

**Town of Union**  
**PLAN COMMISSION MONTHLY MEETING**  
**Minutes of November 17, 2011**

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The Town of Union Plan Commission monthly meeting was called to order at 7:00 p.m. on Thursday, November 17, 2011 at the Evansville Fire Station, 425 Water St., Evansville, WI by Chairman Alvin Francis. Members in attendance included Chairman Francis, Vice Chairman Doug Zweizig, Eric Larsen, Renee Exum, and Dave Pestor. Attorney Matt Dregne and Town Engineer Greg Hofmeister were in attendance, and Clerk Regina Ylvisaker was in attendance for the first hour of the meeting.

**Approve October 27, 2011 meeting minutes**

Motion to approve minutes of October 27, 2011 meeting as written made by Larsen/Pestor.  
Motion carried by unanimous voice vote.

**Public comment (10 minutes max. per issue)**

Shane Begley was in attendance representing AT&T, who is interested in siting a cell tower within the Town of Union. Begley had reviewed the draft tower and antenna ordinance and wished to present the following statements:

Overall, Begley felt that people are more accepting of towers now than they have been in the past. Limiting the height of towers will result in more towers being sited, which will impact the view but will eliminate the need for lighting on the towers. He would like to be sure that there are options within the ordinance for allowing taller towers if need be. At this time, according to Begley, the setback requirements for towers over 199' will virtually eliminate the ability to site taller towers anywhere in the Town. Begley explained that in his experience, the height of a tower plus 20% is an typical setback requirement.

The current location proposed by AT&T for a tower within the Town was chosen due to the original location being located within the Historical District in Evansville and therefore not feasible. The main issue with coverage that this particular tower is trying to address is building penetration within the City of Evansville.

Alvin Francis asked if the currently sited cell towers are too far apart from each other, and if this is what is creating the need for the proposed tower. Begley stated it was part of the problem, as was the new 4G technology. Francis inquired as to the feasibility of collocating on the cell tower to the north; Begley stated it was too close to other towers for collocation to work.

Begley recommended that the Town use independent consultants to review the tower applications. Matt Dregne asked if Begley felt it would make sense for the Town to request build out plans for the whole community at the time of application, or for the Town to develop a master plan for tower propagation going forward. Begley felt this would be reasonable, all companies would need to be contacted by an independent consultant for participation in the development of the plan. Dregne asked if AT&T would be willing to work toward such a master plan; Begley could not commit for the company but believed that they would be. He stated other companies would likely be receptive as well.

Dregne asked if property acquisition could be included in the master plan process, to help ensure that a master plan that works is created. Begley felt it could be, with the problem being companies would be reluctant to committing to leasing land for towers that may not be built for

years. He believed it was likely that 4 towers, if placed properly, could provide coverage for the entire Town.

Dregne asked if planning could be done while a moratorium was in place. This would then allow for the ordinance to state that applicants would have to follow the established plan. Begley was unable to speak for AT&T but felt it was likely they would be receptive to this idea. He was confident he could have a map prepared within a week for review.

Eric Larsen asked if the proposed tower would provide 4G service; Begley explained that it would provide 3G service at the outset, but would be capable of 4G service and likely to provide it within the next year.

Regarding the requirement in the draft ordinance for up to 6 collocators on a tower, Begley explained that 15-20' spacing is required between carriers located on the same tower, and antennas can only be sited above 100' on towers. The ordinance also doesn't quantify how many spaces are required per tenant – he felt the language was not adequate. The structural and weight loading needs to be called out on the tower for specific tenants.

### **Plan Commission Request for Official Notification of Board Decisions Regarding Plan Commission Requests**

The Plan Commission would like email notification immediately following Board meetings of Board decisions on Plan Commission requests. Clerk Ylvisaker will do so.

### **Tower & antenna ordinance development**

The Plan Commission clarified that a Conditional Use Permit would not be required if an applicant was requesting to use an alternative support structure to site an antenna. Such requests will be taken care of by a license for the alternative support structure. Therefore, the following change was made:

**6.00 Conditional Use Application.** Locating and constructing a telecommunication tower ~~or an alternative support structure~~, including the buildings or other supporting equipment used in connection with said tower ~~or alternative support structure~~ requires a Conditional Use Permit issued in accordance with this ordinance.....

Any granted Conditional Use Permit requires construction to begin within twelve (12) months of the date of issuance and shall expire twenty-four (24) months after issuance unless the tower ~~or alternative support structure~~ permitted is completely constructed and a Certificate of Completion is issued as described in Section 11.00 of this ordinance....

**(1) Submittal Information.** For all telecommunication towers ~~and alternative support structures~~ the following information shall accompany every application....

- (b) Original signature of applicant and property owner (if the telecommunication tower ~~or alternative support structure~~ is located in an easement, the beneficiaries of the easement and underlying property must authorize the application).
- (l) ...The inventory shall specify the location, height, type, and design of each existing telecommunication facility, the ability of the tower ~~or alternative support structure~~ to accommodate additional antennas of the type at issue, ~~and where applicable, the height of the alternative support structures.~~

- (m) If more than one (1) tower or ~~alternative support structure~~ is proposed, a master plan for all related towers or ~~alternative support structures~~ within the Town and within five (5) miles of the Town boundary.
- (o) An affidavit stating space will be made on the proposed tower or ~~alternative support structure~~ for future users, when technically possible, at a reasonable cost.

- (4) **Collocation.** All facilities, towers or ~~alternative support structures~~ shall make available a minimum of six (6) ~~unused spaces for collocation of other telecommunication devices, including space for those entities providing similar, competing services~~ **be designed to accommodate a minimum of four (4) completely functioning telecom systems.** A lesser number of spaces may be allowed by the Commission based upon data supplies by applicant stating six (6) ~~four (4)~~ spaces would be structurally and/or technically unfeasible....

Telecommunication towers, ~~alternative support structures~~, and necessary appurtenances, including but not limited to parking areas, access roads, utilities and equipment buildings, shall be shared by site users whenever possible.

(5) **Standards for Granting Conditional Use Permits.**

- (a) Application demonstrates that the tower, ~~alternative support structure~~ and support equipment or buildings will meet all the structural, design and environmental standards in section 11.00 of this ordinance, and the separation and setback requirements of section 12.00 of this ordinance.

The Plan Commission additionally agreed to replace the requirement of submittal of an alternatives analysis by the applicant to the submittal of a master plan, to be compiled by multiple companies and approved by the Town for a specific period of time:

6.00 Conditional Use Application.

(1) Submittal Information.

- (j) ~~An alternatives analysis~~ **A master plan for tower propagation within the Town** shall be prepared by **multiple telecommunication companies** ~~the actual applicant or on behalf of the applicant by its designated technical representative,~~ except for exempt facilities as defined in Section 3.00, subject to the review and approval of the Commission, ~~which identifies not less than three (3) technically feasible, alternative locations and/or facilities which would provide the proposed telecommunications service.~~ The intention of the **master plan alternatives analysis** is to present **a tower propagation plan for the Town which all applicants can reference and adhere to when applying for a permit or license to site a tower within the Town. The master plan will** ~~alternative strategies which would minimize the height, number, and adverse environmental impacts of facilities necessary to provide the needed services to the Town. The analysis~~ **master plan** shall address the potential for collocation and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed sites **in view of the relative merits of any of the feasible alternatives.** Approval of the project is subject to the Town Board making a finding that the proposed site **meets the requirements as laid out in the master plan.** ~~results in fewer or less severe environmental impacts than any feasible alternative site.—The~~

Town may require independent verification of this analysis at the applicant's expense.

The Plan Commission agreed to merge section 13.00, License for Telecommunication Devices, into the Conditional Use Permit section for an end result of only a Conditional Use Permit ordinance.

Attorney Dregne noted the following discussion and decisions:

1. The Plan Commission adopted a motion to simplify the ordinance so that it uses a CUP approach to address all of the issues that are currently addressed through a combination of a CUP (zoning) approach and licensing approach.

This motion captured several ideas that were discussed during the course of the meeting. The Commission would prefer the simplest means available to achieve its goals. The Commission concluded that, at least with respect to communications towers, and devices placed on dedicated communications towers, the CUP can serve as one-stop-shopping to achieve all objectives. It was further noted that the CUP process is ill-suited for meeting the objectives when it comes to the placement of telecomm equipment on existing, alternative support structures, such as a silo or utility pole. It is unnecessary to require a CUP to build a silo, and it is unnecessary to go through the same process for placing devices on existing alternative support structures that is needed for managing the construction of dedicated telecomm towers. In the course of the discussion, I understood the Plan Commission's intent to use CUPs for telecomm towers and devices on such towers, and retain the licensing approach for devices on existing, alternative support structures. The only reason discussed for regulating devices on alternative support structures is to ensure compliance with FCC RF emissions standards.

2. The Plan Commission adopted a motion to modify the "alternatives analysis" required by the current draft ordinance, and to instead require applicants to either (1) obtain a master plan for building out all telecomm facilities needed to serve the town over a defined planning horizon, and building in accordance with the plan, or (2) if a master plan has already been prepared and approved, then build in accordance with the plan, or obtain approval of a new master plan.

This decision was made after a discussion with two industry representatives who attended the meeting. They indicated that building in accordance with a master plan is feasible. They indicated it may be possible for AT & T to collaborate with other providers (like US Cellular and Verizon) to develop a master plan to serve the town, that would work for all of them, thereby helping the town achieve its goals of having service provided with a mix of towers and alternative support structures that balances, in the most optimal way, the number, height and detrimental impacts of towers built in the town. One of these industry reps agreed to begin work on a master plan now.

3. Other important issues discussed include:
  - a. The Plan Commission wants the ordinance to include a cost-recovery mechanism, so that developers of telecomm towers reimburse the town for its legal and engineering expenses incurred in developing the ordinance. This type of requirement was included in the wind ordinance, but has not yet been tested.

- b. The Plan Commission approved a motion to request the Town Board to authorize up to 20 hours of additional legal services, to be used in (1) revising the ordinance to reflect the modifications the plan commission decided upon at the meeting (about 6 hours), and (2) attending two additional plan commission meetings to work on and complete the ordinance. The Plan Commission discussed asking the Board to consider including funding for this work in the 2012 budget year, with the expectation that the work would be done in January and February, 2012.

Someone needs to verify that it is sufficient to simply reference unspecified FCC regulations, as a means of ensuring appropriate combined RF emissions discharged from one or more telecomm devices. I recommended that someone obtain a copy of the specific regulations, so the town knows that this is workable. I would site the specific regulations in the ordinance.

A motion was made by Zweizig/Exum to request the Town Board to authorize up to 20 hours of Town Attorney time, to include 6 hours of ordinance redrafting based upon the Plan Commission's suggested updates, and the inclusion of a cost recovery provision, and 14 hours for meeting attendance. Motion carried by unanimous voice vote.

Respectfully submitted by Clerk Regina Ylvisaker

*Note: minutes are considered draft until reviewed and approved by the Plan Commission at a properly noticed meeting.*