

TOWN OF CLAYTON

Town Plan Commission

Meeting Minutes

7:00 P.M. – 9:08 P.M. on Wednesday, July 13, 2011

Town Office Meeting Room, 8358 County Road T, Larsen, WI 54947

I. Call to Order:

A. Pledge of Allegiance, Notice Verification, Roll

1. Chairperson Knapinski called the meeting to order at 7:00 P.M.
2. Pledge of Allegiance recited.
3. Meeting properly posted.
4. Roll

a. Plan Commission Members

Chairperson Knapinski	PRESENT
Commissioner Adler	PRESENT
Commissioner Brucks	PRESENT
Commissioner Geise	PRESENT
Commissioner Hamblin	PRESENT
Commissioner Haskell	PRESENT
Commissioner VanAirsdale	PRESENT

b. Staff

Administrator Johnston	PRESENT
Treasurer Bowen	PRESENT
Town Engineer Madsen	PRESENT

II. Approval of Minutes:

A. Regular Plan Commission Meeting – June 8, 2011

Corrections to minutes: On page 5 (NE Asphalt) – add the answers to Ms. Lettau’s questions which include roofing material and the reason for the refund was because the structure is not considered a permanent structure. On page 2, add the word “municipal” in front of the word “staff” in the motion.

**MOTION:** (Haskell, Hamblin) Motion to approve the Regular Plan Commission Meeting minutes of May 11, 2011, with corrections.

MOTION CARRIED by unanimous voice vote.

III. Open Forum – Non-Agendized Town-related Matters:

Please complete “Request to Speak at Meeting” form located on the agenda table and give to the Town Deputy Clerk or Treasurer. Non-Agendized Town-Related Matters: Pursuant to WI Statutes 19.83(2) and 19.84(2), the public may present matters; however, limited discussion may occur but no action may be taken until specific notice of the subject matter of the proposed action can be given.

**Mr. Jim Shlies, Fox Valley Chamber of Commerce**  
**3237 W Seneca Drive**  
**Appleton, WI**

Mr. Shlies discussed the Economic Development Study being conducted by the Fox Valley Chamber of Commerce on the Fox Cities. The concerns that prompted the study involve the economy, the loss jobs, the loss of high wage positions and further economic development. A Life study was recently done and will be presented in September at the Radisson Paper Valley. The study is a 5-year study on the quality of life in the Fox Cities. The Economic Development Study will be benchmarking the Fox Cities against other communities in the United States. The Study will be conducted in October and will be presented at the Chamber of Commerce Annual Meeting in early November. Chairperson Knapinski asked Mr. Shlies about the markets they are benchmarking the Fox Cities against. Mr. Shlies replied that the benchmark markets will be successful markets best suited for the area. The markets have not been identified as of yet, but will be outside the State of Wisconsin.

IV. Correspondence:

A. Winnebago County Zoning Department – Department moving on Tuesday, July 12th, 2011

V. Business:

A. Discussion/Recommendation: Plan Commission review and recommendation on a Conditional Use Application for an AT & T Mobility cell tower site to be located on leased land at 9198 Oakwood Avenue, Neenah, WI 54956, Tax ID # 006-0311.

1. Site Location: 9198 Oakwood Avenue  
Neenah, WI 54956  
Tax ID #006-0311
2. Applicant: R. Shane Begley  
Begley Wireless Consulting Services, LLC  
14114 South Country Circle  
Gordon, WI 54838
3. Property Owner: R. Shane Begley  
Begley Wireless Consulting Services, LLC  
14114 South Country Circle  
Gordon, WI 54838
4. Prepared for: AT&T Mobility  
930 National Parkway  
Schaumburg, IL 60173
5. Property Status:
  - Statements on the status of the property are specific to the proposed project site.
  - a. The property Tax ID is # 006-0311.
  - b. The property consists of approximately 38.68 acres.
  - c. The property is in the Department of Natural Resources Special Well Casing Area.
  - d. The property has an intermittent navigable stream on it.
  - e. The subject property is currently Zoned A-2 GENERAL FARMING DISTRICT.
    - i. The surrounding properties are Zoned as follows:

- a) Properties to the North are zoned: A-2 GENERAL FARMING DISTRICT and R-1 RURAL RESIDENTIAL DISTRICT.
  - b) Properties to the South are Zoned A-2 GENERAL FARMING DISTRICT.
  - c) Properties to the East are Zoned A-2 GENERAL FARMING DISTRICT.
  - d) Properties to the West are zoned: A-2 GENERAL FARMING DISTRICT and R-1 RURAL RESIDENTIAL DISTRICT.
  - f. The property is in the Outagamie County Airport Overlay Zoning District.
  - g. The property is out of the County's Floodplain Zoning Area.
  - h. The property is in the County's 300-foot Shoreland Jurisdiction Zoning Buffer.
  - i. The property is not in the County's Wetland Identifier.
  - j. The land use and the proposed Conditional Use are consistent with the Town's adopted Comprehensive Plan, Land Use Plan.
6. Application Details:
- a. The petitioner has applied for approval of a Conditional Use, under Section 17.35 (6) of the County Zoning Ordinance, for a 120-foot monopole cell tower antenna on leased land located at 9198 Oakwood Avenue, Neenah, WI 54956, Tax ID # 006-0311.
7. Site Details:
- a. The leased property is located behind a number of farm outbuildings and consists of an 80' X 80' square creating a usable site of 6,400 square feet (see attached Exhibit).
  - b. The site is substantially screened from Oakwood Avenue by the farm buildings and only the north view of the site and the upper portion of the antenna should be visible from a public right-of-way.
8. Access Details:
- a. Access to the cell tower site is made possible by a 30-foot wide utility and ingress/egress easement.
  - b. Access to the west side of the cell tower site is possible over a connected 15-foot wide ingress/egress easement.
  - c. Access roads are to be made of compacted gravel. Access to Oakwood Avenue is obtained over an existing farm access.
9. Facility Details:
- a. The facility consists of a 120-foot monopole cell tower with a small equipment shelter in the southwest corner of the antenna site.
  - b. The entire antenna site will be enclosed by a 6-foot chain link fence with barbed wire on top of the fence (see attached exhibit).
  - c. Entry to the site is through two gates; the north gate provides both individual and vehicular access to the site while the west gate provides individual access to the site.
10. Staff Comments:
- The Conditional Use Application as presented is complete and accurate. Based on a review of the Town's requirements the application meets the requirements of the Code and with some minor conditions merits approval. Staff has the

following comments on the application as it relates to the Town’s Site Plan Ordinance:

- a. The site is hidden from view by the farm structures on the property making any landscaping, visual screening, and buffer screening of the site unnecessary.
  - b. Given the location of the site, the fencing is intended to provide security for the equipment located at the site, not to screen the site, making the barbed wire and chain link fencing the most practicable way to achieve the security goal of the fence.
  - c. The access from Oakwood Avenue is from an existing agricultural access point.
  - d. The access point is still going to be used for agricultural purposes; however, the access culvert on Oakwood Avenue should meet the Town Access and Culvert Policies (minimum of 18 inches in diameter with end walls).
11. The Administration recommends approval of the Conditional Use Application for an AT &T Mobility cell tower to be located on leased land at 9198 Oakwood Avenue, Neenah, WI 54956, Tax ID # 006-0311.

- Commissioner Haskell asked about the leased portion of the property being in the airport overlay zoning district.
- Mr. Johnston responded that because the whole of the parcel does fall within the airport overlay district, he included the information so that the contractor knows to follow all rules and regulations for towers built within the surrounding areas of the overlay district.

**MOTION:** (Geise, VanAirsdale) MOTION to approve the Conditional Use Application for an AT &T Mobility cell tower site to be located on leased land at 9198 Oakwood Avenue, Neenah, WI 54956, Tax ID # 006-0311 with all staff recommendations and conditions.

MOTION CARRIED by unanimous voice vote.

B. Discussion/Recommendation: Plan Commission review and recommendation of the Report prepared for the Plan Commission by Town staff on a request by Dennis Lehrer and Travis J. Lehrer to improve Lehrer Lane (a private road) to Town standards and then deed Lehrer Lane and the Public Improvements to the Town.

- 1. Site Location: Lehrer Lane extending approximately 1,300 feet north from Larsen Road approximately 3,500 feet west of its intersection with STH “76”.
- 2. Applicant: Dennis Lehrer and Travis Lehrer  
8187 Lehrer Lane  
Neenah, WI 54956
- 3. Property Owner: Undistinguished Ownership of a 66 foot ingress and egress easement between the following properties:  
Tax ID # 006-0608-0101  
Tax ID # 006-0608-0102  
Tax ID # 006-0608-0801
- 4. Prepared for: Town of Clayton Plan Commission at the request of

Dennis Lehrer and Travis Lehrer  
 8187 Lehrer Lane  
 Neenah, WI 54956

5. Property Status:

Statements on the status of the property are specific to the subject properties.

- a. Tax ID # 006-0608-0101; Tax ID # 006-0608-0102; Tax ID # 006-0608-0801
- b. The subject properties consist of 3 lots of approximately 5 acres each.
- c. The subject properties are in the Neenah School District.
- d. The subject properties are in the Department of Natural Resources Special Well Casing Area.
- e. The subject properties are Officially Mapped with an 80 foot Right-Of-Way (ROW).
- f. The subject properties are currently Zoned A-2 GENERAL FARMING DISTRICT.
- g. The subject properties are shown as Residential One and Two Family on the Town’s Comprehensive Plan, Future Land Use Map.
- h. The subject properties are in the City of Neenah’s Extra Territorial Zoning Area.
- i. The subject properties are out of the County’s Floodplain Zoning Area.
- j. The subject properties are not in the County’s Wetland Identifier.
- k. The land division options available to the subject property owners’ area consistent with the Town’s adopted Land Use Plan.

6. Estimated Costs and Requirements for Public Infrastructure Improvements:

- 1. The Administration’s estimated costs for the Public Improvement required to convert Lehrer Lane from a private road to a Public Road under the control of the Town of Clayton are as follows:
  - i. Approximate length of Public Improvements 1,300 linear feet
  - ii. Estimated costs of construction for the Public Improvements: \$115.00 per linear foot
  - iii. Estimated Public Improvements Construction costs: \$149,500.00
  - iv. Design Engineering at 10% of the estimated construction costs: \$ 14,950.00
  - v. Construction Engineering Costs at 10% of the estimated construction costs: \$ 14,950.00
  - vi. Total estimated Public Improvements construction costs: \$179,400.00
  - vii. Estimated Public Improvements costs per linear foot of frontage owned: 69.00per linear foot

7. Site Details:

Absent a Board approved Special Assessment Policy/Ordinance for the assessment of Policy Infrastructure Improvements, the Administration’s recommendation for assessing the costs per linear foot of frontage owned by the individual would be:

- a. Schmidt: Tax ID # 006-0608

- i. Deferred until the property owner makes use of the Public Improvement (“use” to be defined with the Special Assessment Documents).
  - b. Cocherl: Tax ID # 006-0608-01
    - i. Deferred until the property owner makes use of the Public Improvement (“use” to be defined with the Special Assessment Documents).
  - c. Keberlein: Tax ID # 006-0604
    - i. There would be no Special Assessments on this property.
  - d. Lehrer Travis: Tax ID # 006-0608-0102
    - i. Escrow payment held by the Town as a requirement of a Public Infrastructure Improvement Agreement.
  - e. Lehrer Dennis: Tax ID # 006-0608-0101
    - i. Escrow payment held by the Town as a requirement of a Public Infrastructure Improvement Agreement
8. The estimates used are based on the Administration’s experience and consulting with the Town Engineers. Prior to the start of any expenditure the Applicant would have to sign a Public Improvements Agreement with the Town that outlined the estimated costs and the Applicant’s liabilities and responsibilities under the Agreement (see attached model agreement). The Town Board would need to approve any financial agreements or conditions outlined in the Public Improvements Agreement.
9. The Town Board recently approved the Town’s revised Minimum Road Design Standards Policy. Any Public Improvements to Lehrer Lane would have to meet the Town’s new Policy standards and be constructed within the 66 foot ingress and egress easement dedicated on CSM No. 3252 (see attached copy). As part of the Public Improvement project the ingress and egress easement would become a public ROW.
10. Development Options Available to the Petitioner Under the County’s Zoning Code:
  - a. Under Wisconsin Statutes, Chapter 236 (see attached copy) the Applicants can either Plat their property or have a Certified Survey Map prepared that divides their property (Lot 2 and 3 of CSM No. 3252, see attached copy).
  - b. Under the present County Zoning Code of Ordinances, it is the Administration’s contention that the Applicants can subdivide their property in the following manner:

The Applicants property would have to be rezoned to one of the following County Zoning Districts:

    - i. R-1 Rural Residential District (see attached Code Section)
    - ii. R-5 Planned Residential District (see attached Code Section).
11. Lot and Access
  - a. Under the R-1 (Rural Residential District) the Applicants can create lots with a minimum of 34,000 square feet of area, and a minimum of 200 feet of Public Access frontage. Based on the attached survey it appears that the Applicant’s could legally create a total of 6 lots from their existing property (see attached copy of the County Zoning Code Section).
  - b. Using the Town’s existing Access Ordinance any subdivision of the Applicants’ property would be in the R1 (Rural Residential District) and therefore considered a neighborhood (subdivision) road not subject to the 600 foot minimum driveway separation. Under the R-5 (Planned

- Residential District) any subdivision of the Applicants' property would be on a private road and therefore exempt from the Town's Access Ordinance.
- c. Under the R-5 (Planned Residential District) the Applicants can create lots with essentially the same minimum of 34,000 square feet of area, and a minimum of 200 feet of frontage. However, these lots could use a private road. Based on the attached survey it appears that the Applicant's could legally create a total of 6 lots from their existing property (see attached copy of the County Zoning Code Section).
  - d. The Administration's main issue with the R-5 option is the use of a private road. The Town's Comprehensive Plan and Official Map show Lehrer Lane becoming a Public Road with the intent of connecting to Westfield Ridge. The R-5 option would for all intensive purposes eliminate the option of any Public Infrastructure connectivity for development north of Lehrer Lane (see attached copy of the Town's Official Map).
12. Compatibility with the Town's Comprehensive Plan:
- a. The options available to the Applicant under both the R-1 and R-5 Zoning Districts are compatible with the Town's Comprehensive Plan and Future Land Use Map. Additionally both options have been used by the Town for development on land divided by a Certified Survey Map in the past few years.
    - Chairperson Knapinski asked what the differences of R1 and R5 and how each code would work if the road were improved.
    - Mr. Johnston described the differences between the two county zoning codes relevant to a private vs. a public road.
    - The Commissioners discussed the potential benefits to the Town, the cost to the Town of constructing the road, the requirements of the State Statutes regarding the Special Assessments to the property owners, the zoning options, and the future road plans that would include Lehrer Lane.

**Dave Keberlein**  
**3237 Fondotto Drive**  
**Neenah, WI**

- Mr. Keberlein asked if there is an easement coming from Ridgeway to his back 10 acres of property.
- Mr. Johnston assured Mr. Keberlein there is a small reservation for a right-of-way or road easement that goes due west to Oakwood Avenue.
  - The Commissioners continued the discussion regarding the existing road easements and the deferment of assessments to property owners.

**Mark Cocherl**  
**8143 Lehrer Lane**  
**Neenah, WI 54956**

- Mr. Cocherl asked about the zoning of the property in the case of the private road.
- Chairperson Knapinski explained that the owners can only petition to rezone their own property.
- Mr. Cocherl presented a drawing and pictures showing his concerns with building the road and his loss of land and trees and fence that currently are placed within the easement. Mr. Cocherl also

expressed his concern with potential drainage issues and the potential development of a subdivision.

**Dave Keberlein**  
**3237 Fondotto Drive**  
**Neenah, WI 54956**

- Mr. Keberlein expressed his concern about the drainage of water into his field and into backyards of homes on Fondotto Drive due to the drainage ditches being plugged. He is concerned with the increase of potential drainage issues arising from the installation of the road.
  - Chairperson Knapinski asked for next step of action. Mr. Johnston responded that more information on the issues discussed is needed.
  - Commissioner VanAirdale suggested that the complication of the issue of Lehrer Lane warrants an onsite visit of all the Commissioners together to look at Lehrer Lane and Fondotto Drive and see what options are available.

**Travis Lehrer**  
**8156 Lehrer Lane**  
**Neenah, WI 54956**

- Mr. Lehrer expressed his position with regards to the potential future of Lehrer Lane and his views on the benefits to the Town if the project were to be approved.

**MOTION:** (Hamblin, VanAirdale) MOTION to delay a recommendation on this item until the next meeting so Municipal Staff can obtain additional information on storm water provisions, tree and lot line considerations, the legal options regarding the easement on lot 1, other options for Mr. Keberlein’s property for the ingress and egress easement, additional ways on how to assess the property ( it was suggested a combination of front-footage and some other method), options available to proceed with the project without the Town fronting the expenditure, a 10-year projected maintenance cost including snowplowing and information based off pacer ratings, to define the term “use” based on the special assessment documents, access issues and a scheduled site visit by the Commissioners.

**Amendments to the motion:**

Commission Adler asked to include any precedents (what were the considerations – why did the Town approve the project, etc.) that were set in the past when the Town was asked to take a private road to a public road.

Commissioner Hamblin asked to include information regarding the easement’s effect on the 5 acre parcels and the usability of the land in compliance with zoning codes.

MOTION CARRIED by unanimous voice vote.

- C. Discussion/Recommendation: Plan Commission review and direction to staff relative to using area Stormwater Utility Ordinances as a basis for creating a draft Stormwater Utility Ordinance for the Town of Clayton.

1. The Town Board has referred the study and recommendation of the creation of a Storm Water Management Utility project to the Town's Plan Commission. The Administration has attached a copy of the State Statutes relating to Storm Water Utility Districts and two examples of Storm Water Utility District Ordinances from area Towns for the Commission's review. Staff is looking for direction from the Commission on the possible creation of a Storm Water Utility District for the Town. The Town's Engineer will be in attendance at the Commission's meeting to review the concept of a Storm Water Management Utility with the Commission. Funding raised from a Storm Water Management Utility District would be used to maintain the Town's existing storm water management devices and construct long term improvements to the Town's Storm Water Management facilities. The goal of creating a Storm Water Utility Ordinance now would be to spread the costs of compliance with Federal and State storm water clarity and management over a longer period of time. Additionally, the Town would be able to make long term storm water management plans that could be implemented based on efficiency of design rather than on what areas are available at the time of construction. The Town would be able to design regional systems based on efficiency of operation that would minimize the long term maintenance burden to the Town. These systems would be constructed in a phased manner as development occurs.

- Mr. Johnston explained the advantages of creating a Storm Water Management Utility and the benefits of yearly budget funding for the projects that need attention.
- Commissioner VanAirdale gave a brief history of the Larsen Drainage District.
- The Commissioners and Mr. Johnston discussed the Town's drainage issues, the cost of having a Storm Water Management Utility and the advantages of being proactive.

**MOTION:** (Knapinski, Adler) MOTION to direct staff to explore a suitable Storm Water Management Utility District and Ordinance and report the draft back to the Plan Commission.

MOTION CARRIED by unanimous voice vote.

D. Discussion/Action: Plan Commission review of proposed changes to the Town's Sub-division Ordinances and Policies (Conservation by Design Subdivision Plat Options).

1. The Plan Commission indicated that it would like to consider the option of having alternatives to conventional plats in the Town's Subdivision Ordinance. Attached are three versions of Conservation by Design Plats. The options include the CY 2000 UW Extension Model Ordinance, the Conservation by Design Ordinance used by the Village of Suamico, and the Conservation by Design Ordinance from the Town of Greenville. The Administration chose these three documents based on the following criteria:
  - A. The CY 2000 UW Extension Model Ordinance was created by the Extension as a guideline for Communities to follow when implementing Conservation by Design Ordinance.
  - B. The original version of Conservation by Design Ordinance used by the Village of Suamico was created during my tenure at the Village following a

contentious implementation process that took over a year from presentation to implementation. Additionally, the changes to the Ordinance over the past decade have significantly improved the document.

- C. The Conservation by Design Ordinance from the Town of Greenville is one that is familiar to area developers and should not generate significant controversy among those developers.
  2. The Administration would like the Commission's direction relative to including a Subdivision by Design option in the Town's Sub-division Ordinance. At the Commission's direction staff will work to generate a draft Ordinance for the Commission to approve prior to inserting it into the Town's existing Ordinance.
- Mr. Johnston presented to the Commission a brief overview of the handout material and gave examples as to the benefits of creating and using the Conservation by Design Ordinance.
  - The Commissioners discussed the benefits of including the Conservation by Design in the ordinance for subdivision development.

**MOTION:** (Adler, Brucks) MOTION to direct the Town Staff to work to generate a draft ordinance for subdivision development that would include conservation by design options.

MOTION CARRIED by unanimous voice vote.

E. Discussion/Action: Plan Commission review of the final recommendation from the Airport Zoning Overlay ADHOC Committee to the Outagamie County Committees of jurisdiction and the Outagamie County Board, to include the proposed changes to the Outagamie County's Airport Zoning Overlay Ordinance, the Airport Zoning Overlay Ordinance Code enforcement decision Matrix, and the Airport Zoning Overlay Ordinance Map.

1. Staff would like to review the final versions of the proposed revisions to the Airport Overlay District and the related documents with the Plan Commission.
  2. The County will have to schedule a Public Hearing as part of its process. A Public Hearing requires notification by mail of the place, time and date of the Public Hearing to residents within the Airport Overlay District.
  3. The Administration would like to know if the Town's Plan Commission would like to hold any additional informational meetings as part of its process.
  4. If the Plan Commission is comfortable with the Statutory process that Outagamie County must follow the Administration is recommending that the Town Chair and the Plan Commission Chair attend the Public Hearing to represent the Town.
- Mr. Johnston commented on the information that was presented to the Commission regarding the intention of Outagamie County with regards to the Airport Overlay District.
  - Commissioner Adler suggested that the information be posted on the Town's website and then have the Staff send postcards informing residence in the Airport Overlay District where to find the information.

**MOTION: NO MOTION**

VI. Upcoming Meeting Attendance

A. Site visit to Lehrer Lane in August

VII. Adjournment – 9:08 P.M.

**MOTION:** (Brucks, Adler) MOTION to Adjourn.

MOTION CARRIED by unanimous voice vote.

Respectfully submitted,  
Tori Bowen, Town Treasurer