

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

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- 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 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): NONE

- III. Approval of Minutes:

- A. Approval of the Minutes of the Wednesday, July 17, 2019 Town Board Meeting

**MOTION:**

Motion by unanimous consent to approve the minutes from the Wednesday, July 17, 2019 Town Board Meeting.

- IV. Open Forum:

John Nygaard, 8034 Cavendish Rd, Neenah

- Requested the Board reconsider its policy on private retention ponds
- The pond on his property serves as storm water management for many of the properties in the subdivision
- Water quality is horrible—thick algae covers the entire pond
- Dry hydrant installed in pond is likely not to work due to algae and weeds
- Town worked on the pond in the past—why won't the Town work on it now

Chair Geise

- Town worked on it in the past because there was an eminent threat to life or property. The outfall was failing and action had to be taken to preserve property
- Pond was to be maintained by the homeowners' association (HOA). Most HOAs have fallen to the wayside as properties are sold

- The Town could work on the pond if the property owners agreed to be special assessed the costs. Otherwise, the HOA is responsible for the work

John Nygaard

- Requested the Fire Chief check the hydrant
- Requested the Town reconsider taking on the pond—especially considering it has a dry hydrant in it

Administrator Johnston

- The intent of the original developer’s agreement was for the HOA to be responsible for the pond. All the homeowners would contribute to the HOA which would use those funds to maintain the pond
- The HOA has failed and therefore, the pond is not being maintained
- The Town does not have the funding to maintain private storm water management ponds

Fire Chief Rieckmann

- Indicated he would check the hydrant to confirm that it is working correctly

V. Correspondence:

- A. Distribution of the July CY 2019 Building Inspection Report.
- B. WDNR Artificial Wetland Exemption Determination for the Noffke property on CTH “JJ”.
- C. Distribution of the Minutes of the June 27<sup>th</sup>, 2019 Meeting of the Oshkosh Public Library.

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
- C. Clayton Combined Protective Services Department (First Meeting of the Month)
  - a. Clayton Fire Rescue Department
    - 92 calls year-to-date, 56 EMR, 27 Fire, 8 which were both
    - Staff will be working with the Airport to train for plane crashes and proper methodology relating to rescue service
    - Sent a request and draft automatic aid agreement to Chief Forbes, Town of Winchester Fire Department. Expressed desire to have an agreement with our closest neighbors. Chief Forbes said he would look it over and get back to the Town.
  - b. Clayton Fire Rescue First Responder
    - NO REPORT
  - c. Clayton Police Officer
    - Squad camera received and in process of installation
    - Continuing to work on Police Department SOGs
- D. Larsen-Winchester Sanitary District
  - NO REPORT
- E. Administrative Comments
  - Engineer Miller

- WDNR Artificial Wetland Exemption Determination for the Noffke property on CTH “JJ” is only the first step in the process. The property now is being submitted to the Army Corps of Engineers for their determination
- Westfield Ridge cul de sac project is out for bid. Deadline is August 15, 2019
- A new Local Road Improvement Program was launched. The Town may want to consider projects which might qualify. The new program matching grant requirement is less than 50% now.
- Administrator Johnston
  - Continuing to work on the TID #1 documents and the Incorporation submission documents
  - Asst Admin Straw working to find electors action which provided the Board with Village Powers as this information is needed for the TID and the Incorporation
- Clerk Stevens
  - Asst Admin Straw and Clerk attended a Master’s Academy session in Green Bay—gained valuable information
- Chairman Geise
  - Continuing negotiations with neighboring municipalities
  - Draft agreement expected soon
  - Still moving forward with the agreement with Appleton as there are no guarantees regarding the negotiations with Fox Crossing
  - Neenah Joint School District bought ~225 acres in the Town of Neenah along Clayton Ave—likely the Village will annex that property in order to provide water and sewer
  - Increases the importance of securing our borders

VII. Operator Licenses Issued by the Town Clerk:

A. New:

- i. Linda A Vegoe
- ii. Candy A Delano

B. Renewal:

- i. Kasey J Kuhn

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 Resolution 2019-010 A Resolution Designating Boundaries and Approving a Project Plan for Tax Incremental District No. 1 (TID #1), Town of Clayton, County of Winnebago, State of Wisconsin.

The Town's Plan Commission recommended approval of the Project Plan and the Boundaries for TID #1 in the Town of Clayton. Town Board Resolution 2019-010 is a Resolution Designating Boundaries and Approving a Project Plan for Tax Incremental District No. 1, Town of Clayton, County of Winnebago, State of Wisconsin. Should the Board approve Resolution 2019-010, staff will present the Project Plan and Boundaries to the Joint Review Board for their approval. As part of the approval process staff has asked the Town's Attorney for the required legal opinion on the creation of the TID #1. Once the Joint Review Board has taken its action on the creation of TID #1, staff will forward the documents to the State for its approval.

- Consultant Gary Becker was in attendance and provided a brief presentation regarding TID #1 boundaries and project plan.
- The details regarding the resolution before the Board are as follows:
  - Purpose: Promote orderly growth and development of the Town by creating an area of higher-density mixed-used development with urban services;
  - Statutory Authority: 60.23(32) and 66.1105;
  - TID Type: Town, Mixed-Use
  - Process Summary: Plan Commission boundary and plan development & review, public hearing noticed & held, PC determination of feasibility, and approval; Notice of hearing to overlying taxing jurisdictions;
- Board Action to Approve the Resolution will:
  - Create TID #1 effective 1/1/19
  - Name: TID No. 1
  - Boundary: as shown on Map
  - Expenditure period 90% of TID's life
  - Findings:
    - More than 50% of TID area suitable for mixed-use development
    - Residential land uses will not exceed 35% of TID area
    - Sewer treatment service will be provided by a compliant wastewater treatment facility before use or operation of any improvements
    - Improvements will enhance value of property in district
    - Less than 35% of the area will be retail business at the end of the expenditure period
    - The project plan is feasible and in conformance with the Town's Comprehensive Plan

- Approval is an adoption of the Boundary and Project Plan
- Joint Review Board approval will still be needed. Meeting scheduled for August 23, 2019
- With Joint Review Board approval, submission of base package to the Department of Revenue will be done
- WI Department of Revenue Certification is the final step—likely to be early 2020
- Chair Geise noted that once the TID is approved by the Board, the TID can begin to incur costs though it is recommended to wait for the Joint Review Board approval of the Boundary and Project Plan to incur any expenses
- Supervisor Reif noted that the Project Plan refers to services coming from the City of Appleton. He inquired what would happen if that changes.
- Mr. Becker explained the Plan is flexible and changes can be made
- Supervisor Reif noted that the TID is set up as a Town TID. He asked what happens if the Town incorporates
- Mr. Becker explained the plan is then changed accordingly. He said it is an administrative process

**MOTION:**

Motion by Supervisor Schmidt

Second by Supervisor Grundman

Motion to approve Resolution 2019-010 A Resolution Designating Boundaries and approving a Project Plan for Tax Incremental District No. 1, (TID #1) Town of Clayton, County of Winnebago, State of Wisconsin.

**ROLL CALL VOTE:**

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

Motion carried unanimously

- B. Discussion/Action: Town Board review and consideration of Ordinance 2019-009 An Ordinance Creating § Chapter 1, Section 1.7 of the Town of Clayton Code of Ordinances Establishing Wages for Town Officers.

The Town Chair asked staff to draft an Ordinance outlining how the wages for Elected Officials are set and authorizing the Town Board to set the wages for appointed Committee and Commission members. The Board reviewed a draft Ordinance provided by the Town’s Attorney and reviewed by Town staff. The Document as presented allows the Town’s Electors to set the wages of the Elected Officials and allows the Town Board to set the wages for Committee and Commission members.

**MOTION:**

Motion by Supervisor Lettau

Second by Supervisor Grundman

Motion to approve Ordinance 2019-009 An Ordinance Creating § Chapter 1, Section 1.7 of the Town of Clayton Code of Ordinances Establishing Wages for Town Officers as presented.

**ROLL CALL VOTE:**

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

Motion carried unanimously

- C. Discussion/Action: Town Board review and consideration of the re-purchase of the following two Town of Clayton Cemetery plots from Sally Johnson and Rhonda Jacob at the price paid when they were purchased:

- i. Clayton Cemetery
    - Section IV
    - Row 12
    - Block 81
    - Plots 3 and 4

The Town’s Cemetery Ordinance requires owners of cemetery plots who no longer need or want the plots to re-sell the plots to the Town at the price originally paid for plots. The Board reviewed documentation provided by Sally Johnson and Rhonda Jacob concerning the above listed Clayton Cemetery plots. The documentation established that the original price for the plots in above was \$50.00 per plot for a total of \$100.00. The owners have expressed a desire to re-sell the plots to the Town. Pursuant to the Town Policy, the Administration requested authority to purchase the two plots for \$50.00 per unit with the funding to come from the Town’s General Fund, Cemetery Reserve Fund.

**MOTION:**

Motion by unanimous consent to authorize the purchase of Clayton Cemetery Section IV, Row 12, Block 81, Plots 3 and 4 with the funding to come from the Town’s General Fund, Cemetery Reserve Fund.

- D. Discussion/Action: Town Board review and consideration of hiring Richard L. Christianson Jr. as a Union represented Public Works Department Laborer with a 6-month probationary period.

Staff posted the open position in the Department of Public Works in the Appleton Post Crescent, and on the Town’s Home Page. The postings resulted in little interest from area residents. However, Richard L. Christianson Jr. (Richard), a Town resident has expressed interest in the position. The Board reviewed a copy of Richard’s Resume and job Application. Staff had interviewed Richard and would like to hire him as a Union represented Public Works Department Laborer with a 6-month probationary period. Filling the position will have no impact on the Town’s or the Public Works Department’s

CY 2019 Budget. As evidenced by Richard's Resume, he would bring significant experience in the public works field to the Department and is expected to be a valuable addition to the Town's staff. The Administration has reviewed this job offer with the Town Chair and respectfully asks the Board to approve a job offer with a 6-month probationary period to Mr. Christianson.

**MOTION:**

Motion by unanimous consent to approve the job offer to Mr. Christianson Jr. as presented with a starting wage of \$19.29 per hour.

- E. Discussion/Action: Town Board review and consideration of the award of the Bid for the Town's annual Pulverizing and Paving Projects:
- a. Pulverize, Pave, and install Curb Returns on the following:
    - i. Pulverize, repave, and install curb returns on Country Woods Court.
    - ii. Pulverize, repave, and install curb returns on Park Lane Drive.
    - iii. Pulverize, and repave, Lind Lane from Winnegamie Drive to STH "76".
    - iv. Rosemary Lane from its intersection with Larsen Road to its southern terminus (Developer paid project).
    - v. Rose Moon Way from the west property line of 3096 Rose Moon Way to the western terminus of Rose Moon Way (Developer paid project).

Staff received paving proposals from Northeast Asphalt at a total cost of \$310,595.00 and from MCC at a total cost of \$321,100.00. The low bidder for all of the work is Northeast Asphalt, W6380 Design Drive, Greenville, WI, at an aggregate cost of \$310,595.00. Funding for the Country Woods Court, Park Lane Drive, and Lind Lane repaving projects is intended to come from the Town's CY 2019 Public Works Chip Sealing and Paving Line Item funded in the amount of \$110,000.00. Funding for the second lift of asphalt on Rose Moon Way and Rosemary Lane is to come from the Developer. It was noted that the Park Lane Project will require that the Town remove and repave two concrete driveway aprons. This part of the project would require that Town staff remove the concrete aprons and the contractor grade and repave the aprons with asphaltic material. The Administration's recommendation is to complete the Country Woods Court and Park Lane Drive portions of the project and delay the Lind Lane Project to CY 2020. Additionally, the Administration would recommend awarding the Developer funded work subject to funding. If the Board agrees with the Administration's recommendation to proceed only with the selected projects, the low bidder for the work would then be MCC at total cost for the work would be \$181,750.00. The Town would be responsible for \$142,325.00 and the Developers would be responsible for \$39,425.00. If the Board proceeds this way, it would have to appropriate \$32,325.00 from the Town's General Fund Reserve to cover the budgetary shortfall. The Administration's recommendation is based on completing the repaving project in the area of Shady Lane and Center Road before moving on the Lind Lane area. The Administration's concern is that if the repaving of Country Woods Court and Park Lane Drive are not completed in CY 2019,

staff will move on to more pressing issues and the work will not be completed until it becomes an issue with the residents and the condition of the paved surfaces.

**MOTION:**

Motion by unanimous consent to award the paving and repaving projects to MCC, Inc, 2600 N Roemer Rd, Appleton, WI at a cost of \$181,750.00 subject to the Developers funding the Rose Moon Way and Rosemary Lane portions of the project at a combined cost of \$39,325.00 and to fund the Town project shortfall of \$32,325.00 from the Town’s General Fund Reserve Account.

- F. Discussion/Action: Town Board review and consideration of Ordinance 2019-010 An Ordinance Repealing § 3.10 of the Town of Clayton Code of Ordinances Creating a Combined Protective Services Department and Creating § 3.10 of the Town of Clayton Code of Ordinances Creating a Police Department.

The Board reviewed a Draft copy of Ordinance No. 2019-010 An Ordinance Repealing § 3.10 of the Town of Clayton Code of Ordinances Creating a Combined Protective Services Department and Creating § 3.10 of the Town of Clayton Code of Ordinances Creating a Police Department. The Board was advised that the Federal Bureau of Investigations (FBI) would not approve the Town’s Protective Services Ordinance as presented to them. In order to create such a Department and receive FBI authorization, the Police function budget must exceed 50% of the total Protective Services Department Budget. Since the budget for the Town’s Police function was attached to the Fire Department, that split ratio would not occur for a number of years. The Town’s Attorney had created the Draft Ordinance in order to create a free-standing Police Department. Attachment A as presented with the draft ordinance contains the list of Policies that will need to be amended to reflect the organizational change in the Department.

- It was noted that the Ordinance would require the creation of a 3-person Town Police Committee which may not include elected or appointed Town officials.

**MOTION:**

Motion by Supervisor Schmidt

Second by Supervisor Grundman

Motion to approve Ordinance No. 2019-010 An Ordinance Repealing § 3.10 of the Town of Clayton Code of Ordinances Creating a Combined Protective Services Department and Creating § 3.10 of the Town of Clayton Code of Ordinances Creating a Police Department.

**ROLL CALL VOTE:**

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

Motion carried unanimously

XI. Review of Disbursements

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:

- Supervisor Lettau inquired regarding the status of Medina Junction Road
- Administrator Johnston explained the Resolution to abandon would be on the Board's next agenda. If approved, noticing and public hearing must be completed within 40 days of adoption of the resolution.

XV. Adjournment

**MOTION:**

Motion made by unanimous consent to adjourn at 7:53 p.m.

Respectfully submitted,  
Holly Stevens, Clerk