

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

MONTHLY MEETING of the COMMUNITY DEVELOPMENT AUTHORITY
Wednesday, July 7, 2010

Chairman William Turner called the monthly meeting of the CDA Board to order at 6:00 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

CDA members present: Roll call: President Arvid Petersen, Gail Hibbard, Cindy Wilson, Bob Chanson, Chairman Turner, Skip Bliss (arrived at 6:02 pm)

CDA member absent: Jeff Fisk

Also present: Administrator/Treasurer Kelly Hayden, Library Director Nancy Krei, Lou Loenneke, Village Clerk Dennis Martin, Joseph McHugh, Matthew Olson, Carol Whowell, Tom Whowell, Director of Public Works Craig Workman

Visitors Heard

None

Announcements

1. Big Foot Recreation Movie Nights at the Fontana Beach – **Saturdays, July 10 & 24, 2010, Dusk**
2. Plan Commission Staff Meeting – **Wednesday, July 14, 2010, 1:00 pm**
3. Village Assessor Office Hours at Village Hall – **Friday, July 16, 2010, 10:00 am to 2:00 pm**
4. Library Board Meeting – **Wednesday, July 21, 2010, 10:00 am**
5. Park Commission Meeting – **Wednesday, July 21, 2010, 6:00 pm**
6. Open Book – **Thursday, July 22, 2010, 3:00-5:00 pm & Saturday, July 24, 2010, 10:00 am-Noon**
7. Plan Commission Monthly Meeting – **Monday, July 26, 2010, 5:30 pm**
8. Lakefront and Harbor Committee Meeting – **Wednesday, July 28, 2010, 4:30 pm**
9. Finance Committee Meeting – **Thursday, July 29, 2010, 6:00 pm**

Approval of Minutes for June 2, 2010 Meeting

President Petersen/Commissioner Chanson 2nd made a MOTION to approve the minutes as submitted for the meeting held June 2, 2010, and the MOTION carried without negative vote.

Approval of Current Payables

The monthly payables were reviewed, including two distributed at the meeting that were submitted by Associated Trust Company and Foth Engineering and Infrastructure, and approval was recommended.

President Petersen/Commissioner Chanson 2nd made a MOTION to approve the payables as presented, and the MOTION carried without negative vote.

Finance Report – Administrator/Treasurer Hayden

Update/Review – Full Accounting Statement & TIF Revenue Increment Projections

Turner stated that there were not a lot of changes made to the reports, other than the addition of a couple payables. Hayden stated that she will be meeting with Jeff Fisk and Jim Mann to update the increment projections.

TID #1 Projects – Public Works Director Workman

TIF Project Maintenance Activity Report

The updated list was presented.

Change Order No. 3 and Final Pay Request No. 5 for Fontana-Walworth Pedestrian Path Contract

The Village Board approved Change Order No. 3, calling for an increase of \$1,117 in the total

contract, and Pay Request No. 5 totaling \$28,505 submitted by Mann Brothers, Inc. for the Fontana-Walworth Pedestrian Path Contract contingent on CDA approval. Turner stated that the grass needs to be cut along the path and he would support approving the item if the grass is cut.

Chairman Turner/Commissioner Chanson 2nd made a MOTION to approve Change Order No. 3, calling for an increase of \$1,117 in the total contract, and Pay Request No. 5 totaling \$28,505 submitted by Mann Brothers, Inc. for the Fontana-Walworth Pedestrian Path Contract, as recommended and subject to the grass along the path getting cut by the Department of Public Works. The MOTION carried without negative vote.

Duck Pond Phase I Landscaping Contract Final Change Order and Pay Request

Workman stated that he just received the paperwork for the item that afternoon and it was not yet reviewed.

President Petersen/Commissioner Chanson 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

General Construction Updates

Nothing new was presented.

General Business

Letter from Lou Loenneke – Lakefront Platting Proposal

Lou Loenneke submitted a letter dated June 17, 2010 to CDA Chairman Bill Turner that requests the village to “research the lakefront ownership” and review information provided by Village Attorney Dale Thorpe before “doing all our lakefront improvements.” When Thorpe recently provided copies of his records after Loenneke had brought up the lakefront ownership issue at a March 31, 2010 planning meeting for the Lakefront Building Proposal, Thorpe included a message stating, “please make it clear to these folks that my file materials were accumulated over a long period of time as information was randomly brought to my attention and I thought to save it. I have never been asked to research the issue of lakefront ownership in the Village, and I have not done so.” Loenneke states in his letter, “I suggest that as many of us as possible review this information at Village Hall. Can we please pursue this before doing all our lakefront improvements?” Turner stated that he talked to Tom Whowell, Thorpe and Loenneke and responded with the following letter that he submitted to the Village Board: “As you know, the CDA is contemplating projects on the lakefront, including rebuilding Lake Street. As Chairman of the CDA, I would like to request that the Village Board provide us with a definitive and recorded plat of Lake Street. I would also suggest that the Village Attorney ask the property owners on Lake Street to provide evidence of riparian ownership of the lakefront. Questions about these matters continue to arise and they should be put to rest. I have spoken to Tom Whowell and he also would like to clarify matters once and for all.” Turner stated that the Village needs to come to terms with the issue and put it to bed once and for all. Turner stated that he would suggest that Tom Whowell and Carol and James Whowell be requested to submit their ownership documentation regarding riparian ownership and the width of the public street for the lakefront business properties to Thorpe. Turner stated that Thorpe should be directed to review the documents and provide a report to the CDA Board at its August 4, 2010 meeting, and Thorpe’s determination can be put into the official records prior to the September 14, 2010 Lakefront Building Proposal referendum. Turner stated that since the properties have been sold several times, the record should be fairly clear and the review by Thorpe should not be too costly. Turner stated that it should only cost about \$3,000 for Thorpe to review the records. Wilson stated that \$3,000 may not be enough for a complete review and Chanson suggested authorizing up to \$5,000. Tom Whowell asked if Gordy’s attorney, John Maier, could work with Thorpe on determining what criteria would be necessary to demonstrate ownership or if a letter could be provided that states what documentation would be deemed adequate. Tom Whowell also presented a letter dated July 7, 2010 to Bill Turner on behalf of the Gordy Group. The letter states in part, “We would strongly encourage the Village to disregard Lou’s letter or any other challenge to our ownership without a body of evidence equal to or greater than the examples we have listed above.” The letter concludes, “It should be obvious to all of you that the suggestion, ‘to pursue this before doing all our lakefront improvements’ is a blatant effort to kill the referendum, a project which many of you have worked hard to achieve and a project which we also believe is in the best interests of the community.” Bliss stated that there are legal methods to determine ownership of property and the

CDA should request from Thorpe what criteria is used to make a legal determination. Turner stated that he would add the suggestion made by Bliss to his motion. Turner stated that Thorpe should inform the CDA what criteria is used to make a legal determination, and any records that Tom Whowell, Jamie and Carol Whowell or Lou Loenneke want to have Thorpe consider in his review should be submitted to Thorpe. Turner stated that the issue has been discussed a number of times in the past, and if it is reviewed by Thorpe it will clarify the situation once and for all. Turner stated that once it is clarified who has the riparian rights and what the exact width of the road should be, an assessor's plat can be drafted, approved by the respective parties and the Village and officially recorded with the Walworth County Register of Deeds Office. In response to a question on why the CDA was authorizing the spending of funds on a legal review for the lakefront ownership issue, Turner stated that the CDA is involved because it is proposing to spend millions of dollars on the lakefront and the two issues need to be resolved as part of the project planning.

Chairman Turner/Commissioner Wilson 2nd made a MOTION to authorize an expense not to exceed \$5,000 for Village Attorney Dale Thorpe to provide the criteria for making a legal determination on the issue of riparian property ownership, to review the official records regarding the riparian ownership and width of the road for the Lake Street business properties, and to make a determination on the riparian ownership and the width of the road. The MOTION carried without negative vote.

Cost Estimate for Underground Burial of Remaining Lakefront Utility Lines

Workman stated that he has been in contact with Alliant Energy and the current estimate provided to bury the remaining 200 feet of utility lines on the lakefront from the Abbey Harbor bridge to Shabonna Drive is more than \$200,000. Workman stated that the bid for the initial lakefront project estimated the remaining area could have been added to the contract for about \$100,000. Also, in the initial project estimates, the existing pole at Shabbona Drive was going to be removed. In the updated estimate recently provided, Workman stated that the existing pole at Shabbona Drive would not be removed. Workman stated that he has not yet received a detailed cost estimate. In response to a question, Workman stated that the Village has to use Alliant on the project, because the utility company owns the utility lines. Workman stated that the Village can dictate that the project be completed, but it has to be entirely funded by the Village. Turner asked if the past estimates from Alliant have been accurate. Workman stated that on the previous utility burial projects, the projects have come out about 10 or 15 percent under the initial estimates. Workman stated that the lines are in the Village easement area, and if they ask Alliant to move them, they have no choice. Turner asked how much funds are remaining in the utility burial account, and Workman stated that Charter Communications still has an outstanding invoice for the project that was completed over one year ago. Hayden stated that there is currently \$170,000 in the CDA budget for the remaining utility line burial project and for the outstanding Charter invoice. Workman stated that the Charter invoice should be about \$10,000 to \$20,000, which would leave a balance of about \$150,000 for the burial of the remaining utility lines. Bliss stated that Workman should talk to Alliant about the initial estimate that was in the \$100,000 range and ask why the current estimate is in the \$200,000 range. Turner stated that Workman should try to schedule a meeting with the Alliant representatives to discuss the estimate. Turner stated that he, Workman, Hayden, President Petersen and Bliss should attend the meeting. Bliss stated that Workman should also mail a letter to Charter Communications to inform them that the project contract is being closed out and an invoice must be submitted by the end of the month for the remainder of the work not yet billed, or the balance due will not be paid.

Commissioner Bliss/President Petersen 2nd made a MOTION to direct Workman to send a letter to Charter Communications stating that the Third Avenue Project utility burial contract is being closed out and an invoice for remainder of the work not yet billed must be submitted by July 30, 2010 or payment will not be approved. The MOTION carried without negative vote.

Eric Nyman – Potential Interest in 138 Fontana Boulevard

Turner stated he held an initial meeting with Eric Nyman, who has moved back to Fontana after completing his education and military service, and he is interested in developing the lot at 138 Fontana Boulevard. Turner stated that Nyman is working on a proposal that would establish an architectural style for future development projects along the Fontana Boulevard corridor, with mixed use business and retail on the lower level and residential units on the upper level of two-story buildings.

Chairman Turner/President Petersen 2nd made a MOTION to authorize a subcommittee consisting of Chanson, Bliss and Turner to continue negotiations and planning with Eric Nyman for the lot at 138 Fontana Boulevard. The MOTION carried without negative vote.

Hayden stated that Brian Pollard of Fairwyn, Ltd. also has expressed interest in discussing the development of the lot. Turner stated that he will contact Pollard to schedule a meeting with the subcommittee and an email will be sent out to notify the members of the date. Bliss stated that a notice should be put out so all interested developers can have a chance to meet with the subcommittee. Following discussion, it was determined that a notice should be published in the local weekly newspapers and other appropriate publications that were used the last time the CDA solicited development proposals. Also, potential developers should be directed to the Randall Arendt presentation for guidance on the architectural vision for the area.

Chairman Turner/Commissioner Chanson 2nd made a MOTION to direct staff to publish a notice in the Lake Geneva Regional News, the Times and the other appropriate publications used the last time the CDA solicited development proposals indicating that the CDA is interested in meeting with potential developers of the property at 138 Fontana Boulevard, and to direct the potential developers to the Randall Arendt presentation for guidance on the architectural vision of the area. The MOTION carried without negative vote.

Joint Review Board Update

A meeting of the Joint Review Board has been scheduled for Tuesday, July 13, 2010 at 4:00 pm to consider the authorization of additional Environmental Master Plan projects that are within one-half mile of the TID boundary. The proposed new projects will be presented by Terry Tavera. Turner stated that he also will attend the meeting to present information.

Lakefront Building Proposal Informational Mailer Approval

Matthew Olson, the informational website designer who also designed the informational mailer to be sent out to voters prior to the election, presented a draft of the two-sided flyer. Hayden stated that the section titled "Budget Quick Facts" still needs to be completed, and the mailer also should be reviewed by the board members. Turner stated that the members should review the mailer and provide any necessary comments to Wilson. Regarding when the mailer should be sent out, Bliss, Hibbard and Petersen stated that it should be mailed out two to three weeks before the referendum date. A discussion ensued on whether a separate postcard mailer also should be sent out in addition to the informational mailer as a reminder. The CDA members reached a consensus that the informational flyer should only be mailed out once to voters, two weeks before the referendum date. The board members were directed to submit their comments to Wilson and the finalized flyer will be presented at the August 4, 2010 CDA meeting.

Chairman Turner/Commissioner Hibbard 2nd made a MOTION to have the Lakefront Building Proposal informational flyer mailed out to voters on Monday, August 30, 2010, and the MOTION carried without negative vote.

Village Board Report – President Petersen

Petersen stated that all the Village Board related matters were addressed in other agenda items.

Lakefront & Harbor Report – Commissioner Chanson

Chanson stated that when he walked through Reid Park on July 4, 2010 all the property surrounding the Lake Geneva Marine building down to Chuck's looked like a circus was being held with tents and awnings erected on both sides of Lake Street. Hayden stated that on the Fourth of July the park is filled with visitors who set up tents, awnings, canopies and grills and layout blankets throughout the park. Hayden stated that is one of the reasons why the Village planned the Fourth Fest event this year. Chanson stated that the park looked terrible and he questioned authorizing the expenditure of millions of dollars on improvements in the park. Chanson asked if the Village can prevent tents from being erected in the park, especially on the lake side of the road. Hayden stated that it would be up to the Park Commission to consider a park policy amendment and an ordinance amendment could be recommended to the Village Board. Wilson asked what would be the goal of a proposed amendment. Bliss stated that no tents, awnings or canopies should be allowed in the park, except for specially permitted events like the Lobster Boil and Steak Fry and the Pig in the Park. Turner stated that picnicking on the lake side of the street also should be addressed. Hayden stated that people setting

up on the lake side of the street is only an issue on the Fourth of July. Bliss stated that tents, canopies, awnings or any structures should be prohibited on the lake side of the street. Bliss stated that the Village has already spent a lot of money improving the lakefront and it looks like a refuge camp down there. Turner stated that an awning or a canopy erected over a picnic area should be allowed in Reid Park, but no tents; and nothing should be allowed on the lake side of the street or in the triangle area adjacent to the marine building. Bliss stated that awnings and canopies also should be prohibited in the park.

Chairman Turner/Commissioner Chanson 2nd made a MOTION to request that the Park Commission consider a park policy amendment to prohibit the erection of tents in Reid Park, and to prohibit picnicking and the erection of tents, canopies or awnings on the lake side of the street and in the triangle area adjacent to the marine building. The MOTION carried on a 4-2 vote, with Bliss and Wilson opposed and Fisk absent.

Park Commission Report – Trustee Wilson

Wilson stated that the Park Commission recommendation to allow Boy Scouts to camp overnight at the Duck Pond got nixed.

Confirm Quorum & Dates for Upcoming Meetings

The next monthly meeting date is Wednesday, August 4, 2010.

Agenda Item Requests

None

Adjournment

Commissioner Chanson/President Petersen 2nd made a MOTION to adjourn the meeting at 7:11 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 CDA, the official minutes will be kept on file at the Village Hall.

APPROVED: 8/4/2010