

April 10, 2011

Town of Rutland
Chairman Dale Beske
debeske@wisc.edu

**SUBJECT: DANE COUNTY CUP #2157
WBKY FM TOWER/STOUGHTON FARMS**

Dear Mr. Beske:

A number of questions have been posed by the Town of Rutland regarding our tower construction and rezoning application. In response to this we have compiled answers to these questions and provided supplemental information. A list of this information is as follows:

- WBKY - Rutland Tower Ordinance Review
- WBKY - Dane County Ordinance 10.255 (2) (h) (1-6) Review
- WBKY - Response to Chairman Beske Questions
- WBKY - Zoning Drawings 04/08/2011
- WBKY - Tower Photo Simulations 04/08/2011
- WBKY - Adjacent Properties Figure

We expect that our response and supplemental information satisfies any outstanding questions. However, if additional clarification is required please let us know prior to our April 19th Town Meeting. Considering the time between now and then we would hope to receive any questions by next Thursday April 14th so we could try and prepare and issue information to the board prior to the meeting.

Sincerely,

Edge Consulting Engineers, Inc.



David Lyshek, P.E.
Project Manager

Cc: Dane County Senior Planner Majid Allan, Allan@countyofdane.com

**WBKY BROADCAST TOWER
TOWN OF RUTLAND ORDINANCE NO. 12.5 REVIEW**

The following provides an outline of the related Rutland Ordinance. It has been formatted to sequentially follow the ordinance for ease of review. Comments with respect to our proposed project have been hi-lighted in *red italicized* font. The body text is initiated at Section 1 which addresses the findings and purpose of the ordinance. It then moves on to Section 7 which addresses the standards and conditions for evaluating a proposal under this ordinance.

SECTION 1

- 1) **1 Findings and Purpose of Ord. 12.5:** *We feel that our proposal is consistent with the intent and purposes of the Rutland Tower Ordinance.*
- a) Ensure that Town receives adequate information to properly evaluate *We feel we have been compliant with this requirement. .*
 - b) Create a standard review process. – *We have been following the standard review process.*
 - c) To accommodate communication companies while protecting public health, safety, and general welfare - *We comply by meeting Federal and State reviews and requirements. There are general welfare benefits such as broadcast coverage for general lifestyle enhancement and information/entertainment, Emergency Alert System and Amber Alert service that accompanies broadcast, general emergency communication and public notice. Applicant has also had dialogue with local Law Enforcement Officials and Fire Chiefs and has pledged that during catastrophic events, the FM station would stand at the ready to provide extensive on-going broadcast assistance from their command centers. Documented community/government support has also been provided.*
 - d) To facilitate an appropriate pattern of tower sitings and avoid potential negative impacts. *Although we would prefer to co-locate on an existing structure, none meet our elevation and location requirements required to avoid interference concerns. We comply by having selected a candidate with significant offsets to adjacent properties and the right-of-way. In addition, significant visual screening is available due to existing tree-lines and the tower has been located near an existing quarry. The property is currently used for agricultural purposes.*
 - e) Preserve the Towns remaining agricultural land use. – *We comply. Although the proposed tower is on an agriculture property the majority of the development is on a fallow portion of the land and limited ground disturbance is anticipated. Following the installation of our tower the property shall continue to be used for agricultural purposes with our development occupying approximately .04% of the currently tilled field.*
 - f) Avoid potential damage to adjacent properties. *We comply having selected a site location that is offset from property lines, utilizes existing tree-line screening, and being located near the existing quarry.*

SECTION 7

7) Changes to Zoning District Boundaries:

- a) Standards to consider
 - i. Is the change in zoning consistent with Land Use Plan? *Yes – the proposed zoning change is from one agricultural district to another (A-1 to A-2). The proposed parcel is 15.5 acres. 8.8 acres is currently fallow field which is where the tower base, equipment building, and (4) of the (6) guy anchors shall be located. The remaining 6.7 acres shall be continued to be harvested along with the adjacent fields. Only (2) guy anchors shall be located within this area. As a safety precaution they shall be located within a secured fence approximately 3' x 22' long (66 sqft each). This relates to only 0.04% of the 6.7 tillable acres being occupied by our installation. Not only is the zoning change consistent, but the future practices shall be consistent with ongoing activities.*

- II. Is the tower needed at the proposed site for the provision of wireless services? *The proposed tower shall be for FM Broadcast purposes. In accordance with the Dane County ordinance provisions shall be made to accommodate additional communications co-location.*
- III. Are preferred sites available? *No – See Evans Report*
- 1) Existing Tower Structures- *None available due to limited height.*
 - 2) Town or school district lands *None available with adequate space and within the non-interfering broadcast window.*
 - 3) Private lands where towers will not interfere with activities or aesthetics on the site. *As described above, the proposed tower shall not substantially interfere with existing activities (agricultural) The selected location is considered a preferred site as aesthetic impacts are limited by existing wood lines, offsets to the right-of-way and adjacent properties as well as its close proximity to an existing quarry.*
 - 4) Residential area towers that would use camouflaging techniques: steeples, lights, etc. *A residential area tower is not being proposed.*
- IV. Whether the proposed structure would endanger health and safety due to failure or falling ice. Would the tower endanger health and safety (failure, falling ice) *The remote location and code required design standards will ensure that there is not legitimate health and safety concern. A fall radius and design criteria letter prepared by ERI has also been provided. In accordance with the Evans study recommendations #4, ice breakers and preform clips shall be installed to address ice related concerns.*
- V. Would the tower cause objectionable noise, glare, physical activity or effects that will impair peaceful enjoyment of neighboring properties? *Remote location (360' + to East PL, 400' + to South PL, 2000'+ North to Old Stage Rd., 1300' to West parent property line) and existing wood lines will ensure that these concerns are mitigated as much as practical. After initial construction site activities will typically be limited to a WBKY official visiting the site once per week to confirm equipment is accurately matching remote control readings. Related noise from the base building would primarily be limited to air ventilators and relate to less noise than a typical residential development. The tower is proposed to be a galvanized structure which is dull gray in color which typically limits glare.*
- VI. The extent that sight lines from existing homes and roadways would be adversely affected. *The remote location and existing wood lines to the south, east, and west will ensure that these concerns are mitigated as much as practical. The proposed tower has an estimated face width of 4 feet and therefore would be only a slender obstruction. Photo simulations have been prepared to help demonstrate that site lines will not be adversely affected.*
- VII. The extent that the tower will adversely affect aesthetics of natural areas. *Edge Consulting completed FWS screening criteria and did not identify any concerns with respect to endangered species or habitat. The WDNR concurred with our findings. The proposed project shall be sited on an agricultural property with the majority of the development occurring on a fallow portion of the land. The total footprint of development is less than 1000 sqft. (600 sqft tower base, (6) anchors 66 sqft/each). Of the 15.5 acres less than 1.5% of the space is proposed for alteration.*
- VIII. The extent to which the tower will be visible from lands owned by the WDNR, USFWS, Bass Lake, and Island Lake. *The WDNR Anthony Branch land is located approximately 2.5 miles to the NW, The WDNR Bad Fish creek Wildlife area is located over .75 miles to the NE, the USFW land is located over .5 miles to the W, Bass Lake is located approximately 2.5 miles to the NE, Island Lake is located over 4 miles to the N. Due to the substantial offsets to these lands along with existing woodlines the base of the tower will not be visible from these locations. Although portions of the tower will be visible from some of these locations site lines shall not be adversely affected. Photo simulations have been prepared to help demonstrate this.*
- IX. Approval will not be given if wetland filling is required. *No Wetlands are located at the proposed site location.*
- X. Additional factors the PC or Board deem relevant. *None identified by the board. Possible considerations: Tower will have positive impact with respect to lifestyle enhancement in the form of information /entertainment. Avenue for emergency broadcast communication. Emergency Alert*

System and Amber Alert implemented at a local broadcast tower. Meets FCC mandate that licensees maximize their facilities to the greatest extent possible to fully utilize available spectrum.

b) Conditions:

- I. No graphic messages or advertising allows – Compliant, none proposed*
- II. Fencing and locks to secure site – Compliant, shall meet recommendation #5 of the Evans report.*
- III. Vegetative buffering must be provided to separate the facility from adjacent land uses unless the PC finds that the buffering is not necessary due to natural site features – Compliant: The proposed site shall be surrounded by a landscape buffer to the north to complement the existing natural screening which exists to the south, east, and west.*
- IV. Tower to be gray – Compliant: Steps have been taken to providing a lighting system which utilizes a gray galvanized tower that complies with FAA lighting requirements.*
- V. Tower and building/compound shall not be illuminated except to the extent required by FAA or other regulatory agency. FAA requires specific tower lighting requirements. No permanently illuminated light at the building structure is proposed. The building lighting shall be limited to use during maintenance events only. Light emanating from the building structure is less than typical residences.*
- VI. Towers shall be set back from other structures, ROW, and property lines to meet the fall radius. Tower setbacks exceed the fall radius. The closest property line is over 315' away. A Fall Radius and Design Criteria letter has been prepared by ERI. ERI identified a fall radius of 25% of tower height (122.25') for the gross tower mast and 50% (244.5') for additional debris.*
- VII. Any equipment or building shall also be screened with a vegetative buffer. Landscape screening shall be installed as proposed in the site design and further complimented by site setting and existing tree lines.*
- VIII. "No Trespassing" signs to be posted on all sides of the fencing. To be installed as required.*
- IX. Other site design requirements the Board determines appropriate to minimize adverse impacts. None identified by Board. Possible considerations. No existing rustic roads in vicinity. Will not have frontage on a potential rustic road. Not in vicinity of existing multi-use trail, Glacial Drumlins Trail or River Trail. Not in vicinity of proposed Yahara River Trail or Koshkonong Creek Trail.*
- X. If an antenna is being integrated with an existing structure, reduced requirements for items (i) thru (viii) may be considered by PC. Not Applicable*
- XI. Tower owner shall provide performance bonds or demonstrate financial responsibility to ensure ability to facilitate tower removal. Will Comply.*
- XII. Tower owner shall maintain insurance as specified. Tower owner currently maintains comparable insurance on all existing towers. Intent on complying.*

**WBKY BROADCAST TOWER
DANE COUNTY ORDINANCE 10.255 ORDINANCE REVIEW**

The following provides an outline of section 10.255 (2) (h) (1-6) from the Dane County Ordinance. It has been formatted to sequentially follow this section of the ordinance for ease of review. Comments with respect to our proposed project have been hi-lighted in *red italicized* font.

10.255 (2) (h): Standards. No application for a conditional use shall be granted by the town board or zoning committee unless such body shall find that all of the following conditions are present:

7. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, comfort or general welfare; *The remote location and code required design standards will ensure that there is not legitimate health and safety concern. A fall radius and design criteria letter prepared by ERI has also been provided. In accordance with the Evans study two safety recommendations have been made. This includes the installation of security fencing, and the installation of ice breakers (ice clips) and preforms. The proposed tower development shall be constructed with these features. The proposed tower base is proposed to be located remotely (over 6 football fields in length) away from the right-of-way. The proposed development footprint is relatively small (<1000 sqft) when comparing it to many residential developments. Due to limited site inspection and maintenance activities noise associated with the operation of the tower is typically very minor. The associated noise from the tower operation is not out of line with the surrounding developments. The noise levels are forecast to be less than a typical actively farmed field or residence, and pale in comparison to a quarry. The proposed location also capitalizes on natural screening and offsets to neighboring properties. The closest residential structure is over 5 football fields in length away. There are general welfare benefits such as broadcast coverage for general lifestyle enhancement and information/entertainment, Emergency Alert System and Amber Alert service that accompanies broadcast, general emergency communication and public notice. Applicant has also had dialogue with local Law Enforcement Officials and Fire Chiefs and has pledged that during catastrophic events, the FM station would stand at the ready to provide extensive on-going broadcast assistance from their command centers. Documented community/government support has also been provided.*
2. That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by establishment, maintenance or operation of the conditional use; *The property is currently used for agricultural purposes and the proposed tower development shall occupy approximately 0.04% of the currently tilled field. For the most part the property shall continue to be used in the same manner and therefore we do not foresee how these items will be substantially impaired or diminished. The siting advantages of existing screening and offsets help further mitigate such concerns.*
3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district; *As stated above the property is currently used for agricultural purposes and for the most part shall continue to be used in the same manner. Therefore we do not foresee how development or improvement of the surrounding properties will be substantially impeded.*
4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being made; *Single-phase power and telephone utilities are readily available within the parent parcel and right-of-way. This includes single-phase power which can be obtained without alteration. Access shall be conjoined with the existing turn-around at the Stoughton Farms development and as proposed will require*

no additions that effect off-site properties. No significant grading changes are proposed at the site and therefore drainage related concerns are not considered significant.

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and *The limited site activities discussed above will also translate to no significant increase in traffic demand. Ingress and egress will co-join the existing turn-around at Stoughton Farms.*
6. That the conditional use shall conform to all applicable regulations of the district in which it is located. *The conditional use of the tower development shall comply with the proposed A-2 district requirements. The bulk requirements on setbacks and lot area shall be achieved.*

Dear Rutland and Dane County officials and interested parties:

I want to make sure all of the i's are dotted and t's crossed. Those of us working on this application had put together responses to one set of Rutland questions plus maps and calculations on how little Ag land would actually be affected by the proposed tower. Then, the night before the 3/23/11 Rutland meeting another batch of questions came in. I was advised to just await further clarification at the meeting itself. To make sure everything is addressed, I'm attaching all of the questions I'm aware of. Please let me know if anything in this compilation has been missed or if additional clarification of any question(s) is needed. Thanks in advance. Dave

I noted a number of questions related to the tower height, power and coverage area. Dave Lyshek and I addressed those questions at the Dane County meeting and I am attaching our prepared text below. It may be helpful as Dave and I were both moving at a rapid pace to stay within the time allotted for statements. If you tried to take notes it would've been hard to keep up with. So, I'll start by attaching that text. (my responses throughout this questionnaire use this blue Comic Sans MS font)

Dave Magnum Dane County prepared text:

If you had a chance to look at the follow up letter I snail mailed to all residents who attended the first Rutland meeting you know that I am a very hands-on applicant.

During my 20 year career as an FCC licensee, I have built four other towers in other counties. I don't send out an agent to speak on my behalf. I go out and talk to the land owners myself right from the get-go so people can talk right to the horse's mouth.

My goal has been to make this process as transparent as possible. I have promptly followed up on any questions by Rutland Chairman, Dale Beske, to residents, and to questions by the Stoughton and Oregon Newspapers.

I am confident that we have worked very hard to both meet the letter and honor the spirit of all ordinances. The Evans Report has been forwarded to all of our engineers to make certain they are aware of all directives.

I currently operate ten broadcast towers in Wisconsin and have never had a single issue in my 20 years. I have a clean record with the FAA, State of Wisconsin Department of Aeronautics as well as all local authorities.

The two best moments of this process for me so far, have been after the two Rutland meetings, when folks told me that although they oppose the tower, they feel I have conducted myself in a respectful manner. They encouraged me to not take all of the questioning personally.

And I don't. As I said in the last Rutland meeting, folks in Rutland don't know my work as a broadcaster from the "man on the moon." That's why I understand all of the questions.

In an effort to give folks some confidence that my co-workers and I do good work for our communities, and because there has been a lot of discussion about birds, I asked one of my co-workers if Necedah Wildlife Refuge would share their experience with my stations.

There are two letters in your packet. I could provide such letters from many organizations because my radio and TV stations serve the public in a wide array of areas and without prejudice.

Folks have asked why this Stoughton licensed radio station needs to send out a signal that 233,000 people can hear?

To be viable as a commercial radio station in this area we need to have the opportunity to reach 233,000 people, because, in reality only a small percentage of those 233,000 people will listen to WBKY.

In order to sell advertising, (which also gives us the wherewithal to provide other services to the public), we must grow a measurable audience from that same pool of potential listeners.

To succeed, I must have a signal, comparable in size to the other stations, in order to have a chance to build enough of an audience to attract advertisers. Furthermore, WBKY must remain a full Class A facility based on FCC license requirements.

Stoughton Fire Chief, Marty Lamers, (who is also President of the Dane County Fire Chiefs Association) was invited by Rutland Town Chair Dale Beske to attend the last meeting at which he spoke extensively.

He could not attend tonight due to a previously scheduled engagement, but I have sent to Majid, a copy of my answers about his appearance at Rutland to Seth Jovaag who is a reporter from the Oregon and Stoughton Newspapers.

One of the topics Chief Lamers spoke about addressed the reasons why this potential broadcast tower, should be built as tall as possible, as it relates to other potential co-location purposes.

A related point: I have attempted to explain in the Rutland meetings that building a new radio station operation takes time. Job 1 is simply getting it on the air. While it will take years for this station to mature, we would from Day 1 be able to stand at the ready to aggressively assist in incidents like the 2005 tornado that Chief Lamers spoke of.

I will also say this: The sense of duty we at WBKY would feel to the residents of Stoughton about such incidents, we would also feel toward the residents of Rutland, Oregon, Brooklyn, Dunn, Pleasant Springs, Dunkirk, Christiana-all of the communities within close proximity to the WBKY tower.

Dave Lyshek Dane County prepared text:

We have been asked, as an example, why this tower shouldn't be 350' as opposed to 489'. While it could be, there would be several adverse impacts:

First of all, as was explained by Chief Lamers, everything except cellular equipment requires as much height as possible.

Second, if WBKY would be forced to reduce the FCC and FAA approved height of 489' down to 350' it would lose coverage to many thousands of people.

And lowering the height would mean significantly more power consumption.

Power consumption would need to more than double from twenty six hundred watts to almost 6,000 watts.

This could be compared to driving a gas guzzler car that only gets about 15 miles a gallon and fits less passengers, to one that fits more passengers and gets about 40 miles per gallon.

There would also be an energy consumption impact on the transmitter building. With the small transmitter a simple barn ventilation fan would be sufficient to cool the equipment.

To achieve 6,000 watts we would need to step up to a large 10,000 watt transmitter. This would require that the building be air conditioned which would consume many kilowatt hours of energy per month for typically eight months out of the year.

In addition, the large transmitter would need Three Phase power. We have spoken with Steve Schuett at Alliant Energy. The nearest Three Phase power is 2 ½ miles away from the proposed site. By running the small transmitter we only need Single Phase power which is already in place at Stoughton Farms.

Again, building the tower shorter would add up to a lot of waste.

While I don't expect, nor should you be concerned about the economics for Magnum Communications, I know you are concerned about anything that is wasteful. It would cost substantially more to build and maintain the much larger transmitter facility.

The smaller equipment needed is currently in operation in Portage and would simply be re-installed at the new proposed site.

RF engineers who build these systems have told us that they are confident you will clearly see how wasteful and downright foolish it would be to build the tower at less than the FCC and FAA approved height of 489'.

In this day and age we all need to be as green as possible. As the Evans report stated, (page 5, paragraph 2) reducing the tower height would have a minor visual effect thereby achieving a dubious benefit. The report also stated (page 9, paragraph 7) that cutting the tower below the 488' level would seem to offer little or no commensurate visual impact benefit. Evans further states (page 4, paragraph 5) that the 488 height will prevent multipath distortion which is a challenge for IBOC digital FM radio channels.

As a practical matter, if a human being stands on the ground it is very difficult to discern the difference between 350' or 489'. To give up 139' of useable co-location space and the possibility to eliminate the potential need for another tower in the future would be short sighted.

As to environmental concerns: please note in your packets that we have received from the DNR a "No Effect determination."

We received good news last week when the FAA granted our request to change from a painted tower to an un-painted tower. It is Rutland's preference that the tower be a grey or blue colored surface and we were very pleased that the FAA agreed to make that change to a galvanized grey surface.

It is our hope that the Town of Rutland and Dane County will agree that we have worked hard to be not only transparent but also very respectful to everyone involved.

If you would drive out to the site yourself—we have diagrams and simulations here---you would see that the site we have proposed is next to an operating gravel pit. It is placed far back from the road in the corner of a field so as to reduce its visual presence to the greatest possible extent.

I have worked on a number of different projects over the years with many different applicants. I have never seen an applicant roll up his own sleeves like Dave Magnum has. He has cut no corners and in private is just as respectful of the process as you have witnessed. The glowing report from Evans and Associates is proof positive that very good and thorough work has been done here.

As Chief Lamers correctly pointed out, all antenna systems on a tower must have buffer spaces between the systems so they don't interfere with each other. A large amount of co-location space is also taken up for this purpose which is a key reason why maximizing available height is so important.

ZLR committee pictures of the five towers in Southern Dane range in height from 404' to 499' so this proposed tower fits the precedent of those previously approved.

The following questions have been prepared by the Town of Rutland and submitted via email from Chairman Dale Beske:

Questions on the Application

1. Distance to the Closest Residence

Page 3 of 3 of the application states that nearest residence is 3000 feet away. There are residences and structures closer than 3000 feet. We have two houses under 2640 feet owned by Gary Kershaw (about 1800), Chuck Burch (about 2200) and three (Kevin Shea, Bert Carr and Mark Wethal all at about 2640 feet). There are several houses on Old Stage just to the east of the Kershaw property that are very close to 3000 feet. One future house could be as close as 1000 feet (if the Polakowskis build on their land as originally planned). The Stoughton Farm shed is about 2200 feet away.

This should be corrected in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so the ZLR can be aware of this correction.

As of 3/22/2011, Dane Co Zoning has received a map from Edge Consulting with the distances.

As of 3/22/2011, Dane Co Zoning has received a map from Edge Consulting with the distances. So this is resolved.

At the 3/23/11 Rutland meeting Dick Rodgers said he spoke with Majid Allan about the fact that when the Dane County application was filled out over the counter the Dane County Aerial Photography--GIS web site was incapable of seeing some houses tightly surrounded by trees. Dave Lyshek of Edge Consulting created their map using higher resolution photography. During the 3/23/11 Rutland meeting it appeared that the Planning Commission was in concurrence that this information was accurate.

2. Minimum Height of Tower

Question 3 on the unnumbered typewritten page attached to application states that towers of 200 feet or 300 feet would be too short. The answers given on the application state that this would bring the tower below the prescribed 100 meters above average terrain level for a Class A FM station.

a. Where is this required?

We assume the FCC requires this, but we will need to contact them or find a consultant to provide this answer.

Kevin Shea points out in on the top of page 3 of the attachment to his email of 2/27/11 that WORT-FM operated in Madison for years with a tower of less than 100 feet on Bedford Street in Madison. He also notes in the same section of that document that 492 feet is the maximum height for Class A FM.

b. Could the station be changed to Class B (or some other such class) and then operate on a shorter tower or could it just operate at a lower height as Class A?

Page 5 of Evans report notes that 315 feet is the minimum for Class A FM license. Page 6 of Evans report notes that a reduction in height to 315 feet (35% reduction) has a minimal effect on the number of households served – from about 87,000 down to about 80,000 (less than a 10% drop). While a shorter tower would require more power, it would be less of a visual intrusion on neighboring properties.

Kevin Shea points out in his 2/27/11 email attachment that the minimum power cannot be less than 100 watts.

This should be referred to an independent tower consultant.

At the 3/23/11 Rutland meeting Chairman Beske pointed out that his research shows that a Class B station is actually a larger station than a Class A station. Attorney Steve Ritt stated at that same meeting that there is a myriad of criteria that the FCC factors in to licensing of various stations. When asked about the ability to pick and choose he simply said, "it doesn't work that way."

3. List of rejected alternate sites.

We have verbally heard of rejected potential sites, but the applicant should answer the question.

This should be corrected in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so both the Town and the ZLR can be aware of this correction.

There was one potential site that was eventually abandoned—the property now owned by Kevin Shea. After Don Benson sold his brother, David's, property to Mr. Shea, I then met with Dawn and Terry George, then Bert Carr, then David Soldwedel and Sue Wollin. A real estate agent also confirmed that the Koltz property (now owned Mrs. Polakowski) was for sale. In addition, I received a call from Terry Lund who said he had property that would potentially work for the project. Ultimately, we determined that the proposed Stoughton Farms (Soldwedel/Wollin) site near the gravel pit, situated far away from the road with trees on two sides would be most favorable. A list of potential candidates is provided below.



624 Water Street
 Prairie du Sac, WI 53578
 608.644.1449 phone
 608.644.1549 fax

SITE CANDIDATE SUMMARIES

| | |
|----------------------|--------------------------------------|
| <i>PROJECT FILE:</i> | <i>WBKY – Proposed Rutland Tower</i> |
| <i>BY:</i> | <i>David Lyshek</i> |
| <i>SUBJECT:</i> | <i>Site Candidate Summaries</i> |

In order to avoid interfering with existing radio station operations a relatively narrow siting window was available for the proposed WBKY relocation. Siting options were even further reduced due to the associated property and setback requirements needed to accommodate the proposed tower. Many properties could not physically accommodate the extent of the guy tower anchors, meet a setback of ½ tower height, or would occupy the majority of the parcel.

It became apparent that there were a handful of property owners who owned real estate to reasonably accommodate the proposed tower. A summary of the primary properties investigated with related comments follows:

| | |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Benson Property | Siting of the tower on this location was initiated. However due to its eventual sale prior to necessary tower siting approvals it needed to be abandoned. |
| George Farms | Was discussed with the landlord as a potential candidate. Was deemed ineligible as it was determined that available property was outside of the FM siting window. |
| Bert Carr Property | Was considered a potential candidate and was discussed with the land lord as a possible option. |
| Lund Property | Was considered a potential candidate and was discussed with the land lord as a possible option. |
| Former Koltz Property | Was considered a potential candidate and was discussed between real estate agents as a possible option. |
| Stoughton Farms | Ultimately this was selected as the preferred location due to setbacks from the road, setbacks from neighbors, existing treelines for providing visual screening, and its adjacent location to the existing gravel pit. |

1. The maps with search rings presented thus far only show a small portion of Rutland.

a. Why not show a map with Stoughton in the center and show an area of say 10 miles N, S, E and W of the city?

It would appear that circles would diverge again on the other side of Stoughton.

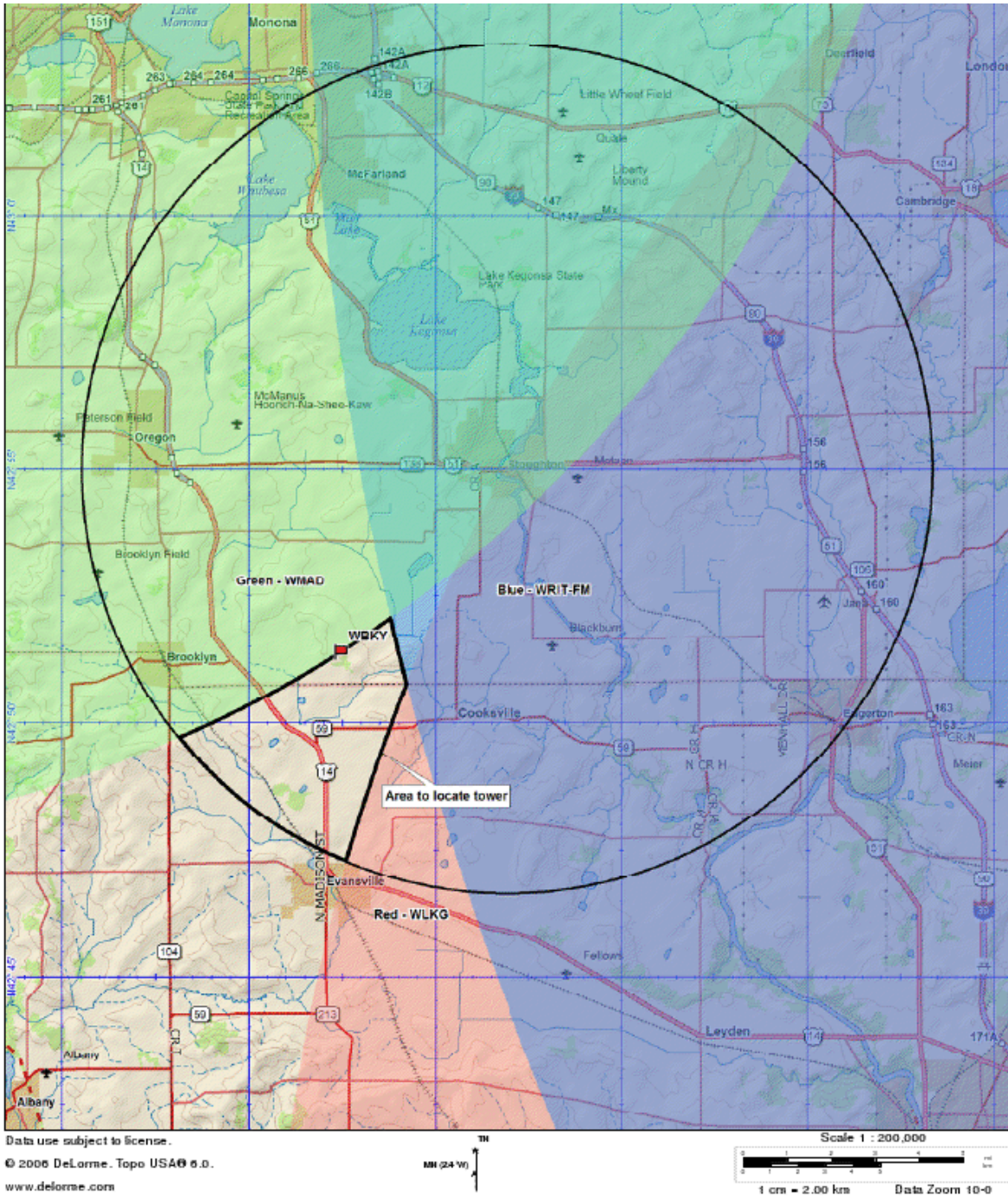
This should be answered in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so both the Town and the ZLR can be aware of this correction.

b. Also, it not clear how the circles should be interpreted, as one would expect the tower would generate a circle that would overlay those circles as well.

This is a question for an independent tower consultant.

At the 3/23/2011 meeting, Dave Lyshek showed a color map which covered a larger area. The circles were identified as specific Lake Geneva and Milwaukee stations among others. He offered to send this map to the town electronically. This question can be resolved by sending the map electronically to both the Town and to the ZLR.

Here is the attached map that Chairman Beske referred to:



During the 3/23/11 Rutland meeting it appeared that the Planning Commission was in concurrence that the window is indeed limited.

2. Since the target is Stoughton, why not a tower in Stoughton with a frequency that would work on a site there?

This would not necessarily be a move of the existing Class A FM station but the creation of a smaller station serving the stated intended market of Stoughton.

This is a question for an independent tower consultant.

I believe Chairman Beske stated at the 3/23/11 Rutland meeting that his research confirmed that such lower power stations are reserved for non-commercial use. This goes back to Attorney Steve Ritt's comment a few questions back that the FCC doesn't allow picking and choosing.

3. Is this really a Stoughton station, or yet another Madison station?

The tower at 487 feet would reach a market of over 200,000 people. There are only about 12,500 people in Stoughton.

Is this really a Stoughton station, or yet another Madison station?

This should be answered in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so both the Town and ZLR can be aware of this answer.

At the 3/23/2011 meeting, it was stated by representatives of Magnum that the station was 'licensed to Stoughton'. It was also stated that it was hard to know whether the advertising would be for Stoughton area businesses or Madison businesses. If you agree with the above paraphrasing of the discussion at the 3/23 meeting, then this question can be considered resolved. If you disagree, please supply an answer.

The tower is specifically licensed to Stoughton, and as mandated by the FCC we are physically required to be within a certain geographic distance of the City of license and provide a certain level of population coverage to it. It is demonstrated in the Longley-Rice coverage maps presented in the Evans Report that we achieve this and that the heart of coverage includes Stoughton and the surrounding rural community. We were specifically asked what percentages of advertisements would be from Stoughton businesses and what percentage from Madison businesses. Attorney Steve Ritt conveyed that we can't know in advance what the percentages would turn out to be.

4. The antennas on the tower are listed as non-directional.

Would a directional antenna change the characteristics of the tower and the siting possibilities for the tower?

This is a question for an independent tower consultant.

This application is for the re-location of the WBKY station from Portage to Stoughton. WBKY currently operates an omni-directional facility which is consistent with this application.

Town Comp Plan Issues

1. Is there a split available?

The Town Comprehensive Plan requires that a split be present to site a communications tower (Goal 6 Ag Preservation District, Policies Point 7.b, on Page 2-6).

This will require review of the records by the Plan Commission.

The last draft of the spreadsheet prepared by the PC in November shows there is a split available.

It is understood that the Town has verified that a split is available.

2. Typical deed restrictions.

The Town will typically require a side agreement prohibiting applications for other CUPs without Town board approval.

A deed restriction for no residential development would typically also be needed, which could be removed when and if the tower were removed or the CUP dropped.

Yes, I respect this provision and understand it.

Town Tower Ordinance Questions

1. Color of tower

The ordinance calls for galvanized/mottled gray/possibly blue on page 5, point 7(b) (iv).

This is in direct conflict with FAA intention to make the tower as conspicuous as possible. Since the initial hearings, Magnum has applied to the FAA to allow an unpainted tower. This was submitted 2/23/2011 as Notice of Proposed Construction or Alteration Case 2011-AGL-1761-OE and project Name MAGNU-000168192-11. The FAA accepted this request for change in a letter 2/28/11. It appears there is a tradeoff, though: The unpainted (galvanized surface) tower would require white blinking lights during the day and red blinking lights at night. The previously proposed alternating orange and white tower would require only the red lights at night.

This should be considered by the Plan Commission.

In the 3/23/11 Rutland meeting, Chairman Beske said I had not made it clear that an un-painted tower would need to be lighted during the day.

Actually, tower lighting was referred to via e-mails in January between Mrs. Polakowski and me in which others including Chairman Beske and Majid Allan were copied.

The topic was then addressed in the Evans Report on page 8, paragraph 3.

Then, at the 2/28/11 Rutland meeting I handed Chairman Beske the just granted FAA change to an un-painted tower which he then read verbatim.

This standard FAA requirement is one which is required of all towers taller than 200' to ensure visibility to aircraft.

What has been so difficult for Dave Lyshek, Dick Rogers and me is how we've only been able to make lateral movement with this application because questions that we thought were answered long ago keep coming back as new questions.

The FAA originally suggested a painted tower with red lights at night. When we became aware that the preference was for an un-painted tower we made that application and it was granted.

2. The ordinance has a preference for unlighted towers, except as required by FAA.

This tower would be lighted. See page 5, point 7 (b) (v).

This is also an observation, but should be considered by the Plan Commission.

It appears that the tower lighting requirement is one of the major sources of concern for the neighbors.

It is apparent that the Town Ordinance does not forbid the installation of a tower over 200'. As mandated by the FAA such towers need to meet aircraft visibility requirements which include lighting standards.

3. Visibility from 3 wildlife areas (2 in the Town, one just across the Town border in Rock County must be considered).

See page 4, point 7 (a) (viii). This should be considered by the Plan Commission. The ordinance requires that the PC take into consideration the effect the tower will have on the aesthetics of natural area and the effect on the view from F&WS and DNR lands.

The FW&S has provided a map that shows the area from which the tower would be visible, assuming no bare ground (not otherwise obstructed by trees or buildings.). This map shows the tower would be visible from all of the F&WS and DNR lands in the southern half of the Town, and probably 75%-80% of the Town overall.

Jim Lutes included the comment below when he submitted the information referenced in the two paragraphs above:

A VERY important caveat to this model is that it assumes BARE GROUND conditions and as such does not take into account things such as tree height or building obstruction.

The WDNR Anthony Branch land is located approximately 2.5 miles to the NW, The WDNR Bad Fish creek Wildlife area is located over .75 miles to the NE, the USFW land is located over .5 miles to the W, Bass Lake is located approximately 2.5 miles to the NE, Island Lake is located over 4 miles to the N. Due to the substantial offsets to these lands along with existing wood lines the base of the tower will not be visible from these locations. Although portions of the tower will be visible from some of these locations site lines shall not be adversely affected. Photo simulations with vantage points from these wildlife areas as well as the County border have been prepared to help demonstrate this.

Dane County CUP Standards

1. Dane County Ordinance Section 10.255 (2) (h) (1-6) should be reviewed.

Chapter 10 is the Zoning Ordinance, and this particular section deals with the issuance of Conditional Use Permits. This is where the health, safety and welfare of the neighbors comes into play. This is also where the question of full use and enjoyment of nearby properties comes into play as well. Each of these should be voted on individually by the Plan Commission and Board.

A review of this portion of the Dane County Ordinance was completed. It is our belief that we meet a reasonable interpretation of it. A summary of this review with associated comments is attached.

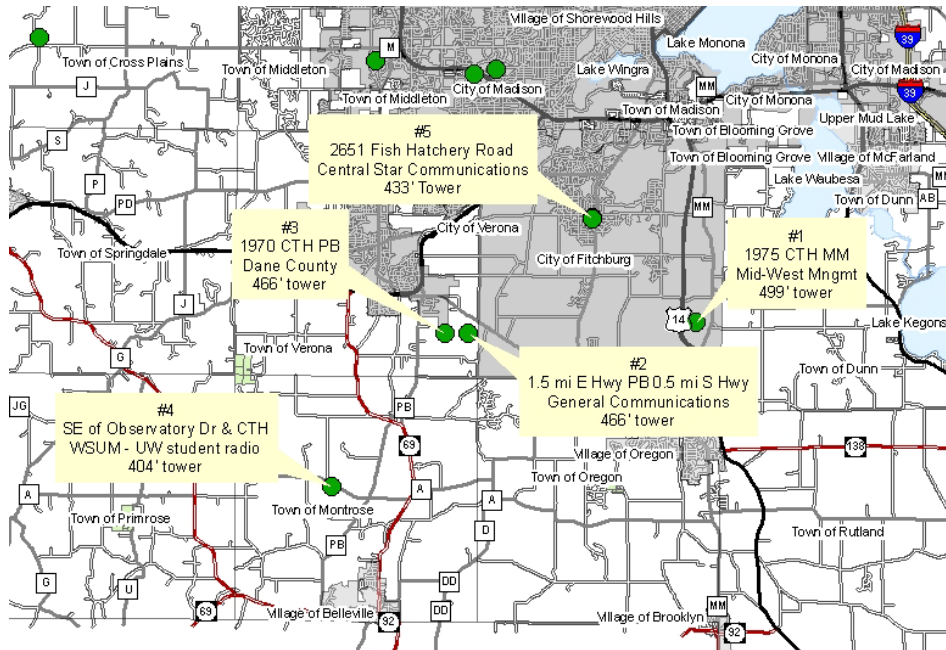
Other Concerns

1. Similar Structures

We have asked for, but not received, a list of similar height towers in Dane County, or the area in general. It would be helpful to all to see what a 487 foot tower actually looks like. The required lights would not be small, and seeing an actual, similar-sized tower might help us judge how intrusive the tower and the lights on it would be.

This should be answered in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so both the Town and ZLR can be aware of this answer.

It turns out that the ZLR committee had asked the same question of the planning department. An 8-page document was sent out. This cover page identifies several towers of approximately the same height in southern Dane County:



I have also learned that the tower near Hwy 51 and Dyreson Road, just north or northwest of Lake Kegonsa, in the Town of Dunn, is 299 feet tall.

During the 3/23/11 Rutland meeting it appeared that the Planning Commission was satisfied with the list of identified towers.

2. What is the previous abandoned application in Oregon #1276118?

This was referred to in the FCC permit, but I cannot locate it presently. Dale Beske will contact the FCC.

This number coincides with the FCC registration for this proposed project.

3. Is this tower needed for Dane Com?

It was mentioned at the Town Public Hearing that Stoughton Fire Chief Marty Lamers had stated that this tower was needed for Dane Com. He has not stated that this tower is needed by Dane Com. While it is true that any tower of this height would be useful for a County wide system, this specific tower has not been identified as critical to the system. The vendor for Dane Com

has just been chosen, and the final design will occur once that vendor is on board and up to speed. That is a decision for the vendor to make while doing the final design, which has not yet started.

The Town Chair sent an email to John DeJung and Rich McVicar of Dane County Emergency Management asking if the tower would have any positive or negative impacts on the Dane Com system. His response, dated 3/8:

Chairman Beske,

Thank you for your email. We are aware of the proposed WBKY tower, having been advised by the county's planning department and also having been contacted by Dave Magnum.

Harris Corporation proposed and contracted to deploy all six system sites at existing towers. The County's agreement with Harris provides for final design work to occur between now and June, with build out happening in time for a fall 2012 conversion. System changes could occur due to action by the governing board (established by resolution 88), local funding of enhancements, and/or other changes agreed to between the County and Harris. Although we expect the signal coverage in Stoughton to meet contracted levels, there is some interest to look into ways of achieving even higher levels of coverage. We have asked Harris to comment on any potential usefulness of the proposed WBKY tower as well as other existing sites around Stoughton. We will also ask Harris to explain if there's any way the proposed tower might interfere with DaneCom. The Harris program management and engineering teams are just coming together now, so days or even weeks will likely pass before we learn what Harris thinks about the proposed Rutland site.

We can remain in touch and share information as we receive it. Please feel free to contact us anytime.

Rich McVicar, ENP
Technical Services Manager
Dane County Public Safety Communications
210 Martin Luther King Jr Blvd Rm 109
Madison, WI 53703-3342

County Supervisor Denise Duranczyk provided this information regarding DaneCom tower sites:

You can go to <http://countyofdane.com/committees/contracts.asp> to find the Harris contract with the county. In attachment A-1 on page 9 is the list of recommended placements for the towers. The governance committee will be reviewing the placements over the next month.

Bottom line, need or lack of need for the proposed tower by DaneCom is not yet known, but apparently the initial design does not assume the tower is needed.

Page 6, paragraphs 1 and 2 of the Evans Report addresses possible co-location uses of this potential tower. Evans refers to this proposed site as "an excellent site for other public safety and Internet initiatives known to be proceeding in Dane County."

4. Many concerns have been raised about declining property values.

Magnum presented several examples where urban development has surrounded previously rural towers. Multiple neighbors stated that they would not have bought nor would they build near the rural tower.

The Town will pose this question to the Town Assessor.

Here is the email exchange:

Hi Dale,

There are very few sales that show towers have a great affect on the market for real estate. I generally give a negative locational adjustment to properties within a half a mile of a tower, usually -5 to -15 percent. Towers and other commercial structures affect homes greater than \$300,000 in value more than they do less expensive homes. This is based on my experience and educational courses I've attend over the years.

Thank you,
Greg Gardiner

On 3/13/2011 4:27 PM, Dale Beske wrote:

Hi Greg:

The Town of Rutland has received a zoning petition to change the zoning on 15 acres and issue a conditional use permit to allow the construction and operation of 487 foot FM radio tower. At that height, the tower would need to be painted in alternating strips of red and white and lit at night with steady and blinking lights, OR left a grey galvanized color with blinking lights both day and night. Given the height, the tower will be widely visible. The state capitol is under 300 feet tall, and the tower just north of the Village of Oregon (between 14 and MM) is about the same height. By comparison, there are towers on the west side of Madison that are over 1000 feet tall. This is in a very rural area along the south edge of the town.

Many residents in the Town have raised questions about the tower and it impact on the Town.

One of those questions has to do with property values. Several residents have stated that they would not have purchased their properties had there already been tower there. One person who bought an adjacent lot (~50 acres, half wooded) just before the application was filed has stated that they will not build and will need to sell their parcel (probably at a loss) if the tower is

approved.

Are you aware of any studies, both pro and con, that have considered the impact of lighted towers on nearby residential property values?

Are you aware of any cases where property values (either for assessment purposes or for mortgage appraisal valuations) have gone down as a result of a large tower being built nearby (within say a mile or less)?

Thanks for any information you may be able to offer.

Dale Beske
Chair, Town of Rutland

At the 2/28/11 Rutland meeting Chairman Beske stated, "let's just say the entire township fell in value by 50%, the levy limit would still stay the way it is and the mill rate would double to compensate for that." Dave Lyshek, Dick Rodgers and I were quite taken back by this statement. So, we were relieved by the significantly reduced number given by Greg Gardiner.

I had met Greg a couple times when he did two home appraisals for me over the years in Pacific Township. I called him about the proposed tower site and answered his questions regarding tree lines, distances to houses etc. Greg told me that since the Polakowski home does not exist he can't say if it would be affected. If it is built and would be affected he said it would likely be on the 5% end of his 5-15% estimate.

In addition, as an example, we would like to bring your attention to one specific property identified by Dane County as being a similar structure. This is the WIBA tower on S. Fish Hatchery Road (#5 on the County Map). According to FCC registrations there are actually (1) 433' FM tower and (2) 193' AM towers with constructed dates identified as 1988. Within the last 7 years substantial residential development has occurred. Within a distance of approximately 2,300 feet 77 single family homes with assessed values ranging between \$300,000 and \$680,000 have been built. In addition, 23 condominiums have been developed within a similar distance, which have assessed values around \$280,000. It is apparent that people have not been shy with respect to setting up residence in the vicinity of the existing towers. Although we have heard the argument that this is a more urban development, we still consider this as being worth consideration. Furthermore, these towers were constructed during 1988, when this location was predominantly rural. It is apparent that residential development during the past 7

years or 20 years has not been stymied by these towers. Therefore, we do not consider the above noted perceived concerns as being entirely accurate. An exhibit demonstrating residential growth around these towers follows.



5. Many concerns have been raised about aesthetics.

While the tower has been set back from the road a considerable distance by the proposer, and while the base station would be concealed by trees, the tower itself, at 487 feet, could not be concealed by trees.

Light pollution for amateur astronomers was raised as a concern.

Tower lights, whether steady or blinking, would be visible every night for many residents.

Additional antennas collocated in the tower could make it more visible than the photo simulations.

The neighboring Town of Dunkirk has sent a letter noting that the tower will be visible for many of its residents, asking that we consider the impact on them as well when making this decision.

This is an issue to be reviewed by the Plan Commission.

The Rutland Ordinance does not unreasonably forbid the construction of towers or require that they shall not be visible. A location has been selected that limits aesthetic related concerns. We do not dispute that a tree line will not block the view of the tower in its entirety from every location. However, many of the surrounding residential properties are developed on wooded lots and from the residence significant screening will be provided. The figure developed to display the adjacent property structures reveals that many of the residences back up to or are virtually surrounded by trees in the direction of the proposed tower.

6. Why not place the tower in an area already being used for other utilities?

There have been suggestions that an area already in use for other utilities be used, such as the new ATC ROW instead of this site.

This is a general siting question that is more or less covered by prior questions.

As previously demonstrated there is a limited siting window available for this Class A FM radio station. Within this siting window a location which capitalizes on several existing features was selected in an effort to limit aesthetic related concerns.

7. Existing towers

There have been suggestions that existing towers be used, such as the WMGM FM tower just north of Oregon at 1975 County Road MM (conflicting information found indicating 500 feet or 557 feet) and a tower near Evansville at 482 foot tower (WWHG-Fm).

Why not the Mandt Tower? This is a question for the independent tower consultant.

This is a general siting question that is more or less covered by prior questions.

As previously demonstrated there is a limited siting window available for this Class A FM radio station. Page 5, paragraph 3 of the Evans Report states: "There are no known FCC registered towers within this area..."

8. Med Flight Flight Patterns

The question of interference with UW Hospital MedFlight flight patterns was raised. The FAA has approved this site.

It appeared at the 3/23/11 Rutland meeting that the Planning Commission does not question the FAA's "Determination of No Hazard to Air Navigation."

9. Benefit to Rutland

It was pointed out that there would be no economic benefit to Rutland and its residents to offset the negative impacts. It appears any benefit would go to Stoughton or Portage.

One of the selling points has been emergency notifications such as Amber Alerts and storm warnings. It seems that this part of Dane County is already well covered in this area. Plus, there is now Reverse 911 Technology which helps provide the same function.

Marty Lamers pointed out there would be a better chance of local coverage from a local station. Magnum has made a commitment to make the station available to local officials during an emergency.

The studio only has to be located within 25 miles of the tower.

Would there be any economic benefits to the Town or its residents?

I am pleased to be able to answer this question in writing because during the Rutland meetings when I would start to answer it by bringing up some of the work my stations do for other communities I was shut down with comments like: "take your good work someplace else." The Necedah Wildlife letters seemed to be dismissed out of hand. The fact is, my co-workers and I work very hard to serve our communities:

AM 1400 WRDB is one of our Magnum group stations licensed to Reedsburg:

Tune in to United Fund Radio Auction



Volunteers a huge part of radio auction's success

- By Ken Leiviska, Times-Press | Posted: Saturday, January 29, 2011 10:00 am |



Jolene Westerman, left, has been volunteering at the United Fund Radio Auction for more than a decade. Terri Douglas, right, said she has been part of the event's large volunteer crew for more than 20 years. Ken Leiviska, Times-Press



There's no stopping the United Fund Radio Auction each January in Reedsburg.

Even though nobody is paid a dime to help organize and run the event, the annual auction - in its 58th year - usually collects enough money in one week to greatly assist the financial needs of local organizations all year.

This year, more than 300 kind-hearted people are volunteering hours of their time for the auction, which wraps up this morning at the Reedsburg VFW Post. Those people are talking live on the air (and local cable television), taking phone calls for people bidding on items, running bid sheets and typing up item descriptions.

Their experience and memories vary, but the reason they volunteer seemed to share a common thread. For a closer look at some of the volunteers, see page 7.

Jeannine Mueller

Position: Event coordinator. Experience: Decades.

Volunteers because: "To whom much is given, much is required. To whom much more is given, much more is required. I live by that. It's not what you get, it's what you give. I don't do this to get anything, I do it to give what I can."

Memories: "Every day is special."

Other thoughts: "I just don't think there's another place in the United States that could pull this off. I really don't. As far as I'm concerned, Reedsburg is the city of volunteers."

Kay Daley

Position: Answers phones. Experience: About 20 years.

Volunteers because: "It's a good way to give back to the community. As a retired teacher, I believe that's very important ... I was on the United Fund Board many years ago and that's probably why I got started."

Memories: "People will call in, say their name and then spell it. But many times I'll already know how to spell it because I taught them ... Lots of times I'll end up talking on the phone with them for a little bit."

Other thoughts: "I've never heard of a community doing something like this before. It gets the whole area involved."

Nancy Manion

Position: Types item descriptions. Experience: 6 years.

Volunteers because: "You get to see people come in here that you don't normally see."

Memories: "I remember the first auction. That was a long time ago."

Kelly Mittlesteadt

Position: Types item descriptions. Experience: 4 years.

Volunteers because: "I did it because she (her mother, Nancy Manion) did it. And also, where I work they give personal time to go out in the community to volunteer."

Memories: "I remember my Saturdays as a kid listening to the auction."

Terri Douglas

Position: Answers phones. Experience: More than 20 years.

Volunteers because: "Just to help the community. It's a great cause. All the money comes back to the community, which is the best part."

Memories: "When it was a smaller community, everyone knew each other."

Jolene Westerman


Position: Answers phones. Experience: More than a decade.

Volunteers because: "It's a great community effort for more than just a few people."

Memories: "Back in the old days it was even more of a social event. There would be times when someone would call and I'd have to tell them I needed to stop talking so I could take another call."

And, here's another fundraiser we just donated time for and worked on, this one for Portage:

Portage Lions Club



35th Annual Radio Auction
Air time donated by 1350 AM WPDR/Magnum Broadcasting

Saturday – April 2, 2011

Phone
745-5864

Proceeds from this annual fund-raiser are used to support many Lions service projects on the local, state and international levels. Some of the local activities include pre-school vision testing, eye exams, glasses for the needy, and transportation of eye tissue to and from the Eye Bank in Madison. Other projects include scholarships, annual Easter Egg hunt, donations to the Safety Patrol trip, the High School athletic fund, Santa's Workshop, and many others.

To Participate in Lions Radio Auction

- Listen to 1350 AM WPDR starting 12:30 P.M. on April 2
- Call 745-5864 to find out the latest bids on any item
- Make your bid by giving name and phone number along with your desired bid.
- Bidding may also be done from St. Mary's Cafeteria where all items will be on display. Bids from the auction location will stop at 3:30 p.m. thus allowing the radio listeners the final half hour of phone bids.
- **Winners will be announced from 4:00 to 4:30 P.M.**
- **Please pick up winning items by 5:30 P.M. from St. Mary's Cafeteria.**

Phone 745-5864 www.portagewi.com Page 1

Our Magnum Radio and TV stations do significant public service work on an on-going basis. In the La Crosse region, another popular annual event that has been held for 12 years is the Coulee Region Humane Society Telethon.

Back to the subject of broadcasting severe weather and other emergency information: Most people consider their health and well-being to be their most valued possession. We anticipate that like our other stations, many people would derive many types of positive benefits from this tower for many years. If, however, the emergency services that have the capacity to emanate from this proposed tower help just one Rutland resident preserve a limb or even their life,

wouldn't that in and of itself be considered a valuable economic benefit to the people of Rutland? Please review notes sent to Seth Jovagg of the Oregon and Stoughton newspapers regarding comments from Stoughton Fire Chief Marty Lamers to the Rutland Planning Commission:

----- Forwarded message -----

From: Seth Jovaag <ungreporter@wcinet.com>
Date: Sat, Mar 5, 2011 at 2:26 PM
Subject: Re: Chief Lamer's at 2/28/11 Rutland Plan Comm Mtg
To: Dave Magnum <magcom@chorus.net>

HI Dave,

I think I've got everything. Haven't spoken to Lamers yet, but expect to do so early next week.

Thanks for all the info!

Seth Jovaag
Reporter - Verona Press and Oregon Observer
w) 608-835-6677
c) 608-843-7384

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On Sat, Mar 5, 2011 at 2:08 PM, Dave Magnum <magcom@chorus.net> wrote:

Seth, Okay, here's the additional information I said I'd provide to you about the 2/28/11 Rutland Planning Commission meeting: Rutland Town Chair, Dale Beske, asked Stoughton Fire Chief Marty Lamers to appear before the Rutland Planning Commission. He did so because at the Rutland Town Meeting (2/17/11) I conveyed that I had received a call from Stoughton Mayor, Donna Olson and Chief Lamers about the possibility of co-location of the new Dane County Interoperable system "DaneCom" on this potential radio tower. Chief Lamers, as you may know, is also President of the Dane County Fire Chiefs Association so he represents all Dane County Fire Chiefs on the panel making decisions about the plan and implementation of DaneCom. Chief Lamers said that at this point there is a preliminary design for six existing tower sites that are targeted for use by DaneCom. He said that if the tower proposed in Rutland is built that it could be looked at as a possible site for co-location of either a complete or partial set of antennas for the DaneCom system. He said that the South-East corner of Dane County does have some coverage issues compared to the rest of the county so they are looking at other existing towers including one on Deerson Road. He said Dane county is looking at existing towers because if the county would have to build a tower site it would cost approximately \$700,000. He pointed out that if DaneCom can instead co-locate on an existing tower it would save taxpayers an enormous amount of money. He was then asked by a resident if cell towers could be used for DaneCom instead. He responded by saying that cell towers aren't tall enough. He explained that there needs to be proper separation of equipment on towers so that equipment doesn't cause interference to other equipment. He said if this tower was built at nearly five hundred feet and if the county used it they would want to be as high up as possible right below the FM antenna because the taller up they are the better coverage they get. He said

the preliminary DaneCom system plan for South-East Dane would use towers from Verona and Rockland which are quite a ways away. Chairman Beske asked about the deadline for DaneCom to be operational and Chief Lamers said the Federal mandate is that it must be up and running by the end of 2012. (Seth, I was told by Dane County 911 of the DaneCom presentation to the panel and did attend that meeting on 2/23/11 so I was already familiar with the points outlined by Chief Lamers. At the 2/23/11 meeting there was a lot of discussion about the special two-way radio needs of Firemen as they go into burning buildings and how crucial it is that the radio signals are strong enough to penetrate buildings of various construction types). Chief Lamers again spoke later in the meeting and said WBKY isn't just about the city of Stoughton. He said in 2005 a tornado came through North of Stoughton in the townships of Dunn, Pleasant Springs, Dunkirk and Christiana. That he was the Incident Commander and how helpful a radio station like the one proposed could have been as a tool to his and other agencies in getting information out to the public. How the cell phone system, the phone system and cable systems all went down because of the tornado. Not because the wind blew them down but because everybody was trying to use those systems all at once and that when those systems get over-loaded they shut themselves down. He told Rutland residents that he received commitment from me that I would make 95.9 FM WBKY available to be utilized for such emergency purposes in the future--that we would broadcast directly from the command center. In such an emergency I would feel that same sense of duty towards Oregon, Brooklyn and other communities within close proximity of our tower site. Again, Seth, along with the comments of Chief Lamers, a key development at the Rutland Planning Commission meeting was my being able to give Chairman Beske the document from the FAA showing that Rutland's preference for an un-painted tower had been approved (I previously e-mailed you the FAA document). Finally, please confirm that you are also in receipt of the No Effect determination from the DNR.

Regards, Dave

As Chief Lamers pointed out, there is a possibility that this tower could prevent Dane County from having to build one of their own, thereby saving Dane County taxpayers of which Rutland residents are a part.

Stoughton Police Chief Leck and Oregon Police Chief Pettit have also expressed their support for our application:

----- Forwarded message -----
From: "GLECK@ci.stoughton.wi.us" <GLECK@ci.stoughton.wi.us>
To: "Allan, Majid" <Allan@countyofdane.com>
Date: Mon, 7 Mar 2011 13:33:04 -0600
Subject: FW: Chief Lamer's at 2/28/11 Rutland Plan Comm Mtg

Dear Mr. Allan,

I am writing this e-mail in support of the Magnum Communications tower in the Town of Rutland. I fully concur with Stoughton Fire Department Chief Marty Lamers comments regarding the potential uses of both the radio tower structure and the FM Station. In the event of an emergency, the ability to get real time information out to the public through an FM broadcast source could be an extremely valuable resource. Also, the potential to use this site for public safety radio infrastructure improvements is also equally important. These potential infrastructure improvements could have a far greater impact then to just the Stoughton area but to the entire south-central and southeastern portion of Dane County as well.

Please feel free to share my comments.

Gregory W. Leck
Chief of Police
Stoughton Police Department
321 S. Fourth Street Stoughton, WI 53589
(608) 873-3374
gleck@ci.stoughton.wi.us

----- Forwarded message -----
From: Chief <dpettit@vil.oregon.wi.us>
To: "Allan, Majid" <Allan@countyofdane.com>
Date: Mon, 7 Mar 2011 14:22:25 -0600
Subject: Magnum Tower

Mr. Allan

I agree with both Chief Lamers and Chief Leck the construction of the proposed tower in the Town of Rutland has the potential to provide public safety departments in the region critical communication coverage from FM radio signal and potentially for public safety communications. This area of the county currently has limited coverage for our current public radio system. The Oregon area would clearly benefit from the addition of the proposed tower from a public safety stand point.

Chief Doug Pettit
Oregon Police Department
Sent from my BlackBerry wireless device from U.S. Cellular

The fact is, tower facilities such as the one we are proposing provide opportunities for new or enhanced services. See memo below:

CORRESPONDENCE DOCUMENTATION

| | |
|----------------------|-----------------------------------------------------------|
| <i>PROJECT FILE:</i> | <i>WBKY – Proposed Rutland Tower</i> |
| <i>BY:</i> | <i>David Lyshek</i> |
| <i>SUBJECT:</i> | <i>Clarification of Potential Co-Location - LiteWire</i> |
| <i>DATE:</i> | <i>March 22 and 23, 2011</i> |
| <i>Contact:</i> | <i>Dave Mueller, CFO LiteWire Internet Services, Inc.</i> |

IDENTIFICATION OF POSSIBLE INTEREST IN CO-LOCATION

The following memo has been prepared to document correspondence with the contact identified above. This document is considered an accurate portrayal of information conveyed to Edge Consulting Engineers, Inc.. It is meant to provide a summary or paraphrasing of the correspondence and is not intended to be an exact quotation of the source.

Email correspondence was initiated with Mr. Mueller of LiteWire regarding potential interest in co-locating on the proposed project tower. The approximate location of the tower was identified as near the intersection of the Old Stage Rd. and N. Union Rd.. Through local advertising I was aware of LiteWire’s presence in this region of southern Dane County and therefore considered them a potentially interested party. Review of on-line coverage maps indicated the existence of coverage gaps in this vicinity; however the degree of coverage is unquantifiable from this source.

The representative of LiteWire Internet Services, Inc. indicated that they may consider the tower for co-location purposes and inquired when the tower would be “up and ready for tenants.”

The intent of this correspondence was to gauge general interest from a wireless internet provider established and committed to providing service in this area. It is my interpretation that this interest has been verified; however this does not speculate on what lease arrangements or build schedule could be employed. Reflecting upon the Rutland Comprehensive Plan Economic Development Section it is apparent that encouragement of high-speed internet connections is a clearly identified goal which the proposed tower may potentially help meet.

As to potential employment, I have been asked many questions right down to whether future employees would own houses or rent apartments. It would be wrong of me to give answers based on conjecture. Other than Gary Kershaw asking me about potential carpentry work I can’t say which Rutland residents might apply for jobs with WBKY because we have not yet sought applications. Is there potential for WBKY to employ a person or persons from Rutland? Yes, of course.

While I don't have a crystal ball and refuse to make blanket statements I can state that my experience as a broadcaster over 33 years (20 as an owner-operator) has shown me that radio stations can play a very positive role in many ways in the communities they serve. E. David Locke, President of McFarland State Bank, supports our application:



Banking You Can Believe In

Since 1904

E. David Locke
President

Direct: 608.838.7400
dlocke@msonline.com

Majid Allan
Senior Planner
Dane County Planning & Development
210 Martin Luther King Jr., Blvd – Room 116
Madison, Wisconsin 53703
608-267-2536

VIA allan@co.dane.wi.us

Dear Mr. Allan:

I am writing to encourage zoning and planning commission members at both the Town and County levels to permit Magnum Communications, Inc., to build-out its proposed tower. This is the final major step to making WBKY a Stoughton licensed radio station.

Within the past month, McFarland State Bank, which I serve as CEO, acquired the former Evergreen State Bank of Stoughton.

At McFarland State Bank we specialize in community banking. A significant segment of that service is making loans to qualified entrepreneurs who in turn create jobs which strengthen our local economies.

When businesses decide where to locate they take into account many factors including what attributes each community has to offer. A radio station such as WBKY, complete with its ability to assist businesses in promoting themselves, coupled with strengthened public safety, would certainly be a feather in Stoughton's cap and a significant part of the fabric of the community.

I ask that, as you deliberate this matter, you take into consideration the potential positive economic impact of WBKY completing this move for Stoughton and the surrounding communities. We strongly support WBKY's efforts to bring their licensed station to the Stoughton community.

Sincerely,

A handwritten signature in black ink, appearing to read "E. David Locke", written over a horizontal line.

E. David Locke
Chairman and CEO

EDL:cls

10. Inviting Additional Development of Towers in Town

Would there be a cascading effect – as more towers appear, it may be harder to fight any other similar development in the future. Could this make Rutland a blighted area as a result of the number of towers?

It is clear that the Town of Rutland has made it a focus and invested substantially in addressing tower siting concerns. There is a well detailed ordinance in place which is designed to guard against the proliferation of tower structures. Furthermore, in accordance with the Dane County Ordinance our proposed tower would be designed to accommodate co-location in an effort to avoid unnecessary tower structures.

11. Is radio obsolete?

The future of radio technology – will it all be wireless internet or satellite in the near future. Technology revolutions happen fast – see aol.com, Borders Bookstore, movie rental businesses, Polaroid cameras and film cameras in general, et c.

Probably more of a rhetorical question.

In the first Rutland meeting it was suggested by a resident that "Radio is a dinosaur" and that my stations would be bankrupt within a short period of time. Dave Lyshek, Dick Rogers and I were quite taken back when in the next Rutland meeting, Chairman Beske exacerbated this suggestion by comparing Radio to AOL, Borders Bookstore and Polaroid cameras.

As to the viability of Radio, please see the letter below from Michelle Vetterkind, President of the Wisconsin Broadcasters Association:

wisconsin broadcasters association

The Wisconsin Broadcasters Association fosters and promotes the development of the arts of aural and visual broadcasting in all its forms.



President & CEO
MICHELLE VETTERKIND, CAE

Vice President - Administration
LINDA BAUN

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NANCY DOUGLASS
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DON GRASSMAN
Results Broadcasting, Shawano

SCOTT LOPAS
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WCLQ/WJVL, Janesville

DICK RECORD
Family Radio, La Crosse

JON SCHWEITZER
Midwest Communications, Sheboygan

NANCY STILLWELL
Madison Media Institute, Madison

JEFF TYLER
Clear Channel Radio, Madison

STEVE WEXLER
Journal Broadcast Group, Milwaukee

VANESSA YOUNGER
WBUW-TV, Madison

Ex Officio - NAB Board
ROGER UTNEHMER
DoorCountyDailyNews.com
Sturgeon Bay

March 10, 2011

Mr. Majid Allan
Senior Planner
Dane County Planning & Development
210 Martin Luther King Jr., Blvd - Room 116
Madison, WI 53703

Dear Mr. Allan,

The WBA is proud to represent Wisconsin's 400 Free, Over-The-Air Radio & TV stations (which employ over 5,000 Wisconsin residents). 98% of Wisconsin stations are WBA members.

It is with this in mind that I write this letter in support of Dave Magnum, who has been a valued, active WBA member for many years, and a local Radio owner.

Wisconsin Broadcasters serve as bridges of communication between local officials and their communities. Radio and television stations are committed to providing the means for lawmakers and candidates to be heard. In addition, broadcasters know the importance of keeping the public informed and educated on pressing political issues. Broadcasters are active in their communities serving as the eyes and ears.

Wisconsin Broadcasters' commitment to public service is never more apparent than during times of crisis. During an emergency – particularly one that arises with little notice – no other industry can match the ability of local broadcasting to deliver comprehensive, up-to-date warnings and information to affected citizens. Local radio & television stations are Wisconsin's most reliable network for distributing emergency information. Even if the electricity is out, causing the Internet and cable television to go down, and cell coverage is lost because networks are clogged, free, over-the-air broadcasters can still be on the air and are the lifeline for emergency information.

44 E. MIFFLIN STREET, SUITE 900 • MADISON, WI 53703

PHONE: 608-255-2600 • TOLL FREE: 800-236-1922 • FAX: 608-256-3986 • www.wi-broadcasters.org

The WBA and Wisconsin's Broadcasters are extremely proud of our local AMBERAlert System in Wisconsin, which is one of the most successful systems in the country due to our shared leadership with Wisconsin's Department of Justice. Since the inception of Wisconsin's Amber program in 2003, we have had 20 Amber Alerts with the successful recovery of 28 children.

Wisconsin Broadcasters are an integral part of their communities and offer un-equaled public service to local communities throughout Wisconsin. Wisconsin's radio & television stations contribute approximately \$270 million per year to their communities through fund-raising efforts and donations of air-time for public service announcements. No other industry serves their communities to this level.

Radio listenership continues to grow (source: Arbitron RADAR):

- o 2010: 239 million
- o 2009: 235 million
- o 2008: 235 million
- o 2007: 232 million
- o 2006: 231 million

Radio reaches more people than other mediums (source: Arbitron RADAR 2009):

- o Radio reaches 92%
- o Internet reaches 75%
- o Newspaper reaches 48%

Radio continues to innovate:

- There are more than 3 million HD Radio receivers in the market and that pace of sales continues to grow. (source: HD Radio Alliance)
- There are more than 2,000 on-air HD Radio stations, and there are more than 1,200 multicast channels on air, reaching more than 90 percent of the U.S. population. (source: HD Radio Alliance)
- 16 automakers have publicly announced plans to incorporate HD radio. (source: HD Radio Alliance)
- Nearly 7,000 radio stations are streaming and the number is growing (source: Inside Radio/M Street Corporation, 2009)

Radio has demonstrated outstanding listener retention in an increasingly time-starved world.

- o The number of Americans playing 25 or more rounds of golf has dropped by one-third. (source: NYTimes article: www.nytimes.com/2008/02/21/nyregion/21golf.html)
- o The percentage of American adults reading a daily newspaper has dropped from 58.6% in 1998 to 48% in 2008. (source: Newspaper Association of America, Scarborough Research, *Top 50 Market Report*, 1998–2007)
- o Yet, radio's audience remains stable, reaching 92% of Americans 12 and over each week. (source: Arbitron RADAR 2009)
- o And, over the past 10 years, radio has retained 87% of its time spent listening. (source: Arbitron, RADAR fall 1996–2006, American Radio Trends, Time Spent Listening Estimates)

Sincerely,



Michelle Vetterkind, CAE
President & CEO
Wisconsin Broadcasters Association

Evaluation of the financial or technical viability of a development appears to be outside of the scope of the tower ordinance. We believe that the only reasonable grounds for this to be a legitimate concern would be with respect to decommissioning of the tower if it were abandoned. With the requirement of escrow filing for decommissioning costs (I have been told by a tower erector that

demolishing and hauling away this particular potential tower would cost between \$5,000 and \$8,000) we feel the only viable concern has been addressed.

12. Removal of Lands from A1-EX

Does this meet the higher standard in County Ordinances 10.123 for CUPs in A1-EX district?

This would need to be considered by the Plan Commission.

We have a joint proposal to rezone the existing property from A1-EX to A2 and to obtain the CUP for the tower. As discussed above in our review of Dane County Ordinance Section 10.255 (2) (h) (1-6); it is our belief that we meet a reasonable interpretation of it. Furthermore the proposed re-zoning will not substantially impair current agricultural use or agricultural use on surrounding properties.

13. Impact of this tower being visible for many miles?

There is a conflict between our ordinance (calling for towers to be as inconspicuous as possible) and the FAA wanting anything over 200 feet to be as conspicuous as possible.

The way that this has been described to me over the years and at seminars is that the FAA needs towers to be conspicuous enough to offer adequate safety to air traffic. As conspicuous as possible (as stated above) would utilize fluorescent pinks or greens and much brighter and/or more lights. In my experience the FAA is very cognizant of the need to both make air travel safe and minimize visual impact on the ground to the greatest possible extent. For example, tower lights are focused to be much brighter from the vantage point of aircraft than people on the ground.

14. Impact on Birds and Other Wildlife

Persons who have raised this issue have provided many studies. Magnum Communications should offer the basis for his statement that bird kills do not occur.

There does appear to be credible information on the occurrence of bird kills. See all the materials submitted by Jim Lutes of the F&WS in Portage.

We have never stated that bird kills do not occur. Dick Rogers has referenced studies he's familiar with pointing out that there are major differences in various estimates. He reminded everyone (and Jim Lutes concurred) that birds are also killed by buildings, water towers, and many other structures. Dave Lyshek has had to remind people time and again to keep in perspective that this proposed tower of

less than 500' is in a very different category than those that have been referenced—some quintuple the height.

I have had two extensive and very productive one-on-one discussions with Jim Lutes. Jim asked me to check on a new alternative lighting system the FAA is studying. After that conversation I contacted the FAA and reported my findings back to Jim. Jim and I agreed to keep the lines of communication between us open and share new information as it is released by the FAA. Jim made several other points to me that I took note of (I used to work as a news reporter and hope that if questioned, Jim would confirm that my notes accurately reflect his comments): When you first made the comment about assisting Necedah Wildlife I called them to check up on you. I wasn't surprised to see the nice letters that came in later as those positives are what I had been told . . . There is a need for communications towers--reality of world we live in . . . I myself have gone on radio stations to educate about wildlife. Certainly positives in what media does for wildlife and media needs towers to broadcast . . . 25% of birds killed are by short towers like the one you are proposing because there are so many more short towers than tall ones . . . If built, would hate to see it built at say 350 feet instead of 489 feet if that would possibly lead to a second tower being needed in the future which is the last thing Wildlife wants to see from a migratory bird stand point. One tower without enough co-location space to prevent a second tower.

Edge Consulting completed FWS screening criteria and did not identify any concerns with respect to endangered species or habitat. The WDNR concurred with these findings. The WDNR also provided the FWS tower siting guidelines for our reference. This identified a normal zone of nocturnal bird migration between the heights of 656' to 2460'. Since our initial application we reduced our tower height from 500' to even further below this height region to 489'. Additional concessions and design features that meet the FWS site criteria include: a small tower footprint, eliminating building lighting, accommodating co-locations, and placing money in escrow for tower removal.

Edge Consulting also completed additional research to address bird mortality issues with respect to this specific site location. The Wisconsin Bird Conservation Initiative has a list of official, approved, and nominated "Important Bird Areas" - IBAs. This is a voluntary program that aims to "identify and protect sites that are most important to birds at any stage in their life cycle... These sites are considered to be exceptionally significant for bird conservation...". The WDNR also publishes a regional map which represents Counties where known migratory bird concentration sites have been noted. Although the wild life areas in Rutland undoubtedly host various birds as they move through the area they have NOT been

listed as an IBA or significant migratory bird concentration area nor are there any others in the area.

We are not denying that towers and many other structures can contribute to bird mortality. We do not doubt that there are notorious towers along migration pathways of heights well above our proposed tower that contribute to this concern. My experience has not led me to personally observe the physical evidence of mortality issues. However, I do not have experience dealing with much larger towers up to 2400' placed along known migratory paths. Due to the continued focus on this perceived concern, I feel I must reiterate that we are not proposing such a tower at such great heights or one that is along a migratory pathway.

15. Minimum Coverage Required to Obtain FCC license

It has been stated that the charge of the FCC is to maximize the use of the spectrum. Does this requirement pass to Magnum Communications, meaning they must maximize the use of the spectrum? Or can the station go smaller and serve just the Stoughton area?

Also a tower consultant question.

The scope of this project is related to the re-location of a Class A FM station. Interpretation of the related siting window was originally evaluated and shown to be accurate by the Evans Report. At the request of the Town of Rutland the same map was expanded in scale to reveal a larger mapped area. During the 3/23/11 Rutland meeting it appeared that the Planning Commission was in concurrence that the window is indeed narrow in extent and therefore siting locations are limited. During the same meeting Chairman Beske pointed out that his research shows that a Class B station typically correlates to a taller tower than a Class A station. Furthermore, it was identified that operation of a tower directly in the City of Stoughton would be potentially viable for non-commercial operation which is inconsistent with this project. It is our belief that the culmination of these topics discussed above adequately addresses this question and specifically that a smaller station cannot be utilized.

15. Ice Falling

Jessica Polakowski raised the issue of the how far away from the tower ice may fall, expressing concern that part of their property may be unsafe during the winter months due to the risk of ice falls. The base of the guy lines are within 20-30 feet of the Polakowski property line.

The Evans reports suggested that the County should require “ice breakers” and “preform clips” to prevent ice from sliding down the guy wires (page 10, point 4). Magnum should provide details on these items, including whether or not these would be visible.

Several Town residents reported that both sides of the Beltline in Madison had to be closed for 2-3 hours on March 1, 2011, due to ice falling from the WMTV tower. That tower is 300 feet off the Beltline, but also it is taller than the proposed tower. This incident was reported on web site Channel3000.com as well as other local news websites plus the March 2, 2011 Wisconsin State Journal.

It was also pointed out that a tower (taller than the proposed) was removed from Elver Park in Madison at least partially due to falling ice concerns.

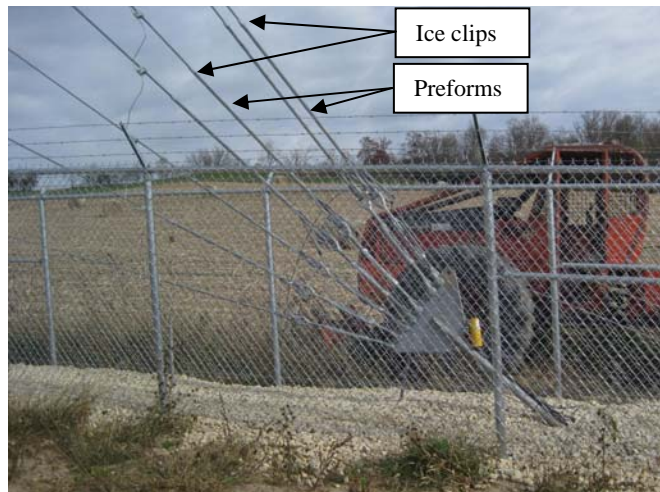
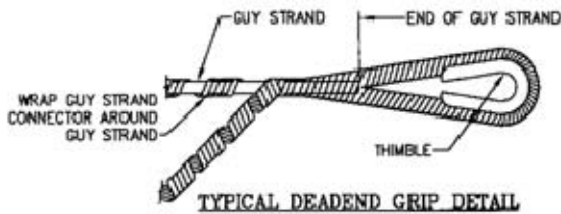
I have been told that the Army Corps of Engineers has done research into tower icing but I have not been able to locate the specific report dealing with distances from a structure within which ice can reasonably be expected to fall.

The stated distance of the base of the guy lines being within 20-30 feet from the Polakowski property line does not appear to be consistent with our previously submitted zoning drawings. Regardless, of this discrepancy the offset is even further than previously displayed. When the project was initiated a 500' tower was considered. However the height was subsequently reduced to 489'. The height reduction shall also correlate to the shortening in the guy radius. Based on this change, the bottom of the guy line shall be approximately 92' from the east (Polakowski) property line. The foundation for the guy lines shall be approximately 74' from the same property line. An updated set of zoning drawings have been prepared which identifies these offsets.

Concerns with falling ice have been raised. A falling ice event occurring on 3/1/2011 related to the WMTV beltline tower deserves clarification. The WMTV Tower is 1300' tall. Review of aerial photography indicates that the tower is 350'+/- from beltline right-of-way. The opposite side of the belt line appears to be 590'+/-. This tower is more than 2.5 times as tall as our proposed height and is offset from its property line by approximately 27% of its height. On the other hand we are proposing a tower significantly shorter in height, with a setback to the nearest property line of approximately 74% of its overall height. Our actual tower

would be 364'+/- to the nearest property line which actually rivals that of the WMTV tower which is significantly taller. This topic was discussed during the 3/23/11 Rutland meeting. An inquiry and quick calculation was made by Chairman Beske regarding the offset to the opposite side of the beltline. Chairman Beske surmised that this distance was around 50% of the tower height and commented that a 50% tower height for falling ice concerns may be a reasonable distance. As indicated above, we surpass this distance.

The tower shall adhere to the recommendations outlined in the Evans Report on Page 10, item 4. The preforms and ice breakers/ice clips are attached at the guy end points and are not considered a significant visible concern. A typical detail and photographs follow:



16. Stoughton Letters?

Helen Johnson has stated via email that the letters written in 2004 by Stoughton officials are still relevant.

----- Original Message -----

From: Helen Johnson

To: county_board_recipients@co.dane.wi.us

Sent: Sunday, March 06, 2011 7:18 PM

Subject: WBKY Radio

Dear Town of Rutland and Dane County Planning and Board members,

As you know, there were a couple of dozen letters sent to the FCC by Stoughton officials and community leaders in support of WBKY's city of license being moved to Stoughton.

It is my understanding that some are suggesting that because those letters were written in 2004 that they no longer apply. To the contrary, what should be taken from those 2004 dates is that there has been strong support for many years.

I also want to chime in with Stoughton Fire Chief Marty Lamers' statement that this is not just about Stoughton, but the whole area including Oregon, Brooklyn and beyond.

To the people of Rutland, I understand not wanting a tower. At the same time, if every town had said "no" then the current radio stations you listen to or television stations you watch wouldn't be there for you either. I ask you to allow this tower to be built for the greater good of the area just as other towns have for other stations for the greater good of the area including Rutland. The fact is, towers and other infrastructure are a necessary part of these important technologies that have become so important in our modern lives.

I regret that my current health is not permitting me to attend both the town and county zoning meetings to reiterate the strong support of many for the WBKY move. The WBKY radio move, and yes the tower itself due to the potential public safety improvements it could provide now and in the future, make this a significant opportunity for our area for many generations to come.

Sincerely,

Helen Johnson
Former Mayor of Stoughton

We are pleased to have garnered the support of numerous Stoughton Officials plus Oregon Police Chief, Doug Pettit. We appreciate the follow up correspondence from Helen Johnson and believe this substantiates the current relevance of their support. Furthermore, I think it is worthy to reflect upon her plea to allow this tower to be built for the greater good of the area just as other towns have for other stations for the greater good of the area including Rutland. This particular statement reminded me of a particular section in the Town of Rutland Comprehensive Plan. Looking out for the greater good of the area is an opportunity to overcome two community weaknesses which are specifically identified in the Town of Rutland Comprehensive plan (inserted below).

Identification of Strengths, Weaknesses, Opportunities, and Threats

.....

On November 11, 2003, a public meeting was held with town officials and residents from the towns of Albion and Rutland to identify important issues facing each. The results for Rutland are shown below and are grouped together in general categories.

| | Strength | Weakness | Opportunity | Threat |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Parks And Recreation | <ul style="list-style-type: none"> ▪ Many acres of public hunting ▪ DNR hunting | | <ul style="list-style-type: none"> ▪ Recreation areas zoned | <ul style="list-style-type: none"> ▪ DNR taking our tax base ▪ Not a lot around for kids |
| Community Character | <ul style="list-style-type: none"> ▪ Strong rural character ▪ Rural atmosphere, good neighbors, low tax rate ▪ Very little commercial development ▪ Relatively free of spot zoning ▪ Low crime rate | <ul style="list-style-type: none"> ▪ Increasing differences and desires between farming and newly rural / suburban residents ▪ No involvement by residents ▪ Lack of involvement in Town issues except when there's a NIMBY problem ▪ Difficulty in generating public interest in Town government ▪ Lack of community input unless issue pertains directly to them | <ul style="list-style-type: none"> ▪ More housing ▪ Identification of possible locations for economic zone (small contractors, small scale operations) ▪ More cooperation among neighbors to reduce costs (i.e., neighboring towns and possible cities and villages) | <ul style="list-style-type: none"> ▪ Increasing cost of fire/EMS/police/education making low cost housing hard to maintain ▪ People moving out from cities not understanding agricultural practices and rural way of life |

17. Why was the tower decision made but not the studio location decision.

Dave Magnum indicated the tower is much harder to site than the studio, and, without the tower, the studio is not needed.

We consider this topic as adequately addressed and do not believe it directly relates to the Town of Rutland tower ordinance.

18. Jobs

Dave Magnum indicated that the radio station's market would need to be built up before jobs could be created.

We consider this topic as adequately addressed and do not believe it directly relates to the Town of Rutland tower ordinance.

19. Utilities

Dave Magnum mentioned that a shorter tower, as a result of using more power, would require that three phase power would need to be brought in. The taller tower, as a result of using less power, would be powered by the currently available one phase power (meaning available at the Town roads in the area; power would still have to be extended to the actual tower site).

As stated in the text of the comments Dave Lyshek made to Dane County, the nearest Three Phase power is 2 $\frac{1}{2}$ miles away from the proposed site. I spoke further with Steve Schuett of Alliant Energy. He said if Three Phase power would be required all related power poles would probably need to each be raised by five feet and that two wires would need to be added. In addition, there would need to be up to four additional cross arms. Plus, anchoring would have to be added on angles. That un-necessary waste would occur up front. Then, there would be un-necessary power consumption waste on an on-going basis coupled with a loss of significant co-location space which as stated in the ordinances is crucial to the goal of reducing the number of towers. Like the engineers Dave Lyshek referenced in his statement at the Dane County meeting, Steve Schuett believes the answer to avoiding all of this un-necessary waste is clear.

20. Tower Failure due to Guy Wire Failure

An incident cited in South Milwaukee was caused by sabotage (someone cutting the guy wires).

The Army Corps of Engineers has a report on the Army Cold Regions Research and Engineering Lab website describing towers that have collapsed due to ice or ice and wind loading. See: http://www.crrel.usace.army.mil/library/conferencepapers/Mulherin_Atmos_Icing.pdf

The proposed tower shall be designed and manufactured in accordance with State Code and EIA/TIA standards. These standards require consideration of ice and wind loading. In accordance with recommendations in the Evans Report, guy anchors and the base of the tower shall be cordoned off with chain-link fencing as security measures.

21. Siting issue

Siting by frequency is controlled by FCC, but actual tower siting is an issue left to local control.

The scope of this project is related to the re-location of a Class A FM station. During the 3/23/11 Rutland meeting it appeared that the Planning Commission was in concurrence that the siting window is indeed narrow in extent and therefore there were limited siting locations. Related to meeting specific local tower siting

requirements we respect the Town of Rutland's jurisdiction. As appropriate we have sited a tower that meets the Town of Rutland ordinance.

21. What assumptions went into tower siting?

This should be answered in the form of a letter to ZLR, from Magnum Communications or its agent, copying the Town, so the Town and ZLR can be aware of this answer.

Before Dave Lyshek of Edge Consulting and I started the application process we first purchased a disc from Town Clerk Dawn George containing the Rutland ordinances so as to make sure we closely adhered to them. Our expectation was approval of this tower site due to our commitment to perform thorough, competent and respectful work. We entered the application process feeling strongly about several factors: 1. We chose and were able to make arrangements to obtain a site far off of the nearest road (Old Stage) next to an operating gravel pit in the corner or a field with trees on two sides. 2. All adjacent property owners were willing to discuss selling us land--one approached us unsolicited. 3. The process had been very open and transparent. My station van which is a moving billboard had traversed the territory on several occasions. 4. Chairman Beske drove out to the proposed site and over the trunk of a car went through the process and anticipated time-lines. Our understanding was that the key to approval would in large part be based on the findings of Dane County's Consulting Engineer, Evans & Associates. When the Evan's report came back confirming that we had indeed done thorough and competent work we felt that we would soon have the approvals necessary to begin construction.

One addition question was asked at the end of the 3/23 meeting. This question was raised at the earlier public hearing but I neglected to include it on the list.

The question was whether the move of the station from Portage to Stoughton area was initially suggested by the FCC and then pursued by Magnum Communications, or whether the move was something that Magmnum Communications requested of the FCC.

As of 3/23/11, this is still open.

This question was answered the first time many years ago. If you review the letters written by Stoughton officials to the FCC dating back to August of 2004 you will see many references to the fact that Magnum Communications filed an application proposing to change the WBKY city of license from Portage to Stoughton.

Page 3, paragraph 4, of the Evans Report refers to the process of reassignment and re-location of WBKY to Stoughton, Wisconsin in Dane County.

At the 2/17/11 Rutland meeting there was discussion about the roles of the Federal, State and Local governments in this application process--what my contingency plan was if the proposed tower could not be built--whether I'd keep the station in Portage etc. I explained that I had been required to sign a document with the FCC stating that if the FCC did go through the process of changing the city of license from Portage to Stoughton (change the FCC Table of Allotments) that I would follow through and build it.

In my follow-up letter to the Rutland residents who had attended the 2/17/11 Rutland meeting I elaborated further about how a broadcast engineer had discovered the small window allowing WBKY to be licensed to Stoughton and how adjacent radio frequencies must be protected.

Then at the end of the 3/23/11 Rutland meeting I was pressed yet again on this question. Since this question is now on the written question list it seems I have no choice but to get far more personal than I would like: My late wife was diagnosed with breast cancer in 1996. A year later it spread to her bones. In the Spring of 2002 it penetrated her brain. It was then that we made the decision to put all of our stations up for sale. While trivial compared to her health, this was a very difficult decision for us because we had started the company together from scratch in 1991.

When our stations were put up for sale, brokers and potential suitors began examining our stations to see if any of the stations could be altered or moved. It was because of this scrutiny that an engineer discovered that enough changes to other facilities had been made to create a very small window for WBKY to be re-licensed to Stoughton. We signed documents to sell most of the stations including WBKY shortly before she died in December of 2002. If my wife hadn't had terminal cancer we wouldn't have put the stations up for sale and this small window would not have been searched for and probably never discovered. Needless to say, if I had my wish, Lynn would still be here and I'd have never learned of this discovery.

Ultimately, FCC ownership rule changes prevented me from transferring the stations to the company that had filed to buy them. After a period of time I decided to file for the move of WBKY from Portage to Stoughton.

If this tower is approved, my staff and I, as we do at our other tower locations, would work to cultivate a good working relationship with our neighbors. Each neighbor would be provided an Incident Response Plan with several contact names and numbers. We would work to create a dialogue so as to quickly respond in the event of questions or concerns. There can be no dispute that I've proven to be a hands-on operator. I'm not shy about giving out my home phone number—I provided it in the letter I mailed to Rutland residents.

I am confident that if approved, this tower, like the others I operate, will within a short period of time, no longer be regarded the issue that it has been through this process.

Please confirm that all questions have been answered to your satisfaction or if you require further clarification. We request that you give us this answer no later than 4/14/11. This would give us time to respond prior to the scheduled 4/19/11 Rutland meeting.

Respectfully, Dave