

## **Town of Clear Lake - Plan Commission Special Meeting Minutes – April 25, 2016**

Plan Commission President Mike Long called the meeting to order at 6:30 PM. The following members of the Plan Commission were present.

Bonnie Brown  
Emma Brown  
Roger Dammeier  
Mike Long  
Don Luepke

Plan Commission Attorney, Michael Hawk, and Zoning Administrator, Amy Schweitzer, were present for the meeting. Plan Commission members Chris Folland and Jill Powers were not present. President Long announced that a quorum was present.

President Long told the Plan Commission the Rules of Procedure currently specify votes are to be by roll call vote, and Long stated there has been interest in voting by paper ballot. Long stated if the Rules are changed to permit paper ballot voting, he would have to identify how each member voted when reading the decision. After some discussion, Mr. Dammeier made a motion to amend the Rules of Procedure to allow the option of paper ballot voting. Mr. Luepke seconded the motion. Long asked for discussion. Staff Schweitzer reminded the Plan Commission that it takes a 2/3rds vote to amend the Rules of Procedure meaning all five members would need to vote in favor. Hearing no other discussion, motion carried with all five voting in favor of amending the Rules of Procedure.

President Long asked for any other business. Schweitzer told the Plan Commission she had recently become aware of an alternative to Certified Mail, Return Receipt Requested. The US Post Office offers a “Certificate of Mailing” service that provides proof of the date and recipient’s address. The cost of the Certificate of Mailing Service is \$1.35 versus \$6.75 for Certified Mail. There was discussion about this alternative. Mr. Dammeier made a motion to amend the Rules of Procedure to require the Certificate of Mailing service in place of the Certified Mail, Return Receipt Requested service. Ms. Bonnie Brown seconded the motion. Motion carried with five in favor and zero against.

There being no additional business, Mr. Dammeier made a motion to adjourn the Special Meeting of the Plan Commission. Ms. Bonnie Brown seconded the motion. Motion carried with all in favor. Meeting adjourned at 6:43 PM.

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Amy Schweitzer, Secretary

## **Town of Clear Lake - Plan Commission Meeting Minutes – April 25, 2016**

Plan Commission President Mike Long called the meeting to order at 7:02 PM. Members introduced themselves, and the following members of the Plan Commission were present.

Bonnie Brown  
Emma Brown  
Roger Dammeier  
Mike Long  
Don Luepke

Plan Commission Attorney, Michael Hawk, and Zoning Administrator, Amy Schweitzer, were present for the meeting. Plan Commission members Chris Folland and Jill Powers were not present. President Long announced that a quorum was present.

President Long asked the Plan Commission if they had the opportunity to review the minutes from the February 1, 2016 meeting. Mr. Luepke made a motion to approve the minutes from the February 1, 2016 meeting of the Plan Commission as presented. Mr. Dammeier seconded the motion. Motion carried with all in favor.

President Long asked the Plan Commission if they had the opportunity to review the minutes from the February 22, 2016 Special Meeting. Long noted two typographical errors. Mr. Dammeier made a motion to approve the minutes from the February 22, 2016 Special Meeting of the Plan Commission as amended. Mr. Luepke seconded the motion. Motion carried with four in favor and zero against. Ms. Bonnie Brown abstained from the vote because she was not present at the February 22<sup>nd</sup> meeting.

President Long introduced the Hewes Application for a Minor Subdivision of Land and the Hewes Application for a Rezoning. Long asked Schweitzer about notice. Schweitzer stated each member of the public that had signed in at the February 22<sup>nd</sup> meeting received email notice of this meeting. Notice was also posted in the Town Hall, the Marina, and the Pub. The date on the “Public Hearing” sign at the Hewes property was also updated to reflect the April 25, 2016 meeting date.

Long entertained a motion to close the regular portion of the Plan Commission meeting. Mr. Dammeier made a motion to close the regular portion of the Plan Commission meeting. Ms. Bonnie Brown seconded the motion. Motion carried with all in favor. Mr. Luepke made a motion to open the Public Hearing portion of the meeting. Mr. Dammeier seconded the motion. Motion carried with all in favor.

Long opened the floor for comments from the public concerning the Hewes Minor Subdivision of Land. Mr. Doug Schultz introduced Jacob Bannister of the Davey Resource Group and told the Plan Commission that Mr. Bannister had completed the wetland delineation on the property. Mr. Bannister told the Plan Commission that the Davey Resource Group did delineate a wetland on the south end of the property, and any impacts of building on the property will be very small. Bannister stated the wetland is very large and that the proposed building would be near the fringe. The impacts of building on the wetland will be very small, if any. Bannister stated depending on exactly where the Army Corps of Engineers draws the line, a building project would likely not even require mitigation. Bannister concluded that in his opinion, the proposed building will have no significant impact on the wetland.

Plan Commissioner Bonnie Brown asked about Bannister’s qualifications to determine the need for a permit. Bannister stated that the Army Corps did not provide where the wetland line actual is. But based on the study, the building is out of the delineated wetland. Bannister stated the Army Corps letter does not say the owner must get a Regional General Permit, it simply says they may need to get a Regional

General Permit. This would be determined during a meeting with the Army Corps. If the Corps determines less than .10 of an acre is impacted, there would be no mitigation required.

Mr. Schultz stated that this is an unusual circumstance with Mr. Don Ayres situation. Schultz explained they use a van, and to get Mr. Ayres in the van, a ramp folds down. The van and ramp use two of the Ayres' three garage parking spaces. The in-home help for Mr. Ayres care finds it difficult to park. The lot, and ultimately the proposed garage, would benefit Mr. and Mrs. Ayres, and Schultz urged the Plan Commission to approve the subdivision. Schultz stated he and the other owners of the remainder of the lot had no intention of selling the rest of the parcel or splitting off additional lots.

Mrs. Sandy Ayres introduced herself, stating that she's not sure she really understands all of this, but mentioned the land would also need to be rezoned in order to build on it. Mrs. Ayres stated if she is not going to be allowed to build on it, she has no need to buy it. Ayres stated she has an appreciation for natural areas noting that she has sixteen bird feeders and loves wetlands. Ayres stated Mr. Ayres caregivers' vehicles have been broken into. Ayres commented that snow plowing causes a problem because there is no place to put vehicles so the driveway can be plowed. Mrs. Ayres stated her garage looks big, but it is not inside. In conclusion, Mrs. Ayres stated she believes in preserving wetlands, but she also believes people's needs come first and this project is a necessity for the comfort of her family. Ayres again reiterated that if she cannot build on the land, she has no reason to buy it.

Mr. Cliff Hewes stated he met with the Army Corps of Engineers representative in December. That representative explained three different times that the project was doable in his opinion.

Bridget Harrison stated she was speaking on behalf of the Clear Lake Township Land Conservancy. Harrison began by stating the Conservancy is tasked with thinking about the future of Clear Lake. Even a small impact to this large wetland is a potential a big deal. This is one of only two wetlands that is this large and located in such close proximity to Clear Lake. Ms. Harrison stated the garage would be permanent, adding that the Army Corps says this project is doable because it will impact less than .10 of an acre of wetland. Harrison told the Plan Commission that it is the Army Corps job to review projects and determine how large of an impact there is on existing wetlands, and to them one-tenth of an acre is categorized as "no significant impact" even though the Army Corps does not track sediments or function of the wetland.

Ms. Harrison continued, stating for the Conservancy, any impact to an existing wetland brings them to question a project. Ms. Harrison reminded the Plan Commission that the Town recently rallied to fight a project in Steuben County that was on land that was not as sensitive as the wetland in question tonight. Ms. Harrison urged the Plan Commission to remain committed to the goals contained within the Comprehensive Plan. She asked about the reason for the 30-foot Environmental Feature Protective Setback regulation in the Unified Development Ordinance. Lastly, she stated even a small impact to this wetland is too great of an impact.

Mrs. Ayres asked about Steuben County's rules for wetlands, before noting it was 20-feet. Mr. Hewes stated that the property was bought back in 1960, and there has never been water on it. Mr. Rick Eckert, 598 East Clear Lake Drive, stated there is water there now.

Mrs. Ayres stated the road was put in and widened through the wetland. Mr. Schultz added that he donated 10-feet to that project.

President Long asked for other public comments. Mr. Rick Eckert urged the Plan Commission to take a broad and long term view. He stated that approving the subdivision would create a lot on a wetland which has a 30-foot protective setback. Once all of the setbacks are applied, the lot is not buildable, and thus the Plan Commission is being asked to create a lot that is not buildable. Mr. Eckert stated that water flows right into Clear Lake from the proposed lot and that makes it a big deal. Eckert stated the Plan Commission is being asked to approve this subdivision of land and "move it down the road" for someone

else to deny it. Eckert stated that starting down that path will create a lot, then it will rezone that lot, and finally a variance from the 30-foot wetland setback will be necessary. Eckert concluded by stating it is in the long term interest of Clear Lake to not start down this path. Mr. Eckert urged the Plan Commission to vote no.

Plan Commissioner Emma Brown asked if the property on the front part of the lot was in a wetland. Mr. Eckert stated that about 1/3 of the proposed lot would be wetland. Ms. Harrison agreed that about 1/3 of it the proposed parcel has been delineated as a wetland.

Mr. Bannister stated the proposed garage would not be in the wetland. Mr. Bannister provided a draft site plan and floor plan of the garage for Mrs. Ayres.

Mrs. Mary Jo Fitzenrider, 332 East Clear Lake Drive, stated that she walked the property with Alycia Douglas of the Davey Group. Fitzenrider communicated that the Davey Group indicated it was a very high quality wetland. She explained there was a scale to rate wetlands, and this was one of the higher quality ones.

Mr. Bannister agreed that it is a very nice wetland, but the area that will be part of this lot is part of the fringe of the wetland. Bannister explained there is a hedge of dogwoods that splits the fringe area from the higher quality area, and if there were to be any impact on the wetland, it would be on the fringe area.

Mr. Bob Lewis, 362 East Clear Lake Drive, stated the Unified Development Ordinance has a 30-foot Environmental Protective Feature setback because the Town didn't have any protection for wetlands and other environmental features. Lewis stated that the protective setback was established because we knew we'd get into something like this.

There was discussion about the size of the proposed garage: 1,107 square feet on the main floor, 80 square feet patio with general dimensions being 50-feet by 26-feet. The garage also has a second story for storage, but Mrs. Ayres stated the second story is not a must-have.

President Long asked for any other public comments on the proposed Hewes Minor Subdivision of Land. Hearing none, Mr. Dammeier made a motion close the Public Hearing portion of the meeting. Mrs. Emma Brown seconded the motion. Motion carried with all in favor. Mr. Dammeier made a motion to re-open the regular portion of the Plan Commission meeting. Mr. Luepke seconded the motion. Motion carried with all in favor.

President Long asked for discussion. Mr. Luepke stated that 90% of the garage is in that 30-foot setback adding there is a reason the Town has this protective setback and the Plan Commission needs to be cognizant of that. Luepke stated unless there is major evidence to go against that protective feature setback, he cannot approve it. Luepke stated in fairness to the applicant, he believed the Plan Commission needed to "look down the road." Mrs. Emma Brown disagreed stating the Plan Commission was charged with the subdivision of land, and they needed to focus on that, rather than what might happen down the road.

President Long reminded the Plan Commission that it can impose restrictions or commitments. There was some discussion about commitments and conditions. Mr. Hawk, attorney for the Plan Commission, stated the commitments and/or conditions would need to be recorded in the Office of the Steuben County Recorder.

Ms. Bonnie Brown made a motion to approve the Hewes Minor Subdivision Plat. Mrs. Emma Brown seconded the motion. Mr. Luepke requested vote be taken by paper ballot. Staff Schweitzer read aloud the Findings of Fact required for approval of a Minor Plat. Long asked for discussion. There was no discussion. Paper ballots were distributed and turned in to President Long. Long stated that with only five Plan Commission members present, four votes would be needed for the motion to pass. President

Long stated there were two votes in favor of the motion, Ms. Bonnie Brown and Mrs. Emma Brown, and three votes against the motion, Mr. Dammeier, Mr. Long, and Mr. Luepke. President Long announced the motion failed and the Hewes Minor Subdivision Plat was denied.

Schweitzer asked with which of the Findings of Fact did the Hewes Minor Subdivision of Land not comply. Mr. Dammeier stated, the subdivision of land is not consistent with the *Town of Clear Lake Comprehensive Plan*, citing Policy 6.1 of the Comprehensive Plan which states “*Encourage and assist with the preservation of natural areas around Clear Lake*” and Objective 6.1.2. which states “*Protect environmentally sensitive areas such as wetlands through enforcement of existing land use regulations and modification of those regulations when necessary.*” The proposed lot has part of a high quality wetland that will be impacted by its development.

Additionally, Mr. Long stated the Hewes Minor Subdivision of Land does not satisfy all other applicable provisions of the Unified Development Ordinance citing the subdivision would create a lot that, after applying the front yard setback, side yard setbacks, and environmental feature protective setback, has a building envelope that is too small upon which to build any useable structure.

Mr. Long, Mr. Dammeier, and Mr. Luepke agreed the Hewes Minor Subdivision of Land did not comply with the aforementioned Findings of Fact.

Prior to moving on to Old Business, Long provided the opportunity for Mr. Schultz to ask a question. Schultz asked if Mrs. Ayres could still purchase this part of the parcel and hang onto it so no one else can buy it. Plan Commissioners did not have a good answer about creating a non-buildable lot.

Under Old Business, President Long stated the Plan Commission Executive Committee met one time to discuss proposed Unified Development Ordinance Amendments. Long asked Schweitzer to review the proposed 2016 Unified Development Ordinance Amendments. Schweitzer proceeded, page-by-page, explaining each amendment. The Plan Commission requested a handful of changes to the proposed amendment. Mr. Luepke thanked Schweitzer for explaining each proposed change as it really helped with the understanding of the document. Schweitzer will make the requested changes, but asked for a motion to have Ground Rules formalize the “red pen” version of the amendment and advertise the Public Hearing for the regularly-scheduled August Plan Commission meeting. Mr. Dammeier made a motion to have Ground Rules create the “red pen” version and advertise the Public Hearing for August 1, 2016. Mr. Luepke seconded the motion. Motion carried with all voting in favor.

President Long asked for the Zoning Administrator’s report. Schweitzer reported:

- Administrative Subdivision for Elliot at 1058 South Clear Lake Drive had been approved.
- Seven ILP’s have been issued in 2016.
- There has been continued discussion with the Quiet Harbor folks about a waiver and the processes involved.
- The McLouth Plat, behind and east of Chris Folland’s garage is considering a waiver, as well.
- She has had multiple discussions with a real estate specialist about the highest and best use for the Clinrud-owned storage buildings that are north of the Yacht Club.

President Long asked for New Business, specifically the Waiver for Alan and Emma Brown’s Administrative Subdivision. Plan Commission member Emma Brown recused herself and left the table. Schweitzer stated the Unified Development Ordinance limits Administrative Subdivisions to combining two to five lots. The Brown’s at 432 Point Park Drive have six lots. Mr. Dammeier made a motion to approve the Waiver Request. Mr. Luepke seconded the motion. Motion carried with Dammeier, Luepke, Bonnie Brown, and Long voting in favor.

Ms. Bonnie Brown asked why the limit was five. There was discussion about changing the Unified Development Ordinance to permit more than five lots. There was discussion about making it unlimited

and why the limit was set at five. Research will be conducted, and based on that research an amendment may be included in 2016 UDO Amendment.

Long asked Town Council Member Anita Thiel to talk about the Internal Control Standards Training. Ms. Thiel stated in November 2015 a State Law was passed requiring every municipality to implement internal control standards and dates for implementation were included in the legislation. Ms. Thiel stated one of the things she learned at a recent Indiana Association of Cities and Towns (IACT) training was that Clear Lake should be starting to introduce this concept. The whole premise of the internal control standard is to set standards that minimize risk of fraud and other things happening. Ms. Thiel said the Town would likely be audited this summer, and it is a good business practice for everyone to have the overview training. There was discussion about the logistics of watching the training as a group in the Town Hall. Schweitzer stated she would email out the link for those that wanted to watch the training independently. Ms. Thiel stated she would set up some dates/times to show the training for those that wanted to watch it in the Town Hall.

President Long asked for any other new business. Hearing none, Mr. Dammeier made a motion to adjourn. Mr. Luepke seconded the motion. Motion carried with all voting in favor. Meeting adjourned at 8:36 PM.

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Amy Schweitzer, Secretary