

## NOTICE OF SPECIAL MEETING

**\*Date of Issuance: July 14, 2015**

**Polk County Conservation, Development, Recreation and Education Committee**

**100 Polk County Plaza, Government Center County Board Room**

**Balsam Lake, Wisconsin 54810**

**4:30 p.m. Tuesday, July 21, 2015**

(A quorum of the Polk County Board of Supervisors may be present. The Committee may consider and act upon subject matters noticed herein at any time during the meeting regardless of the position of such subject matters on the meeting notice.)

### ORDER OF BUSINESS

(Open Session)

1. Call to Order
2. Approval of the Agenda
3. Public Comment
4. Consideration and Action of matters related to Application for Conditional Use Permit for Telecommunications Tower by SBA Towers(Verizon) on Dale and Judy Wester Property, 1902 Peers Avenue, Town of St. Croix Falls, Wisconsin:
  - a. Review and Response to Court Decision July 6, 2015 in pending litigation, SBA Towers V, LLC v. County, Polk County Case No. 2014 CV 419, concerning July 16, 2014 Committee Determination; Receipt and Action on Offer to Settle Pending Litigation; and Receipt of Corporation Counsel Opinion on said Court Decision and Offer to Settle Pending Litigation:
    - Closed Session: Pursuant to Section 19.85(1)(e) and (g), the Committee may convene in closed session for the purpose of receiving a legal opinion from Corporation Counsel that is likely to be adopted concerning said pending litigation and to deliberate upon offers towards settlement where, due to for reasons of bargaining and the attorney-client privilege, consideration of offers to settle pending litigation is warranted in closed session.
    - Following such closes session, the Committee will convene in open session to make an announcement on matters deliberated upon and determined in closed session and to take up those matters noticed herein for consideration or action in open or closed session.
  - b. Action on Offer to Settle Pending Litigation.
  - c. Reconsideration of July 16, 2014 Committee Determination.
  - d. Issuance of Determination on Application.
5. Recommendation to Repeal or Amend Telecommunications Towers Ordinance.
6. Adjournment

This meeting is open to the public according to Wisconsin State Statue 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. Requests are confidential.

**MINUTES OF SPECIAL MEETING**  
**Conservation, Development, Recreation and Education Committee**  
Government Center County Board Room  
Balsam Lake, WI 54810  
4:30p.m. Tuesday, July 21, 2015

**Call to Order**

Meeting called to order by Chairman O'Connell at 4:30 p.m.

Members present: Supervisors O'Connell, Moriak, Nelson, Johansen, Edgell and Dale Wood.  
Also in attendance: Corporation Counsel, Jeff Fuge and Clerk Wondra.

**Agenda**

Chairman O'Connell called for a motion to approve the agenda. **Motion (Edgell/Nelson) to approve the agenda. Motion carried** by unanimous voice vote.

**Public Comment**

Chairman called for public comment, none offered.

**New Business**

Chairman O'Connell called on Corporation Counsel, Jeff Fuge to go over the matters related to the court decision in the case of SBA Towers V LLC v. Polk County Case No. 2014 CV 419 and the offer received from SBA to settle the pending litigation. The Committee received from Corporation Counsel a summary of the court decision and a reading of the settlement offer.

Chairman O'Connell called for a motion to go into Closed Session, pursuant to Section 19.85(1)(e) and (g), for the purpose of receiving a legal opinion from Corporation Counsel that is likely to be adopted concerning said pending litigation and to deliberate upon offers towards settlement where, due to for reasons of bargaining and the attorney-client privilege, consideration of offers to settle pending litigation is warranted in closed session. **Motion (Wood/Moriak) to go into closed session for the purposes noted on the meeting notice and on the basis as stated on the meeting notice referencing such statutory provisions. Motion carried** by unanimous voice vote. It was noted that Corporation Counsel Fuge and County Clerk would be included in the closed session.

\*Closed Session\*

\*Open Session\*

Upon reconvening in open session, Chairman O'Connell recognized Corporation Counsel for purposes of giving an announcement of actions made by the Committee in closed session. Corporation Counsel announced that while in closed session the Committee did, after receiving a legal opinion of the court decision and deliberating upon the settlement offer, take up and adopt a motion to accept the offer of SBA to settle the litigation and that said motion carried on a voter of 5 in favor and 1 opposed.

**Motion (Wood/Edgell) to reconsider the Committee Determination issued July 16, 2014. Motion carried** by unanimous voice vote.

**Motion (Johansen/Edgell) to adopt a Determination on Application for Conditional Use Permit, approving of the SBA tower application, as presented by Corporation Counsel that provides as follows:**

- 1. The Determination of the Committee dated July 16, 2014 is hereby vacated.**
- 2. SBA's Application for a Conditional Use Permit to construct a telecommunications Tower is approved. The Committee directs the Polk County Zoning Administrator to cause to be issued a Conditional Use Permit this day for the purpose of the construction of the construction of the telecommunications tower which is the subject of SBA's application.**
- 3. The Polk County Zoning Administrator is directed to grant and cause to be issued this day a Land Use Permit to SBA pursuant to Article IX of the ordinance incorporating this determination for construction of the telecommunications tower which is the subject of SBA's application.**
- 4. Issuance of the Condition Use Permit and Land Use Permit is conditioned upon the Following things: (a) SBA's agreement to immediately dismiss the lawsuit pursuant to a Stipulation and Order for Dismissal, with prejudice and without costs; (b) SBA's agreement that there shall be no further activity in the lawsuit other than entry of a Stipulation and Order for Dismissal, with prejudice and without costs; (c) SBA's agreement to waive its right to taxable costs in the lawsuit; and (d) SBA's acknowledgement that Polk County may retain the \$2,100 application fee paid by SBA to Polk County on June 12, 2104.**
- 5. Upon submission of said Stipulation and Order for Dismissal to the court for approval, SBA may initiate construction for the applied for and permitted tower irrespective of the physical issuance of either Conditional Use Permit or Land Use Permit.**

**Motion carried by a majority vote of 5 in favor and one in the negative.**

#### **Future Items**

Next scheduled meeting Wednesday, August 5, 2015 9:00 p.m. Items to include approval of minutes from July 1<sup>st</sup> and July 21st, work on Gandy Dancer Master Plan and Comprehensive Zoning Ordinance revision, repeal or amend Telecommunications Towers Ordinance and quarterly reports.

#### **Adjourn**

Motion (Nelson/Moriak) to adjourn. Carried. Meeting adjourned at 5:25 p.m.