

**VILLAGE OF PLEASANT PRAIRIE
PLEASANT PRAIRIE VILLAGE BOARD
PLEASANT PRAIRIE WATER UTILITY
PLEASANT PRAIRIE SEWER UTILITY
9915 - 39th Avenue
Pleasant Prairie, WI
October 17, 2011
6:00 p.m.**

A Regular Meeting of the Pleasant Prairie Village Board was held on Monday, October 17, 2011. Meeting called to order at 6:00 p.m. Present were Village Board members John Steinbrink, Monica Yuhas, Steve Kumorkiewicz and Clyde Allen. Mike Serpe was excused. Also present were Mike Pollocoff, Village Administrator; Tom Shircel, Assistant Administrator; Jean Werbie-Harris, Director of Community Development; Doug McElmury, Asst. Fire and Rescue Chief; Brian Wagner, Police Chief; John Steinbrink Jr., Director of Public Works; Carol Willke, Human Resource/Recreation Director; Kathy Goessl, Finance Director; Rocco Vita, Village Assessor; Mike Spence, Village Engineer and Jane Romanowski, Village Clerk. Two citizens attended the meeting.

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. MINUTES OF MEETINGS - OCTOBER 3, 2011**

Clyde Allen:

Motion to approve.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Clyde, second by Steve. Any additions or corrections?

ALLEN MOVED TO APPROVE THE MINUTES OF THE OCTOBER 3, 2011 VILLAGE BOARD MEETING AS PRESENTED IN THEIR WRITTEN FORM; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

- 5. CITIZEN COMMENTS**

Jane Romanowski:

No signups tonight, Mr. President.

- 6. ADMINISTRATOR'S REPORT- None.**

7. UNFINISHED BUSINESS

- A. Receive Plan Commission recommendation and consider approval of a Certified Survey Map to subdivide the property located at 9917 Bain Station Road and 10115 Wilmot Road so that each home is on its own lot.**

Jane Romanowski:

We need a motion to remove it from the table.

KUMORKIEWICZ MOVED TO REMOVED ITEM 7A FROM THE TABLE FOR CONSIDERATION; SECONDED BY ALLEN; MOTION CARRIED 4-0.

Jean Werbie-Harris:

Mr. President and members of the Board, this is a matter that was tabled at a subsequent Village Board meeting. The petitioners are proposing to subdivide their property located at 9917 Bain Station Road and 10115 Wilmot Road into two lots so that each home is on its own lot. Lot 1 is proposed to be approximately 1.4 acres with 300 feet of frontage on Bain Station Road. The property is zoned R-4 (UHO). It's the intent of the owners that the existing house and outbuildings will remain on the property. There is an existing detached garage that based on staff's recommendation and the Village Attorney's recommendation will also remain on the property even with the newly dedicated Bain Station Road right of way. The property owner has agreed to sign an indemnification agreement which indemnifies and holds the Village, its employees, consultants, agents and successors in interest of the public right of way harmless from any and all future liability, loss or damage associated with any potential or future damages that may be caused to the structure or caused by the structure due to its location in the Bain Station Road right of way.

Let me just remind you that this is a property that at the time neither of the petitioners wanted to dedicate any right of way to the Village as part of this CSM. They both have since agreed to dedicate the right of way both along Bain Station Road and Wilmot Road. The situation with the Lot 1 is that as you can see on the CSM and in your packets that there is a garage that will straddle the newly dedicated right of way and the person's lot. So based on recommendations from our Village Attorney insofar as the petitioner or owner signs this waiver of liability and indemnification and hold harmless agreement, the Village should be protected in the event that a car may go astray off the road and hit this particular garage or damage to this garage.

The specific requirements with respect to the garage being allowed on that property or allowed to remain has some stipulations as set forth in the staff comments. First of all, the Village would agree that the garage could remain, however when any of the following events occurs then the garage would have to be removed. One would be notification from the Village that Bain Station Road is being enlarged or reconstructed adjacent to the Lot 1 property. Two, notification from the Village that the jurisdiction of Bain Station Road is being transferred to Kenosha County as may happen as part of the long-range transportation plan. Three, a subsequent land division of

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Lot 1 which creates a new buildable lot is proposed by the owner. Four, the detached garage is damaged or destroyed by more than 50 percent of its assessed value due to an accident or other act of God. Or, five, if the Village Administrator determines that the garage possesses a danger to the public health, safety and welfare of the traveling public.

The indemnification agreement also goes on to state that the garage shall not be enlarged or replaced in any way while its located within the Bain Station Road right of way and that the owner may be allowed to conduct minor maintenance to the garage, put a new roof on, replace the door, things like that. The owner at any time may voluntarily remove the structure with proper razing permits from the Village or may relocate the garage on the property to a compliant location after obtaining the required permits from the Village.

The second lot that's being created is Lot 2, and the bank, Waterstone Bank, has agreed to dedicate the needed right of way per the Village requirements in the Land Division and Development Control Ordinance. And those were the two stipulations and concerns that the Village Board and the Administrator had specifically at the meeting in September. And so the staff memo goes on to state how much right of way is going to be needed, and then it also identifies the conditions of approval. And those conditions of approval indicate the amount of right of way to be dedicated for Bain Station Road and along County Trunk Highway C or Wilmot Road. It references that the indemnification and hold harmless agreement shall be executed by the owner of Lot 1. That there be a note to be added to the certifies survey map. That if there's a correction or a typo that needs to be made that we need to verify the ownership names that need to be placed on the CSM. And any and all outstanding taxes or special assessments will need to be paid in full prior to the recording of the CSM. And, finally, that indemnification agreement does need to be executed by all parties by the petitioners first and then by the Village President and the Village Clerk.

The staff recommends approval subject to the comments and conditions as set forth in the staff memorandum.

John Steinbrink:

I think we pretty well covered that last time and you've covered it well this time, Jean, so if I could have a motion for adoption?

Monica Yuhas:

Motion to approve the certified survey map.

Clyde Allen:

Second.

John Steinbrink:

Motion by Monica, second by Clyde. Any discussion?

YUHAS MOVED TO CONCUR WITH THE PLAN COMMISSION RECOMMENDATION AND APPROVE A CERTIFIED SURVEY MAP TO SUBDIVIDE THE PROPERTY LOCATED AT 9917 BAIN STATION ROAD AND 10115 WILMOT ROAD SO THAT EACH HOME IS ON ITS OWN LOT SUBJECT TO THE CONDITIONS SET FORTH BY SATFF; SECONDED BY ALLEN; MOTION CARRIED 4-0.

8. NEW BUSINESS

A. Consider Option and Lease Agreement with American Towers LLC for a new cellular communications facility in Prairie Springs Park.

Tom Shircel:

Thank you, Mr. President and Board members. This proposed American Tower option and lease agreement is for a new cellular commercial communications facility located within Prairie Springs Park just east of the south ball fields. American Tower is requesting the Board approval of the agreement which sets forth the terms, rules and conditions and regulations for the new facility. Improvements to the property will include a 150 foot tall multi-carrier monopole cell tower which is to be owned and maintained by American Tower with six attached antennas atop the tower for AT&T.

As some background information, on December 13th of last year the Plan Commission approved site and operational plans and conditional use permit for AT&T for the construction of this facility. Subsequently, on December 20th the Village Board conditionally approved an option and lease agreement for AT&T for this site. Then on June 13th of this year the Plan Commission approved a 180 day time extension until December 18th of this year to satisfy the conditions of the December 13, 2010 site and operational plan and conditional use permit approval.

A week later on June 20, 2011, the Board conditionally approved an extension for the completion and execution of the option and lease agreement for the proposed AT&T facility. That was also until December 18th of this year. In June 2011 the Village learned that American Tower will be the owner of the tower at the Prairie Park site as opposed to the original AT&T ownership. American Tower is not a phone service provider. Rather, they are a tower company. American Tower's objective is to provide space on the tower to other carriers. Those additional carriers beyond AT&T will need to enter into separate lease agreements, site and operational plans and conditional use permits with the Village. The communication facility is necessary in order to offer an uninterrupted seamless wireless network providing cellular phone service, voice paging and wireless data transmission to this area of Pleasant Prairie and beyond.

As I stated, the new 150 foot high monopole structure has been engineered and will be constructed to accommodate four carriers. In addition, the 800 square foot equipment shelter will be a multi-carrier shelter intended to house AT&T equipment along with future co-locators. In order to maintain a consistent pleasant park-like ambience, the multi-carrier building will be constructed with the same exterior building materials as the existing ball field pavilion located to the west of this site.

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As a part of this agreement the Village agrees that American Tower may sublease both tower and ground space inside the equipment shelter to AT&T. The rent for this facility will be \$1,600 a month. In year two and each year thereafter the amount will increase by 3 percent. Last Monday the Plan Commission did review and approve a conditional use permit and site and operational plans for this American Tower and AT&T facility. The Village staff does recommend approval subsequent to the two conditions. With that, I'll turn it back to the Board.

John Steinbrink:

Thank you, Tom.

Monica Yuhas:

With that I'll move for approval of the lease agreement with American Towers.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Monica, second by Steve for approval of the lease agreement. Any further discussion?

Steve Kumorkiewicz:

Question for Mike. We are going to get \$1,600 a month rent for this antenna, right?

Mike Pollocoff:

No.

Steve Kumorkiewicz:

That's why I'm getting confused because we used to have different companies pay different values. Now we're going to have four companies and we're not going to get four rents (inaudible)?

Mike Pollocoff:

Initially, as part of this build out to build that building AT&T is undertaking that themselves. So they're not going to pay that initial \$1,600 a month. The other people, other companies whoever it might be as they come on, they're going to use that building and then they'll be paying a subsequent payment rather than putting up huts all around them.

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Steve Kumorkiewicz:

So we're going to get \$1,600 for each one of them actually?

Mike Pollocoff:

There's a point before AT&T starts paying for this I believe. Or they always have a bye.

Tom Shircel:

Yes, exactly.

Mike Pollocoff:

What this provides for us is it allows us to consolidate those service huts so we don't have something like we have before the Village Hall where they're stacking up. It will be in one building and we don't have to pay for it to be built but we will own it once it's completed. Then we'll collect the rent at whatever rate we charge at the time.

Steve Kumorkiewicz:

Okay, thank you.

Mike Pollocoff:

Tom did a really good job in negotiating and putting it together.

John Steinbrink:

So if there's lightning you don't want to run into the hut then, or is that a safe place?

Mike Pollocoff:

It depends what kind of day you're having.

John Steinbrink:

We had a motion, we had a second. Any further discussion?

YUHAS MOVED TO APPROVE AN OPTION AND LEASE AGREEMENT WITH AMERICAN TOWERS LLC FOR A NEW CELLULAR COMMUNICATIONS FACILITY IN PRAIRIE SPRINGS PARK; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0.

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B. Consider beverage sales agreement for RecPlex.

Carol Willke:

Mr. President and members of the Board, you're probably at this point feeling a sense of déjà vu because we have addressed this issue a couple months ago where you actually passed the beverage contract for Pepsi. After the Board had passed it we sent it back to Pepsi and apparently it was in a totally wrong format, that the Pepsi representative did not know that things had changed and he had to follow a different format. So we actually took the opportunity to look at it again, and I actually think we got a better deal so it's before you again.

This one is totally based on rebates instead of up front money. Previously we would get up front money from Pepsi for marketing and to do whatever we wanted to do with it. But then we had to meet certain benchmarks and we had to sell a certain amount of product, otherwise we ended up getting less of a rebate from them. So this one is totally rebate. Everything is based on product that we sell. Then in the last hour we actually did get a scoreboard thrown in in the amount of \$3,000. So with that I'll answer any questions that you might have about the contract again.

Clyde Allen:

Carol or Mike, when we have events—everything in there was always the 20 ounces or the 15.6 ounces or whatever it was. When we have events when it's the 12 ounce cans are those either donated or negotiated differently?

Carol Willke:

We've only done the 12 ounce cans this past year at Prairie Family Days. We typically don't do that. We bought those from them just at a lower rate. But they don't fit into any of our machines. We don't sell them at either of the concession stands.

Clyde Allen:

I didn't know how we were paying for that or who came up with the pay. Okay.

John Steinbrink:

Other questions?

Monica Yuhas:

Mr. President I'm going to recuse myself from voting on this item.

Clyde Allen:

I'll make a motion to approve.

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Steve Kumorkiewicz:

I'll second.

John Steinbrink:

Motion by Clyde, second by Steve. Let the record show that Trustee Yuhas has recused herself. With that are there any more questions?

ALLEN MOVED TO APPROVE AN AGREEMENT WITH PEPSI COMPANY TO PROVIDE BEVERAGES AT THE RECPLEX; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 3-0 WITH TRUSTEE YUHAS RECUSED.

9. VILLAGE BOARD COMMENTS

Clyde Allen:

Thank you, Mr. President. We all received an email from Dr. Emer who lives in Chateau. I've talked to him, I know him pretty well and I've talked to him on several occasions. I've talked to several neighbors who are mutual friends and had discussions. They had some concerns, and not only the same concern he had about the flooding, about the current flooding and what's going forward and will the new development on Highway 50, off of 50 there, have an impact on them. I tried to explain to them about the continental, the line where the high point is and how it shouldn't affect them and where the water is going.

They had another concern as well, and each and every one of them brought it up, was the lighting. I tried to explain that to them. I believe Jean identified it and in every one of our talks the lighting is recessed for Lynch and that should not be a problem for them. I think they're done with that but several people did ask and inquire about those two issues. I hope that the flooding will not occur. Just my comment.

John Steinbrink:

Other Board comments?

Steve Kumorkiewicz:

One of the comments I'm going to make is I didn't hear any complaints concerning the roundabout. Did we get any or not?

Monica Yuhas:

I have not.

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John Steinbrink:

People are liking it.

Clyde Allen:

No complaints, just a few people in general on blogs and Facebook have expressed comment that don't like it. They just don't like change. They seem to be working just fine, and nobody has actually filed a formal complaint to me either.

John Steinbrink:

Other Board comments?

10. CONSIDER ENTERING INTO EXECUTIVE SESSION PURSUANT TO SECTION 19.85(1)(C) WITH RESPECT TO EMPLOYMENT, PROMOTION, COMPENSATION OR PERFORMANCE EVALUATION DATA OF ANY PUBLIC EMPLOYEE OVER WHICH THE GOVERNMENTAL BODY HAS JURISDICTION OR EXERCISES RESPONSIBILITY.

Clyde Allen:

I'll make a motion to go into Executive Session.

Steve Kumorkiewicz:

Second.

John Steinbrink:

Motion by Clyde, second by Steve.

Jane Romanowski:

We'll need a roll call.

ALLEN MOVED TO ENTER INTO EXECUTIVE SESSION; SECONDED BY KUMORKIEWICZ; ROLL CALL VOTE – STEINBRINK – YES; YUHAS – YES; KUMORKIEWICZ – YES; ALLEN – YES; MOTION CARRIED 4-0.

John Steinbrink:

The only other business conducted by the Board will be to return to open session for adjournment purposes only. No other business will be conducted.

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11. RETURN TO OPEN SESSION.

12. ADJOURNMENT

After discussion in closed session, **ALLEN MOVED TO RETURN TO OPEN SESSION AND ADJOURN THE MEETING; SECONDED BY KUMORKIEWICZ; ROLL CALL VOTE – STEINBRINK – YES; YUHAS – YES; KUMORKIEWICZ – YES; ALLEN – YES; MOTION CARRIED 4-0 AND MEETING ADJOURNED AT 7:30 P.M.**