

TOWN OF UNION SPECIAL BOARD MEETING Minutes of Monday, April 16, 2012

The Town of Union special board meeting was called to order at 6:03 p.m. on Monday, April 16, 2012 at the home of George & Sharon Franklin, 13847 W. Hwy. 59, Evansville, WI by Chairman Kendall Schneider. Members in attendance included Chairman Schneider, Supervisors George Franklin and Kim Gruebling, Clerk Regina Ylvisaker, and Treasurer Sharon Franklin. Plan Commission Chairman Alvin Francis was also in attendance.

Discussion of Telecommunications Ordinance Draft

Attorney Jim Jermain distributed copies of the draft ordinance with AT&T's suggested changes and markups.

Attorney Steve Ritt reviewed the AT&T draft version and made the following comments and explanations:

The first concern they had was the concept of a master plan, and the process which saddles the first applicant with all the costs including paying for the development of ordinance. Ritt was unsure what the Town was trying to accomplish with the master plan idea. Towers are likely to be proposed in and around Evansville, Hwy. 14, and possibly some other surrounding semi-urban areas. In their point of view, the idea of master planning the entire Town is unnecessary. Towns of the size of Union don't have the expertise to review applications, and should employ an independent third party - which the applicant usually pays for - to tell the Town if the applicant makes their case for their tower and if any alternatives are available. Ritt commented that Dane County has an engineer out of Milwaukee that acts as their third party and handles the review process for them, and provides report to both Dane County and the appropriate township/village telling them if the applicant has made its case for a tower or not, and reviewing the propagation maps.

Page 5, sub 5, "Encourage the use of alternative support structures, co-location of new antennas on existing telecommunication towers, camouflaged towers, monopoles, and construction of towers with the ability to locate more providers" Ritt noted that the Town should not necessarily eliminate idea of self support towers as they can be less than 250' tall. It can be easier in many cases to accommodate 4 carriers on a self support tower than on monopole towers.

Putting applicants through the same CUP process for building a new tower and for locating on an existing structure such as a silo will not make applicants look harder at whether they want to make the effort to use silos instead of towers. Streamlining the process for using silos and similar structures will make it more likely that applicants will use them.

Regarding security for removal, Ritt stated that usually this is an agreement with the landowner, and proof can be provided to the Town that such an agreement is in place.

Regarding the CUP application process beginning on page 11, Ritt had the following questions and comments:

The lease will be redacted, but provided, as landowners will not want dollar figures made public. Providing a plat of survey, as requested in (1) (e), is not realistic at this point in the application process. A site plan would be made available at this point which would provide some of the details of the site and location. Kendall Schneider questioned how accurate the site plans would be; Ritt stated they would be fair, +/- 25'. Additionally a set of construction drawings would be provided prior to construction.

Section (1) (i): Ritt explained that the FCC doesn't approve individual tower sites; however if the Town wants to know what frequencies are licensed to an applicant and used at the site, that can be provided. Information regarding who owns the tower, who is on the tower, and the frequencies used are all things

the Town should have, and can be provided to the Town's independent consultant when subsequent applications are received to gauge the accuracy and appropriateness of applications.

By law, Ritt stated, the Town can't make decisions on whether to allow or not allow telecommunications facilities based on what they perceive to be potential health concerns. If the Town wants a statement from the Tower owner that they are in compliance with their license, it can be provided. Ritt further explained that municipalities are not the enforcers of whether or not licensees are in compliance with the frequencies they are using, the FCC is the enforcer. The FCC does not want local municipalities to begin addressing health and safety concerns. Schneider asked if it would be acceptable to include a process for concerned citizens to contact FCC with concerns; Ritt felt that although it was not AT&T's place to tell the Town what to do, he felt it would be a practical approach and they would be willing to help provide information and contacts.

Page 12: removed section regarding master plan/alternatives analysis.

Page 13: Ritt felt that the information required in (1) (m), specifically a map inventorying all existing telecommunication facilities located within 5 miles of the Town, was unnecessary and should be changed to a 1,500' radius of the town.

Regarding Page 13 (1) (n), certifying the structural design of a tower, it is a question of timing. The Town will receive structural assurance before the final permit is issued, but not at the initial application, as it is expensive to create and it may change significantly prior to finalizing.

Ritt stated that at this time, most carriers have master agreements between each other, so page 13 (1) (o) is unnecessary.

Ritt clarified that page 13, (1) (r) is actually referencing a propagation map.

Page 13, (1) (s), AT&T does not receive approvals from the FCC as required by this section of the ordinance.

Page 14, (1) (t), Ritt stated that the FAA issues determination of no hazard for any major airports in the area; the Bureau of Aeronautics will review the application and note any problems they have with it regarding small local airstrips/airports. Should have responses back from both agencies prior to the final permit being issued, but not at the time of initial application.

Page 14, (1) (w) and (x) both concern items which the FCC governs, not the Town.

Page 15, (5), Ritt removed references to the master plan.

Regarding the annual information report on page 15, if this is something the Town wants, AT&T has no objections to providing it. What they objected to was FCC type enforcement.

Page 16: annual information report fee, how much is it?

Regarding adding a device to an approved tower (page 16 (3)), Ritt feels the Town should consider what message they want to send to applicants regarding using alternative support structures. He believes the path of least resistance is the one applicants will likely pursue. If the ordinance requires substantial work to obtain a CUP for a tower, and locating on a silo is easier/simpler, applicants will look hard at a silo first. Additionally, applicants will also look at getting an extension above the silo if possible by strapping a pole onto tower. This may ultimately get the Town what it's looking for aesthetically. If the process is the same for both towers and alternative support structures, they will view both options the same.

Page 16, Section 8, Removal/Security for Removal: Ritt understands that the Town wants towers removed, and wants to be sure that the bond is provided to the proper person. Bonds are normally provided to the land owner, and evidence of such bond can be provided to the Town. Letter of credit and bonds are both the same as far as ensuring payment will be made if necessary. Schneider expressed concerns with increasing costs of removal that are not covered by increasing bond amounts. Ritt suggested reviewing the bond amount on a routine basis to address the concern. It was noted that the

issue was addressed in sub (2) but requires an annual review; Ritt doesn't think costs change that quickly, and believes reviews every 5 years might be more appropriate.

Last line of Section 8 (2) should read "...if it is determined to be insufficient in amount to cover the entire costs of removing the affected telecommunications facility, the Town shall assign a new amount which the tower owner shall be required to provide."

Page 17, Section 9 Increasing Height and Relocating Telecommunication Towers. Ritt explained that the Town could require that applicants build the base of a tower to support up to a 199' tower, even if tower is lower than 199', and subsequently could require future applicants to work together to make future antennas work on the existing tower instead of getting stuck with an additional tower if the first tower base is unable support a higher tower.

Ritt explained that there is generally 10' centerline to centerline between arrays on towers. One reason to give consideration to self support towers is that when monopoles are manufactured they are generally ported, meaning holes are drilled to hold antennas at certain heights ten feet apart, i.e. 180, 170, etc. If an applicant needs a different height than what is ported, new holes can be drilled later but it will affect the structural strength of the tower. Therefore, monopoles shouldn't be the only option considered because they are viewed as more aesthetically pleasing, because they are not necessarily as flexible for collocation and increasing height. Both styles (monopoles and self supporting) have pluses and minuses.

Page 17, 11 (2) Abandonment: this section would only be applicable if a tower was located on Town property.

Page 17, Structural, Design and Environmental Standards: what was removed from (1) (a) is what is left to the FCC to enforce.

Page 18: (1) (e) regarding painting, the section was removed because paint does not work well on towers. Towers come galvanized and match the sky well in that form.

Regarding (1) (i), most ordinances state "must comply with all applicable federal, state, and local laws" which places the burden on the applicant to ensure all laws have been complied with. Spelling them all out leaves the Town liable to leave some out.

Page 19, (1) (k)-(l)-(m) are all FCC enforced items.

Regarding tower height (page 19 (2)), Ritt feels the Town should allow applicants the opportunity to consider towers over 199'.

Ritt understands that lighting on towers is a big issue in rural areas. Towers 199' and under don't have to be lit, and applicants could work with the FAA to get the best lighting system for taller towers, i.e. white strobes in the day, red at night.

Clerk Ylvisaker had to leave the meeting at 7:20 p.m. and the minutes end at this point.

Respectfully submitted by Clerk Regina Ylvisaker

Note: minutes are considered draft until reviewed and approved by the Town Board at a properly noticed meeting.