

**Lincoln County Land Services Committee
Minutes of Thursday November 13, 2014 1:00 pm
Lincoln County Service Center, Room #255**

Members Present: Julie Allen, Loretta Baughan, Jeff Hetfeld, R. Wayne Plant, Curtis Powell & Greta Rusch.

Visitors: Diane Wessel; Land Services Administrator, Sarah Koss; Register of Deeds, June Winters; Zoning Program Assistant, Nancy Bergstrom; Corporation Counsel, Randy Scholz; Administrative Coordinator and 8 others. Supervisor Breitenmoser was excused.

1. Call Meeting order - Meeting was called to order by Chairman Powell at 1:05 p.m.

2. Tour site in the Towns of Wilson & King that will be subject of public hearing – at 1:05 p.m. the Committee Members & Wessel left to tour the sites. The Committee & Wessel returned at 2:22 p.m. to reconvene the meeting as they had opted not to visit the site in Town of Wilson because of road conditions.

3. Approval of the October 9, 2014 Land Services Committee Minutes – M/S Rusch/Allen to approve the minutes. Motion carried all ayes.

The Committee moved to item #5 on the agenda

4. Public Comment – (2:59 p.m.) There was no public comment.

The Committee moved to item #7 on the agenda.

REGISTER OF DEEDS

5. Q&A on ROD Monthly Munis Report – Sarah Koss reviewed her report and said that the budget is looking good at this point due to an increase in documents recorded at the end of September & beginning of October.

6. Q&A on ROD Monthly Written Report – Koss noted that there was a 6% increase in recordings in September which seemed to be the trend mostly statewide.

The Committee moved to item #8 on the agenda as it was too early to start the public hearing.

LAND SERVICES DEPARTMENT

7. 3:00 p.m. Public Hearing – Public Hearing was called to order at 3:00 p.m. Hearings were held on the items listed in the notice. Chairman Powell explained the rules of conduct for public hearings and introduced the Committee members. He called the first hearing.

CONDITIONAL USE REQUEST

1. A request by Alejandro & Anne Benavides to use the property as tourist lodging allowing for daily or weekly rental of the residence in a Rural Residential 3 zoning district. The property is located in Section 26, T35N-R5E, in the Town of Wilson, having an address of W7724 Winter Rd. and a tax parcel number of 32.263505.013.006.00.00. The request is being heard under section 17.3.04(12) of Lincoln County Ordinances.

Alejandro Benavides was present to support the request. He said that a few months ago they had been looking for property in Lincoln County and he wanted to compliment the Zoning Department on being so helpful & easy to work with

through both that and this Conditional Use process. He said that he has previously dealt with offices in other counties and some of them were difficult and not "user friendly".

Wessel commented that the existing cabin is in a compliant location but a requirement, if granted, will be to restore the buffer. Benavides said that the cabin is over 100' from the shoreline and he had no problems with restoring the buffer up to code & probably more so agreeing with Wessel that it would preserve the natural setting. He said that he would be putting a screening or fencing between the cabin & the neighbors also for privacy. Wessel asked about the septic system. Benavides said that he had a septic evaluation. It is still functioning but he may be replacing in a few years and they have already had a new well drilled. Wessel asked if he had any problems with the conditions. Benavides said he did not.

Baughan, in looking at the photos that were submitted, asked for clarification on which structure was to be rented. Benavides said that they have also purchased an adjoining lot & discussed the screening of the lot. Allen asked if he had discussed his request with the adjoining neighbors. He said that he had introduced himself to some of the adjoining neighbors and in speaking with them he clarified what his "rental" rules would be. Allen asked about having a local contact being property managers as the owner lives in Illinois. Benavides said that he has a couple that lives in Tomahawk that will be the local contacts. Plant asked if the adjoining neighbors were seasonal or year 'round. Benavides said that the closest ones were seasonal. Benavides shared that his request had gone before the Town of Wilson Board also.

Chairman Powell called for any other proponents and/or opponents and there were none. Chairman Powell stated that the Town of Wilson 10/14/14 approved 3-0 with no conditions. He read the staff report recommendation into the record.

Chairman Powell closed the public hearing for the Conditional Use request.

M/S Plant/Rusch to APPROVE ON CONDITION, the Conditional Use request with the conditions as listed in the staff report.
Conditions:

- 1) The occupancy of the rental is limited by the sizing of the septic system. The existing 3-bedroom system (installed in 1978) allows for a maximum of 6 persons. The existing septic system must be evaluated.
- 2) Camping units are not allowed for rental purposes.
- 3) The shoreland buffer shall be restored and preserved according to ordinance standards and an affidavit be recorded as such.
- 4) A natural buffer of 15 feet along the eastern lot line of Lot 4 of the Lembcke map, and along the western lot line of Lot 5 of the Lembcke map shall be maintained to accomplish screening. In the event Lot 5 is sold and no longer under common ownership with Lot 4 such buffer shall be maintained along the eastern lot line of Lot 4 of the Lembcke map; fencing may also be utilized to accomplish screening near the existing residence.
- 5) A property manager, owner, or similar responsible party must be made available and located within 30 miles of the property.
- 6) Must adhere to all applicable federal, state or local licensure and regulations.

Motion carried 6-0.

2. A request by Ton 80 Realty Services Inc. and Central States Tower II LLC and Verizon Wireless to construct a 250 foot lattice tower for telecommunication purposes on a 6 acre lot in a Rural Lands 2 zoning district. The property is located in Section 34, T35N-R7E, in the Town of King, on County Road D and a tax parcel number of 12.343507.007.001.02.00. The request is being heard under section 17.3.07(1) of Lincoln County Ordinances and 66.0404 of Wisconsin State Statutes .

Peter Schau, TON80 Realty Services Inc. was present to represent the applicants & explain the request. TON80 owns the parcel, Central States Tower II, LLC will be the owner of the tower facility, and Verizon Wireless will be the service provider that will occupy the tower. He explained that the tower would be a 245' lattice tower with a 5' lightning rod bringing overall height to 250'. He discussed the site location and the required technical information that had been submitted with the request. He said that the Town of King held a meeting for the town level this past Tuesday. Powell asked if there would be other co-locators on the tower. Schau said that, yes, there would be multiple users on the tower. He explained the process of procuring a tower site and the role that each of the entities plays; Realty company purchases the land, the tower company typically comes in and constructs the tower and the wireless providers lease space on the tower.

Powell asked Wessel to confirm that the staff report was asking for a bond and she said that it was the only condition that the County could impose on the request. There was brief discussion on the bond. Powell asked Schau if this Committee should request that his company re-site the location within the same parcel, would that create a difficulty and Schau said that it was brought up at the town meeting and Central Tower does not wish to change the location of the tower.

Powell asked about screening & landscaping of the tower and said that they could not impose any conditions for aesthetic reasons. Schau discussed the type of screening that they are proposing. He said that he would work with the county on that.

Chairman Powell called for any other proponents and there were none. Chairman Powell called for opponents.

Caryol DeBels was present and spoke in opposition. She explained that she and her husband George live directly across the road from the proposed site. She said that she had asked Sean DeBels, their grandson, to speak on the issue. Sean DeBels came to the podium and reviewed the requirements under the law. He reviewed the other ordinances with the county that he felt could still be enforced. He read from 66.0404 of Wisconsin State Statutes. He believes that parts of 17.3.07 are still enforceable. He said that the tower would not be as disguised from the road & his grandparent's house as it should and because of the driveway location the tower & accessory structures would be completely visible. He said that the screening that they are proposing should be changed to larger trees and to species of trees more apt to grow in the type of soils in that area. He also has concerns about maintenance of the buffer that will be planted and feels that there should be a local contact if the trees need care. He is worried that the outlying trees on the parcels would not be protected from logging as they are outside the prescribed easement for the tower and could be removed at any time.

DeBels said that residents of this area moved here because of the rural character and believes that a camouflage tower can be requested by the local authority and may be a better idea. He gave a couple of examples. He said another issue is the tower shadow that would be cast onto his grandparent's home a good portion of the year. He said that relocating the tower further back on the property may improve that situation.

Hetfeld asked what powers that this Committee may have in this matter as he was under the impression that they had very little to say. DeBels said that there are other ordinance sections that may still let us request conditions for the Conditional Use request. Powell asked for clarification on the tower shadow information and DeBels explained his calculations to Powell. Powell asked for clarification from DeBels for what his requests were and DeBels said that he would ask that the tower be re-sited further back on the parcel, that it be better screened & the driveway relocated. If the re-siting is not possible he would at least hope for the increased landscaping standards & driveway relocation. Hetfeld again asked if this Committee has a say in the landscaping standards and DeBels said that he believed so.

Gerald Thrun was present in opposition. He is an adjoining landowner. He is opposed to the tower & he understands that the Committee may have no control of these issues. He had purchased the property because of the rural/residential setting & obtained the proper permits recently with the intent of building and this cell tower request coming about has put a "speed bump" in his plans. He would like to see additional screening & camouflaging of the tower & the driveway relocated. Allen asked for clarification on his building site and Thrun said that moving the tower further back as DeBels suggested would actually be closer to where he is proposing building a cabin so that would be negative to him. He is still very much in favor of better screening/camouflaging. Baughan suggested that he relocate his cabin to the other side of his parcel. Thrun said because a "ridge" runs through the parcel the location that he has chosen first was the best on the parcel.

At 3:49 p.m. Supervisor Hetfeld was excused from the meeting. Powell asked if there were any other opponents to the request. There were none.

Powell read a request from Diana Smith into the record requesting that the tower lights be red instead of the white strobe lights. Powell asked Corporation Counsel to advise the Committee of their options on the request. Nancy Bergstrom explained the limited scope of control that local government has in regulation of the communication towers. She said that the request meets the requirements of the new state legislation and the county has no power beyond that. Powell said that it was unfortunate that the county has so little control. Allen asked Corp. Counsel if the ordinance sections that DeBels cited could be enforced and Bergstrom said that our ordinance is inconsistent with the new legislation & we cannot enforce any conditions. Plant asked if this Committee could make a request at least for the driveway relocation just as a courtesy to the neighbors. There was discussion as to whether or not that would be possible.

Chairman Powell closed the public hearing for the Conditional Use request.

Chairman Powell read the Town of King recommendation from 11/11/14 on a vote of 3-0 to approve with the recommendations as presented by Sean DeBels at their meeting. Powell reviewed the condition recommended on the staff report.

M/S Baughan/Plant to APPROVE ON CONDITION, the Conditional Use request with the condition as listed in the staff report.
Condition:

- 1) The applicant or owner of the telecommunications facility shall provide a bond, irrevocable letter of credit or other suitable financial guarantee as determined by the Land Services Department to ensure the removal of the facility and restoration of the site to its preconstruction state when use of the facility has been discontinued. The amount of financial guarantee shall be no less than \$20,000. Lincoln County shall be a certificate holder in the financial guarantee.

There was discussion and there was M/S Allen/Powell to amend the original motion to include DeBels' requests. Baughan said that Corporation Counsel explained she didn't feel that we can bind them to anything else. Corp. Counsel advised that the scope of the amendment is beyond this Committee's powers. The Amendment & 2nd were withdrawn. Rusch asked if it could be submitted that the company would be willing to do some of these things. Schau said that they would work with staff on the landscaping issues. Powell said that he finds the new law reprehensible as it takes out all local control. Allen said that it was passed with the State budget in 2013 with no public hearings.

Motion carried 4-1 with Powell opposed.

At 4:06 p.m. the Committee took a break. Supervisor Rusch was excused at that time. They reconvened at 4:11 p.m. and proceeded to item #9 on the agenda.

8. Land Services Presentation – Chapters 17, 18, 20, 21 & 22 – Wessel said that this presentation is in response to this Committee's request to outline the process to comply with the County Board's resolution to review the 5 different codes. She gave a brief history of zoning related codes in Lincoln County. She reviewed the timeline starting in 1934 with the original Zoning Code, then Shoreland Zoning, Floodplain Zoning, Private Sewage Systems in the late 1960's, then Subdivision & Platting in 1998. She explained which were required by the state and which were not. She then reviewed the Land Service "plans" that are in place in Lincoln County and when they were initiated. Farmland Preservation, Land Records modernization, Land and Water Resource Management & Comprehensive Plan. She discussed which were required but noted that even ones that are not "required" we have to need to have a plan in place for funding purposes. She stressed & explained the importance to make the "ordinances" consistent with the "plans".

Wessel went into depth regarding the original Comprehensive Plan process and the work, town & public participation that went into that process. She explained the original "Lincoln County Vision" when the comprehensive plan was created. She listed and explained the different elements of the plan and how they all tied together. She gave examples of "good" & "poor" planning.

She gave the timeline on the most recent major code updates. Zoning Code (2004), POWTS (2005), Subdivision & Platting (2006), Floodplain Zoning in (2011) & Shoreland Zoning (2014). She reviewed the deadlines and projected timelines for Comp Plan, Farmland Preservation 2015, Land Records Modernization 2015 and Land & Water Resource Management 2015. She reviewed the phases of the proposed course of action she has come up with to comply with the County Board Resolution. 1) Review of Codes, 2) Review existing plans and public input, 3) Prioritize, 4) Explore options, 5) Solicit public input, 6) Present draft recommendation – public hearing & 7) Final recommendation to the County Board.

She said that the rest of today's presentation would be Phase 1 where she is just giving a brief review of each of the existing codes purpose, regulations and which regulations within the codes the county can change. She said that some of the updates just require "housekeeping" to make sure that references to regulatory bodies, department, committee names & terminology that may be outdated is corrected. She listed the issues that NCWRPC is currently reviewing under the current contract.

At 2:55 p.m. Chairman Powell interrupted Wessel & called for a 5 minute break. At 2:59 the Committee returned to item #4 on the agenda.

At 4:25 p.m. Wessel resumed her presentation. She explained the different issues that NCWRPC is currently reviewing to bring to Committee. Definitions, zoning districts, allowable uses, performance standards, telecommunications, tourist lodging, private road standards, small wind & land splits are the items that they are reviewing. She went on to briefly describe each Chapter that will be under review under the resolution that passed County Board.

She spoke on Subdivision & Platting and said that while it is not a state requirement it is important to have more local review authority to have fewer problems from issues resulting from poor planning when dividing land. Wessel explained the need for this. She discussed the importance of street/road standards for public services. She explained that there are 3 options to proceed with the Land Division Ordinance. 1) Keep the jurisdiction as it is currently, 2) Expand it to include all of the unincorporated areas 3) Fall back on state regulation and say we are not going to do this any longer. There was discussion on how the process is working and that some of the towns' have their own sub-division ordinances because they wished for more regulations for land division. She touched on sale between adjoining land owners and some previous Acts at the state level that have been recently changed that may affect our Subdivision & Platting Ordinance.

Wessel explained we are not required to have Floodplain Zoning however there is a need for adopting a Floodplain Ordinance to protect residents when there are floods. If a municipality has not adopted a Floodplain Ordinance we cannot participate in the National Flood Insurance Program (NFIP) and insurance would not be available to residents in the floodplain. Homeowner's insurance does not cover floods. If we don't, the state can come in and create a Floodplain Ordinance for us but that is unusual. Lincoln County currently has 320 structures in the floodplain at a value of approximately just over \$32 million. There were also penalties referenced that were omitted in the chapter that we need them to be referenced in. Also, if we redo the LiDAR so that it is more accurate we will need to incorporate that information into the Floodplain Ordinance update. She is hoping to adopt the newer 2012 "model ordinance" from the state as it will make interpretations easier.

Wessel explained the purpose & need for Shoreland Zoning and what is required by the state vs. what we currently enforce. Powell asked for clarification. We currently regulate: Lot size (required but we have larger requirements), shoreline frontage (required but we have larger requirements), side yard setback (not required, we enforce our standards), shoreland buffer (required but we determine what triggers restoration), structure setback, mitigation (required but we determine mitigation point schedule), impervious surface area (required but we have flexibility in determining area) & non-conforming structures (75' required by state, we enforce greater setbacks because of "Lake Classification" - 75', 90' & 100'). Shoreland Buffer depth (35' is required, we enforce 35', 50' & 60' depending on the "Lake Classification"). Baughan asked for clarification on the measurement and Wessel explained that this is a "horizontal" measurement disregarding "slope."

Wessel briefly touched on the Chapter regarding Private Sewage Systems and explained what portions would be reviewed and timeline for implementation to be in compliance with state changes. Timeline of reporting maintenance, property transfer inspections & maintenance intervals are some of the items that will be discussed.

The Committee proceeded to item #16 on the agenda.

9. Association of Resource Conservation & Development invasive species resolution - Plant explained that this would just be a letter of support to obtain funding for the terrestrial invasive species control.

M/S Plant/Allen to affirm support. Baughan commented that efforts may be futile because of the spreading of the invasive seeds by birds or wildlife. Plant said that it is just to try and get some control over the invasive spreading. Allen asked if we have a person in a position to work on the invasive species. Plant said that there is someone supplied by Lumberjack through the DNR out of Rhinelander. Wessel said that there is currently an Aquatic Invasive Species person that we share with Langlade & Forest counties tied to a lake protection grant. Baughan said that she feels we would be spending money better elsewhere than on this losing battle. Vote carried 3-1 with Baughan voting nay. This vote re-affirms Committee support.

10. Parcel Mapping Request for Proposal – Town of Bradley – Wessel explained that this is not a request for approval of an RFP at this time but just explained that the Land Services Group suggests how funds are spent and what projects take priority. The group feels that the LiDAR & parcel mapping are the most important projects. Re-mapping of Bradley is important because

there are many inaccuracies that have been discovered. She is just looking for support from this Committee for the group to move forward in this direction. She would then develop an RFP to bring back to this Committee for approval.

M/S Baughan/Allen to move forward with creating an RFP for parcel re-mapping in the Town of Bradley. Motion carried 4-0.

11. Zoning Vehicle purchase – Wessel shared the bids that had been received from Brickner’s Park City. Wessel shared with the Committee the reasoning for the staff recommendations. There was brief discussion on the quotes.

M/S Allen/Plant to purchase the 2014 Jeep Patriot with 19,955 miles & 2012 the Jeep Patriot, with 26,650 miles from Brickner’s Park City for a total of \$35,500 (which included the trade-in allowance for the 2 -2005 Impalas). Motion carried 4-0.

12. Land Services Fuel Agreement - Wessel explained staff had brought this issue up to her and she has spoken with the Finance Department and was told that it had to come to this Committee to decide to proceed. Currently we are restricted in purchasing fuel from Pine Ridge Mobil in Merrill. This has posed occasional problems for personnel out in the field or out of town for training and needing fuel. Wessel is asking to be given permission to switch to charge fuel at Kwik Trip because of the convenience of locations. Reporting/tracking of each vehicle would be more detailed also. M/S Plant/Baughan to send this request to the Finance Committee. Motion carried 4-0.

13. Department Report - Wessel reviewed the Department Report she had given to the Committee.

14. Agency updates – There were no agency updates at this time.

15. Confirm next meeting/public hearing date – December 11, 2014 - Date confirmed. Meeting tentatively to start at 2:00 p.m.

At 4:25 The Committee returned to Item #8 and the rest Wessel’s presentation.

16. Adjourn – M/S Powell/Allen to adjourn at 5:00 p.m. Motion carried all ayes.