



# POLK COUNTY, WISCONSIN

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## AGENDA AND NOTICE OF MEETING

### CONSERVATION, DEVELOPMENT, RECREATION & EDUCATION COMMITTEE

Government Center  
 County Board Room  
 Balsam Lake, WI 54810

9:00 a.m. Wednesday July 16, 2014

**Purpose:** *Review and action on selected items as listed below*

**Documents:** *Minutes of July 2<sup>nd</sup>, 2014 CRDE meeting*

ITEM	LEAD PERSON
Call to order	Committee Chair
Approval of agenda Approval of minutes for July 2 <sup>nd</sup> , 2014	
Public comment	
New business	
PUBLIC HEARING (9:30 AM) 1. SBA / VERIZON WIRELESS: wireless telecommunication facility. Location: Part of NE ¼ of the SE ¼, Sec 26/T34N/R18W, town of St Croix Falls (Dale/Judy & Richard/Jolene Wester property).	Land Information Director
2. Committee action on above	Committee members
3. Tax deed properties for possible sale	Deb Peterson, Parks and Buildings Director
4. Veterans Peace Day Ride on Gandy Information	
5. Other future agenda items	Committee members
Adjourn	

This meeting is open to the public according to Wisconsin State Statute 19.83. Persons with disabilities wishing to attend and/or participate are asked to notify the County Clerk's Office (715-485-9226) at least 24 hours in advance of the scheduled meeting time so all reasonable accommodations can be made. The committee may consider matters noticed herein in any order regardless of the placement of such items on this notice.



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## \*AMENDED

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2. Committee action on above	Committee members
3. Tax deed properties for possible sale 4. Veterans Peace Day Ride on Gandy Information	Deb Peterson, Parks and Buildings Director
*5. (a) Action on Committee Resolution Acknowledging Receipt of Proposed Comprehensive Revision ( Polk County Zoning Ordinance, Final Draft 2- 12-2014) and Calling for Public Hearing, Pursuant to Wisconsin Statute Section 59.69(5)(a) and (d).  (b) Discussion and Development of Procedures for Public Hearing on Proposed Comprehensive Revision (Polk County Zoning Ordinance, Final Draft 2-12-2014).	County Planner  Corporate Counsel
6. Other future agenda items	Committee Members

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## PUBLIC NOTICE

The Polk County Conservation, Development, Recreation & Education Committee will hold public hearing on Wednesday, July 16, 2014, at 9:30am in the Government Center (County Board room), Balsam Lake, Wisconsin, to consider the following and other agenda items:

SBA / VERIZON WIRELESS: wireless telecommunication facility. Location: Part of NE ¼ of the SE ¼, Sec 26/T34N/R18W, town of St Croix Falls (Dale/Judy & Richard/Jolene Wester property).



## MINUTES

### Conservation, Development, Recreation and Education Committee

Government Center County Board Room

Balsam Lake, WI 54810

9:00 a.m. Wednesday, July 16, 2014

**Meeting called to order by Chairman O'Connell @ 9:05 AM.**

#### Members present

Attendee Name	Title	Status
Kim O'Connell	Chair	Present
Warren Nelson	Supervisor	Present
Dean Johansen	Supervisor	Present
Jim Edgell	Supervisor	Present
Craig Moriak	Supervisor	Present
Dale Wood	FSA Rep	Present

**Also Present: Tammy Peterson, Executive Secretary, Dana Frey, County Administrator and Jeff Fuge, Corporation Counsel, Deb Peterson, Sally Spanel, Sara McCurdy and Tim Anderson**

**Approval of Agenda-** Chairman called for a motion to approve amended agenda. Motion (Johnson/Wood). Motion carried without negative vote.

**Approval of Minutes-** Chairman called for a motion to approve the minutes of the July 2, 2014 CDRE Committee meeting. Motion (Edgell/Wood) to approve minutes. Motion carried without negative vote.

**Public Comment** – Four people spoke on Veterans Peace Day Ride on September 20<sup>th</sup>.

#### New Business:

Deb Peterson, Director of Parks and Buildings and Sally Spanel from Treasurers office discussed Tax deed properties for possible sale. Ms. Peterson handed 2 handouts of Final Sale Information and Property for Sale.

Ms. Peterson gave information on the upcoming Veterans Peace Day Ride on Gandy held on September 20<sup>th</sup>. Event has received special use permit from DNR for Gandy Dancer Trail and insurance.

#### Public Hearing

Chairman O'Connell opened the Public Hearing at 9:34 a.m. as properly noticed and interested parties were present.

SBA / VERIZON WIRELESS: wireless telecommunication facility. Location: Part of NE ¼ of the SE ¼, Sec 26/T34N/R18W, town of St Croix Falls (Dale/Judy & Richard/Jolene Wester property).

Committee in recess, 10:52 a.m.

Committee in session, 11:03 a.m.

Interested parties continued discussions

Chairman O'Connell closed the public hearing at 12:17 and recessed.

Committee in session, 12:30 p.m.

The Committee submitted Facts and Findings and Conclusions of Law.

Supervisor Jim Edgell dismissed at 1:38 p.m. for work.

Findings and Conclusions closed at 2:00 p.m.

Tim Anderson, County Planner updated the committee on Comprehensive Zoning Ordinance meetings. All Informational meetings will be held at 7:00 p.m. Dates and Locations will be as follows; August 4<sup>th</sup> Luck School Gymnasium, August 11<sup>th</sup>, Polk County Government Center in the County Board room and August 18<sup>th</sup>, Dresser Community Hall. Motion by Johansen/ Wood to approve the Committee Resolution Acknowledging Receipt of Proposed Comprehensive Revision (Polk County Zoning Ordinance, Final Draft 2- 12-2014) and Calling for Public Hearing, Pursuant to Wisconsin Statute Section 59.69(5) (a) and (d).

Motion carried without negative vote.

Motion by Nelson/Moriak to adopt the decision document that denied the conditional use application. Wood and Johansen against. All other voices carried.

Supervisor Warren Nelson dismissed at 3:05 p.m.

**Adjourn** - Motion (Johansen/ Wood) to adjourn. Meeting adjourned 3:10 p.m.

Polk County  
Conservation, Development, Recreation and Education Committee

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In re the Application of: SBA Towers, V. LLC; Verizon Wireless (Dale & Judy Wester)	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER AND DETERMINATION ON APPLICATION FOR CONDITIONAL USE PERMIT
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After conducting a public hearing on the application for condition use permit for a mobile service facility under Polk County Ordinance No. 29-13, "Telecommunication Towers, Antenna's & Related Facilities", and upon a review of the application, materials filed in support of said application and upon consideration of the verbal and written testimony received during said public hearing, the Polk County Conservation, Development, Recreation and Education Committee renders, pursuant to Wisconsin Statute Sections 59.69 and 66.0404 and said Ordinance, Findings of Fact, Conclusions of Law and Order and Determination on said application, as follows:

**FINDINGS OF FACT**

Based upon the record, the Committee finds, as follows:

1. The Committee held a public hearing on said application on the 18<sup>th</sup> day of June, 2014. The Committee re-opened the public hearing for additional testimony and conducted the re-opened public hearing on the 16<sup>th</sup> day of July, 2014.
2. A. Due and proper notice of the public hearing was provided for the public hearing conducted on the 18<sup>th</sup> day of June, 2014. Due and proper notice of the re-opened public hearing was provided for the public hearing conducted on the 16<sup>th</sup> day of July, 2014.
3. The applicant is SBA Communications Corporation/SBA Network – SBA Towers V. LLC/Verizon Wireless- Leasing Agent Shane Begley.
4. The applicant is the lessee of the property owned by Dale and Judy Wester, located at 1902 Peer Avenue, St. Croix Falls, Wisconsin, having a legal description of the NE ¼ of SE ¼, Section 26, Township 34 North, Range 18 West, Town of St. Croix Falls, County of Polk, State of Wisconsin and identified as Parcel Identification Number of 044-00715-0000. The subject property consists of 33.32 acres.
5. The subject property is subject to the land use regulation of the Town of St. Croix Falls and relevant town land use ordinance.
6. The applicant proposes to construct and to operate a wireless telecommunications facility consisting of a tower, shed, generator and fenced compound. The applicant proposes a

mobile service support structure of approximately 248 feet above ground level with a lattice construction design.

7. The applicant requests a conditional use permit under Article IX of the Ordinance.
8. The features of the proposed construction and property that relate to the grant or denial of the application for conditional use permit are, as follows: (Give reference to the language/standards of the ordinance and explain how the language of the ordinance applies to physical features of the property.):

*The record of public hearing including but not limited to all testimony and exhibits received.*

X Other Pages of Findings of Fact are attached and incorporated herein and described as follows: (If additional pages contain the facts of the Committee, mark the box, attach such pages and describe the pages that are attached and incorporated.):

*The Exhibit list as written out and listed 1-16.*

#### **CONCLUSIONS OF LAW**

Based on the above findings of fact the Committee makes conclusions of law, as follows:

9. The application is complete and appropriate for decision on application.
10. The application proposes a construction and design that does/ does not comply with the General Requirements of the Ordinance, Article IV, as follows:
  - A. The proposed mobile service facility does comply with all FCC and FAA rules and regulations.
  - B. The proposed mobile service facility does comply with the manufacturer's specifications. The Plans submitted with the application are approved and certified by a registered professional engineer.
  - C. The proposed installation of the mobile service facility does comply with all applicable state and local building and electrical codes.
  - D. The property subject to the application is subject to a written lease for the purpose of construction and operation of a mobile service facility.
  - E. The applicant has provided insurance certificates demonstrating adequate coverage against personal injury, wrongful death, and property damage claims.
  - F. The application for conditional use permit does contain as accompanying supporting documents required by federal, state or local agency license or application for such license to construct and operate a mobile service facility.

- G. The proposed design construction of the project as applied for is a Lattice Tower.
- H. The proposed height of the mobile service facility exceeds the height regulation required of the Ordinance, Article IV, Para. J. The issuance of the conditional use permit as requested under the application would be contrary to said ordinance provision. Said ordinance provision is a permissible regulation consistent with the limitation of Wisconsin Statute Section 66.0404(4)(u).
- I. The use of the property for the construction and operation of a mobile service facility is consistent with applicable land use. The Town of St. Croix Falls has approved a special exception permit authorizing such usage consistent with applicable town land use ordinance.
- J. The application meets those requirements of the Ordinance, Article VI Prohibitions; and Article VIII, Performance Standards as determined by and through the Land Information Department – Division of Zoning and materials filed in support of the application.
11. Conditional Use – The application for a conditional use permit does/does not satisfy the criteria for a Conditional Use Permit under Articles I and IX of the ordinance because: (Give reference to the language/standards of the ordinance and explain how the language of the ordinance applies to physical features of the property):
- a. If granted, the conditional use permit would/~~would not~~ accommodate communication, radio, and television needs while protecting the public health, safety and general welfare. Describe Facts and Reasons that support the above Conclusion on statement of purpose and intent:
- Motion (Johansen/Wood) to insert “would” into the above statement based on below statements – Motion carried with a unanimous voice vote.**
- o Application meets existing telecommunication needs along with future needs, as documented by the RF engineer.
  - o No testimony proving public health and welfare would diminish.
- b. If granted, the conditional use permit application would/~~would not~~ minimize adverse visual impacts of wireless communication service and other transmission facilities through careful site and design standards. Describe Facts and Reasons that support the above Conclusion on statement of purpose and intent:
- Motion (Johansen/Nelson) to insert “would not” to the above statement based on below statements – Motion Carried (5 yes, 1 no) with Wood against.**
- o Lattice Design visual impact is greater than monopole design.

- Application does not meet standards provided in Ordinance 29-13.
- A 248 foot tower with all equipment will have an adverse visual impact.

- c. If granted, the conditional use permit        **would**/       ~~would not~~ avoid potential damage to adjacent properties from the construction, location and operation of wireless communication service and other transmission facilities through structural standards and setback requirements. Describe Facts and Reasons that support the above Conclusion on statement of purpose and intent:

**Motion (Nelson/Johansen) to insert "would" into the above statement based on below statement – Motion Carried by unanimous voice vote.**

- Proposed tower meets the 125% fall zone area.

- d. If granted, the conditional use permit        **would**/       ~~would not~~ maximize the use of existing and approved towers, buildings or structures to accommodate new wireless communication service and other transmission antennas to minimize the number of towers needed to serve the county and minimize adverse visual impacts. Describe Facts and Reasons that support the above Conclusion on statement of purpose and intent:

**Motion (Johansen/Wood) to insert "would" into the above statement based on the below statements – Motion Carried by unanimous voice vote.**

- Application would reduce the need for additional towers to be built.
- The RF Engineer report concluded that the site search did not contain another suitable tower to meet the needs of the carrier.

- e. If granted, the conditional use permit        ~~would~~/       **would not** minimize hazards to birds. Describe Facts and Reasons that support the above Conclusion on statement of purpose and intent:

**Motion (Nelson/Edgell) to insert "would not" into the above statement based on the below statements – Motion Carried (4 yes, 2 no) with Wood and Moriak against.**

- Reference to Exhibit 14 – the memo from the DNR.
- Lattice Tower Design is more hazardous to birds than other designs.

- f. The proposed lattice construction design is        ~~consistent~~/       **not consistent** with the statement of purpose and intent of the ordinance. Describe how the proposed guy/lattice construction design would be consistent/ not consistent to the purpose and intent of the ordinance:

**Motion (Moriak/Nelson) to insert "not consistent" in the above statement based on the following statement – Motion carried by unanimous voice vote.**

- Ordinance Language found in 29.13 Article IV (i).
- Consistent with Supreme Court and Court of Appeals cited in exhibit 16

- g. If granted, the conditional use permit ~~would~~ **would not** be consistent with the purpose and intent of the ordinance. Describe how the proposed guy/lattice construction design would be consistent/ not consistent to the purpose and intent of the ordinance:

**Motion (Johansen/Wood) to insert "would" in the above statement – Motion Failed (2 yes, 3 no) with Nelson, Moriak, and O'Connell against.**

**Motion (Nelson/Moriak) to insert "would not" into the above statement based on the fact that the application is not consistent with Article I (b) & (e) of 29.13 – Motion Carried (4 yes, 1 no) with Johansen against.**

12. Other Pages of Conclusions of Law are attached and incorporated herein and described as follows: (If additional pages contain the conclusions of law of the Committee, mark the box, attach such pages and describe the pages that are attached and incorporated.)

**Motion (Johansen/Nelson) that there is nothing further to add – Motion Carried by unanimous voice vote.**

**Motion (Nelson/Moriak) to revise paragraph 12 to read that issuance of the Conditional Use Permit would be contrary to Ordinance 29.13 with reference to the restriction in Article IV (para j) & (para i.), and contrary to state law as referenced in exhibit 16. Discussion. Motion Carried (3 yes, 2 no) with Johansen and Wood against.**

#### **ORDER AND DETERMINATION**

On the basis of the above findings of fact, conclusions of law and the record in this matter the board orders, the Committee determines and orders as follows:

13. The Application for Conditional Use Permit is ~~approved~~ **denied**.  
**Motion (Nelson/Moriak) to deny the application – Motion Carried (3 yes, 2 no) with Johansen and Wood against.**
14. The Polk County Zoning Administrator is directed to issue a Land Use Permit pursuant to Article IX of the ordinance incorporating this Decision.

- 15. Expiration of permit. Any privilege granted by this decision must be exercised within \_\_\_\_\_ months of the date of this decision after obtaining the necessary building, zoning and other permits for the proposed construction. This period will be extended if this decision is stayed by the order of any court or operation of law.
- 16. This Decision may be revoked by the Committee after notice and opportunity to be heard for violation of any provision of the Ordinance applicable to the lawful issuance of either the Conditional Use Permit or the Land Use Permit.
- 17. \_\_\_\_\_ The Committee determines and orders, as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Appeals.** This decision may be appealed by a person aggrieved by this decision or by any officer, department, board or bureau of the municipality by filing an application for Board of Adjustment review pursuant to Wisconsin Statute Section 59.694(7) within 30 days after the date of filing of this decision. The County assumes no liability for and makes no warranty as to reliance on this decision if construction is commenced prior to expiration of this 30-day period.

Dated this 16<sup>th</sup> day of July, 2014.

Polk County Conservation, Development, Recreation and Education Committee

BY: *[Signature]*, Chairperson

Attest \_\_\_\_\_

\_\_\_\_\_, Secretary  
*Camey Y. Wondra*, County Clerk

Filed in the Office of the Polk County Land Information Department – Division of Zoning this 16<sup>th</sup> day of July, 2014.

*[Signature]*  
 Sara M. McCurdy, Land Information Director  
 \_\_\_\_\_, Polk County Zoning Administrator. b b