

CITY PLAN COMMISSION
CITY OF WISCONSIN DELLS
MUNICIPAL BUILDING-300 LACROSSE STREET
MARCH 4, 2015

Mayor Landers called the meeting to order at 5:15 PM. Notice of the meeting was provided to the Dells Events, WNNO/WDLS Radio, and posted in accordance with State Statutes.

1. Present: Mayor Brian Landers, City Planner/Zoning Administrator Chris Tollaksen, Ald. Mike Freel, Fire Chief Scott Walsh, Shaun Tofson, Chris Lechnir and Jeff Delmore

Excused: Dan Anchor

Others: City Clerk Nancy R. Holzem, PW Office Clerk Monica Dorow-Leis, Asst. City Attorney Joseph Hasler, Public Works Director David W. Holzem, Ald. Dar Mor, Ald. Ed Fox, Tory Wolfram, Nick Gieck, David Pellitteri, Jim Jerman, Ken Kosciak, Josh Furnald, Steve Wittmann, Jason Hallowell, Rose Merrett, Elisabeth Coppelmanns, Della Hyde, Neil Pfaff, Charles Gauf, Rebecca Gussel, Tynna Schroeder, Lucjan Tyminski, David Leifer, Dana Cole and Jason Cuevas from the *Dells Events*.
2. Motion by Ald. Freel, seconded by Tofson approve the minutes of the February 4, 2015 meeting. Motion carried.
3. Mayor Landers said it is his understanding this is a correction to an old annexation to properly annex the parcel into the city. Motion by Ald. Freel, seconded by Tollaksen recommend to council approve the petition for Direct Annexation as requested by Polynesian Acquisition Partners, LLC for that portion of parcel 291-0087-20000 and the public street known as Frontage Road lying in the Northwest Quarter of the Northeast Quarter (NW ¼ NE ¼), Section 8, Township 13N, Range 6E. Motion carried.
4. Mayor Landers declared the public hearing open for anyone to speak for or against officially establishing the permanent zoning of C-4 Commercial-large scale for that portion of parcel 291-0087-20000 and the public street known as Frontage Road lying in the Northwest Quarter of the Northeast Quarter (NW ¼ NE ¼), Section 8, Township 13N, Range 6E. With no one speaking on the matter, Mayor Landers declared the public hearing closed.
5. Motion by Delmore, seconded by Walsh recommend to council approve officially establishing the permanent zoning of C-4 Commercial-large scale for that portion of parcel 291-0087-20000 and the public street known as Frontage Road lying in the Northwest Quarter of the Northeast Quarter (NW ¼ NE ¼), Section 8, Township 13N, Range 6E. Motion carried.
6. Mayor Landers declared the public hearing open for anyone to speak for or against the repeal and re-creation of zoning code section 19.728 (Telecommunication Facility Standards) to align the City ordinance with the state law. With no one speaking on the matter, Mayor Landers declared the public hearing closed.
7. Alderperson Freel asked if there were bond provisions in the proposed draft ordinance for wireless telecommunication mobile service facilities. Atty. Hasler said there was. Motion by Freel, seconded by Tollaksen, recommend to council approve the repeal and re-creation of zoning code section 19.728 (Telecommunication Facility Standards) to align the city ordinance with state law. Motion carried.
8. Mayor Landers declared the public hearing open for anyone to speak for or against the Conditional Use Permit application from Cookie LLC/Cingular Wireless (AT&T) to allow Land Use 17.2 Unconcealed Telecommunications Antennae on Sauk County, City of Wisconsin Dells tax parcel 291-0049-00000. Residents that live near the proposed cell tower location spoke *against* this request. Elisabeth Coppelmanns said that the 12-15 persons that live in their community are very much against

the cell tower at the proposed location. She said she heard that the city cannot do much about this, because of the state law, but Elisabeth said she would hope Cookie, LLC would retract their lease agreement with AT&T after hearing what they have to say. She said the DNR property across the road is beautiful property. She suggested AT&T look at another location nearby, such as adding to an existing tower site at S590 Oak Hill Lane. She said they watched internet YouTube videos showing the dangers of cell phone towers for children, fire hazards and the impact on residential areas. Elisabeth submitted a letter to the commission from Maria Torres opposing the request and there were two other emails received opposing the request, one from Elisabeth Coppelmanns and the other from Jane Weiker. Both emails included comments on how beautiful the DNR Hulburt Creek Fishery Area is with beautiful trees, creek and walking trails. They would like to see it built in either an industrial area or another area that cannot be seen by either visitors or residents. They would like the city to consider the beautification of the city before approving the locations for cell phone towers. Dana Cole would like the property owner to ask himself if he would like this constructed across the street from him. Dana asked if the city would wait a week or so before approving the request, so they can have time to speak with a lawyer about possibly preparing legal action. Mayor Landers said it would be up a member of the commission to include it in the motion if they wish to. With no one else speaking on the matter, Mayor Landers declared the public hearing closed.

9. This is the third request in the last year or so for new cell tower construction. City Planner/Zoning Administrator Chris Tollaksen said that recently there have been some changes to the state legislature limiting the city's ability to regulate these uses. Chris said our zoning code would only allow this in Industrial Zoning, but the city cannot apply local rules to the construction of new cell towers. Chris said everything the city can require is included in the agenda packet. Chris noted in the staff report that parcel 291-0049-00000 is currently zoned C-4 Commercial-large scale, which does not allow "Unconcealed Telecommunication Facility", however in 2013 the state created State Statute 66.0404 which prohibits the city from prohibiting any cell towers in any zoning district. Motion by Ald. Freel, seconded by Delmore recommend to council to approve the Conditional Use Permit application from Cookie LLC/Cingular Wireless (AT&T) to allow Land Use 17.2 Unconcealed Telecommunications Antennae on Sauk County, City of Wisconsin Dells tax parcel 291-0049-00000 with the following contingencies:

- 1) The applicant gain rights to the property.
- 2) The applicant conforms to all the requirements in the proposed newly created Sec. 19.728 of the City Zoning Code.
- 3) The applicant remains compliant with the FCC, FAA, and any other applicable regulatory agencies.

Motion carried.

10. Mayor Landers declared the public hearing open for anyone to speak for or against the Site Plan Permit application from Cookie, LLC/Cingular Wireless (AT&T) to construct an unconcealed telecommunications antennae on Sauk County, City of Wisconsin Dells tax parcel 291-0049-00000. With no one speaking on the matter, Mayor Landers declared the public hearing closed.
11. Chris said they meet the 150' setback requirement. Joshua Furnald with Ramaker & Associates, Inc., engineer for the tower said he has never experienced a tower to fall. He said the tower is designed to fold over in half. The top half of the tower is built to code and the bottom is built above code. Motion by Lechnir, seconded by Walsh recommend to council to approve the Site Plan from Cookie, LLC/Cingular Wireless (AT&T) to construct an Unconcealed Telecommunications Antennae on Sauk County, City of Wisconsin Dells tax parcel 291-0049-00000 with the same three contingencies listed in Item #9. Motion carried.
12. Mayor Landers declared the public hearing open for anyone to speak for or against the Site Plan Application from Pellitteri Waste Systems to construct a solid waste transfer station on a portion of Sauk County, City of Wisconsin Dells tax parcel 291-0012-00000 described as Lot 1 Certified Survey Map dated 2/23/15 by Scott D. Warner to be approved in Item #14. With no one speaking on the matter, Mayor Landers declared the public hearing closed.
13. Chris Tollaksen presented an overview and said it is zoned Industrial and allowed by right. The municipal code requires this use to be 600' from residential areas. Their trucks would drop off their

load and their load would be compacted and then loaded into a semi trailer then taken to the Dane County landfill. They would route their trucks on Hwy 12 and would use Hwy A, staying off Stand Rock Road to get to the transfer station. If approved by the City, they will then apply for DNR permits. This would be a transfer site and not a disposal site and the waste at the transfer site would be transferred within 24 hours. Chris said they have had positive feedback with their operations at their Madison site. David Pellitteri said they are planning to start with about 15 trucks in and out per day for the first 4-5 years and hoping to grow as established. They plan making this a public drop off area for items such as sofas and the like. Motion by Ald. Freel, seconded by Delmore recommend to council approve the Site Plan Application from Pellitteri Waste Systems to construct a solid waste transfer station on a portion of Sauk County, City of Wisconsin Dells tax parcel 291-0012-00000 described as Lot 1 CSM dated 2/23/15 by Scott D. Warner to be approved in agenda item 14. The following contingencies apply:

- 1) The applicant gains control of the property.
- 2) The applicant submits and follows a Plan of Operations that, in the judgment of the City, is substantively equivalent to the Kipp St. facility Plan of Operations.
- 3) The applicant agrees that any future owner/operator of the site formally confirm to the city their commitment to a high level of quality management of the site.
- 4) Any owner/operator of the site cooperates with the city to address any nuisances to surrounding properties.

Motion carried.

14. Motion by Tollaksen, seconded by Walsh recommend to council approve the Certified Survey Map (CSM) splitting Sauk County, City of Wisconsin Dells tax parcel 291-0012-00000. Motion carried.

15. Discussion and decision on the waiving Outdoor Display Application fee and allowing displays inside the front plane of the building without a permit for T-Shirt Factory (202 Broadway) and Cool Waters (320 Broadway). Chris Tollaksen said *outside* needed a clear definition. Outside doors, but inside the front plane of building such as T-Shirt Factory and Cool Waters fall under the unregulated category for number of items to display. Mayor Landers spoke about determinations listed in the staff report when evaluating previous outdoor display requests that states 'outdoor displays that exist within the front plane of a building will be allowed relatively unregulated'. Mayor Landers commented saying thanks to Chris for putting a lot of work put into this, but added that he is not strongly in favor of this, especially because of the term *unregulated*. He said an outdoor display should create a scene. A scene should not be a bunch of merchandise, not simple stands, but should have enhancements to provide an inviting and welcome atmosphere. Why do t-shirts and merchandise have to be outside? Items are thrown together and not a welcoming scene. Either the city allows it or not. Landers said it violates the intent of the ordinance. Lechnir agreed with the Mayor, but the City does not have the ordinance that stops this. Tollaksen said some business owners think they can put items outside, because it is on their property. Ald. Freel suggested to research for next year. Tynna Schroeder (200 Block of Broadway) said she has an issue with these so-called unregulated entryways. If unregulated, then larger owners are just going to take over, unfair to other smaller business owners. Tollaksen said last year the police tried to enforce a ban all outdoor displays and it was nearly impossible to enforce this ban. That is where the unregulated area in the front plane of the building came from. Motion by Ald. Freel, seconded by Tollaksen waive fees and allow unregulated use in the front plane of the building for one year until the city gets more information. Motion carried with Jeff Delmore opposing. Motion by Ald. Freel, seconded by Tollaksen, rescind their original motion. Motion carried.

Motion by Ald. Freel, seconded by Tollaksen recommend to council approve waiving outdoor display application fee for one year, but deny approval for unregulated displays inside the front plane of the buildings. Motion carried.

16. Mayor Landers declared the public hearing open for anyone to speak for or against the CUP2 applications for Accessory Land Use 20.14 Outdoor Display incidental to indoor sales from the following:

- A. Yuval Wear
- B. Eagle Wings
- C. 227 Broadway (Felicia's Fun Wear)

- D. Flirts
- E. T-Shirt Factory
- F. Cool Waters

Tynna Schroeder said the T-Shirt Factory and Cool Waters do not apply to previous item. Those two are unregulated mounted with shirt racks. She said small business owners have a disadvantage and not as visible. She said the city should not put a limit on one business and then let another run amuck unregulated. With no one else speaking on the matter, Mayor Landers declared the public hearing closed.

17. Mayor Landers said the BID Committee is trying to create an Outdoor Display Ordinance and they want something that creates a scene that has enhancements, but no one wants to be the bad 'guy' to say something is not allowed. Landers asked Atty. Hasler if it would be best at this point to just say nothing is permitted until this gets sorted out. Atty. Hasler said if the city was looking for something very simple; simply black and white would be the way to do it. Chris Tollaksen disagreed saying that is what the city did last year and it did not work, with the police coming back to say it was too difficult to enforce it. Mayor Landers said he has seen other ordinances where it is very clear with clear graphic examples of what is allowed. Chris made the following points:
- ❖ Chris said it is difficult to define 'outdoors' and to minimize the difficulty in defining what is inside and outside is very naïve. He thinks it is much more difficult to enforce these things.
 - ❖ No decisions have been made as of yet how to regulate outdoor displays, so how do you decide what a discernible scene is with enhancements that create an enjoyable atmosphere without some sort of subjective decision. They are not black and white. This can only be done if some governmental body takes on the task of making that call and subjecting themselves to the political fallback of the business owner, where someone is going to be upset.

Atty. Hasler said there has to be a set of standards that apply to everyone, not a political decision, but a decision made by a political body or administrator based on a clear set of standards. Hasler further said a discernible scene is not something that is clear if one were to present a case to a judge. Hasler said one example of a set of standards might be where every business on Broadway is entitled one or two mannequins. The set of standards may be a specific amount of footage. He said the simpler the better where everyone would understand these specific amounts. Jeff Delmore asked what is stopping Tynna Schroeder to do the same as the bigger stores and decides to make end walls in front of her business along the front 4 feet of her privately owned property creating planes, becoming unregulated? Tynna said if that were the case, then everyone would start doing that. Mayor Landers said if this goes to council approving the outdoor displays in this fashion, he would veto it. He firmly believes this will create a legal mess for the city and provides an unfair advantage to certain businesses.

Mayor Landers believes by the next council meeting, with a special Legislative meeting beforehand, we can come up with a specific number of mannequins allowed and that is it. That is the simplest thing to go with. This would be easily regulated and allows outdoor displays. Chris also asked about allowing a belt buckle display. Mayor Landers asked Hasler and Tollaksen along with himself to come up with an approved ordinance that allows outdoor displays in a simplified fashion ready by council.

Motion by Delmore, seconded by Walsh refer a new ordinance for Outdoor Display standards to Legislative Committee. Motion carried.

18. There were no items for referral to future meetings.
19. The next Plan Commission meeting will be Wednesday, April 8, 2015 at 5:15 pm.
20. Motion by Freel and seconded by Lechnir to adjourn. Motion carried and the meeting adjourned at 6:33 pm.