions set by the Plan Commission and the Staff with the additional condition that at no time the structure be enclosed either temporarily or permanently.

Motion carried by unanimous voice vote

- D. Plan Commission Review and direction to staff relative to developing a local Wind Energy Ordinance.
- Chairperson Knapinski discussed the Plan Commission referrals presented to the Board

**NO ACTION TAKEN**

- E. Green Space – Town Board receipt, review, and consideration of Green Space Committee Referral.
- A. No Referrals.

VIII. Business:

- A. Discussion/Action: Town Board action on the Closed Session Meeting held pursuant to Wisconsin Statutes 19.85 (1) (e) on Wednesday, May 16<sup>th</sup>, 2012 to discuss the purchase of the Elmer properties located at:
- a. 8328 CTR T in Larsen Wisconsin

b. 8326 CTR T in Larsen Wisconsin  
19.85 (1) (e): (Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session).

This agenda item is intended to allow the Board to take action on the Closed Session held on the above captioned issue. If the Board is not ready to take any action on the issue a motion to table the agenda item by Roll Call Vote would be in order. If the Board would like to take an action on the issue a motion to do so by Roll Call Vote would be in order.

**MOTION:**

Motion by: Supervisor Grundman-Erdmann

Seconded by: Supervisor Schmidt

Motion to approve the purchase of the Elmer property located at 8328 County Road T and 8326 County Road T, Larsen, WI 54947 at the price of \$90,000 with a down-payment (earnest money) of \$10,000 and a closing date of 6/15/12 with the approval of Ms. Elmer.

**ROLL CALL VOTE**

Supervisor Geise Aye

Supervisor Lettau Aye

Supervisor Schmidt Aye

Supervisor Grundman-Erdmann Aye

Chairperson Luebke Aye

Motion carried by unanimous voice vote

B. Discussion/Action: Town Board review and consideration of the Town Administrator's Performance Evaluation and Employment Agreement.

Attached please find a copy of the Administrator's current Employment Agreement and the Draft of the proposed new Employment Agreement. If the Board is comfortable with the Draft Employment Agreement a Motion would be in order to approve the Administrator's Employment Agreement effective January 1<sup>st</sup>, 2012 subject to review by the Town's Labor Attorney.

- Discussed the changes from the previous agreement
- Lettau requested the performance review
- Discussed salary requirements

**MOTION:**

Motion by: Supervisor Geise

Seconded by: Supervisor Schmidt

Motion to approve the Town Administrator's performance evaluation and the employment agreement as presented with the effective date of 1/2/12 through 12/31/13.

- Discussed Supervisor Lettau's concern with approving the performance evaluation.

Motion carried by unanimous voice vote.

C. Discussion/Action: Town Board review and consideration of Staff's recommendation for the Town's CY 2013 County Bridge Aids project.

Attached, please find a copy of a letter from County Highway Commissioner, Ernest Winters, relative to the County's CY 2013 Bridge Aids Projects. The County is asking the Town to identify potential CY 2013 Bridge Aids Projects. Attached, please find a map

identifying the location that Staff is recommending for the Town's CY 2013 project: County S (Center Road approximately ¼ mile south of Winnegamie Drive). Over the course of the past few years the Town has been replacing the road cross-culverts on the identified waterway. In CY 2012 the Town's County Bridge project replaces the cross-culvert on Pioneer Road north of Medina Junction. Once these culverts are replaced the drainage course west from the intersection of Oakwood Avenue and Golf Wood Drive should be free of bottlenecks. However, in order to work properly, the drainage course itself will likely need to be cleaned. Should the Board agree with staff's recommendation, a motion would be in order to direct the Administration to submit the Town's CY 2013 County Bridge Aids Project as identified.

- Discussed the 2013 County Bridge Aids project for Center Road
- Open bottom culvert to be installed
- Approximately \$45,000 project with the County paying for half of the project and the Town paying for the other half of the project.

**MOTION:**

Motion to approve the Staff's recommendation for the Town's CY 2013 County Bridge Aids project by unanimous consent.

- D. Discussion/Action: Town Board review and consideration of placing a temporary asphalt patch on the failed portion of Westfield Ridge.

In preparation for the Public Informational Meetings scheduled for the Town's CY 2013 Capital Reconstruction Projects the Administration has received several telephone calls relative to the collapsed portion of Westfield Ridge. The Administration has placed this item on the Board's Agenda in anticipation of requests by area residents to place a temporary asphalt patch on the road. Staff has solicited cost estimates for a temporary asphalt patch; the estimates range from \$7,500.00 to \$15,000.00. The Administration would like to remind the Board that, at worst, any patch that is put in place would likely fail within a few months and, at best, the patch would be removed in CY 2013 when Westfield Ridge is rebuilt. If the Board would like to have the road patched, funds for the project would come from the Town's CY 2012 Road Maintenance Budget Line Item.

- Discussed the project –the base is bad and the asphalt will not last through the summer
- Discussed notifying the residents of the Town Board's decision

**MOTION:**

Motion by: Supervisor Grundman-Erdmann

Seconded by: Supervisor Lettau

Motion to deny the recommendation of placing a temporary asphalt patch on the failed portion of Westfield Ridge Road at this time, that the Town will do what is necessary to keep the dust down in that area and to notify the residents of the Town Board's decision to delay the road repair until 2013.

- Discussed the wording of the letter to the residents effected by the Town Board's decision

Motion carried by unanimous vote

- E. Discussion/Action: Town Board approval of the purchase and installation of a culvert end wall on the cross-culvert in Pioneer Road approximately 100 yards south of USH 10.

As a result of the recent significant rain events, Pioneer Road south of USH 10 was undermined in the area of the road cross-culvert. Staff was notified of the road failure on Tuesday, May 8<sup>th</sup>, 2012 by the County Sheriff's Office. Given the late hour, staff elected to close and barricade the road between CTR II and Fairview Road for the night and to rebuild the undermined area of Pioneer Road on Wednesday, May 9<sup>th</sup>, 2012. The drainage course in question starts on the north side of CTR II in the area east of Center Road and flows west to the major drainage course that flows south along the WIOUWASH Trail. Staff believes that the main reason for the undermining of the road was the flow characteristics of the inlet to the road cross-culvert. In order to mitigate this problem the Administration would like to place an end wall on the inlet side of the cross-culvert. The cost of the culvert end wall is approximately \$2,000.00 and staff will install the end wall, however, they will need to hire a high hoe to facilitate the installation process. If the Board agrees with the Administration's recommendation, a motion would be in order to authorize the purchase and installation of an end wall for the culvert in question at a cost not to exceed \$3,000.00. Funding for the project will come from the Town's CY 2012 Road Maintenance Budget Line Item.

- Discussed the reason for placing end walls on the culvert
- Discussed using a by-pass pump during the repairs

**MOTION:**

**Motion by:** Supervisor Geise

**Seconded by:** Supervisor Schmidt

Motion to approve the purchase and installation of a culvert end wall on the cross-culvert in Pioneer Road approximately 100 yards south of USH 10 at a cost not to exceed \$3,000. Motion carried by unanimous voice vote

- F. Discussion/Action: Town Board review and consideration of Staff's recommendation for the Town's CY 2012 Storm Water Management projects:
- a. Oakcrest Manors – Storm Water Management Project.
  - b. Oak Openings – Storm Water Management Project.
  - c. Sunburst Estates – Storm Water Management Project.
  - d. Fondotto Drive – Storm Water Management Project.
  - e. Oakridge Road east of STH 76 – Storm Water Management Project.
  - f. Center Road north of Shady Lane – Storm Water Management Project.
  - g. Fairview Road east of STH 76 – Storm Water Management Project.
  - h. Winnegamie Drive and Center Road – Storm Water Management Project

Attached please find a map that identifies the areas that staff is planning to work on in CY 2012. The work in question consists of storm water management work that has been identified over the past few years. Staff would like the Board's approval for the projects so that we can get started with the smaller projects as time permits. The larger projects are going to be completed when the Town rents the wheeled excavator later this summer. To the extent possible, staff intends to do the work with force account labor and municipal equipment. There are some areas where staff intends to ask the Town of Menasha for help by renting their Gradall and operator and/or local contractors and their equipment. Where staff is using local contractors, a bidding process will be used to determine the lowest cost

for the work. Specifically, staff has identified areas where a high hoe would be the most appropriate tool to accomplish the goal and, at this time, renting is more efficient than owning or leasing. Staff is working on scheduling projects so that they do not get stacked up at the end of the year. Funding for the proposed projects is to come from the Town's CY 2012 Road Maintenance Budget Line Item.

- Discussed the projects and the schedule for completing the projects
- Discussed the Oakridge road west of STH 76 project (e)
- Discussed Oakcrest Manors and Oak Openings projects
- Status of storm water management ordinance

**MOTION:**

Motion to approve by unanimous consent

Carried by unanimous voice vote

- IX. Upcoming Meeting Attendance
- A. CY 2012 Board of Review meeting scheduled to be held in the Town Office Meeting Room from 10:00 A.M. to 12:00 Noon on Friday June 1<sup>st</sup>, 2012.
- X. Board Member Requests for Future Agenda Items
- A. No Requests
- XI. Review of Disbursements
- A. Town Board Reviewed disbursements
- Chairperson Luebke made the comment that he is impressed by work from Public Works department.
- XII. Adjournment – 8:20 P.M.

**MOTION:**

Motion carried by unanimous consent to Adjourn

Respectfully submitted,  
Tori Bowen, Treasurer