

SUMMARY OF PROCEEDINGS

**COMMUNITY FACILITIES COMMITTEE**

East Central Wisconsin Regional Planning Commission  
ECWRPC Offices  
December 12, 2018 – 10:00 A.M.

Committee Members Present:

Ernie Bellin ..... Winnebago County  
Tom Kautza ..... Shawano County  
Brenda Schneider ..... Fond du Lac County  
Chuck Hornung ..... Fond du Lac County

Committee Members Absent:

Tim Hanna ..... Outagamie County

Staff Present:

Eric Fowle ..... Executive Director, ECWRPC  
Kathy Thunes ..... ECWRPC Staff  
Todd Verboomen. .... ECWRPC Staff

Others Present:

Jeff Sturgell, Village Administrator ..... Village of Fox Crossing  
Dale Youngquist, Village President ..... Village of Fox Crossing  
George Dearborn, Jr., Director of Community Development ..... Village of Fox Crossing  
Dave Tracey, Utility Superintendent ..... Village of Fox Crossing  
Brad Schmidt, Deputy Community Development Director ..... City of Neenah  
Chris Haese, Community Development Director ..... City of Neenah  
Dean Kaufert, Mayor ..... City of Neenah  
Jim Godlewski, City Attorney ..... City of Neenah  
Michael Easker, Director of Finance ..... City of Neenah  
Andy Rossmeissl, Attorney .....Herrling Clark, representing Fox Crossing  
Rich Van Sistine ..... Integrity Construction

**1. Welcome & Introductions**

Mr. Bellin called the meeting to order at 10:05 a.m. Everyone was welcomed and introductions were made.

**2. Statement of Compliance with Wis. Stats. Ch. 19, Subchapter V, Sec. 19.84  
Open Meetings**

The open meeting law was recognized.

**3. Pledge of Allegiance**

The Pledge of Allegiance was recited and a moment of silence was observed.

#### **4. Approval of Agenda**

Mr. Bellin asked the Committee if Agenda Item (9) Town of Clayton / WDNR Settlement Agreement could be moved after Agenda Item (5) Public/Guest Comment, so that the guests in the room could hear the Committee discussion of the Town of Clayton / WDNR Settlement Agreement. A motion was made by Mr. Kautza to move Agenda Item (9) after Agenda Item (5), second by Mr. Hornung, motion carried.

#### **5. Public/Guest Comment**

Mr. Youngquist, Village of Fox Crossing, President informed the Committee that he was in attendance due to issues with the recent agreement between Appleton and Clayton. Mr. Youngquist explained that the Village was in negotiations with the Town of Clayton for more than a year, but the Town of Clayton walked away from the table without reason. The Village has heard that the Town claims that the Village will not serve the Town, and that is not the case.

He said that the area in question is within the Neenah-Menasha SSA, not City of Appleton SSA per the Fox Cities 2030 Sewer Service Area Plan Update. The Village met with WDNR to discuss the WDNR's agreement with the Town. WDNR staff informed the Village representatives that East Central should follow procedure and go through process.

The Village does not understand why or how the City is willing to run public sewer six miles to serve this area. From a cost analysis this does not make sense. As Village President, Mr. Youngquist asked the Committee to do what is right.

Mr. Rossmeissl, attorney for the Village of Fox Crossing provided his view that the WDNR's agreement with the Town of Clayton does not bind East Central in any way. East Central's procedural policies should be followed and must provide an analysis of the data and what is the most cost effective option. If somehow East Central is bound by WDNR agreement with the Town, then the Village of Fox Crossing would ask for an alternative approach to be considered. For example, perhaps two determinations can be made, one with connection to Fox Crossing and one with connection to Appleton and let the WDNR make the ultimate decision.

Mayor Dean Kaufert, City of Neenah, stated that an application has not been made to serve the Town of Clayton at this time. If an application is submitted, the City of Neenah asks for communication of all information provided in application. Planning is a long-term process; the investment in public planning for this region has been made. Cost-effectiveness has been already been established and if a community goes rogue, that shouldn't trump long-term planning.

He also feels that an attorney representing East Central should review stipulations in the WDNR/Clayton agreement. He pointed out that Clayton's 2015 comprehensive plan mentions Neenah and Menasha as logical expansions for sewer and water in the future.

The Mayor discussed how the concept of regionalization is promoted by community leaders and feels that this potential service by Appleton goes against long-term investments in regional planning that has been done.

Mr. Godlewski, Neenah City Attorney is in agreement with the Village of Fox Crossing. The City of Neenah has invested in oversized pipe to eventually serve areas west. He does not believe that the agreement binds East Central from a complete review of an application, if it is submitted.

Mr. Sturgell, Village of Fox Crossing Administrator thanked the Committee for allowing him to speak and mentioned that the Village is more than willing to extend water and sewer services to the Town of Clayton. It was reiterated that a draft agreement between Fox Crossing and the Town of Clayton was about 70% complete. Then suddenly, the Town stepped away from negotiations and did not respond to attempts to contact them. Then an agreement with Appleton was posted in the paper. This caught us all off guard.

Mr. Dearborn, Jr. Community Development Director for the Village of Fox Crossing mentioned that he has long-term experience working with East Central on Sewer Service Area Planning. He has been around a long time and knows that the Town's eventual sewer service has been planned by the Village of Fox Crossing and the City of Neenah.

Mr. Haese, Community Development Director for the City of Neenah discussed how planners have been working hard for years to plan for long-term growth from pipe size to WWTF capacity planning. East Central needs to make sure the cost of this long-term planning is considered while evaluating the cost effectiveness.

## **9. Discussion Item: Town of Clayton / WDNR Settlement Agreement**

Eric Fowle provided an update on the WDNR Settlement Agreement and what EC knows, as of now. He also discussed how he felt this may or may not impact the outcome of services to this area.

Mr. Fowle said that the planning area in the current SSA Plan shows long-term service of this area by Fox Crossing. Ideally the Town of Clayton wants to go with the most cost-effective option; however they are also going to look into the best options for them to protect Town lands.

Mr. Fowle mentioned that he does have some concerns. East Central had a recent conversation with WDNR regarding the matter and he summed up the conversation details. First off Mr. Fowle reminded the committee and attendees that East Central will only be reviewing sewer and not water. The agreement has a lot of information but Mr. Fowle focused on only a few points.

- 1) The agreement does allow Clayton to look into building their own Treatment Plant which appears to go against WDNR's long-standing non-proliferation policy.
- 2) The stipulations spell out what regional treatment plants need to be considered. However Larsen/Winchester is not even listed. WDNR notified East Central that the Department of Justice wrote this agreement, which may explain some of the outcomes and language.
- 3) If a plan is submitted to East Central by the Town of Clayton, an amendment would have to be made to both the current Grand Chute/Menasha West Sewer Service Area (SSA) Plan to remove lands, and then a separate amendment to add lands to the Appleton SSA.
- 4) Stipulation language contained in the agreement states that a boundary agreement is not an implementation option, if the Town does not agree with it. WDNR suggested that under the cost-effectiveness evaluation, there is a provision of "other factors". The WDNR is looking at municipal agreements as "other factors". This other factor can be related to back to the Kaukauna/Darboy SSA Amendment when WDNR ruled against the Commission citing "implementability" concerns. Unlike the Kaukauna/Darboy process, WDNR has said they will work with East Central to keep the lines of communication open and help direct the process.

WDNR has said that East Central's role is to document any and all boundary agreement meetings, discussions, successes, failures etc. Mr. Fowle suggested to the Committee that East Central should seek legal counsel regarding this matter. Our attorney has a conflict of interest and therefore East Central will have to seek another representative. The Committee agreed that East Central should seek outside counsel.

Mr. Kautza asked about Clayton's timeline. Mr. Fowle responded that East Central does not know where things are at and that to date; no formal request has been made. Mr. Bellin mentioned that he is confused as to how running up to six miles of sewer and water is cost effective for the City. Mr. Fowle again responded and reminded the committee that until something is submitted we won't know.

Mr. Belin requested that we can put this on the agenda for the next CFC meeting, for discussion, even if nothing is submitted.

At this time from what East Central has heard, the agreement with Appleton does not comply with the SSA plan. Until we get a decision from counsel, we don't know for sure how or if at all the WDNR stipulations bind East Central. Mr Fowle reminded the Committee that they still have the power to make a decision and the Town can go through the appeal process.

**6. Action Item: Resolution 34-18: Updating the Fond du Lac Sewer Service Area Plan.**

Mr. Verboomen provided maps and tables of the draft Fond du Lac Sewer Service Area Plan's acreage allocations. He also provided details of feedback that was provided by the Plan's Designated Management Areas and discussed minor edits that were made. Ms. Schneider made a motion to approve the Fond du Lac Sewer 2040 Service Area Plan. Motion was second by Mr. Hornung. Motion carried.

**7. Action Item: City of Neenah SSA Swap Amendment Request**

Mr Verboomen discussed development pressure along the City of Neenah's western border. He informed the Committee that development of this area is moving much faster than the time it will take to update the Fox Cities SSA Update. The update of this plan will be initiated in 2019. There are two action items approving a SSA Amendment to the Neenah-Menasha SSA boundary, which will be addressed separately. The Swap amendment request removes a total of 183.7 acres from the existing SSA. The total acreage to be added is 194.75 acres with 177 acres considered vacant/developable. A motion to approve the Swap Amendment request, as presented, was made by Mr. Kautza. Motion was seconded by Ms. Schneider. Motion carried

**8. Action Item: City of Neenah SSA Mapping Error Amendment Request**

The mapping error amendment is due to an area that was annexed into the City in 2001. This area was mapped as future developable areas, but is now designated as a City Park (the Carpenter Preserve). A total of 70.5 acres will be removed from the SSA with 50.3 acres considered to be developable. Combining these two amendments account for 194.75 acres with 177 acres considered vacant/developable. A motion to approve the mapping error amendment, as presented, was made by Mr. Kautza. Motion was second by Mr. Hornung. Motion carried.

**10. Announcements**

Mr. Fowle mentioned that the quarterly meeting will be at the Appleton Front Hotel (River Health) in Appleton. He also said that he would be adding an item to future agenda's to

provide a steering committee report as well as the roundtable discussion item being included on next year's agendas. **Next Meeting: Wednesday, January 9, 2019 at 10:00 a.m.**

Mr. Hornung called for a motion to adjourn. Ms. Schneider made the second. Motion carried. This meeting adjourned at 11:15 a.m.