

**Village of Wind Point Minutes – November 10, 2011 Closed Session**

Closed Session. Motion by Bill Bensman to move into closed session per WI Statute 19.85(1)(e) to deliberate the Communications Tower contract that for bargaining reasons requires a closed session with AT&T's tower site representative Derek McGrew and Tricia Conway, Director of External Affairs for AT&T, in attendance at the beginning of that session; and per WI Statute 19.85 (g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, and to return to open session for action. Second by Pete Christensen. Those voting aye included Ann Brodek, Pete Christensen, Jay Hammes, Casey Jones, Marty Meissner, and Bill Bensman. Jerry Wishau was absent.

President Bill Bensman introduced and highlighted contract term and rental payment section. Grant pointed out the removal section of the agreement.

Trustee Jay Hammes asked about the assignment/sublease clause and his question was answered. He asked about safety of tower design. Derek responded that it is designed to meet engineering requirements and are designed to collapse upon itself. Additionally, AT&T will have insurance coverage.

Trustee Ann Brodek expressed the concern that the termination clauses do not allow the Village to terminate unless there is a breach of contract and does not identify a cure. Bruner pointed out that this is significant financial investment that it is not appropriate for the village to terminate unless there is a breach. She asked about the contract section regarding modifications and whether AT&T could make use modifications that would affect the appearance. Derek McGrew responded that it would not. Brodek asked if it complies with all FCC regulations. McGrew answered yes. Brodek asked if there ever is a single provider on a tower. McGrew answered yes.

Trustee Casey Jones remarked that the color of the tree seems unnatural to him and asked if changes would need village approval. McGrew responded that it might if the carrier changed from 3G to 4G service.

Hammes asked about the construction timeframe. McGrew answered that environmental testing after project approval would be a minimum of 90 days so that construction could start no sooner than April 1, 2012; construction would take three weeks to a month.

When asked, McGrew answered that the tower was 80 feet and the tree extends the structure an additional seven feet; it is the shortest possible tower.

Trustee Marty Meissner asked if emissions were 1.9% per receptor, was the total of 5.7% allowable? McGrew responded that 1.9% is a good estimate, but the frequency allowances cannot be added together as they are spread around the antenna and project in different directions.

When asked about whether the antenna could be placed in the Lighthouse tower, McGrew responded that the Wisconsin Historical Preservation organization would not allow it at either the Lighthouse or at Wingspread.

Jones asked McGrew about setback requirements for additional tenants that might be required. McGrew responded that it depended on whether they use a cabinet rather than a building, but that the next tenants would need to get Village approval and would negotiate a separate land lease agreement.

McGrew and Conway thanked the Board and left the room at 6:20 pm

Bensman asked whether we should approve the conditional use permit and the lease contract. Discussion followed regarding whether it was a good deal for the village, the agreement provided adequate protection, subsequent carriers were likely, and if non-AT&T customers would benefit.

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Members talked about feedback from supporters and detractors in the community and whether the safety, quality of life, convenience, and other benefits were worth it.

The Board asked the attorney about the veiled threats of litigation by tower opponents.

*[ADVICE STILL CLOSED INFORMATION.]*

Brodek stated that her knowledge of Johnson Foundation discussions lead her to assume that they might do a tower themselves; this was discussed without resolution.

Motion to move into open session at ~ 7:10 pm for action by Hammes; second by Trustee Pete Christensen. Motion passed by individual voice vote with all voting aye.