President Birmingham called the meeting to order at 7:00 p.m. in the Courtroom of the Greendale Safety Center at 5911 W. Grange Avenue.

Roll Call

Present: Trustee Barbian, Trustee Ouellette, Trustee Sikorski, Trustee Chadwick, Trustee Busalacchi, Trustee Genz, President Birmingham
Absent: None
Also Present: Todd Michaels, Village Manager
Sarah Weishar, Assistant Village Manager
John Macy, Village Attorney
Robert Malasuk, Police Chief
Tim Saidler, Fire Chief
Rob McFaul, Director of Public Works
Scott Satula, Director of Inspection Services
Sue Shepeard, Public Health Director
Shawne Johnson, Public Health Supervisor
Kristen Victory, Clerk-Treasurer

Approval of Minutes

Regular Meeting of January 17, 2017 and Special Meeting of January 23, 2017

Trustee Barbian moved, seconded by Trustee Ouellette, that the reading of the minutes from the Board of Trustees Meeting held on January 17, 2017 and Special Meeting held on January 23, 2017 be suspended since all Board members received copies of the same prior to tonight's meeting and that the minutes be approved, as presented.

Ayes: Barbian, Ouellette, Sikorski, Chadwick, Busalacchi, Genz, Birmingham
Nays: NONE
Motion to approve: Carried

New Communications

None

Citizens' Comments

Bill Kewan of 5306 Robin Dr., Bernie Knier of 5380 Orchard Ln., Elaine Unger of 4815 Sutton Ln., Jason Patzphal of 5301 Laura Ln., Lori and Craig Presley of 5281 Oakton Ln., Bruce Lewandowski of 5288 Oakton Ln., Kathy Sojkowski of 4855 Sutton Ln., Michael Tarasik of 5255 Oakton Ln., Ronald Wishman of 5771 Oakwood St., Kevin Svboda of 7220 Horizon Dr., and Gary Swittel of 8801 Glenwood Dr. stood and spoke against the cell tower.

Alan Bingenheimer of 6058 Oakwood Ln W stood and spoke in favor of the cell tower.

Standing Committee Reports

A) Finance Committee-Trustee Barbian-discussed at the February 6, 2017 Special Board Meeting

Trustee Chadwick excused herself due to a conflict of interest.

B) Plan Commission-

i. Consider approving a Special Use Request for a Special Use on parcel number 694-9998-006 (currently owned by St. Stephen the Martyr Lutheran Church, 6101 S. 51st Street) to construct a wireless tower facility (#16-04/PC 16-05).
Trustee Ouellette moved to deny the Special Use Request for a Special Use on parcel number 694-9998-006 (currently owned by St. Stephen the Martyr Lutheran Church, 6101 S. 51st Street) to construct a wireless tower facility (#16-04/PC 16-05) and to adopt Resolution R2017-02, seconded by Trustee Genz.

Attorney John Macy read Resolution R2017-02 (attached).

Ayes: Barbian, Ouellette, Sikorski, Busalacchi, Genz, Birmingham
Nays: NONE
Motion to approve: Carried

C) Library Board-Trustee Busalacchi-no meeting

D) Public Works Committee-Trustee Sikorski-no meeting

E) Board of Health-Trustee Genz-no meeting

F) Public Health, Welfare & Safety-Trustee Sikorski-no meeting

G) Park & Recreation-Trustee Ouellette-no meeting

H) Public Celebrations-Trustees Busalacchi and Ouellette-no meeting

Old Business:

A) Board and Committee Appointments & Resignations.

None

New Business:

A) BOT 17-09 Discussion and necessary action pertaining to approving an Intergovernmental Agreement between Milwaukee County and Village of Greendale for Emergency Medical Services (EMS) (2017-2018).

Trustee Barbian moved to approve BOT 17-09, the Intergovernmental Agreement between Milwaukee County and Village of Greendale for Emergency Medical Services (EMS) (2017-2018), seconded by Trustee Ouellette.

Ayes: Barbian, Ouellette, Sikorski, Chadwick, Busalacchi, Genz, Birmingham
Nays: NONE
Motion to approve: Carried

Officers Reports:

A) Village Manager’s Report- Winterfest is Saturday the 11th from 10am-4pm

B) Village President’s Report- Support Greendale by coming to Winterfest. There will be a chili contest, ice carving and good weather.

Citizens’ Comments

Julie Lewandowski of 5288 Oakton Ln., Bill Kewan of 5306 Robin Dr., Jeff Birmingham of 5601 Bramble Ct. and Joe Russ of New Berlin commented on the Board’s decision on the cell tower.

Closed Session

A) The Board shall convene in Closed Session pursuant to Section 19.85(1)(e) to deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reason require a closed session. Specifically, to discuss an Intergovernmental Agreement with the City of Greenfield to host the Village’s public safety computer aided dispatch system.
B) President Birmingham read: The Committee shall convene in Closed Session pursuant to Section 19.85(1)(g) to confer with legal counsel 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 with respect to development of the property at 6200 W. Loomis Road.

The Board reserves the right to come back into open session

_Trustee Barbian moved, seconded by Trustee Ouellette to convene in Closed Session at 8:13 p.m._

Ayes: Barbian, Ouellette, Sikorski, Chadwick, Genz, Busalacchi, Birmingham
Nays: NONE
Motion to approve: Carried

_Adjournment_

_Trustee Busalacchi moved, seconded by Trustee Chadwick to adjourn._

Ayes: Barbian, Ouellette, Sikorski, Chadwick, Busalacchi, Genz, Birmingham
Nays: NONE
Motion to approve: Carried

_The meeting adjourned at 8:57 P.M._

Respectfully submitted,

Kristen Victory
Clerk Treasurer
WHEREAS, the Village of Greendale received an application from T-Mobile USA/PI Tower Development LLC by TNG Wireless as Agent (the “Applicant”) on or about September 30, 2016, to construct a new wireless telecommunications tower on a parcel owned by St. Stephen Lutheran Church (the “Property Owner”), known as parcel number 694-9998-006 (the “Subject Property”); and

WHEREAS, the applicant seeks to construct an approximately one hundred foot tall monopole telecommunications tower, and related equipment enclosure within a fenced enclosure, on the Subject Property (the “Telecommunications Facilities”), as further described in the plans submitted with the application; and

WHEREAS, the Applicant extended the time for the Village to act on the Special Use application, by written agreement; and

WHEREAS, pursuant to Section 17.36(3) of the Village Code, the matter was referred to the Village Plan Commission for report and recommendation; and

WHEREAS, upon due notice as required by Section 17.36(3) of the Village Code and Section 66.0404, Wisconsin Statutes, a public hearing was held before the Village Board on January 17, 2017; and

WHEREAS, the Village Plan Commission forwarded the matter to the Village Board without a recommendation; and

WHEREAS, the Village Board, having considered all of the record developed in the public hearing, in light of all of the facts and circumstances, and being duly advised, finds that the application should be denied for the reasons described herein.

NOW THEREFORE, BE IT HEREBY RESOLVED by the Village Board of the Village of Greendale, Milwaukee County, Wisconsin, that the Village Board hereby makes the following findings:

1. Minimum setback. Section 17.3610(7)(f) of the Village Code requires the tower to be located a minimum distance away from all lot lines, that is equal to the height of the tower plus 25 feet. Section 66.0404, Wisconsin Statutes, allows the applicant to submit an engineering certification showing that the tower would fall in a smaller area than required by the Village ordinance, in which case the smaller area would apply, but the application has been fully received, the hearing has been
held, the record has been closed, and the Village has received no such engineering certification. The tower is proposed to be located 46’ from the West property line, 28’ from the South property line, and 50’ from the East property line, thus failing to comply with the Village Code in all three directions.

2. **Adverse visual impact.** Section 17.3610(7)(c) of the Village Code prohibits wireless communications towers, antennas, and associated accessory structures and facilities from being located so as to obstruct the view of a point of visual interest from a residential zoning district within 1,000 feet of the wireless communications towers, antennas, and associated accessory structures and facilities. This tower is proposed to be located less than 1,000’ from a residential zoning district, and immediately adjacent to a substantial open space that constitutes a point of visual interest as defined in Section 17.3610(2) of the Village Code. While it is difficult for the Board to determine the extent to which the Telecommunications Facilities might obstruct the view of the open space, the Board must rely on the record presented in this matter. The Board notes, moreover, that the Village staff requested that the Applicant submit a visual depiction of the proposed tower, such as a photo montage, field mock-up, or the like, as the ordinance allows the Village to request, and the Applicant did not provide such a representation either with the application or at the public hearing. Residents in the vicinity of the proposed Telecommunications Facilities, on the other hand, raised significant concerns about the adverse aesthetic impact of the tower in its proposed location. On this record, the Board can only conclude that the adverse impact would be significant and would obstruct the residential areas from viewing the open space which is a point of visual interest. The Village Code therefore prohibits the Telecommunications Facilities from being located where proposed. While Wisconsin Statutes Section 66.0404(4)(g) prohibits the Village from denying the application solely due to aesthetic concerns, aesthetic considerations form only one of many separate considerations in this case.

3. **Lack of proof of statutory factors for siting.** Wisconsin Statutes Section 66.0404(2)(b)6. Imposes this requirement:

“If an application is to construct a new mobile service support structure, [the application shall include] an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant’s search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.”

The Applicant attempted to accomplish this by providing a sworn statement, signed by Darren S. Snodgrass, dated September 30, 2016, which says:

“... I made all diligent efforts to locate and identify existing structures of height that would meet the needs of my client having given me a target coordinate of 42.93775° - 87.96913° and a search radius of ½ mile. Having performed said effort, I swear under oath that no structure of height currently exists that meets my client’s criteria.”

Missing in Mr. Snodgrass’s statement is anything concerning functionality, coverage, capacity, feasibility, or economic burden. This Board also has no way of knowing what Mr. Snodgrass means by “structures of height,” and regardless, whether there are “structures of height” is not a relevant
statement. We are only interested in knowing that the Applicant considered the relevant statutory factors. Specifically, the statute requires one of the following statements:

- Collocation within the applicant’s search ring would not result in the same mobile service functionality, coverage, and capacity; or
- Collocation within the applicant’s search ring is technically infeasible; or
- Collocation within the applicant’s search ring is economically burdensome.

These are not exceedingly difficult statements to make, and if any one of these three sworn statements is provided, this Board has no authority to second-guess the affiant’s conclusion. Yet none of these sworn statements have been provided, either in the application materials or at the public hearing. For that matter, the statement from Mr. Snodgrass is very brief with no supporting materials or explanation, providing us no opportunity to expand our interpretation of his letter from the bare words on the page. Village staff suggested to the Applicant, prior to the public hearing, that they could provide further explanation of their search criteria and selection of this site at the public hearing, and the Applicant chose not to do so. On this record, we are compelled to conclude that there is no sworn statement in the record that satisfies Wisconsin Statutes Section 66.0404(2)(b)6. As a result, we are permitted to deny the application by Wisconsin Statutes Section 66.0404(2)(e). We therefore deny the application for failure to demonstrate compliance with the minimal siting standards of State law.

4. Violates historical character of the area. That Village of Greendale is one of three federal government-sponsored “greenbelt” communities built during the Great Depression, representing the federal response to the desperate unemployment of the era and of the urgent need for housing reform for the urban working class. During the depression years, the federal government bought land and laid out the Village with parkland and garden areas, all within a planned urban development. In October of 2012 Greendale was named a National Historic Landmark by the US Department of the Interior, recognizing the national significance of the Greendale planned community. It is incumbent upon this Village Board to protect the historic nature of the Village, consistent with the US Department of the Interior designation of the Village as a National Historic Landmark. While the Applicant failed to provide the requested visual depictions, which might have diminished this concern, the Village Board is left to imagine the appearance of this one hundred foot tower immediately adjacent to preserved open lands within the Village. The Village Board concludes that the proposed tower would significantly disrupt the historical planned community envisioned by the federal government when they established the Village of Greendale during the Great Depression, and therefore the Village Board must deny the application.

5. Failure to demonstrate lawful basis. The Applicant’s submittal is complete as a matter of law (per 66.0404(2)(c), Wis. Stats.), the public hearing has been held, the record is closed, and the Applicant failed to show that they have the lawful ability to conduct their proposed use on the proposed property. No written consent of the property owner is in the record. No executed survey map is in the record. Despite statements about reducing the access drive to 12 feet in width and paving the access drive, no such plan is in the record. There is no executed site survey in the record. The proposed tower structure and tower foundation plans have not been executed or stamped by an engineer, and as a result have not been approved by the Village Engineer. The Village Board cannot wait for such information to possibly be provided at a later date, because the record is closed, and the Village Board has a very limited time to act per Wisconsin Statutes Section 66.0404(2)(d). On this record, the Village Board has no basis to conclude that the Applicant can
lawfully conduct the proposed use on the proposed property, so the Village Board must deny the application.

6. List of reasons presented. At the public hearing, Craig and Lori Presley presented a list of thirty-two reasons for denial of the application, which list is incorporated herein by reference except as preempted by Wisconsin Statutes Section 66.0404(4).

BE IT FURTHER RESOLVED, based upon the record presented and the foregoing findings, that the request for special use on parcel 694-9998-006 to construct a wireless tower facility is HEREBY DENIED.

This resolution shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 7th day of February, 2017.

Village of Greendale

By: James Birmingham, Village President

ATTEST:

Kristen Victory, Village Clerk-Treasurer

Published and/or posted this 7th day of February, 2017.