

**PLEASANT PRAIRIE PLAN COMMISSION MEETING
VILLAGE HALL AUDITORIUM
9915 39TH AVENUE
PLEASANT PRAIRIE, WISCONSIN
5:00 P.M.
April 7, 2014**

A special meeting for the Pleasant Prairie Plan Commission convened at 5:00 p.m. on April 7, 2014. Those in attendance were Thomas Terwall; Michael Serpe; Wayne Koessl; Andrea Rode (Alternate #2); Jim Bandura; John Braig; Judy Juliana; and Bill Stoebig (Alternate # 1). Donald Hackbarth was excused. Also in attendance were Mike Pollocoff, Village Administrator; Jean Werbie-Harris, Community Development Director; Tom Shircel, Assistant Village Administrator and Peggy Herrick, Assistant Zoning Administrator.

- 1. CALL TO ORDER.**
- 2. ROLL CALL.**
- 3. CONSIDER THE MINUTES OF THE MARCH 24, 2014 PLAN COMMISSION MEETING.**

Jim Bandura:

Move approval.

John Braig:

Second.

Tom Terwall:

IT'S BEEN MOVED BY JIM BANDURA AND SECONDED BY JOHN BRAIG TO APPROVE THE MINUTES OF THE MARCH 24, 2014 PLAN COMMISSION MEETING AS PRESENTED IN WRITTEN FORM. ALL THOSE IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Tom Terwall:

Opposed? So ordered.

- 4. CORRESPONDENCE.**
- 5. CITIZEN COMMENTS.**

Tom Terwall:

If you're here to speak about Item A under new business since that's a public hearing we would ask that you hold your comments until the public hearing is held so they can be incorporated as a part of the official record. However, if you wish to speak on any other issue now would be your opportunity to do so. We'd ask you to step to the microphone and begin by giving us your name and address. Is there anybody wishing to speak? Seeing none, we'll move ahead then to Item 6A, New Business.

6. NEW BUSINESS

- A. PUBLIC HEARING AND CONSIDERATION OF SEVERAL ZONING TEXT AMENDMENTS related to Commercial Communication Structures including: 1) to create Section 420-22 A (7) related to adding a Commercial Communication Structure Permit as a permit type; 2) to create Section 420-29 J related to fees for a Commercial Communication Structure Permits; 3) to repeal and recreate Section 420-89 related to requirements for Commercial Communication Structures; 4) to amend Article XVI by adding Commercial Communications Structures as a principal use in the following zoning Districts: A-2, A-3, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6, R-7, R-8, R-9, R-10, R-11, R-12, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, M-4, M-5, I-1, PR-1, PR-2, PR-3, C-1, C-2 and C-3; and as an accessory use in the following zoning districts: A-2, A-3, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, M-4, M-5, I-1, PR-2 and PR-3; 5) to amend Article XVI to remove Commercial Communication Structures as a conditional use in the following Zoning Districts: B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-4, M-5, I-1, PR-2 and PR-3; 6) to delete Section 420-148 B (17) and (17.1) related to conditional use standards for Commercial Communication Structures; and 7) to delete the definition of "Commercial Communication Structures" as listed in Section 420-152.**

Jean Werbie-Harris:

Mr. Chairman and members of the Plan Commission and the audience, we have on the agenda this evening a public hearing for the consideration of several zoning text amendments. And these are related to the Commercial Communication Structures including: 1) to create Section 420-22 A (7) related to adding a Commercial Communication Structure Permit as a permit type; 2) to create Section 420-29 J related to fees for a Commercial Communication Structure Permits; 3) to repeal and recreate Section 420-89 related to requirements for Commercial Communication Structures; 4) to amend Article XVI by adding Commercial Communications Structures as a principal use in the following zoning Districts: A-2, A-3, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6, R-7, R-8, R-9, R-10, R-11, R-12; all of the B Districts, B-1, B-2, B-3, B-4, B-5; all of the Manufacturing Districts, M-1, M-2, M-3, M-4, M-5; the I-1 District; PR-1, PR-2, PR-3, C-1, C-2 and C-3; and as an accessory use in the following zoning districts: A-2, A-3, B-1, B-2, B-3, B-4, B-5, M-1, M-2, M-3, M-4, M-5, I-1, PR-2 and PR-3; 5) to amend Article XVI to remove Commercial Communication Structures as a conditional use in the following : All of the B Districts, B-1, B-2, B-3, B-4, B-5; all of the Manufacturing Districts, M-1, M-2, M-4, M-5, I-1, PR-2 and PR-3; 6) to delete Sections 420-148 B (17) and (17.1) related to conditional use standards for Commercial Communication Structures; and 7) to delete the definition of Commercial Communication Structures as listed in Section 420-152.

On February 10, 2014 the Plan Commission adopted a Resolution #14-04 to initiate amendments to the Village Zoning Ordinance and to re-evaluate the Village's Commercial Communication Structure regulations related to the recent changes in the State regulations.

The 2013 Biennial Budget Act for the State of Wisconsin modified the regulatory powers of the local governments in regard to cell phone towers as referred to in the Village Ordinances as Commercial Communication Structures. The new law specifies the manner in which a municipality can use zoning to regulate such facilities and lists specific regulations that a municipality may not apply.

The new law created in 2013 Act 20 states specifically that a municipality may regulate cell phone towers under a zoning ordinance, but places strict limits on how it may do so. It specifies the procedures and the standards a municipality must use in reviewing applications for permits to construct or modify towers. It also lists specific limitations or regulations that a municipality may not impose on the construction or modification of a tower. The new law does not impact existing building code requirements, but it expressly prohibits any regulation of cell phone towers except by zoning ordinances, as specified in the law and building codes. See attached Legislative Memorandum dated December 9, 2013 was provided to you, and Section 66.0404 of the Wisconsin State Statutes entitled mobile tower siting regulations.

Based on these new regulations and requirements, the Village is proposing to amend the Village Zoning Ordinance related to Commercial Communication Structures to comply with the new regulations. The biggest change in the ordinance, as required by the new State law is that these facilities are allowed as a principal use in all zoning districts and as an accessory use in all business, manufacturing, institutional and PR-2 and PR-3 zoning districts and agricultural. We made one minor change on Friday. No longer is a conditional use permit required or allowed for these uses.

Under permits the proposed ordinance regulates the following and requires the issuance of a Commercial Communication Structure Permit as specified in the proposed Section 420-22 A (7). There are basically two types of towers or communication structures that we're going to be referring to. The first is a Class 1 collocation. It's the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in a substantial modification. Substantial modification means the modification of a mobile service support structure, including the mounting of an antenna on such a structure that does any of the following:

1. For structures with an overall height of 200 feet or less, increases in the overall height of the structure by more than 20 feet as measured from the original permitted height unless a greater height is necessary to avoid interference with an existing antenna.
2. For structures with an overall height of more than 200 feet, increases in the overall height of the structure by 10 percent or more, again, as measured from the original permitted height unless a greater protrusion is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.
3. For structures with an increase in the width of the support structure by 20 feet or more as measured from the original permitted width, unless a larger area is necessary for collocation. The increase is measured at the level of the appurtenance added to the structure as a result of the modification.

4. For increases in the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

So, again, those are all provisions for a Class 1 collocation.

A Class 2 collocation is simply the placement of a new mobile service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or does not need to engage in substantial modification.

If an applicant requests to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that the collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider. If the service area is inadequate, the areas must be mapped where service is inadequate.

So under the review for a Class 1 collocation, which includes the siting of a new tower, the Village will process the application similar to a stipulated shoreland permit wherein a 20 day notice period to property owners within 300 feet of the proposed Class 1 collocation is required.

Both Class 1 and Class 2 collocations have specific time frames required by State law for the Village to act on the application. If the application is not acted on in a timely manner pursuant to the State timelines, the application is automatically approved.

For example, the Village shall within 90 days of its receipt of a complete application for a Class 1 collocation, 45 days for a Class 2 collocation unless a time extension is agreed in writing, complete with the following activities:

- Notify the owner within 10 days if the application is complete or if incomplete the list of items needed to be submitted to make an complete application.
- Review the application to determine whether it complies with the applicable aspects of the Village's zoning, building and fire codes and, subject to the limitations in this section.
- Make a final decision whether to approve or disapprove the application.
- Notify the applicant, in writing, of its final decision.
- If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

Anyone who is then aggrieved by the final decision of the Village under this may bring an action with the Circuit Court of Kenosha County.

Under standards, standards Section 420-89 F sets forth the specific standards for commercial communication structures, including:

- If the site is located within the Airport Overlay District, then the Commercial Communication Structure shall comply with the requirements of a City of Kenosha Airport Overlay District Permit.
- A Commercial Communication Structure is allowed in any zoning district as a permitted principal use on lots that are a minimum of one acre in size and having a minimum lot frontage on a public street of 100 feet.
- And the next two points are modified as per the green sheets that you have in front of you which are three and four. A Commercial Communication Structure is allowed in any Institutional, Commercial, Manufacturing, PR-1 or PR-2 zoning district as a permitted accessory use provided that the lots and the frontage on a public street meet the minimum lot area and frontage requirements of the underlying zoning district or 2.5 acres in size and having a minimum lot frontage on a public street of 100 feet; whichever is greater.
- A Commercial Communication Structure is allowed in any Agricultural, Institutional, Commercial, Manufacturing, PR-1 or PR-2 zoning district as a permitted accessory use mounted on a building or other structure.

The different comments that you're going to see with respect to these green sheets, we've been having conversations all this week and as late as this afternoon with the cell carriers and their attorneys in order to modify our ordinance to make sure that it reflects their intent and our agreement to specific requirements in the State statutes. So that's why there's a separate green sheet with some of these additional comments.

- All new freestanding mobile support structures constructed after January 1, 2014 shall be separated by a minimum of 2,640 feet, except where collocation is not possible on the existing freestanding mobile support structure that would be within 2,640 feet of the new freestanding mobile support structure; or the proposed new freestanding mobile support structure is a camouflaged mobile service support structure, as defined in Subsection (B)(5).

In addition, existing freestanding mobile support structures constructed before January 1, 2014 may be reconstructed on the same site without meeting that half mile or that 2,640 foot separation distance requirement.

- Setbacks and height requirements. The height of any commercial communication structure is measured from the base of the structure at grade to its highest point, including any associated aerials, projections or other attached apparatus. The setback distance shall be measured from the furthest extent of the tower, its aerials, guy wire anchor locations or other equipment or from the foundation of a building.
- Now, if it's located within any Institutional, Commercial or Manufacturing zoning district then the setback of any building/structure/equipment associated with a commercial communication structure shall meet the minimum setback requirements specified in the specific zoning district in which it is being located.
- If located in any Residential, Park and Recreational or Agricultural zoning district then the setback of any building/structure/equipment associated with a commercial

communication structure shall comply with the setback requirements specified in the B-1, Neighborhood Business District.

- Antennas, whips, panels, or satellite and/or digital dishes attached to an existing building shall not exceed the height allowed in the underlying zoning district.
- Antennas, whips, panels, or satellite and/or digital dishes attached to an existing structure, such as water towers, transmission towers, silos or other utility poles, shall not extend more than 20 feet above the existing height of said structure.
- Any building/structure/equipment associated with a commercial communication structure shall not be located within the 100-year floodplain.
- If an applicant provides the Village with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the setback or fall zone area required in this subsection, then the required setback shall be reduced unless the Village provides the applicant with substantial evidence that the engineering certification is flawed.
- Support structures shall be designed, engineered and constructed to handle multiple carriers.
- The building within the equipment compound shall be designed to complement with existing architecture in the area, and the fenced equipment compound shall be landscaped with mature foundation plants designed to enhance the facility. Any equipment allowed to be located outside the building within the equipment compound shall be screened from sight by mature landscaping and shall be located or designed to minimize their visibility.
- Equipment compounds are required to be surrounded with a six foot high, vinyl coated, chain-link fence pursuant to the requirements of this chapter, unless otherwise approved by the Zoning Administrator.
- All equipment at the base of the tower, except a backup generator, is required to be located within a building that complies with the standards set forth in Section 420-57 H of the Zoning Ordinance.
- If required to be lit, red or white lights shall be non-flashing and non-pulsating, unless a different style of lighting is required by the Wisconsin Division of Aeronautics or the Federal Aviation Administration.
- Backup generators if present shall be operated only during power outages and for testing and maintenance purposes, shall be located within the equipment enclosure and screened from public view.
- The Village does not warrant any communication structure against design or structural failure. The Village does not certify that the design is adequate for any tower and the Village hereby accepts no liability through the issuance of a commercial communication permit.

- Commercial Communication Structures shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition, the SCADA operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the Village.

Limitations: The Village may not do any of the following:

- The Village may not impose environmental testing, sampling, or monitoring requirements, or other compliance measures for radio frequency emissions, on mobile service facilities or mobile radio service providers.
- The Village may not enact an ordinance imposing a moratorium on the permitting, construction, or approval of any such activities. Again, these are all provisions that were put into the new law. And so they needed to be set forth in our ordinance as well.
- The Village may not charge a mobile radio service provider any recurring fee.
- The Village may not disapprove an application to conduct an activity based solely on aesthetic concerns.
- The Village may not enact or enforce an ordinance related to radio frequency signal strength or the adequacy of mobile service quality.
- May not prohibit the placement of emergency power systems.
- May not require that a mobile service support structure be placed on property owned by the Village.
- May not disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.
- May not condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the Village at less than the market rate, or to provide the Village other services via the structure or facilities at less than the market rate.
- May not limit the duration of any Commercial Communication Structure Permit that is granted.
- May not require an applicant to construct a distributed antenna system instead of either constructing a new mobile service support structure or engaging in collocation.
- May not require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power.
- May not condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the Village in connection with the Village's exercise of its authority to approve the application.

- May not condition the approval of an application on, or otherwise require, the applicant's agreement to permit the Village to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the Village or an entity in which the Village has a governance, competition, economic, financial or any other interest.
- May not impose a surety requirement, unless the requirement is competitively neutral, nondiscriminatory, and commensurate with the historical record for surety requirements for other facilities and structures in the political subdivision which fall into disuse. The law is a rebuttable presumption that a surety requirement of \$20,000 or less complies with this limitation. Section 420-89 H sets forth the procedures for abandonment, removal and security for removal that does not exceed the \$20,000 limit.

The State law also sets forth maximum zoning permit fees, a maximum \$3,000 for a Class 1 collocation and not more than what is charged for a similar commercial zoning permit for a Class 2 collocation, which is \$140. Section 420-29 of the zoning ordinance relates to zoning fees and is being amended to reflect these permit fees.

With respect to abandonment, any commercial communication structure that is not operated for a continuous period of 12 months shall be considered abandoned. Time may be extended upon review and approval of the Zoning Administrator, if the tower owner demonstrates a good faith effort to secure new tenants. In such circumstances, the following shall apply:

- The owner of such mobile service support structure and facility shall remove such within 90 days of receipt of notice from the Zoning Administrator notifying the owner of such abandonment.
- If removal to the satisfaction of the Village does not occur within 90 days, the Village may order removal utilizing the established security for removal as provided below and salvage.
- If there are two or more users of a single tower, then this provision shall not become effective until the operation of the tower cease. The owner shall notify the Zoning Administrator when the facility is no longer in operation.

With respect to removal, commercial communication structures shall be removed once they are no longer in use and not a functional part of providing service and that it is the mobile service support structure owner's responsibility to remove such structures and to restore the site to its original condition or a condition approved by the Zoning Administrator. This restoration shall include the removal of any subsurface structure or foundation including concrete used to support the structure down to 10 feet below the surface. After a communication structure is no longer in operation, the tower owner shall have 90 days to effect removal and restoration unless weather prohibits such efforts. The commercial communication structure owner shall record a document with the Kenosha County Register of Deeds office showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure. A copy of the recorded document shall be provided to the Village.

The owner of the commercial communication structure shall provide to the Village, prior to issuance of a commercial communication structure permit, a performance bond in the amount of

\$20,000 or a bond equal to a written estimate from a qualified tower removal contractor to guarantee throughout the life of the structure that the structure will be removed when no longer in operation. The Village will be named as the obligee on the bond and must approve the bonding company.

As a result of the new state requirements, the following Zoning Text Amendments are being proposed:

1. to create Section 420-22 A (7) related to adding a Commercial Communication Structure Permit as a permit type;
2. to create Section 420-29 related to fees;
3. to repeal and recreate Section 420-89 related to requirements for the structures;
4. to amend Article XVI by adding Commercial Communications Structures as a principal use in the districts as listed.;
5. to amend Article XVI to remove Commercial Communication Structures as a conditional use in the districts as listed;
6. to delete Section 420-148 B (17) and (17.1) related to conditional use standards for Commercial Communication Structures; and
7. to delete the definition of Commercial Communication Structure as listed in Section 420-152.

What I'd like to also add is our Village attorney, Kevin Long from Quarles and Brady is in the audience. And he has worked closely with Peggy and I to put together this ordinance in response to the new State law. I can honestly say it was somewhat frustrating from a zoning perspective that a lot of the authority and home rule was taken away from the local communities in monitoring these structures as they go up in our community. We feel that the ordinance is very fair in how it was drafted. We have met with attorneys and representatives from at least three different cellular communication companies, again, as I mentioned as late this morning wherein they were requesting some modifications to the ordinance. I received emails from them as well indicating that they would basically not object, and they agreed with us with respect to the changes. They just needed some points of clarification.

But I'd like to introduce Kevin Long. Again, he helped us -- Peggy did a tremendous effort in putting this ordinance together, and it was very difficult because we had to keep going back and forth between what the new law is, what we did have and where we could go without crossing any lines. And we feel we put together a very fair ordinance.

Kevin Long:

Thanks, Jean. First of all, I think Jean's summary was accurate and appropriate, and I would certainly second her comments with respect to particularly Peggy's considerable efforts in balancing what this new statute says are historical zoning principles in the Village and trying to make sure that the interpretation was appropriate for the users and for all stakeholders.

One point of clarification when Jean was talking about some of the outreach to particular stakeholders she used a verb that the intention of a particular cell company, and it was really their interpretation that we were looking for in that situation. Obviously in the legislation at the State level there were stakeholders that were involved in the creation of that particular legislation. Our effort here, and it continues indeed tonight, was to try to balance what the State statute is asking the municipality to do, what we as a municipality would like to do in honoring the historical zoning precepts that have served the community so well in taking input from stakeholders and people who will be interpreting and using the ordinance and the statute.

And we found that to be helpful to say, okay, here's what we did, here's what our intent was, how are you reading it so that a citizen, whether it be a landowner or whether it being a business, coming and saying, alright, I'm reading this ordinance, here's what I think it says to me, what I can do and what I can't do. And that was helpful, and that led to some of the changes that are proposed this evening. And I think tonight's public meeting is a continuation of that process to make sure we get the ordinances as airtight as possible. I'm happy to take any questions.

Tom Terwall:

Was the new State law written by State legislators, or was it written by lobbyists for the communications companies?

Kevin Long:

There certainly was involvement I believe by business interests in the legislation. I don't think anybody would deny that that occurred. That being said, and I would stress the point that in the communications between businesses and the Village Jean and the planning department pushed back on many fronts and appropriately so. And the constituents understood the points and agreed with those points. It's not a situation where from the Village's perspective in any regard they said, okay, tell us what you want to do, we'll do it. It was an open dialogue of making sure that really we balance all aspects of this. But to your particular question with respect to the origin of the legislation I don't have any insight that you wouldn't have.

Tom Terwall:

One of the things that struck me was how limited our time line is to respond versus the Governor's 18 months with extensions as to whether or not he's going to allow a casino or not. We've got a different set of rules depending on who the questioner is I guess.

Mike Pollocoff:

Mr. Chair, just a couple questions to Kevin as I was going through this and cogitating over it. If the Village is the owner of the tower, how much latitude does that give us as a tower owner before somebody wants to collocate some antennas on the tower to follow what we've traditionally done with other users on the tower? Does that give us some additional standing or a way to say, well, even though the law says that we can't do this as a tower owner we're in two sets of shoes. One is enforcing the ordinance but secondly enforcing our responsibility as the owner.

Kevin Long:

They are different. And this law applies only to us as a zoning entity and as a municipality. It does not apply to us as an owner. There is a provision in the ordinance that sounds like this but is really different which is that you cannot condition an approval on giving the Village free service or discounted service in any way. That would be, say if Joe Dokes had a farm and they were putting a cell up and they said, okay, yeah we'll let you put the cell up but you've got to give it to the Village for free, the statute does prohibit that. The statute is silent as I read it, and I'll correct that if a further reading would change my mind, but I believe it's silent with respect to a municipalities right to manage its own property and a landowner would. And this is really a part of it. Our landowners are all part of the stakeholders that build Pleasant Prairie. And they're educating them with respect to what is appropriate uses of this and thinking long term is I think part of the process, and most of our landowners are quite wise in that regard.

Mike Pollocoff:

A second question is inasmuch as a communication company could site a tower on farmland, on agricultural uses, under the State's use value rule where ag land is typically valued based on the price of corn so it could be \$900 an acre, there are sections of farmland property that are identified as other uses, and that's typically where the barn and that part of the house and that part of the land which the farmer uses to conduct his business which is assessed at normal market rates. If a farmer was to put the antennas on the silo no harm, no foul because that land is assessed at market rate. But if a tower was put up in an area which would be a farm field, can the Village assume that we're able to carve out an area that we would assess since that now would not be a farming operation anymore, the farmer would be deriving his income from a rental. But the problem is we can't create another parcel under this. We'd have to be using the plat of survey or some other kind of vehicle in order to identify what part of land is going to be the driveway or space to maintain the tower that shouldn't be assessed as Ag anymore.

Kevin Long:

The legislation and the ordinance are silent on that. They don't really discuss it at all. The question is a good one and a fair one. I don't know the answer to the question as I stand here today. And I think that's one of the things that I think certainly landowners should be aware of and think about and municipalities should think about in terms of that because it is a fair question because it's certainly Ag land that's not being utilized as Ag but utilized for a different purpose.

Jim Bandura:

So moving forward can we assume, can the Village assume that they could carve out a piece of that and tax it accordingly?

Kevin Long:

That's the question that I don't have a definitive answer for you tonight. And I'm certainly happy to provide that. I think it's something that you'd have to look at the interrelationship between the taxing statutes and this zoning statute which really is silent on that particular point.

Tom Terwall:

This is a matter for public hearing. Is there anybody else wishing to speak? Anybody else wishing to speak? Anybody else wishing to speak? Hearing none, I'll open it up to comments and questions from Commissioners.

Wayne Koessl:

Mr. Chairman, the sad part is I hate to see us start losing home rule because we worked a long time to get that. And when you made the comment about the lobbyists the color is green in Madison and Washington, and I don't mean the green energy.

Michael Serpe:

You know, I have to give the communications companies a lot of credit. They approach Madison to a whole bunch of money to a bunch of spineless representatives and got this passed. And now you have to ask what might be next. A refinery coming somewhere in the Village that we have no control over? A dump? A landfill? What's next. It all depends on who goes to Madison and approaches a bunch of weasels that can't make a decision without somebody offering them a whole bunch of money, and that's very upsetting.

Wayne Koessl:

You're right, Mike, because we start losing home rule then we have no control. And we're closer to the people, not Madison.

Michael Serpe:

Not anymore.

Jim Bandura:

And I agree. This whole thing it doesn't take the people into account. I mean one of the stipulations here is if it's an acre and it's on residential you can put up a tower. There could be a house on one side and another house on the other side and who cares? Exactly. Just pass money out to Madison. This is unbelievable. I know the Village has worked hard to get this ordinance corrected for the State law, but this is one thing that I really -- it's not right. It just isn't. It's just a start.

Tom Terwall:

Well, what alternative do we have, though? I mean if we deny this what's the next step?

Jean Werbie-Harris:

Our existing ordinance would be null and void so we've got nothing.

John Braig:

Jean, these ordinances pertain to the applicant, and the applicant in all instances is the service provider. The property owner is not involved in any way, is he?

Jean Werbie-Harris:

The property owner has to sign all the applications as the owner of the land and has to grant permission through easements or other types of approvals. Sometimes it could be a sale of land, but I would say in most cases it probably will be just an easement.

John Braig:

What I'm leading up to is I'm aware of an organization, I think it's going to be moving across the country, which is buying up the leases from the farmer. Comes up with an immediate cash payment which is desirable for some farmers or some individuals. But I think their sales technique leaves much to be desired. As the change in lease holder from the farmer -- well, the farmer still is granting a lease, but I don't know what the agreement is between this new company and the owner of the property. But somehow the new company is going to take over receipt of all payments other than they'll make an immediate up front payment to the property owner. But also the new company will retain the right to negotiate new leases. Are you aware of any of this?

Jean Werbie-Harris:

No.

John Braig:

Look up vertical consultants once.

Jean Werbie-Harris:

Maybe Mike might be.

Mike Pollocoff:

The Village we have two towers. We've been approached by those dealers I guess for lack of a better description to purchase our rights on towers. And it never was financially a good deal. And always hesitant recommend turning over public land to somebody who was going to be doing something like that. The towers and the appurtenances on them and equipment on them are all tax exempt. So for people who are going to engage in these things if they still own the land and the business is going to want just the improvements the property owner is going to be stuck with whatever the Village or the State comes up with for what the taxes are going to be on that. But everything else that they own that they would acquire would be tax exempt from a property standpoint. From an income standpoint that's a different cat. But this might not be as big a deal in the future for people who are looking to acquire these leases because it will be easier to site one of these. That's one of the reasons they were looking to acquire these leases because it was tough to get them sited.

Tom Terwall:

Mike, currently this pertains just to communications towers. What's the next step to getting into power?

Mike Pollocoff:

Well, right now power, ATC regulates, is the owner of all the transmission lines, and they're subject to the PSC. So basically when they put a power line in they'll go through a siting process just like we went through along the railroad tracks on the C&W. So there is a lot more oversight and protections in that for now. But even still the communities have very little input and control on that. We're really left to kind of job own and beg and try to maneuver what we can get. But when it comes right down to it it's not a municipal issue anymore, it's a State issue.

Andrea Rode:

What's the deadline on this getting approved through the State when all the other communities and municipalities have to pass it.

Jean Werbie-Harris:

The deadline is passed because the law went into effect last fall. So every community has to do their own thing, and they have to get it through. I've been in contact with Kenosha County, Jefferson County, LaCrosse County and some of the other municipalities. And everybody at first kind of threw up their hands and were concerned about what they could do and how far they could go and what they should be putting together. And so now everyone is just starting to adopt them. Actually this spring is when I've heard most of the communities are drafting their new ordinances. The municipalities can't move on a dime. We have to think about this, look at our existing ordinances and see how it's going to affect our community and how we're able to put these ordinances through. So I think Kenosha County's theirs is in draft form at Corporation Counsel right now. But every community is on their own to get them through as quickly as possible. Because right now the other ones really are not effect.

Andrea Rode:

So obviously the media has not picked up on this.

Mike Pollocoff:

They will when you locate one next to a house. That's when it will show up.

Andrea Rode:

Yeah, what media, yeah. This is just unreal.

Tom Terwall:

Jean, can this rubberstamp the [inaudible] with just one motion, or do we need a motion on each of these separate?

Jean Werbie-Harris:

I think because we have it as one agenda item I think because it's the same ordinance I think you can do it as one motion. I just want to also mention that when the ordinance was sent out to you on Friday the items that were on the green sheet they need to be included because these are some additional corrections and typos that we caught that need to be included as part of the final ordinance as well when it goes to the Board.

Wayne Koessl:

If there aren't any more questions, with regret I would move that the Plan Commission send a favorable recommendation to the Village Board to approve the zoning text amendments as created plus what's on the green sheet that was given to us today.

Michael Serpe:

Second.

Tom Terwall:

IT'S BEEN MOVED BY WAYNE KOESSL AND SECONDED BY MIKE SERPE TO RUBBERSTAMP -- EXCUSE ME, SEND A FAVORABLE RECOMMENDATION TO THE VILLAGE BOARD TO APPROVE THE AMENDMENTS. ALL IN FAVOR SIGNIFY BY SAYING AYE.

Voices:

Aye.

Wayne Koessl:

And to the staff you've probably had second thoughts about working on this.

Michael Serpe:

I don't know about everybody else but your stomach's got to be upside down right now because mine is. This just irks the hell out of me.

Tom Terwall:

And what's next?

Michael Serpe:

And that's what I'm saying, we don't know. Whoever has got the most money makes the most noise.

Wayne Koessl:

It could be worse, you could be in Ukraine.

7. ADJOURN.

John Braig:

So moved.

Jim Bandura:

Second.

Tom Terwall:

All in favor signify by saying aye.

Voices:

Aye.

Tom Terwall:

Opposed? We stand adjourned.

Meeting Adjourned: 5:43