

VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN
(Official Minutes)

MONTHLY MEETING of the VILLAGE BOARD OF TRUSTEES

Monday, April 2, 2007

President Whowell called the monthly meeting of the Village Board to order at 5:00 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Trustees present: Roll call vote: Pollitt, O'Connell, President Whowell, Petersen, Bidwill

Trustee late: Bromfield entered the room at 5:16 pm

Trustee absent: Turner

Also present: Village Administrator Kelly Hayden-Staggs, Village Clerk Dennis Martin, Village Attorney Dale Thorpe

Announcement for Board of Trustees to Consider Going Into Closed Session

Petersen/O'Connell 2nd made a MOTION for the Village Board to go into closed session pursuant to Chapter 19.85 (1) (c) Wis. Stats. to consider employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility, specifically non-union employee contracts, and pursuant to Chapter 19.85 (1) (e) Wis. Stats. to deliberate or negotiate the purchase of public properties, invest public funds, or conduct other specified public business, whenever competitive or bargaining reasons require a closed session, and Chapter 19.85 (1) (g) Wis. Stats. to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, specifically the WERC Claim filed by Mark Chalchoff and the Claim filed by BZA, and the roll call vote followed:

O'Connell – Yes

President Whowell – Yes

Petersen – Yes

Bidwill – Yes

Pollitt – Yes

Adjournment of Closed Session

Petersen/O'Connell 2nd made a MOTION to adjourn the closed session and to reconvene in open session at 6:00 pm, and the MOTION carried without negative vote.

President Whowell announced that the Village Board was in open session at 6:00 pm.

Also present: Tim Beckstal, Skip Bliss, Jim and Megan Feeney, Judith and Robert Hehr, Rob Ireland, Library Director Nancy Krei, Laurie Larson, Lou Loenneke, Maureen Mayrand, CDA Executive Director Joseph McHugh, Building Inspector Ron Nyman, Deputy Clerk Julie Olson, Arlene Patek, Treasurer Peg Pollitt, Allan Polyock, David Rasmussen, Don and Nancy Roberts, Chris Schultz, Dan Shepard, Michele Teale, Jan Whitler, Geri Whowell, Cindy Wilson

Visitors Heard

Lou Loenneke presented a check for \$200 to the Village from the Skeeter Ice Boat Club in appreciation of the Village's support of the club. Laurie Larson stated that she wanted to address negative campaigning leading up to the Spring Election that has incorrectly implied that the Village has not been protecting green space during recent years. Larson presented a list of ongoing and completed Village projects initiated during the last few years that have resulted in the improvement of green space in some areas and the creation of conservation easements in other areas of the Village. Larson stated that it is her hope that the elected officials will "continue in the right direction with

these environmental projects” following Tuesday’s election. President Whowell presented a decorative plate of appreciation to Trustee Bromfield, who did not seek reelection in the April 3, 2007 election. President Whowell thanked Bromfield for his 16 years of service to the Village and presented the “Robin and His Merry Men Award” to “Little John.” Later in the meeting, Bromfield thanked the officials and the Village staff for their support and stated that he enjoyed serving the Village as an elected official. President Whowell, who also did not seek reelection in the Spring Election, stated that he also wanted to thank all of the Trustees and committee members who have served with him during the last six years. President Whowell stated that he is proud of the balanced contributions that the residents and non-resident property owners who comprised the committees and commissions made during his tenure as Village President. President Whowell stated that he also wanted to thank Kelly Hayden-Staggs for an outstanding job as the Village Administrator; Director of Public Works Craig Workman, who because of his education and experience has saved the Village hundreds of thousands of dollars on construction contracts and costs; Treasurer Peg Pollitt, who is connected to the full-time residents of the Village and does a highly professional job with her accounting and financial duties; Village Clerk Dennis Martin, who was brought in after serving as the editor of the Regional News and has helped provide information to the public through the meeting minutes, the quarterly newsletter and the Village website; CDA Executive Director Joseph McHugh, who is an example one of Fontana’s quality professionals who has roots in the community; Building Inspector Ron Nyman and Assistant Zoning Administrator Bridget McCarthy, who have demonstrated the benefits of establishing a professionally operated Village Building and Zoning Department instead of contracting for the services. President Whowell also thanked Deputy Clerk Julie Olson and Village Attorney Dale Thorpe and his staff for their professionalism and support during his tenure as Village President. President Whowell stated that he especially wanted to thank his family and his wife, Geri, for their patience and support the last six years. President Whowell stated that he is stepping down as Village President with an excellent staff in place and the Village of Fontana residents are fortunate that they have so many good people working for them. Hayden-Staggs stated that she wanted to present to President Whowell the “Presidential Blue Cup Award” in recognition of his tenure as Village President. Hayden-Staggs stated that President Whowell enthusiastically committed endless time and effort to the community and he accomplished a lot during the last six fun-filled years. President Whowell then introduced County Supervisor Allan Polyock and stated that he invited Polyock to the meeting to discuss the Walworth County referendum question that is on the April 3, 2007 ballot. Polyock stated that residents should vote no on the referendum that seeks approval to reduce the current number of County Supervisors from 25 to 11. Polyock stated that the proposal will cost the county thousands of dollars in redistricting and special election costs, and the county will be required to go through the redistricting process again in two years because of the 2010 Census. Polyock stated that if the referendum is approved, the county decisions will be made by a County Board majority of six Supervisors.

Announcements

Hayden-Staggs stated that the Spring Election will be held Tuesday, April 3, 2007, with the polls open from 7:00 am to 8:00 pm; the CDA monthly meeting will be held Wednesday, April 4, 2007; Village Hall will be closed during the Easter holiday weekend on Friday and Saturday, April 6 and 7, 2007; the Village of Fontana Easter Egg Hunt will be held at the Duck Pond on Saturday, April 7, 2007, at 10:00 am; a special Village Board meeting has been scheduled for Monday, April 9, 2007, at 5:00 pm; the newly elected officials will take office at the annual Village Board Organizational meeting Tuesday, April 17, 2007, at 6:00 pm; the monthly Plan Commission meeting will be held Monday, April 30, 2007, at 5:30 pm; and the third annual Chris Schwenn Cancer Foundation Golf Outing will be held at the Abbey Springs on Friday, May 18, 2007.

Approval of Minutes

Petersen/Bromfield 2nd made a MOTION to approve the meeting minutes for open and closed sessions held March 5, 2007, as presented, and the MOTION carried without negative vote.

Village Treasurer’s Report

Petersen/O’Connell 2nd made a MOTION to accept the Treasurer’s Report for February 2007 and to place it on file for the audit, and the MOTION carried without negative vote.

Approval of Village and Utility Payables

Pollitt/Bromfield 2nd made a MOTION to approve the Village and Utility Payables as submitted and presented at the meeting, and the MOTION carried without negative vote.

Plan Commission – President Whowell

Amendment to Zoning Ordinance Section 18-28, Natural Resource Conservation Ordinance (Tree Ordinance) Filed by Village of Fontana

President Whowell stated that the Plan Commission recommended approval of the amendments as presented by the Park Commission, and if deemed necessary, the ordinance can be further amended in the future. Nyman stated that the proposed amendments addressed some of the initially stated concerns regarding the Tree Ordinance.

O’Connell/Bromfield 2nd made a MOTION to approve Ordinance 04-02-07-01, repealing and recreating Section 18-28 Natural Resource Conservation Ordinance (Tree Ordinance), as presented, and the MOTION carried without negative vote.

Condominium Plat, Declarations and Bylaws Filed by Robert Hehr for Property at 636 S. Lakeshore Drive

The Plan Commission unanimously approved a motion to recommend Village Board approval of the condominium plat, declarations and bylaws filed by Robert Hehr for the property at 636 S. Lakeshore Drive. Thorpe stated that the proposal creates a two-unit condominium association out of the existing residences on the lot, and approval would resolve the zoning issues that surfaced two years ago after the second home was constructed. The second home on the lot, that has served as the year-round residence for Robert Hehr and his family, was constructed after it received building permits from a former building inspector contracted by the Village. The permits were issued for a “caretaker’s unit” and Thorpe stated that when that issue was confirmed two years ago when the condominium plat proposal was presented to the Plan Commission, that issue dominated the discussion. In response to a question, Attorney David Rasmussen stated that his clients filed the proposal to make the existing homes separately sellable condominium units. President Whowell stated that the Plan Commission voted to recommend Village Board approval of the proposal since it conforms with the current zoning ordinance, and directed staff to review the zoning ordinances to prevent the further development of second primary residences on the back of lakefront lots that meet the density and size requirements of the current zoning district. Thorpe stated that the Village may want to consider the adoption of a zoning district unique to the lakefront lots; however, the current proposal has to be considered under the parameters of the current zoning ordinance and it adheres to those standards. O’Connell asked Rasmussen why the second residence was constructed as a caretaker’s unit. Rasmussen stated that Bob Hehr did not plan to reside in the residence at first and it was going to serve as a caretaker’s unit, and it was suggested by the former building inspector. Petersen stated that he is not in favor of approving proposals that will create a second layer of homes along the lakefront, and the current proposal is a wakeup call. President Whowell stated that the Hehr proposal is unique because it would correct a building permit that was incorrectly issued five years ago by the previous building inspection department. President Whowell stated that the permits were issued before the concerns arose. Regarding the current zoning ordinance, President Whowell stated there are many lakefront lots in the Village that are large enough to meet the minimum standards for condominium plat developments. Hayden-Staggs stated that when the Village recognized that the initial permit was issued in error by the previous building and zoning department, the zoning ordinance was amended to prohibit two principal residences on one lot and to require conditional use permits for the construction of a caretaker’s unit on a lot. Hayden-Staggs stated that based on the current standards of the municipal code, staff recommends approval of the condominium plat, declarations and bylaws; however, staff also recommends the zoning ordinance be amended to address the lakefront lots. Thorpe stated that the proposal meets the standards of the published code. Larson asked Thorpe if the current use of the residence is nonconforming, and Thorpe responded no. Bliss stated that he raised a number of issues with regard to the proposal at the March 26, 2007 Plan Commission meeting and cited a section of the zoning ordinance regarding the creation of separate lots. Thorpe stated that Bliss was right with regard to his interpretation of the zoning ordinance if the proposal was for the creation of two lots; however, the proposal is to create two condominium units and a condominium association out of the existing buildings on the lot. Bliss stated that the initial building permit was issued erroneously and the residence has never been used as

a caretaker's unit. If approved, Bliss stated that the Village would be giving the applicant a shortcut to RS-1 zoning, it would be setting a bad precedent, and it would exacerbate a bad situation on the lakefront. Bliss stated that the attempt to legitimize the erroneous process in which the second home was constructed is not acceptable as the owner of the neighboring property. Bliss stated that if the Village Board does not vote to deny the proposal, it should table the matter to further investigate its ramifications. Thorpe stated that the proposal is not an attempt to create two separate lots, it is only a change in the form of ownership. Thorpe stated that the lot meets the minimum density and size standards of the current zoning ordinance, unlike other lakefront lots involved in similar proposals that previously were been denied by the Village. Thorpe stated that the Village would not be able to defend in court a vote to deny the proposal based on the current zoning ordinance. In response to a question, Bidwill stated that he is a business partner with Bob Hehr, and Thorpe recommended that Bidwill abstain from voting on the proposal. Trustee Pollitt stated that although Bliss presented some compelling arguments, he favors the proposal because of the legal ramifications and based on the staff and Plan Commission recommendations. Pollitt stated that he agrees that the Village has to address the zoning code for the lakefront lots to prevent a second layer of homes from being developed. Petersen stated that to honor the opinions of the previous Village Board members who did not want to see the development of flag lots on the lakefront, he has to vote no on the proposal. Bromfield stated that he has the same opinion as Petersen. O'Connell stated that Bob Hehr and his family members are good people, but she has to vote no on the proposal. President Whowell suggested tabling the matter while the Village Board members consider the legal ramifications of the vote. Bromfield then made a motion to table the proposal, and it was seconded by Petersen. Petersen then stated that the Village should consider placing a moratorium on any future development proposals of this type while the Village addresses the zoning ordinance. Thorpe stated that a moratorium could be consider at a future meeting of the Village Board, but not that night because the item is not on the published agenda. Hayden-Staggs stated that the municipal code calls for a vote to be made within a specified amount of time on plats filed for approval. Thorpe asked Rasmussen if his client would consent to a 60-day extension for action on the plat, and Rasmussen responded yes. The Village Board directed staff to put the proposed moratorium on the agenda for the special meeting scheduled for Monday, April 9, 2007. In response to a question, Hayden-Staggs stated that the only other pending proposal that has been filed with the Village that is similar to the Hehr proposal is the conditional use permit being pursued by Barton and Joan Love for the Westgate property at 928B S. Lakeshore Drive.

Bromfield/Petersen 2nd made a MOTION to table the proposal, and the MOTION carried without negative vote. Trustee Bidwill abstained.

Amendment to Precise Implementation Plan Amendment, Condominium Plat, Developer's Agreement, Condominium Declarations & Bylaws Filed by Par Development for Cliffs of Fontana Development

Dan Shepard of Par Development stated that the acquisition of the Birdsall property at 192 W. Main Street accommodated the proposed emergency road layout amendment, which prompted other amendments that will save 35 mature trees on the site and eliminate an initially planned retaining wall in the northwest corner of the site. Thorpe stated that the amended developer's agreement calls for the in-kind donation from Par Development of construction services for the Mill House Pavilion. The Plan Commission recommended Village Board approval of three motions to amend the previously approved documents.

Petersen/Pollitt 2nd made a MOTION to approve Resolution 04-02-07-01, amending a previously approved Precise Implementation Plan for the project known as the Cliffs of Fontana, as presented, and the MOTION carried without negative vote.

Pollitt/O'Connell 2nd made a MOTION to approve the amendment to the Condominium Plat, Declarations and Bylaws as submitted, subject to the approval of a Developer's Agreement, and the MOTION carried without negative vote.

Bromfield/O'Connell 2nd made a MOTION to approve the amendment to the Developer's Agreement as submitted, and the MOTION carried without negative vote.

Announce April 30, 2007 Public Hearings

President Whowell stated that the Plan Commission has set public hearings for the April 30, 2007 meeting to consider a Petition to Amend Chapter 18 of the Village of Fontana Municipal Code,

including Sections 18-87(a), 18-87(c), 18-92(c), 18-89(h), 18-21(b), 18-95(g), 18-33(c), 18-84(c), and Article XI filed by the Village of Fontana, and a Petition to Amend Section 18-27 (f)(1), *Fences and Decorative Posts*, of the Municipal Code filed by the Village.

General Business/Administrator's Report – President Whowell/Administrator Hayden-Staggs

Ground Water Report and Proposal Filed by Ted Peters, Geneva Lake Environmental Agency

President Whowell stated that Ted Peters submitted the report he discussed at last month's meeting, and a proposal for a subsequent study that will cost an estimated \$44,000. Petersen stated that the Village Board should set aside funds to pay for a portion of the study cost. Bidwill stated that Peters announced at the last meeting of the Geneva Lake Environmental Agency Board of Directors that the Village of Walworth committed up to \$5,000 to help fund the next study. Petersen stated that Workman indicated that the Utility Budget could absorb up to \$2,500 in 2007 and \$2,500 next year, and the Public Works Committee recommended pledging up to \$5,000 to help fund the study. Trustee Pollitt stated that he agreed with the Public Works Committee recommendation and he stated the funds can be put into the 2008 budget.

Petersen/Pollitt 2nd made a MOTION to approve the commitment of up to \$5,000 for the ground water study as proposed, and the MOTION carried without negative vote.

Utility Budget (Tabled 3/5/07)

Hayden-Staggs stated that one more month is needed to finalize the 2007 Utility Budget.

Pollitt/O'Connell 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

Sewer Backup Claim for 91 Medinah Lane (Tabled 3/5/07)

Hayden-Staggs stated that the claim consists of one bill totaling \$250, so staff recommended settling the claim.

Petersen/Bromfield 2nd made a MOTION to approve the claim totaling \$250 for a sewer backup incident at 91 Medinah Lane, and the MOTION carried without negative vote.

Professional Engineering Services Proposal for Kinzie Avenue Water Main Relay & Street Reconstruction

McHugh stated that the CDA Board still has to act on the proposal and he requested that the item be tabled.

Pollitt/O'Connell 2nd made a MOTION to table the proposal, and the MOTION carried without negative vote.

Professional Engineering Services Proposal for Fontana Boulevard Water Main Extension

McHugh stated that the CDA Board reviewed the proposal and approved the funding at its March 7, 2007 meeting.

Bromfield/Petersen 2nd made a MOTION to approve the \$27,000 contract with Ruckert-Mielke, Waukesha, for professional engineering services for the Fontana Boulevard Water Main Extension project, and the MOTION carried without negative vote.

Lake Geneva Yacht Club Preannexation Agreement Amendment

Hayden-Staggs stated that the applicants requested an extension to May 15, 2007 for the deadline to execute the preannexation agreement, and if the Village Board members do not object to the extension, a motion to amend the preannexation agreement was required.

Petersen/Bromfield 2nd made a MOTION to approve the extension of the deadline to execute the preannexation agreement to May 15, 2007, and the MOTION carried without negative vote.

Protection Committee – Trustee Bromfield

Big Foot Lions Club Temporary Liquor License and Temporary Operator's License Approval for Lobster Boil/Steak Fry Event

Bromfield stated that the applications were reviewed and he recommended approval.

Bromfield/Petersen 2nd made a MOTION to approve the Temporary Liquor License filed by the Big

Foot Lions Club, and the Temporary Operator's License applications filed by Anders Pearce and Joe Abell for the Lobster Boil/Steak Fry on Saturday, July 28, 2007, with the application fees waived, and the MOTION carried without negative vote.

Operator's License Applications Filed by Patrick J. Burch (Rollette Oil) and Forrest Michael Anderson (Gordy's)

Bromfield stated that the applications were reviewed and he recommended approval.

Bromfield/Petersen 2nd made a MOTION to approve the Operator's License applications filed by Patrick J. Burch, an employee at Rollette Oil, and Forrest Michael Anderson, an employee at Gordy's, and the MOTION carried without negative vote.

CDA – Trustee Turner

Walworth/Fontana Pedestrian Connection Grant Application

McHugh stated that he distributed the proposal; however, the project engineer needs to finalize the project numbers and the Village of Walworth has not approved its commitment, so he recommended tabling the matter until the special Village Board meeting on Monday, April 9, 2007. McHugh stated that grant funds are being pursued for the pedestrian path being installed along Highway 67 from South Main Street to the Tracy Group's White Tail Ridge residential development on the west side of Highway 67. McHugh stated that if the grant is secured, the Village of Fontana could have an estimated \$300,000 path for \$75,000.

Petersen/Bromfield 2nd made a MOTION to table the proposal until the special Village Board meeting on April 9, 2007, and the MOTION carried without negative vote.

Village Hall/Library Landscaping

McHugh stated that Roy Diblik finalized the preliminary landscaping plan for the Village Hall and Library parking lot area, and the plan will be ready for final approval next month.

Reid Park Restrooms and Pavilion Landscaping

McHugh stated that the Park Commission worked with Diblik to finalize the landscaping plan for the Reid Park restrooms and pavilion building and it will be presented to the CDA Board for approval. McHugh stated that Diblik was scheduled to present the plan to the CDA at its meeting on April 4, 2007.

Duck Pond Project Update and Pedestrian Underpass

McHugh distributed the preliminary plans which call for a pedestrian underpass at Wild Duck and Dade Roads. The Park Commission recommended approval of the plan and it will be presented to the CDA at its meeting on April 4, 2007. President Whowell stated that the preliminary plans are exciting and there are some great features being planned in what will become an incredible area. Petersen stated that he has confidence in the design group that has been meeting during the last few months to finalize the plans. Bromfield, O'Connell and Bidwill stated that they all like the preliminary plans as presented.

State Highway 67 Landscaping and Irrigation Project Contract

McHugh stated that the proposed contract with Agrecol Corporation is to perform the native plantings and invasive species eradication work connected to the Highway 67 landscaping and irrigation project. McHugh stated that the three-year project cost totals \$16,075, and the CDA has committed to fund the project.

Petersen/Bromfield 2nd made a MOTION to approve the \$16,075 contract with Agrecol Corporation as presented, and the MOTION carried without negative vote.

Park Commission – Trustee Bidwill

Update

Bidwill stated the annual approval of the Village of Fontana's Arbor Day Proclamation will be added to the agenda of the special meeting on Monday, April 9, 2007. Arbor Day will be observed by the Village Park Commission on Friday, April 27, 2007.

Public Works – Trustee Petersen

Main Lift Station Project Update

Petersen stated that new main lift station has been operating for the last couple weeks. A ribbon cutting ceremony will be planned for a future date.

Lower Gardens Project Update

Petersen stated that the project to reline the sewers in the Lower Gardens subdivision is addressing the leak problems that have been occurring for several years in the area.

Fontana Boulevard Watermain Project Update

Petersen stated that the project commenced the morning of April 2, 2007 in the area of the County Club Estates Association beach and an underground boring will be drilled under the channel and the Village of Fontana beach to the municipal parking lot. Petersen stated that the project is scheduled to be completed and the construction area restored by Memorial Day.

Willkomm Final Pay Request

Petersen stated that the Village received the final pay request totaling \$9,192.55 from Willkomm Excavating, Union Grove, for the Fontana/Walworth water connection project and the Public Works Committee recommended approval.

Petersen/Bromfield 2nd made a MOTION to approve payment of the Village's portion of the final pay request submitted by Willkomm Excavating, Union Grove, for the Fontana/Walworth water connection project, and the MOTION carried without negative vote.

Finance Committee – Trustee Pollitt

Village of Fontana Insurance Renewal Recommendation

Trustee Pollitt stated that the Finance Committee recommended approval of the renewal quote submitted by R&R Insurance and the League of Wisconsin Municipalities Mutual Insurance program. Pollitt stated that the proposal calls for an estimated 2 percent increase in the total premium for general liability, public officials, police professionals, automobile liability and physical damage, property, crime, no fault sewer, accident and health for the volunteer fire department, bonds and worker's compensation policies.

Pollitt/Bromfield 2nd made a MOTION to approve the renewal quote submitted by R&R Insurance and the League of Wisconsin Municipalities Mutual Insurance program as presented, and the MOTION carried without negative vote.

Water Rate Increase

Hayden-Staggs stated that the Finance Committee recommended that the Village Board seek approval for a “full-blown” water rate increase instead of a simplified water rate increase. In order to receive state approval for an increase that exceeds the simplified rate, a municipality must submit to the Public Service Commission a rate increase study and application. Hayden-Staggs stated that she was seeking approval to enter into a contract not to exceed to \$1,500 with Patrick Romenesko, the Village auditor, to prepare the application.

Pollitt/Bidwill 2nd made a MOTION to approve a contract with Patrick Romenesko not to exceed \$1,500 to prepare the water rate increase study and application, and the MOTION carried without negative vote.

F/W WPCC-Trustee Petersen

Update

Petersen stated that the wastewater treatment plant's Beloit Road project is underway.

Lakefront and Harbor - Trustee O'Connell

Update

O'Connell stated that the committee did not meet this month because of a quorum of committee members was not present.

GLLEA – Trustee Pollitt

Update

Trustee Pollitt stated that the Geneva Lake Law Enforcement Agency Boat Patrol manager is interviewing Boat Patrol officer applicants and the new employees will be presented to the Board for approval at next month's meeting.

Pending Items for Future Agendas

1. Big Foot Recreation Annual Update
2. Abbey Springs PIP Amendment for Boat Storage Plan (Tabled 2/5/07 & 3/5/07)
3. Adult Oriented Business Licensing Procedure (Tabled 3/5/07)

Adjournment

Bromfield/Pollitt 2nd made a MOTION to adjourn at 7:43 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 Village Board, the official minutes will be kept on file at the Village Hall.

APPROVED: 05/07/07