

TOWN OF CLAYTON
Town Board of Supervisors
Meeting Minutes

7:00 P.M. on Wednesday, October 18th, 2017

Town Meeting Room, 8348 County Road T, Larsen, WI 54947

I. Call to Order:

A. Notice, Verification, Roll

1. Town Board Chairman Geise called the meeting to order at 6:00 p.m.
2. Pledge of Allegiance.
3. Verification of Notice
4. Roll

a. Board of Supervisors

Chair Geise	PRESENT
Supervisor Lettau	PRESENT
Supervisor Grundman	PRESENT
Supervisor Schmidt	PRESENT
Supervisor Reif	ABSENT (EXCUSED)

b. Staff

Administrator Johnston	PRESENT
Deputy Clerk Stevens	PRESENT
Town Engineer – Mary Jo Miller	PRESENT
Town Attorney – Ashley Lehocky	PRESENT

II. Public Hearing(s) and/or Public Information Meeting(s): NONE

III. Approval of Minutes:

- A. Approval of the Minutes of the Regular Town Board Meeting held at 7:00 p.m. on Wednesday, October 4th, 2017.

MOTION:

Motion by unanimous consent to approve the Minutes of the Regular Town Board Meeting held on Wednesday, October 4th, 2017.

IV. Open Forum – Town-related Matters not on the Agenda: NONE

V. Correspondence:

- A. Copy of correspondence from Chuck Farrey, Winnebago County Supervisor, District 30.
- B. Winnebago County Solid Waste Management Board, 2017 Recycling Tonnage Report.
- C. Copy of correspondence to the Plan Commission Chair from Kevin Jacobs, 8579 County Road M, Larsen, WI 54947.
- D. Wisconsin Department of Administration, Final Estimate of January 1, 2017 Population.
- E. Copy of the Minutes of the August 31st, 2017 Library Board Meeting of the Oshkosh Public Library

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

- A. County Supervisor Report
 - i. No Report
- B. Winnebago County Sheriff’s Department – Public Concerns and Issues
 - i. No Report
- C. Clayton Fire Rescue Department (First Meeting of the Month)
 - i. Chief Rieckmann report
 - o 199 calls year-to-date (12% decrease from previous year-to-date total)
 - o Cistern is full, drain line is repaired
- D. Larsen-Winchester Sanitary District
 - i. No Report
- E. Administration Comments
 - i. Engineer Mary Jo Miller
 - o Rosemoon Way preconstruction meeting held October 10th, Radtke Contractors has started construction
 - o Rosemary Lane bids opened October 11th, Town Board to review and award bid later in the meeting
 - o Both projects are planned to get to gravel grade in 2017, paving with binder course in 2018, and surface course of asphalt in 2019
 - o WI DNR is requiring the Town to apply for an individual permit rather than a general permit for the Dredging Project between Oakwood Ave and Pioneer Rd.
 - o Wetland delineation near West American Drive has been prepared and submitted to the WI DNR and is awaiting their concurrence. The WI DNR also provided a navigability determination for the same area. Both are needed for the future design work for the West American Drive extension.
 - ii. Administrator Johnston
 - o Public Works Laborer, Dylan Meyer, resigned on Wednesday, October 18.
 - o Staff determined the best course of action is to back-fill the Breezewood culvert project, and find a local contractor to complete it if possible, because a it is too large an undertaking for a two-man crew to accomplish in a timely manner.
 - o Staff will post the position as required
 - iii. Town Board
 - o Chair Geise noted all recent activity is addressed later in the meeting

VII. Operator Licenses Issued by the Town Clerk:

- A. New:
 - i. Annamarie L. Fahrenkrug
 - ii. Kelsey Jane Koechell
 - iii. Madison M. Dorow
- B. Renewal:
 - i. No Renewals

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 on a Conditional Use Application for a Pond submitted by Robert C. and Janece F. Schommer of 2728 Oakridge Road, Neenah, WI 54956 for property located on Larsen Road between STH “76” and Oakwood Avenue and specifically described as Tax ID# 006-0664 and Tax ID# 006-0669 being part of the West ½ of the East ½ of the Northwest ¼ of Section 26, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

- Plan Commission Chairman Knapinski reported the Plan Commission recommends approval of the Conditional Use Application with Staff recommendations.

MOTION:

Motion by unanimous consent to approve the Conditional Use Permit Application submitted by Robert C. and Janece F. Schommer for tax parcels #006-0664 and 006-0669 with staff recommendations.

B. Plan Commission recommendation to the Town Board on a Conditional Use Application for a Mini Storage Center submitted by 76 & Shady LLC, P.O. Box 626, Appleton, WI 54912 for property located on the southwest corner of the intersection of Shady Lane and STH “76” and specifically described as Tax ID# 006-0306-07 being described as Lot-1 of CSM 6989 in Section 11, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

- Plan Commission Chairman Knapinski reported the Plan Commission recommends approval of the Conditional Use Application with Staff recommendations and additional Plan Commission Conditions.
- The property owner’s presented a modified site plan which minimizes the traffic and lighting concerns

MOTION:

Motion by unanimous consent to approve the Conditional Use Permit Application submitted by 76 & Shady, LLC for a Mini Storage Center for Tax ID # 006-0306-07 with Staff recommendations and Plan Commission Conditions.

C. Plan Commission recommendation to the Town Board on an updated Site Plan Application submitted by the petitioner(s): Jeff Houts, owner of Cruisin Safely Motorcycle & Driving Instruction, LLC, 2211 Oregon Street, Oshkosh, WI 54901 for a Home Occupation Major on property located at the north end of Black Top Way, Neenah, WI 54956 and specifically described as Lot 2 of the recently approved CSM 7052 and Tax ID # 006-0895-07, being part of the Northwest ¼ of the Northwest ¼ and the Southwest ¼ of the Northwest ¼ of Section 36, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.

- Plan Commission Chairman Knapinski reported the Plan Commission recommends approval of the additional Site Plan materials with Staff recommendations.

MOTION:

Motion by unanimous consent to approve the additional Site Plan materials submitted by Jeff Houts, owner of Cruisin Safely Motorcycle & Driving Instruction, LLC for Tax ID # 006-0895-07 with staff recommendations.

- D. Plan Commission recommendation to the Town Board on a 4-Lot Certified Survey Map (CSM) Application submitted by Clayton Preserve, LLC of 1835 East Edgewood Drive, Suite 105-7, Appleton, WI 54913, for property located at 3033 West Shady Lane, Neenah, WI 54956 and specifically described as Tax ID# 006-0307 and Tax ID# 006-0307-06, being all of Lots 1 and 2 of Certified Map 4579, being part of the West ½ of the Northeast ¼ and part of the Southeast ¼ of the Northeast ¼ of Section 11, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.
- Plan Commission Chairman Knapinski reported the Plan Commission recommends approval of the 4-Lot Certified Survey Map with Staff recommendations.

MOTION:

Motion by unanimous consent to approve the 4-Lot Certified Survey Map submitted by Clayton Preserve, LLC for Tax ID # 006-0307 and Tax ID # 006-0307-06 with staff recommendations.

- E. Plan Commission recommendation to the Town Board on a 1-Lot Certified Survey Map (CSM) Application submitted by Carol Meyer, 2674 Woodcrest Drive, Neenah, WI 54956, for property located at 2674 Woodcrest Drive, Neenah, WI 54956 and specifically described as Tax ID# 006-0975 and Tax ID# 006-0976, being all of Lots 26 and 27, Oakcrest Manors, located in the Southeast ¼ and of the Southeast ¼ of Section 36, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.
- Plan Commission Chairman Knapinski reported the Plan Commission recommends approval of the 1-Lot Certified Survey Map with Staff recommendations.

MOTION:

Motion by unanimous consent to approve the 1-Lot Certified Survey Map submitted by Carol Meyer combining Tax ID # 006-0975 and Tax ID # 006-0976 with staff recommendations.

- F. Plan Commission recommendation to the Town Board on a 1-Lot Certified Survey Map (CSM) Application submitted by Ron and Amy Jankowski, 3471 Knox Lane, Neenah, WI 54956, for property located at 3685 Fairview Road, Neenah, WI 54956 and specifically described as Tax ID# 006-0405-04-01, being part of Lot 1 of Certified Survey Map No. 6785 located in the Northwest ¼ of the Northwest ¼ of Section 15, Township 20 North, Range 16 East, Town of Clayton, County of Winnebago, State of Wisconsin.
- Plan Commission Chairman Knapinski reported the Plan Commission recommends approval of the 1-Lot Certified Survey Map with Staff recommendations.

MOTION:

Motion by unanimous consent to approve the 1-Lot Certified Survey Map submitted by Ron and Amy Jankowski for Tax ID # 006-0405-04-01 with staff recommendations.

G. Plan Commission report to the Town Board on the scheduling and distribution of the Public Hearing material for the proposed Amendments to the Town’s Comprehensive Plan and Future Land Use Map.

- Plan Commission Chair Knapinski noted the information was provided to the Commission in preparation for the November 8, 2017 Public Hearing.

NO ACTION TAKEN

IX. Business referred by the Green Space Committee:

Town Board receipt, review, and consideration of Green Space Committee Referrals (first Town Board meeting of the month):

A. Green Space Committee update on the Town Board’s proposed CY 2018 Parks Budget.

B. Green Space Committee report to the Town Board on the Committee’s direction to staff relative to the schedule for the November 2017, December 2017 and January 2018 Green Space Committee meetings.

- Administrator Johnston informed the Board that the Committee approved by Motion to cancel the November 2017, December 2017 and January 2018 Green Space Committee meetings.

MOTION:

Motion by unanimous consent to approve the cancellation of the November 2017, December 2017 and January 2018 Green Space Committee meetings.

X. Business:

- A. Discussion/Action: Town Board review and consideration of a Memorandum of Understanding between the Village of Fox Crossing and the Town of Clayton relating to the Village’s use of its Annexation Powers and the Town’s purchasing of property within the boundaries of the Town of Clayton, Sanitary District #1.

The Board reviewed a Draft Copy of a Memorandum of Understanding between the Village of Fox Crossing and the Town of Clayton relating to the Village’s use of its Annexation Powers and the Town’s purchasing of property within the boundaries of the Town of Clayton, Sanitary District #1. In order to remove some of the pressure to arrive at a final Border Agreement between the Village of Fox Crossing and the Town of Clayton, the respective Village Board President and Town Board Chair are proposing that their respective Boards agree to a Memorandum of Understanding that removes the risk of annexation by the Village and land purchases in the disputed area by the Town. This Memorandum would be binding on both communities for two consecutive 6-month terms that will allow the communities time to negotiate and approve a finalized Boundary Agreement without the possibility of minor tit-for-tat arguments. The exception to the process would be a project that is mutually beneficial to both communities and would allow for intermunicipal cooperation. Both the Village Board President and the Town Chair have arrived at a handshake agreement and they are respectfully asking their respective governing bodies to affirm the agreement.

- Attorney Lehocky noted that the agreement is not a legal document, but rather a political document and as such, does not provide any legal protection for either municipality

MOTION:

Motion by Supervisor Grundman

Second by Supervisor Schmidt

Motion to approve the Memorandum of Understanding between the Village of Fox Crossing and the Town of Clayton, as presented, and to authorize the Chair to sign the Memorandum of Understanding as presented.

Motion carried by a voice vote of 4-0

- B. Discussion/Action: Town Board review and consideration of awarding a Bid for the Developer funded construction of Rosemary Lane and an Agreement for Professional Services for Construction Related Services from the Town’s Engineer for the same Project.

The Board reviewed the Bid tabulation for the project to construct Rosemary Lane. Staff received five bids for the project: the low bid was from MCC, Inc. of Appleton, Wisconsin at a cost of \$122,735.72. The Administrator advised the Board that this is a Developer funded project with the Developer paying for the entire cost of construction. Both the Town Engineer and the Administration are recommending that the Board award the contract to MCC, Inc. of Appleton, Wisconsin at a cost of \$122,735.72 with the funding to come from a Developer’s Escrow. Additionally, the Town Engineer submitted an Agreement for Professional Services for Construction Related Services for the same project in the amount of \$9,400.00.

MOTION:

Motion by unanimous consent to award the contract to MCC, Inc. of Appleton, Wisconsin for a not-to-exceed amount of \$122,735.72 and the Agreement for Professional Services for Construction Related Services for the same project in the amount of \$9,400.00 subject to receiving a Developer’s escrow check in the amount of \$132,135.72 plus a 10% contingency or an agreement between the Town and the Developer allowing the Town to Special Assess any cost overruns to the property.

- C. Discussion/Action: Town Board review and consideration of a Developer’s Agreement between the Town of Clayton and DJW Investments, LLC (David J. Winkel) for the development of the of approximately 100 acres of land on the south side of Larsen Road at its intersection with Clayton Avenue tentatively known as the Berkshire Subdivision.

The Board reviewed an original draft of the DJW Investments, LLC Developer’s Agreement (Agreement) as drafted by Mr. Winkel and a revised Draft of the Agreement edited by the Town’s Attorney. Given the importance of this Agreement to both the Town and the Developer and financial commitment required of the Town both the Town’s Attorney and the Administration believe that it is the best interest of the Town to arrive at an Agreement that works for both parties. In order to allow for the respective reviews of the Draft Agreement (Agreement) the Administration expects that the Town Board will need to hold a Special Meeting to approve the Agreement prior to the Developer’s

scheduled closing on the property to be developed. The Administration is forwarding a copy of the Town Attorney’s draft to Mr. Winkel for his review and comment. At this time the Administration believes that the Town’s Attorney needs to draft an Agreement that protects the Town and the Administration needs to be comfortable with the language of the Agreement.

DIRECTION TO STAFF

The Board provided direction to Staff to complete the Draft Agreement and to schedule a Special Town Board Meeting if required.

- D. Discussion/Action: Town Board review, consideration, and direction to staff relative to creating an Employee Assistance Program for Town employees including members of the Clayton Fire Rescue Department.

The Board reviewed a copy of a Department of Safety and Professional Services (DSPS) Administrative Code dealing with Member Assistance Referral Programs. DSPS Subchapter XII, SPS 330.16 (1) requires that all Fire Departments establish and adopt policy statement for a fire fighters’ assistance referral program. Section (3) of the same subchapter allows the fire department to make use of a municipally run program. Municipally run programs are commonly referred to as an Employee Assistance Program (EAP). It has been the Administration’s experience that it is not uncommon for municipal employees other than those involved in the protective services to often benefit from an EAP. The Administration requested the Board authorize the research of the availability of contract EAP services and the cost of those services to the community.

DIRECTION TO STAFF

The Board provided direction to staff to research and report to the Board on the Town’s options for providing staff with an Employee Assistance Program.

- E. Discussion/Action: Town Board review and consideration of authorizing a payment to the Neenah Joint School District from the Town of Clayton Storm Water Management Utility for the Town’s share of the work completed in the Public Right-Of-Way in front of the Clayton School property located at 2916 Fairview Road, Neenah, WI 54956.

The Board reviewed a request from the Neenah Joint School District (District) for payment of \$14,675.00 for the work done in the Town’s right-of-way in front of Clayton School located at 2916 Fairview Road, Neenah, WI 54956. Based the Administration’s analysis of the bid tab and the related costs it appears that the actual cost of Alternate 1 for the projects was \$15,326.00. Based on that understanding the Town should be paying the District \$15,326.00. The District is asking the Town to pay the Bid cost not the actual cost, a difference that amounts to \$651.00. Earlier this year the Board approved a cost sharing proposal on the District’s project so that parking in the right-of-way of Fairview Road could be eliminated. The reason for participating in the project was to minimize the confusion between Town staff working in the right-of-way and District Contractors working in the same area. Additionally, the cost sharing proposal allowed Town staff to concentrate on other projects. The Administration believes that the elimination of the

parking in the right-of-way and other traffic issues in the area of the school has improved the situation for both the School and the Town.

MOTION:

Motion by unanimous consent to authorize the payment to the District of the full amount of Alternate 1 in the amount of \$15,326.00 with the funding to come from the Town's Storm Water Management Utility.

- XI. Review of Disbursements
- XII. Review of General Fund Budget Update (Second Town Board meeting of the month)
- XIII. Upcoming Meeting Attendance:
 - Public Hearing CY 2018 Budget and Special Electors Meeting to Approve the 2017 Levy on November 1, 2017 at 7:00 p.m.
- XIV. Board Member Requests for Future Agenda Items: NONE
- XV. Adjournment:

MOTION:

Motion made by unanimous consent to adjourn at 8:25 p.m.

Respectfully submitted,
Holly Stevens, Deputy Clerk