

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

MONTHLY MEETING of the VILLAGE BOARD OF TRUSTEES

Monday, August 2, 2010

President Arvid Petersen called the monthly meeting of the Village Board to order at 6:00 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Trustees present: Roll call vote: Pat Kenny, Peg Pollitt, Cindy Wilson, Micki O'Connell, George Spadoni, President Arvid Petersen, Tom McGreevy

Also present: Rallee Chupich, Carola Coccia, Drew Gilchrist, Jim Feeney, Megan Feeney, Doug Harrod, Administrator/Treasurer Kelly Hayden, Rob Ireland, Bruce Jensen, Alex Koldeway, Library Director Nancy Krei, Robert Leibsle, Lou Loenneke, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, Joseph McHugh, Karen Morris, Chief Steve Olson, Rick Pappas, Arlene Patek, Patrick Romenesko, Mike Sheyker, Tom Stelling, Michele Teale, Village Attorney Dale Thorpe, Bill Turner, Carol and Jamie Whowell

Visitors Heard

None

Announcements

1. CDA Monthly Meeting – **Wednesday, August 4, 2010, 6:00 pm**
2. Scrapbook Programs at Library – **Saturdays, August 7 & 14, 2010, 10:00 am**
3. Assessor Office Hours at Village Hall – **Friday, August 13, 2010, 10:00 am to 2:00 pm**
4. 2010 Board of Review – **Monday, August 16, 2010, 2:00 pm**
5. Big Foot Recreation Movie Nights at the Fontana Beach – **Saturdays, August 7 (Jaws) & 21 (Toy Story), 2010, Dusk**
6. Plan Commission Staff Meeting – **Wednesday, August 18, 2010, 1:00 pm**
7. Library Board Meeting – **Wednesday, August 18, 2010, 10:00 am**
8. Park Commission Meeting – **Wednesday, August 18, 2010, 6:00 pm**
9. Lakefront and Harbor Committee Meeting – **Wednesday, August 25, 2010, 4:30 pm**
10. Public Works Committee Meeting – **Saturday, August 28, 2010, 8:00 am**
11. Plan Commission Monthly Meeting – **Monday, August 30, 2010, 5:30 pm**
12. Protection Committee Monthly Meeting – **Monday, August 30, 2010, 5:45 pm**

Approval of Minutes

Trustee O'Connell/Trustee Spadoni 2nd made a MOTION to approve the minutes for the meetings held July 6, 2010 as presented, and the MOTION carried without negative vote.

Village Treasurer's Report, Vendor Report, & Payroll Overtime Report

The treasurer's report for June 2010 and the current Vendor Report and Payroll Overtime Report were distributed and/or emailed.

Trustee Spadoni/Trustee Kenny 2nd made a MOTION to acknowledge the receipt of the June 2010 treasurer's report and to place it on file for the audit. The MOTION carried without negative vote.

Approval of Village and Utility Payables

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the Village and Utility Payables as distributed and presented at the meeting, and the MOTION carried without negative vote.

Finance Committee – Trustee Kenny

2009 Audit Report Presentation – Patrick Romenesko

Certified Public Accountant Patrick Romenesko presented the 2009 Audit and his Audit Control

Letter to the Finance Committee and Village Board. In presenting the General Fund balance, Romenesko stated that the court ordered purchase of the Wilkinson lots resulted in an unbudgeted expenditure of \$450,000 and with legal costs included, the Village budget had a \$486,000 draw down on the undesignated fund balance. Romenesko stated that the Village borrowed to replenish some of the funds, but the undesignated fund balance should be reestablished. Romenesko also presented the CDA, Utility and Debt Service funds. Romenesko stated that since the Village received federal grant monies for the plant improvement project at the Fontana-Walworth Wastewater Treatment Facility, a federal audit will have to be completed to show that the money came in and was disbursed. Romenesko stated that the audit will be funded by a federal grant, but there is one more audit yet to be completed for 2009. In his annual Audit Control Letter, Romenesko states that the negative undesignated fund balance is a concern that needs to be addressed. Romenesko stated that the Village may want to have as much as \$1 million in the undesignated fund. Romenesko also stated the Audit Control Letter includes the standard disclosure on the need for the Village to adopt a formal investment policy in which to document its investment goals. Romenesko stated that there are draft policies available that the Village can use to adopt an investment policy. Spadoni asked Romenesko to explain the accrued sick leave and vacation time information on page 23 of the audit. Romenesko stated that no payments are expected within a relatively short-term period; however, the future expense totals about \$30,000. Romenesko stated that the village does not have to plan for the expense at this time, it's a situation where "you pay as you go." Spadoni stated that he also wanted to point out that the Village lost about \$11 million in assessed valuation between 2008 and 2009, and the Village has done a good job managing growth as the population has only increased by 176 people during the last 10 years. Romenesko stated that he agreed with Spadoni and a 10 percent increase in population over 10 years is not excessive. Pollitt asked if the Village was getting hit hard with interest for the \$200,000 in unfunded pension payments. Romenesko stated that the Wisconsin Retirement System charges a 7.5 percent interest rate on the unfunded pension balances, which is significant. Romenesko stated that the Village may want to consider reducing the balance or even taking out a loan to pay off the debt because the current interest rates are very low. Spadoni stated that the Village Board is going to have to consider cutting more services or staff, or propose going to referendum to exceed the state levy limits. Romenesko stated that with the fixed expenses in the annual budget, the state levy limits will be very difficult for the Village to meet. Spadoni asked Romenesko what impact an increase in \$500,000 or \$1 million would have on the current tax rate. Romenesko stated that the Village tax rate was \$2.32 per thousand dollars of equalized valuation on this year's tax bill. Romenesko stated that if \$1 million was added to the tax levy, the tax rate would have been 78 cents greater, or \$3.10 per thousand. Romenesko stated that a \$500,000 increase in the levy would have resulted in an increase of 39 cents in the tax rate, or a total of \$2.71 per thousand. The Finance Committee then made and approved a motion to recommend Village Board acceptance of the annual audit and the Audit Control Letter as presented.

Trustee Kenny/Trustee Spadoni 2nd made a MOTION to accept the 2009 Audit Report and the annual Audit Control Letter as recommended, and the MOTION carried without negative vote.

Working Capital Policy Resolution

Hayden stated that the Finance Committee recommended approval of the draft resolution with three modifications. Spadoni stated that he did not have a chance to review the proposed policy and it was the first time many of the board members were seeing the draft resolution. Hayden stated that if any concerns or amendments are noted by the Village Board members when they review the proposal, they should be forwarded to her.

Trustee Spadoni/Trustee Wilson 2nd made a MOTION to table the proposed working capital policy resolution for review, and the MOTION carried without negative vote.

RFPs for 2011 Contracts

Hayden stated that requests for proposals were issued for the village contracts for auditor, attorney, prosecution services, refuse collection, recyclable collection, engineer, planner, computer services and cleaning services. The RFPs are posted on the Village website and the League of Wisconsin Municipalities website, and they were mailed out to the firms through the state and northern Illinois. Wilson stated that she was concerned that the RFP for engineering services includes the following statement of no conflict: "We hereby certify that neither we, or any division or subsidiary thereof, have performed work for or provided services to any Developers on any privately-funded

development project within the past five years and do not intend to provide services to them in any capacity within the next 24 months.” Wilson stated that the inclusion of the statement of conflict may be compelling some qualified firms to not submit proposals because they don’t work solely for municipalities. Hayden stated that the statement of no conflict is not an exclusionary aspect of the RFPs, it is an item that the Finance Committee has requested in past RFPs for edification. Hayden stated that when firms inquire about the no conflict statement it is explained that all proposals will be considered.

2011 Budget Schedule

Hayden stated that the Finance Committee has set the 2011 budget planning meeting schedule and the committee again has requested a zero increase in the departmental operating budgets.

General Business/Administrator’s Report – President Petersen/Administrator-Treasurer Hayden

Operator’s License Applications Filed by Marcus A. Riccio (Gordy’s), Kelly Hayden (Pig in the Park)

There were no concerns in the background check for the application filed by Hayden for a Temporary Operator’s License for the September 4, 2010 Pig in the Park event in Reid Park.

Trustee Spadoni/Trustee Kenny 2nd made a MOTION to approve the Operator’s License application filed by Kelly Hayden for the Pig in the Park event, and the MOTION carried without negative vote.

Chief Olson stated that he had not yet completed the background check on the application filed by Marcus A. Riccio.

Trustee Spadoni/Trustee O’Connell 2nd made a MOTION to table the Operator’s License application filed by Marsuc A. Riccio, and the MOTION carried without negative vote.

Reschedule September 2010 Monthly Meeting (Labor Day Conflict)

Following discussion, the Village Board members decided to have the meeting rescheduled for Tuesday, September 7, 2010 beginning at 6:00 pm.

Trustee McGreevy/Trustee Spadoni 2nd made a MOTION to reschedule the monthly meeting for September 2010 on Tuesday, September 7, 2010 beginning at 6:00 pm, and the MOTION carried without negative vote.

Sale of Beach House Freezer

Hayden stated that the commercial grade freezer that was installed with the initial beach house construction contract is designed for use in an air-conditioned room. Hayden stated that the freezer automatically goes into defrost mode several times a day and it causes problems keeping the frozen products frozen. Hayden stated that staff is seeking authorization to sell the commercial grade freezer and replace it with a chest freezer. Hayden stated that the commercial grade freezer is worth about \$2,000 and that will be enough funds for the purchase of a new chest freezer.

Trustee Kenny/Trustee McGreevy 2nd made a MOTION to authorize staff to sell the commercial grade freezer at the beach house and purchase a new chest freezer with the proceeds. The MOTION carried without negative vote.

Protection Committee – Trustee Pollitt

Ordinance Approving Proposal to Increase Fines for Obstruction of Justice Violations – Tabled 6/7/10 & 7/6/10

Thorpe stated that he reviewed the draft ordinance presented last month and he recommended a minor amendment to make it in full compliance with the state statutes. Thorpe suggested that the item (e) be amended to state: “Penalty. Any person who violates any part of this section shall upon conviction forfeit not less than \$500.00 along with prosecution costs and state mandated costs/surcharges to the extent allowed by law.”

Trustee Pollitt/Trustee Spadoni 2nd made a MOTION to approve Ordinance 08-02-10-01 as presented, and the MOTION carried without negative vote.

Recommendation on Ordinance Amending Chapter 6-13, Operator’s Licenses – Tabled 7/6/10

Thorpe stated that he reviewed the draft ordinance presented last month and he recommended some minor changes to bring the ordinance into full compliance with the current state statutes.

Trustee Pollitt/Trustee Spadoni 2nd made a MOTION to approve Ordinance 08-02-10-02 as presented, and the MOTION carried without negative vote.

Appoint New Member to Replace the Late Eugene Dymek

Pollitt stated that Eugene Dymek recently passed away and the committee recommended the appointment of Abbey Springs property owner Joe Corso as a replacement. President Petersen stated that he wanted to nominate Joe Corso to be appointed to the Protection Committee to replace Dymek.

Trustee Pollitt/Trustee O'Connell 2nd made a MOTION to approve the appointment of Joe Corso to the Protection Committee to replace the late Eugene Dymek, and the MOTION carried without negative vote.

Police and Fire Commission

Ordinance Amending Section 2-435 – Tabled 7/6/10

The proposed ordinance amendment was tabled last month and referred to Thorpe for review. Thorpe stated that he reviewed the current ordinance and the Police and Fire Commission already have the authority to use the “Advantage Hiring Process” if desired. Thorpe stated that there is no need for an ordinance amendment.

Public Works – Trustee McGreevy

Road Excavations Ordinance Proposal – Tabled 6/7/10 & 7/6/10

The proposed ordinance was tabled last month and directed to Thorpe for review. Thorpe stated that the draft of the ordinance distributed for the meeting is ready for adoption.

Trustee McGreevy/Trustee Spadoni 2nd made a MOTION to approve Ordinance 08-02-10-03 as presented, and the MOTION carried without negative vote.

Mosquito Spraying Request – Referred to Committee 7/6/10

Workman stated that as directed, the committee discussed the extra container of the chemicals that is left from last season and a possible deal with the DPW union employees to work non-traditional hours in order to spray the mosquito chemicals in the evening. The Village Board cut over-time out of this year's budget, and the chemicals have to be sprayed between 4:00 pm and 9:00 pm. The union contract calls for the regular work day to be from 7:00 am to 3:00 pm. Workman stated that some of the union employees have agreed to come in late in order to spray the chemicals in the evening and not have to get paid overtime wages. Workman stated that the plan is to spray the village four times in the month of August, which will use up the remaining chemicals. Workman stated the committee recommended that he receive written consent from the union to allow the two to four members of the staff to work flexible hours on the days when the mosquito chemicals are sprayed in the village. Thorpe suggested that Workman also receive a letter from the union authorizing the flexible hours. Spadoni stated that he can assist Workman with the drafting a letter for the union to authorize the flexible hours.

Kubota Tractor Replacement

Workman stated that the item is not ready for action and he is still trying to sell the Kubota tractor and acquire a more effective snow-removal tractor. Workman stated he trying to arrange a deal that will produce a net zero effect on the budget.

Northshore Lift Replacement

Workman stated that a two-phase project is required to upgrade the lift station. Workman stated that the upgrade projects are critical because the lift station is a real workhorse that handles the residences on North Lakeshore Drive and in the Upper Gardens and Lower Gardens subdivisions. Workman stated that the lift station needed some critical valves replaced, which was a \$19,000 project approved last month. Workman stated that the two pumps also need to be replaced, and they will cost \$22,950 each. Workman stated that the Public Works Committee has again recommended that the Village use L.W. Allen to install the new pumps because the work is very sensitive and in a very critical location. Workman stated that if something goes wrong when the pumps are being replaced, there could be

sewer backups in a lot of residential basements. McGreevy stated that the project is a required maintenance project and the committee did not solicit bids because of the desire to use L.W. Allen. Thorpe stated that the Village has to be careful with the state statutes that govern the bidding process and even though the pump replacement is a maintenance project, it still may have to bid because the total price is about \$46,000. Thorpe stated that the lift station was a capital improvement in the first place and the project is not like fixing a truck. Thorpe stated that the bidding statutes don't require the village to accept the lowest if the Village Board is concerned that a firm is not qualified to complete the project. Thorpe stated that the Village Board can accept the lowest qualified bid. Spadoni stated that the project is concerning a maintenance item and the bidding process does not apply. Petersen stated that Workman should check with Dean Donner at the Fontana-Walworth Wastewater Treatment Facility to see if they have a pump available. Pollitt stated that she thinks the project should be put out for bids. Wilson stated that she agrees with Pollitt and the Village should solicit bids for the project.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to authorize the purchase of two pumps, for \$22,950 each, for the Northshore Lift Station, and to have them installed by L.W. Allen, subject to review by Village Attorney Dale Thorpe to determine if the Village is required to put the maintenance project out for bids, and the Roll Call vote followed:

Trustee Pollitt – No

Trustee Wilson – No

Trustee O'Connell – No

Trustee Spadoni – Aye

President Petersen – Aye

Trustee McGreevy – Aye

Trustee Kenny – Aye

The MOTION carried on a 4-3 vote.

2010 Construction Projects – Update

Workman stated that as well as the potential project to replace the pumps at the Northshore Lift Station, the Village also is abandoning the Timber Ridge Lift Station and reconstructing the road and storm sewer on Pottawatomie Drive. Workman stated that the Pottawatomie Drive reconstruction project will be put out for bids in the next two weeks. Pollitt asked if the Village Board receives copies of the bids. Workman stated that the project engineer prepares spreadsheets comparing the bids that are presented to the Village Board for consideration.

Plan Commission – Trustee Spadoni

Report on July 26th meeting-No Action

Spadoni stated that a condominium plat filed by Steve Beers was tabled for amendments to the condominium declarations and the Plan Commission will be reconsidering some of the staff suggested lakefront zoning code amendments that were previously denied.

CDA – President Petersen

Duck Pond Phase I Landscaping Contract Final Pay Request – Tabled 7/6/10

Workman stated that the \$20,154 final pay request submitted by PTS Landscaping, Inc., for the Duck Pond Phase I Landscaping Contract has been reviewed and approval is recommended.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the \$20,154 final pay request submitted by PTS Landscaping, Inc., for the Duck Pond Phase I Landscaping Contract as recommended, contingent on CDA approval. The MOTION carried without negative vote.

Fontana Boulevard Lighting and Landscaping Contract Change Order and Final Pay Request

Workman stated that the change order submitted by PTS Landscaping, Inc. for the Fontana Boulevard Lighting and Landscaping Contract calls for a contract increase of \$4,652 for 432 additional feet of concrete sidewalk work in front of each paver crosswalk. With the change order, the final pay request submitted by PTS Landscaping, Inc. totals \$9,876. Workman stated that the change order and pay request have been reviewed by the village engineer and approval is recommended.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the change order calling for a

\$4,652 increase in the Fontana Boulevard Lighting and Landscaping Contract, and the final pay request totaling \$9,876 submitted by PTS Landscaping as recommended, contingent on CDA approval. The MOTION carried without negative vote.

Status Report on Lakefront Project – Bill Turner

Turner stated that he has an update on the legal review project initiated by the CDA. Turner stated that after the legal opinion is received from Hank Gempeler, the information will be used to draft an assessor's plat to be presented to the property owners, the Plan Commission and the Village Board for approval. Once approved by all the parties, Turner stated that the assessor's plat can be recorded and settle the matter once and for all. Turner stated that once the legal review is completed by Gempeler, the Village will receive a report; however, that report will be just like a letter stating an opinion. Turner stated that if the legal opinion is drafted into an assessor's plat, it will enable the Village to finalize the matter. Turner stated that the current business owners and Lou Loenneke and Bruce Jensen have been invited to submit any documentation that they have to assist Gempeler in his legal review. Turner stated that Gempeler has been charged with verifying the property boundaries and the road easements and dedications. Turner stated that Chicago Title Company has been retained to provide the chain of titles and deeds for the properties. Turner stated that if an assessor's plat is approved by the property owners and the Village following the legal review, that plat also could be submitted to a judge for a court order to settle the matter. In response to a question, Turner stated that drafting an assessor's plat is not part of the legal review and it would be an additional cost to have it drafted after the CDA gets Gempeler's legal opinion. Pollitt asked what an assessor's plat constitutes. Thorpe stated that an assessor's plat is often used to clarify or alter property lines outside the subdivision approval process. Thorpe stated that assessor's plats give a municipality a change to take a result of a property review and make it a recordable document. Thorpe stated that all of the parties involved must agree on an assessor's plat before it is presented to the Plan Commission and Village Board for consideration.

Park Commission – Trustee Wilson

Park Permit Application Filed by Catherine Cella, Duck Pond Pavilion with Beer/Wine Consumption Permit, August 7, 2010, 9:00 AM to Dusk

The Park Commission recommended approval of the application as filed.

Trustee Spadoni/Trustee Pollitt 2nd made a MOTION to approve the Park Permit application as filed by Catherine Cella for the Duck Pond Pavilion, with a Beer/Wine Consumption Permit, for Saturday, August 7, 2010, from 9:00 am to dusk. The MOTION carried without negative vote.

Temporary Liquor License for Reid Park Special Event, Pig in the Park, Saturday, September 4, 2010 & Update on Financing Commitment

The application was filed for a Temporary Liquor License for the Park Commission fund-raising pig roast in Reid Park Saturday, September 4, 2010. Proceeds are used to payback the money allocated for the new pirate ship in Little Foot Playground.

Trustee Kenny/Trustee McGreevy 2nd made a MOTION to approve the application for a Temporary Liquor License as filed by the Park Commission, and the MOTION carried without negative vote.

Accept Resignation of Jill Wegner, and Appointment of New Member

Wilson stated that Jill Wegner submitted her resignation from the Park Commission due to time constraints. Wilson stated that the Park Commission is seeking recommendations for a replacement and recommendations should be submitted prior to the next monthly meeting on August 18, 2010. Trustee Spadoni/Trustee Kenny 2nd made a MOTION to accept the resignation of Jill Wegner from the Park Commission, and the MOTION carried without negative vote.

Lakefront and Harbor – Trustee O'Connell

Boat Trailer Parking on Streets

O'Connell stated that the Lakefront and Harbor Committee formed a subcommittee to come up with a recommendation for the 2011 season. Martin will distribute the agendas for the subcommittee meetings to all the Village officials, committee and commission members.

F/W WPCC – President Petersen

Approval of Pay Request for Plant Improvement Project Contract

Petersen stated that the Pay Application No. 9 for the Wastewater Treatment Facility Plant Improvement Project totals \$371,365 and approval is recommended.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve Pay Application No. 9 totaling \$371,365 for the Wastewater Treatment Facility Plant Improvement Project, as recommended, and the MOTION carried without negative vote.

GLLEA Board – President Petersen

Update

Petersen stated that there was nothing new to report.

Adjournment

Trustee Spadoni/Trustee Kenny 2nd made a MOTION to adjourn the Village Board meeting at 7:23 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: 9/7/10