

VILLAGE OF FONTANA ON GENEVA LAKE
Walworth County, WI

Lakefront and Harbor Committee
Wednesday, January 23, 2013
(Official Minutes)

The monthly meeting of the Lakefront and Harbor Committee was called to order at 5:00 pm on January 23, 2013 by Chairman Rick Pappas.

Committee Members Present: Trustee Rick Pappas, Bob Chanson, Ed Snyder, Joel Bikowski, Lee Eakright, Steve Beers

Committee Member Absent: Don Holst

Also Present: Michael Bohn, Jade Bolack, Sheree Carlson, Darrell Frederick, Ted Johnson, Mark Kennedy, Village Clerk Dennis Martin, Mark Moertl, Gerry Pepping, Trustee George Spadoni, Tom Howell

Visitors Heard

Attorney Ted Johnson stated that he was representing Gerry Pepping with regard to his position on the Village Waiting List for a pier slip and the committee motion approved at the November 28, 2012 meeting that directed staff to notify Pepping that he would be removed from the list and eligible to reapply. At the December 3, 2012 Board of Trustees meeting Village President Arvid Petersen directed staff not to send the letter to Pepping and to reconsider the issue at its next monthly meeting. Johnson stated that the agenda item later in the meeting that seeks authorization to delay reconsideration and to mail letters notifying the other people on the waiting list of Pepping's situation is not necessary. Johnson stated that obviously any people on the waiting list who are behind Pepping's ninth position will want the committee to have Pepping removed from the list so they all move up by one position. Johnson stated that there is nothing in the Village's current Mooring Waiting List policy that prohibits two owners of the same property from being on the list. The Village has a policy that only one mooring lease is allowed per parcel, unless the lease is for a buoy and then a non-motorized ramp space also can be leased. Johnson stated that Pepping has been on the waiting list for 12 years and has moved up to the ninth position, he meets the rules for being on the waiting list, and no rules have been broken by Pepping. Johnson stated that the committee should rescind its recommendation made November 28, 2012 since the entire situation is not an issue. Johnson stated that nothing prevents Pepping from being on the list and the consideration to have Pepping removed never should have been initiated in the first place. Johnson stated that there is no reason to send a letter to the other waiting list members and the Pepping matter should just be resolved that night. Johnson stated that it is up to the committee to make recommendations on the waiting list rules and there is no need to bring in the public. Trustee Spadoni stated that he also wanted to address the agenda item seeking approval to send out the letter. Spadoni stated that the letter draft distributed at the meeting was almost mailed out by staff at the direction of Trustee Pappas earlier in the month; however, he stopped the process. Spadoni stated that Pappas did not seek or receive approval to write the letter or spend municipal funds to mail it out. Spadoni stated that he doesn't support having a letter mailed out to have 50 people show up at the next committee meeting and say that they want Pepping moved down on the list. Spadoni stated that the whole mooring lease situation with a current lease holder selling their home prior to having purchased another property in the village can be resolved by simply incorporating a grace period into the mooring lease language. Spadoni stated that if a person sells their house, they should be given time to build and buy a new house in the Village before their mooring lease status is revoked.

General Business

Approval of Minutes for Meetings Held November 28, 2012 and December 10, 2012

Snyder/Beers 2nd made a MOTION to approve the November 28, 2012 minutes as presented, and the MOTION carried without negative vote.

Beers/Eakright 2nd made a MOTION to approve the December 10, 2012 minutes as presented, and the MOTION carried without negative vote.

Village Board Directive to Review Recommendation on Section 54-49 Fueling Regulations & Review Fueling Barge Business Operations

Pappas stated that the Village Board directed the ordinance amendment recommendation and the Dockside Solutions, Inc., fueling barge safety consideration back to the committee for review.

Sheree Carlson stated that she submitted a written report to the Village that outlines safety standards and practices for the Dockside Fuel business, which has received all applicable licenses. Carlson's written report states:

- The vessel is clearly marked with no smoking signs and is equipped with a strobe light.
- Our tank is inspected annually by an inspector certified by the U.S. Department of Transportation and we are required to undergo a required safety audit.
- Our meter is inspected by weights and measures on an unannounced and random basis.
- Our hose is tested to Coast Guard standards and tagged.
- Our vessel is inspected by our insurance company annually.
- Our vessel is equipped with an emergency shut off valve.
- The majority of the boats we are fueling are on lifts and not floating in the water. Because most of our boats are on a lift when they are fueled we are also able to catch any overage including any overflow from the breather.
- Our vessel is always tethered and stable when fueling.
- The boats we fuel are not occupied – in most cases the owner is not present.
- We only operate during daytime hours from 1 half hour after sunrise to 1 half hour before sunset. We only fill on weekdays – no weekends or holidays.
- Our tank is pressure tested and purged twice a year.
- Our vessel is never kept on the water overnight.
- We refuel our vessel outside of the watershed.
- Our compliance policies and procedures are administered by Foley Carrier Services out of Glastonbury, CT. Our vessel is always attended by a hazmat certified professional. All employees are required to be enrolled in the mandatory drug and alcohol testing program.
- The City of Lake Geneva, Village of Fontana and the Village of Williams Bay are all listed as additional insured under our insurance policy.

Carlson stated that she had all the background documentation with her at the meeting if there were any other questions or concerns and that the very safe fueling vessel more than meets the all safety requirements. Engineer Mark Moertl, Grafton, the designer of the vessel, stated that the fueling barge adheres to all the applicable federal and state regulations. Chanson asked if Dockside Fuel has customers all around the lake, and Carlson replied yes and that some of the customer's boats are moored at municipal piers. Pappas stated that he reviewed the current ordinance section with Village Attorney Dale Thorpe, and Thorpe informed him that if the ordinance section is not amended, the Dockside Fuel business would not be prohibited from servicing boats moored on the Village piers. The amendments recommended at the last monthly committee meeting would have prohibited all refueling at the village piers, if adopted by the Village Board. Attorney Michael Bohn stated that his clients are more than willing to add any other safety measure that the committee members may want, but the business already has met all the applicable regulations and standards. Pappas stated that it is his opinion that since the Village has some prohibitions for the refueling of boats at the municipal piers, that all refueling should be prohibited. Pappas stated that there are a lot of people, including children, on the piers during the summer and there should not be any fueling taking place in the area. Chanson stated that he disagrees with Pappas, and that the fueling barge business seems very safe; however, people filling their tanks with small, portable gasoline cans is not safe. Beers stated that a person carrying a five-gallon gas can on a pier to their boat is much different than a DNR-permitted vessel that is attached to another boat that is tied up to a pier or parked on a lift. Chanson stated

that he thinks there is no need for the Village to amend the ordinance section and it should be left as currently adopted. Spadoni stated that he wanted to point out that the fueling barge business is like a licensed gas station. Chanson stated that Dockside Fuel only offers service on weekdays and not on holidays and weekends when there are more people on the piers. Moertl then explained the approximate five-minute fueling process that is followed by Dockside Fuel employees. Joel Bikowski stated that he is not in favor of allowing the Dockside Fuel business to refuel boats tied up or moored at the Village piers. Bikowski stated that the two-hour public parking piers and the municipal piers with the slips are very busy and it would not be safe. Chanson/Beers 2nd made a MOTION to recommend that Section 54-49 of the Municipal Code be left written as it currently is, and the MOTION carried on a 3-2 vote, with Trustee Pappas and Bikowski opposed. Snyder abstained and Don Holst was absent.

Pappas stated that he did not think that the motion was officially approved because a majority of the entire seven-member committee (at least four members) had not voted to approve the motion. Spadoni stated that a Village Board committee recommendation does not have to be approved by anything more than a majority of the quorum in attendance at a meeting. Snyder stated that he abstained on the vote because he works at the Abbey marina. Following further discussion, Martin stated that he will inquire with Village Attorney Thorpe if a majority of the entire seven-member committee is required to approve motions, if Snyder and Joel Bikowski, an employee at Gordy's marina, should abstain on votes regarding fueling businesses, and if Chanson should abstain because he owns a pier slip.

Committee Directive to Mail Letter to Waiting List Members Announcing February Review of Village Mooring Waiting List Policy & 128 St. Andrews Court/Gerald Pepping Waiting List Status

Pappas stated that during the Visitors Heard portion of the December 3, 2012 Village Board meeting, Attorney Johnson brought up his concerns with the November 28, 2012 Lakefront and Harbor Committee direction regarding Gerry Pepping's status on the Village Waiting List for a pier slip. Pappas stated that President Petersen directed staff at the December 3, 2012 meeting to not write a letter to Pepping and to not remove him from the waiting list until the mooring lease agreement regulations and related waiting list policy, and the Pepping waiting list issues were revisited by the committee at its next monthly meeting. Pappas stated that following the meeting he thought it would be consistent with past village practice to notify the other waiting list members that the issues were going to be discussed by the committee. Pappas stated that when the Village approved a pier slip lease fee increase a few years ago, letters were mailed to all the mooring lease holders. Pappas stated that he asked the administrator to contact all the waiting list members, and she replied that Pappas should write a letter as the chairman of the committee. Pappas stated that the draft of the letter is simply informative and it would just provide the next meeting date and time at which the committee would review the issues. Pappas stated that he had the agenda item drafted for today's committee meeting, and verified by the Village attorney, so that just the discussion on whether a letter should be mailed to the waiting list members would be the only thing discussed and considered at today's meeting. Chanson stated that there is no reason to send out a letter to notify them of the waiting list issue, which is not a big deal. Chanson stated that the mooring lease rates were a much bigger issue. Chanson then made a motion that was seconded by Snyder to not send out a letter. Johnson stated that he disagreed with Pappas and the committee should also consider resolving the Pepping's waiting list status issue as directed by the Village president at the December 3, 2012 Board of Trustees meeting. Spadoni stated that the agenda item is written in two parts separated by the "&" symbol, with stands for "and." Spadoni stated that after considering the mailing out of a letter, the committee should consider the Pepping waiting list status. Following further discussion, Chanson and Snyder removed their motion on the floor and made a new motion to direct staff not to mail out a letter to the waiting list members, to leave Gerry Pepping's status on the Village waiting list unchanged, and to consider the Village mooring lease and associated waiting list policy amendments at the committee's monthly meeting in February 2013. Pappas stated that he talked to the Village attorney and it was his opinion that the agenda item would only allow for consideration of mailing out a letter.

Pappas stated that Thorpe would have attended the committee meeting that night if it was not just going to be a discussion on the letter.

Snyder/Chanson 2nd made a MOTION to direct staff to not mail out the proposed letter to the pier slip waiting list members, to leave Gerry Pepping's status on the Village waiting list unchanged, and to consider the Village mooring lease and associated waiting list policy amendments at the committee's monthly meeting in February 2013. The MOTION carried without negative vote. Pappas stated that is was his interpretation that the motion wording includes "and" before the last clause and that means the last two portions of the motion will be considered at the next monthly meeting of the lakefront committee, similar to Spadoni's interpretation of the agenda item wording. Following further discussion, Martin stated that he will have the village attorney review the agenda item and approved motion prior to the next Village Board meeting scheduled for Monday, February 4, 2013 beginning at 6:00 pm.

Austin Pier Service Annual Repair Proposal for Village Piers

Darrell Frederick of Austin Pier Service stated that the annual repair work is standard and will address normal wear concerns. In response to a question, Frederick stated that the annual repair work brings all the Village piers back up to good shape standards and if there were any new damage to the piers during the upcoming season, it would be apparent. The proposal totals \$9,503, which is included in this year's budget.

Chanson/Snyder 2nd made a MOTION to recommend Village Board approval of the \$9,503 proposal as submitted by Austin Pier Service for the annual repair work on the village piers. The MOTION carried without negative vote.

Update on Permitting Process for Rip Rap Repair Project

Martin stated that he contacted Frederick to provide an update on the permitting process and fees that will be required for the budgeted rip rap repair project, and Frederick submitted a complete proposal that was distributed for the meeting. Frederick stated that the \$8,955 proposal has been fine-tuned and now includes all applicable work and services, including DNR required landscaping work. Pappas stated that Administrator/Treasurer Kelly Hayden indicated that there is only \$7,800 in the budget for the project, but the extra \$1,155 is not a significant amount and can be transferred from another line item later in the year. Frederick stated that if the Village desires to do so, the \$705 landscaping portion of the project can be taken out of the proposal and contracted for separately by the Village. Frederick stated that he hires a subcontractor for landscaping work required for rip rap projects, but it doesn't matter to him if the Village wants to use its own subcontractor or the DPW crew to complete the work. Pappas stated that once completed, the project will help alleviate the erosion concerns at the Country Club Estates beach area. The committee decided to recommend approval of the proposal as submitted and to leave it up to the staff and Village Board if the landscaping portion will be handled by the Village or by Austin Pier Service.

Snyder/Beers 2nd made a MOTION to recommend Village Board approval of the \$8,955 proposal submitted by Austin Pier Service for the rip rap repair project, and the MOTION carried without negative vote.

Sewer & Water Line Investigation for Channel Area

Snyder stated that he requested the agenda item to call attention to a potential problem at the Abbey Harbor channel with an old water line pipe that may be abandoned. Snyder stated that a few years ago, one of the Dive Team members located three pipes in the channel. Snyder stated that the water line pipe is supposed to be abandoned, but former Public Works Director Craig Workman was going to investigate the situation to make sure. Snyder stated that with the low water level situation created by the DNR, and with the channel getting as low as 18-inches below its normal depth this past fall, boaters were striking the pipe with their motor props. Snyder stated that it needs to be determined if the water line is abandoned, and if so, if it can be taken out. The committee directed staff to contact Workman and the Village engineer for further information and report back to the committee. Snyder stated that the other two pipes are a sanitary sewer line, that

is more than 8 feet below the normal water level, and a fire hydrant line, that is 12 feet below the normal water level so they are not a concern. In response to a question about the Abbey Harbor dredging the channel every season, Snyder stated that the Abbey uses the same contractor who is very aware of the location of the three pipe lines.

Geneva Lake Level Situation Update

Steve Beers stated that he talked to Larry Larkin of the Geneva Lake Level Corporation Board of Directors regarding the DNR order to keep the lake dam open 24 hours a day. Beers stated that Larkin thought they had made headway in the negotiations with the DNR when the deputy supervisor indicated the Lake Level Corporation proposal sounded like a good compromise; however, the underlings at the DNR didn't like the proposal and the situation is back to square one. Beers stated that recent rain and snow has brought the lake level back up to 4 inches lower than the spillway level, and it was down to 12 inches below level at the dam spillway. Beers stated that Larkin was planning to meet with State Senator Neal Kedzie to request assistance in getting the DNR from requiring the dam to remain open 24 hours a day, seven days a week. Martin stated in a related matter, Frederick contacted the DNR on behalf of the committee with regard to adding another municipal pier for additional slips, and that information was distributed with the meeting materials. Frederick stated that the DNR is open to swapping slips for buoys, or buoys for slips, if there is no increase in total number. So if the lower water level of the lake causes the Village to lose some of the slip spaces closet to shore, additional buoys could be put in.

Set Next Meeting Date

The next monthly meeting will be held Wednesday, February 27, 2013 beginning at 5:30 pm.

Adjournment

Chanson/Trustee Pappas 2nd made a MOTION to adjourn the meeting at 6:01 pm, and the MOTION carried without negative vote.

Minutes prepared by: Dennis L. Martin, village clerk

Note: These minutes are subject to further editing. Once approved by the Lakefront and Harbor Committee, the official minutes will be kept on file at the Village Hall.

APPROVED: 4/3/13