

**TOWN OF UNION
MONTHLY BOARD MEETING
Minutes of Thursday, October 4, 2012**

The Town of Union monthly Board meeting beginning was called to order by Chairman Kendall Schneider at 7:03 p.m. on Thursday, September 6, 2012 at the Evansville Fire Station, 425 Water St., Evansville, WI. Members in attendance included Chairman Schneider, Supervisors George Franklin and Kim Gruebling, Clerk Regina Ylvisaker, Building Inspector Bob Fahey, and Constable Eric Larsen. Plan Commission members Alvin Francis and Dave Pestor were also in attendance. Treasurer Sharon Franklin was absent. The Pledge of Allegiance was recited.

Clerk's Minutes (September 6, 2012)

The minutes will be approved at next month's meeting.

Treasurer's report

In the absence of Treasurer Sharon Franklin, George Franklin presented the treasurer's report. Balances as of September 28, 2012:

Local Gov't Investment Pool General Fund	\$ 0.00
Park and Recreation Fund	\$ 12,453.73
UB&T Money Market Sweep Account	\$ 34,973.01
UB&T Checking Account	\$ 15,000.00
Wayne Disch Memorial Park Fund	\$ 2,726.42
Morning Ridge Stub Road CD	\$ 20,633.91
Escrow Accounts:	
Robert Janes/Bakers Crossing	\$ 813.77
Teresa Lane:	
Bank of Monticello	\$ 1,160.94
Michael Kipp	\$ 386.97
Mastec, LLC	\$ 7,000.00

A Rock County Sheriff's Deputy was in attendance to address any concerns residents may have. Schneider reported grain trucks were using Weary Road to get to the co-op within the last week or so, and he would appreciate that situation being monitored. Kim Gruebling mentioned he would appreciate the speed on Territorial Road being monitored as well.

Board Action: Budget Line Adjustments if Required

None required.

Constable's report

Constable Eric Larsen reported receiving one call for a stray dog from the Evansville Police Department; Larsen left work to pick it up. When Larsen asked where the dog came from, the Police Department checked on where it was picked up and they realized they knew the owner and it was taken care of.

Building Inspector's report

Building Inspector Bob Fahey reported the following permits issued during the month of September:

Name	Address	Description	Construction Cost	Permit Fee \$	Inspector's Fee Due
No Building permits Issued this month					
Barbara George	11215 N Hwy 14	Land Division CUP			\$ 80.00
Tom Sayre	16326 W Cty Hwy C	CUP Cell Tower			\$ 80.00

Recycling Center Update/Improvements

Jerry Krueger reported the Center has been busy. Josh Wisner reported a recent problem with tires being dumped on the side of the road; the only place he has to drop them off is at the Recycling Center. The Town does not take tires

from residents at the Center and does not have an outlet for getting rid of them. Wisner has a location at this time to get rid of the tires on hand at no cost, but a plan will be needed to address tires in the future. Ylvisaker suggested contacting Landmark and having them charge the Town for the tires that Wisner picks up on the side of the road. Schneider agreed that investigating this would be a good idea.

Follow Up Report

Gruebling attended the Towns Association meeting last month. He reported that one loaded semi causes as much damage to a road as 600 cars. The current general transportation aid is \$2,117 per mile. Gruebling also reported that Rock County is leaving winter maintenance rates the same for 2013, but is raising summer maintenance rates \$100/mile. He also learned that the Rock County Humane Society will stop accepting dogs as of January 1, 2013, but the Dane County Humane Society will begin accepting dogs from Rock County and a contract will need to be signed. The contract will likely be handled through Janesville, as they and Beloit have 90% of the dogs that are turned in to the Humane Society. Gruebling suggests signing the contract when it is presented, as the costs will likely be similar.

Ylvisaker explained to the Board the letter received from Tom and Connie Davis regarding the conversion fees paid on their parcel. The zoning change and land division was never completed, however the conversion fees were paid to the Town and the Town paid the fees to the DATCP. The Town is unable to return the fees to the Davis', as they were paid to the DATCP. The Board agreed that drafting a letter to the DATCP requesting and supporting the return of the fees to the Davis' was appropriate and directed Ylvisaker to do so.

Public Comment (5 min max per item, no action will be taken on any issues)

Daria O'Connor would like to address comments made by the Town Board, specifically their statement that there are only a few people concerned about the siting of the cell tower. She stated there are additional residents who are concerned about a lighted tower. O'Connor reminded the Board that over 90 signatures were received on the petition for a citizens review committee, which demonstrated support for their neighbors. Even those who don't care about cell tower placement take note of their elected officials putting big business over the concerns of their residents. Regarding Evans, she feels they were clearly a mistake as they are neither independent nor objective. She feels the Plan Commission is on the right track by requesting alternatives to the proposed tower. O'Connor feels that it is insulting that the applicants made no effort to comply with the Town's ordinance when submitting their application for cell tower siting. She would also like to see Shane Begley's assertion that the City of Evansville would not allow a cell tower in the City confirmed. Begley has stated that the tower in question would be primarily serving residents of the City. O'Connor asserted that Begley is either lying about contacting the City about siting the tower, in which case she would ask the Town to direct him back to the City to make application. The other possibility she sees is that Begley was turned down for siting a tower in the City. O'Connor was glad that the Plan Commission requested information regarding whom Begley spoke with from the City.

Pete Hansen moved to the area in May 2012, and in mid September of 2012 received a letter regarding the hearing on the proposed tower and inviting their opinions. He did not know about the petition signed by his neighbors. He has been unable to review all the information regarding the tower. Hansen felt that Zweizig's letter presented at the Plan Commission meeting brought up good points. He also cited O'Connor's letter in which numerous health concerns were cited regarding cell towers, as well as the issue of a decrease in land values near cell towers. Hansen feels the Town's ordinance is being ignored. Hansen and his wife have young children as do some of his neighbors, who are in the direct vicinity of the tower. Questions why the Board doesn't take these health concerns into consideration when reviewing this application.

Mary Libby would like the Board to support it's constituents and not AT&T and the Sayres, She questioned why the tower is not being put on Town land? Asked that someone read in Doug Zweizig's emailed statement.

Eric Larsen read in Doug Zweizig's emailed comments:

Public Comment related to the current status of the Tower Ordinance
Douglas Zweizig, 6037 N. Finn Rd., Evansville
October 3, 2012

I understand from those who have been attending Town Board meetings that it was the intention of the Town Board to remove the requirement for an alternatives analysis from the Tower Ordinance. (The requirement for an alternatives analysis asks an applicant to propose alternative means of providing the desired service to allow an analysis of their relative merits.) This requirement was put into the Ordinance by the Plan Commission based on example ordinances and the understanding that it was a best practice for communities that wanted to make use of their zoning authority. It was seen by the Plan Commission as a method for dealing with exactly the kind of application that is now before the Town—a single-option application for a

250-foot lighted tower. Since there was a strong preference by the Plan Commission and interested citizens for lower, non-lighted towers to help preserve the rural character of the Town, alternatives to a single, lighted tower were more desirable and should be proposed.

The Town Board should explain why it removed this widely-used approach (There are no minutes for the 6/21/12 Town Board working meeting on the Ordinance.). Certainly it was not at the request of citizens of the Town, since all of their comments that I am aware of have supported towers under 199 feet. If it was at the request of the applicant or the applicant's representatives, then its removal is a highly questionable act, and one that ignores the will of the Town's citizens as expressed in hearings and in the Town's Comprehensive Plan. (The Town Engineer notes that the application materials for a single 250-foot tower were prepared in 2011, early in the Ordinance development process, when the requirement for an alternatives analysis was in the draft.)

While the Town Board is explaining why it attempted to remove the requirement for an alternatives analysis from the Tower Ordinance, it should also detail for the citizens of the Town the communications it has had outside of public meetings with any parties involved in this current application. Such communications about public business are not to be kept private, and it is the obligation of public officials to reveal such communications. It is known that they have occurred, and they should have been reported in a timely way by the officials involved.

The attempt to remove the requirement for an alternatives analysis from the Tower Ordinance was not entirely successful. In Section 5 (1), the alternatives analysis remains as seen in the following underlined passages:

Approval of the conditional use permit is subject to the Town Board making a finding that the proposed site is the most reasonable among the alternatives. The reasonableness of the proposed site shall be determined based upon whether the site minimizes the adverse impacts of towers and facilities on the Town and Town residents. Adverse impacts will be evaluated based on environmental effects, impacts that impair the rural character of the Town, the loss of agricultural land, and any other impacts deemed by the Town to be detrimental to the health, safety or general welfare of the Town and Town residents. In evaluating the reasonableness of the proposed site, a plan that provides for Towers that are shorter than one hundred ninety nine (199) feet shall be viewed as more reasonable than a plan that requires Towers taller than one hundred ninety nine (199) feet, in order to reduce the impacts of flashing lights on the rural character of the Town. The availability of land is an additional factor that shall be considered in determining reasonableness.

The Town may require professional independent review of the alternatives analysis, at the applicant's expense.

Given the current situation of a jumbled ordinance, demonstrated partiality on the part of a consultant who was supposed to be independent, and serious questions about improper influence on members of the Town Board, I believe that the best action at this time is to reinstate a moratorium to allow the reconsideration of elements to be included in the Tower Ordinance and a review of the ordinance by a qualified and truly independent consultant.

Thank you for your consideration.

Larsen noted that the health concerns and documents that the Plan Commission reviewed are cited in the ordinance, and there are in the minutes questions regarding the factuality and validity of many of the studies. If any information outside what is listed is available he would be happy to review it.

Renee Exum stated that if Evans Associates is not working for the best interest of the Town and is issuing a report with incorrect information, they should be fired.

Jim Bembinster would like the Town to do something officially to reject the Evans report; he feels the report should not have gone to AT&T and should have been released only to the Town and disseminated from there. Evans should not have applied the ordinance that they helped draft to the application they reviewed, they did not have the best interest of the town in mind. Numerous versions of the report came out, which was confusing.

Exum stated she needs a new fire number as theirs is faded; Ylvisaker explained a new one with new post and installation is \$50 from the Town. A kit can be obtained from Menards for under \$20.

Franklin stated that everyone feels that Evans is in AT&T's back pocket, he would like to know how. Schneider explained that the report went to Shane Begley at the same time as it went to the Town. Additionally, the report changed immensely within several hours once Begley got the first version and addressed the questions brought up by Evans. These issues call into question the independence of Evans.

Roadwork

Franklin brought up putting a V plow on the endloader; he felt a 12 foot blade may be better as you could plow snow as well as turn and push it.

Seal coating has been done on Leedle Mill Road, no bill has been received from Porter. Wisner priced out a sander for the smaller truck, \$4,500 for 2.5 yard with conveyor. Regarding work on the culvert on Cain Libby Road, Franklin will do it.

No decision was made on purchasing a sander for the truck. Franklin will report back next month with further information.

Gruebling reported back on the issue of insurance. He spoke with an attorney from WTA. At this time he recommends continuing on the way we are to get the job done. The attorney will email further info to Gruebling and he will talk to the Town's insurance agents. The Board will discuss again in the future once Gruebling has more information.

Discussion: Plan Commission Request for Clarification Regarding Town Policy on Deed Restrictions on Land Divisions

Schneider stated that he felt the issue should be an amendment to the Comprehensive Plan, that the Town has been handling the issue improperly thus far. If deed restrictions were a method they chose, the amendment process would have to be followed.

Discussion: Franklin knows that some people want to put deed restrictions on land, but wonders where the Town will get its revenue from if no new houses are built. Larsen explained that the reason for deed restrictions is to avoid sprawl throughout the Town; Board has denied allowing residences on some properties such as the Davis', but then won't deed restrict other parcels.

Gruebling stated that he was on the Plan Commission and felt that deed restricting was their policy all along, there are areas planned for development and others that are not. Does not want housing all over with no planned development. Schneider noted that property owner rights also have to be taken into consideration, as well as the best interest of the Town, and other considerations such as quality of land. Gruebling does not agree that the comp plan needs to be amended to continue with the deed restriction policy; Larsen stated that the Town attorney never had any issue with the process as it was being carried out thus far. Alvin Francis thinks that the farmland preservation process may deal with the issue in two ways, by designating land as exclusive ag that people don't want to develop at all, also by providing a provision for land owners to separate a small amount of land, i.e. three acres, in return for deed restricting remaining lands.

Dave Pestor stated that the Plan Commission has been deed restricting, but the comp plan is contradictory as it states that we want to promote agriculture. Can't promote agriculture by deed restricting large parcels because small farmers can't come in and purchase such large parcels to farm, they can only afford smaller parcels and maybe build a house on them.

Schneider will check with WTA attorneys regarding the issue and report back.

Barb George noted that the Town used to always look at best use of the land when considering deed restrictions; can't arbitrarily say can't do this or that, have to look at each parcel and it's characteristics.

Public Hearing: Action on Request made by Barbara George to divide and rezone parcel #6-20-25, located in the SW ¼, SE ¼ of Section 4 at 11215 N. Hwy. 14, Brooklyn, WI. The applicant wishes to divide the ~84 acre parcel into one 80 acre parcel and one 4.2 acre parcel which would encompass the existing home and buildings.

Public hearing opened at 8:19 p.m.

The Plan Commission voted 3-1 to recommend approval with no deed restrictions. Barb George was in attendance to answer any questions. Schneider discussed the half road right of way (33') on Stewart Road for the Town, and noted that the half road right of way on Hwy 14 would be requested at the County level.

No comments from public.

Public hearing closed at 8:23 p.m.

Schneider explained that the concern of the Plan Commission was that the 80 acre parcel would become a buildable lot, which it is not at this time, and that is why they considered a deed restriction.

Gruebling would prefer that the deed restriction be on the parcel, as he feels the Town's policy is being changed. However he realizes that things are changing, and that the Commission recommended approval without a deed restriction.

Motion to approve request made by Barbara George to divide and rezone parcel #6-20-25, located in the SW ¼, SE ¼ of Section 4 at 11215 N. Hwy. 14, Brooklyn, WI into one 80 acre parcel and one 4.2 acre parcel which would encompass the existing home and buildings, made by Franklin/Schneider.

Roll call: Kendall Schneider – Yes; George Franklin – Yes; Kim Gruebling – Yes. Motion carried 3-0.

Board Action: Proposal for Legal Services Received from Boardman & Clark LLP

No action taken at this time.

Pay Bills

Motion to adjourn and pay bills made by Schneider/Gruebling. Motion carried by unanimous voice vote. Meeting adjourned at 8:35 p.m.

Respectfully submitted by Clerk Regina Ylvisaker

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