

VILLAGE OF FONTANA ON GENEVA LAKE  
WALWORTH COUNTY, WISCONSIN  
(Final Minutes)  
Monthly Meeting of the  
VILLAGE OF FONTANA BOARD OF TRUSTEES  
Monday, January 8, 2024

Village President Pat Kenny called the meeting of the Village Board to order at 5:00 pm.

**Trustees Present:** Roll call vote: President Kenny, Trustee Marek, Trustee Petersen, Trustee Livingston, Trustee Pappas, Trustee O'Neill

**Trustees Absent:** None

**Also Present:** Liz Baumann, Skip Bliss, Jon Cameron, Chief Cates, Kevin Day, Eric Johnson (LGRN), Theresa Loomer, Drew Lussow, Larry Maddox, Rick Manthy, Origer Family, Allison Schwark, Dale Thorpe

**Visitors Heard**

None

**Approval of Village Board Minutes**

The Village Board minutes for the December 11, 2023 meeting (open and closed) were distributed. Trustee Petersen/Trustee O'Neill 2<sup>nd</sup> made a MOTION to approve the Village Board minutes from the December 11, 2023 meeting (open and closed) as submitted, and the MOTION carried without negative vote.

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

Trustee Livingston/Trustee Marek 2<sup>nd</sup> made a MOTION to approve the Vendor Report and Payroll Overtime Report as distributed for December, and to place the Vendor and Payroll Overtime Report on file for the audit, and the MOTION carried without negative vote.

**Approval of Village and Utility Payables**

Trustee Livingston/Trustee Marek 2<sup>nd</sup> made a MOTION to approve payment of the Village and Utility payable list and to also include the additional payables that were handed out at the meeting, as presented, and the MOTION carried without negative vote.

**General Business – President Kenny**

**Discussion or Action on Approving Disclosure Counsel Foley & Lardner**

Jon Cameron from Ehlers informed the Board that this item was added after the pre-sale report was conducted. This is in addition to bond counsel. Disclosure counsel's role would be to review items and information that are presented as true during the overall bond issuing process. The reason this was implemented was because of a previous issue that was brought to the attention of the Village Board regarding the situation of one of the Trustees.

Trustee Petersen/Trustee Marek 2<sup>nd</sup> made a MOTION to approve the appointment of Foley & Lardner as disclosure counsel for the Village of Fontana, as presented, and the MOTION carried without negative vote.

**Discussion or Action on a Resolution Authorizing and Providing for the Sale and Issuance of \$5,495,000.00 General Obligation Corporate Purpose Bonds, Series 2024A, and All Related Details**

Jon Cameron from Ehlers explained to the Village Board that the Village had a great bond day sale. They received bids from eight underwriters which made for a very competitive process. The winning bid was submitted by Baker Group. Mr. Cameron also mentioned that the Moody's rating came back and affirmed a positive report and metrics for the Village. Lastly Mr. Cameron explained that the disclosure costs that were mentioned above regarding counsel Foley & Lardner would be picked up and included in the sale.

Trustee Petersen/Trustee O'Neill 2<sup>nd</sup> made a MOTION to approve Resolution 010824-01 providing for the sale and issuance of \$5,495,000.00 in General Obligation Corporate Purpose Bonds, Series 2024A, and all related details, as presented, and the roll call vote was as follows:

President Kenny – Aye

Trustee Marek – Aye

Trustee Petersen – Aye

Trustee Pappas – Aye

Trustee Livingston – Aye

Trustee O'Neill – Aye

The MOTION carried 6-0 without a negative vote.

### **Discussion or Action on Proposed Ordinance Amendment Repealing and Recreating Sections 18-108(b) – Set Public Hearing**

Attorney Thorpe explained that the draft ordinance that was included in the meeting packet addresses an issue where there is no mechanism in place for Village maps to be automatically updated when the SEWRPC maps are updated. This ordinance would allow for this to be done automatically through the County GIS System which the village uses as a base map. Staff are asking that a public hearing be set on the matter.

Trustee Petersen/Trustee Livingston 2<sup>nd</sup> made a MOTION to approve setting a public hearing for the proposed ordinance amendment repealing and recreating sections 18-108(b), as presented, and the MOTION carried without negative vote.

### **Discussion or Action on Proposed Ordinance Amendment Repealing and Recreating Figures 18-27, 18-28, 18-29, 18-30, 18-31, 18-32, 18-33, 18-34, 18-35, 18-36, 18-37, 18-38, 18-39, 18-41, 18-42, 18-81, and 18-82 – Set Public Hearing**

Attorney Thorpe explained that the draft ordinance that was included in the meeting packet addresses a house keeping issue where staff wants to amend the figures regarding shoreyard setbacks currently in the ordinance to be consistent with the language included in the ordinance. Staff also request that a public hearing be set on the matter.

Trustee Livingston/Trustee O'Neill 2<sup>nd</sup> made a MOTION to approve setting a public hearing on the matter regarding the proposed ordinance amendment repealing and recreating figures 18-27, 18-28, 18-29, 18-30, 18-31, 18-32, 18-33, 18-34, 18-35, 18-36, 18-37, 18-38, 18-39, 18-41, 18-42, 18-81, and 18-82, as presented, and the MOTION carried without negative vote.

### **Discussion or Action on Renewal of Lake Geneva Marine Lease Agreement**

Administrator Loomer explained that the current lease is not up until the end of the year, but the party is looking to extend the agreement now and has consented to that if the Village would be agreeable. The Village Board seemed agreeable but would like to see some of the terms and conditions worked out prior to approving a new lease agreement.

Trustee O'Neill/Trustee Livingston 2<sup>nd</sup> made a MOTION to approve staff to reach out to the party and work on terms of new lease agreement and bring it back to the Board for approval, as presented, and the and the MOTION carried without negative vote.

### **Discussion or Action to Approve Limited-Service Fee Agreement with Crivello Carlson Law Firm**

Trustee Livingston/Trustee Pappas 2<sup>nd</sup> made a MOTION to approve the limited-service fee agreement with the Crivello Carlson Law Firm, as discussed in closed session, and the MOTION carried without negative vote.

### **Accept Resignation of Trustee Tom McGreevy**

Trustee Livingston/Trustee Marek 2<sup>nd</sup> made a MOTION to approve the resignation of Trustee Tom McGreevy, as presented, and the MOTION carried without negative vote.

### **Public Works Committee – Trustee O'Neill**

**Discussion or Action on Public Safety Building Roof Bid – Distinctive Roofing, Inc. - \$85,879.00**

Trustee O'Neill stated that there were four bids received and this was the low bid. He asked that the low bid for the project be approved.

Trustee Livingston/Trustee Marek 2<sup>nd</sup> made a MOTION to approve the Public Safety Building Roof bid to Distinctive Roofing, Inc. in the amount of \$85,879.00, as presented, and the MOTION carried without negative vote.

**Discussion or Action on LRE's December Invoice - \$7,860.25**

The invoice is for LRE's work regarding Well No. 5. The Village engineer has recommended approval and payment of the invoice.

Trustee Petersen/Trustee Livingston 2<sup>nd</sup> made a MOTION to approve the December invoice for LRE in the amount of \$7,860.25, as presented, and the MOTION carried without negative vote.

**Change Order No. 1 for Pioneer Park Restroom Building and Porter Court Plaza Sidewalk**

Public Works Director Kevin Day explained he had spoken to Village Engineer Terry Tavera about this agenda item and that the Change Order No. 1 for Pioneer Park Restroom Building and Porter Court Plaza Sidewalk and mentioned that the order is for an increase in costs for \$718.30 from the original order to accommodate work being performed on the project and agrees that it should be paid.

Trustee Marek/Trustee Livingston 2<sup>nd</sup> made a MOTION to approve the Pioneer Park Restroom Building and Porter Court Plaza Sidewalk Change Order No. 1 for the increased amount of \$718.30 as presented, and the MOTION carried without negative vote.

**Payment Recommendation No. 2 for Pioneer Park Restroom Building and Porter Court Plaza Sidewalk**

Public Works Director Kevin Day explained he has talked with Village Engineer Terry Tavera about this agenda item and that he agrees that Payment Recommendation No. 2 for the Pioneer Park Restroom Building and Porter Court Plaza Sidewalk project should be paid.

Trustee O'Neill/Trustee McGreevy 2<sup>nd</sup> made a MOTION to approve the Pioneer Park Restroom Building and Porter Court Plaza Sidewalk Payment Recommendation No. 2 in the amount of \$29,585.04, as presented, and the MOTION carried without negative vote.

**Plan Commission – Trustee Petersen**

**Action on Zoning Ordinance 010824-01 to Rezone Property from LR-0 Lakefront Residential Zoning to Planned Development Zoning for the Construction of Four Additional Homes (Total of Five on Site) and Two Accessory dwelling Units, Application Filed by Origer Family / Mike Origer at 1572 Teal Lane, Unit 1C, Wheeling, IL 60090 to Amend Current Zoning of Property Located at 620 S. Lakeshore Drive, Tax Parcel No. STFV 00114**

Attorney Thorpe explained that this came before the Plan Commission, and they made a favorable recommendation to approve the rezone application. Currently the Village Board is only asked to make a decision on the rezone application as the applicants will need to come back for when they have their PIP ready. Attorney Thorpe made sure to explain that to the applicant in attendance and also mentioned that when they are ready to submit the PIP there will be no need for a future public hearing since it was conducted already with the rezone application.

Trustee Petersen/Trustee Pappas 2<sup>nd</sup> made a MOTION to approve Ordinance 010824-01 to rezone property from LR-0 Lakefront Residential Zoning to Planned Development Zoning for the construction of four additional homes (for a total of five on site) and two accessory dwelling units, for the application filed by the Origer Family to amend their zoning at their property located at 620 S. Lakeshore Drive, as presented, and the MOTION carried without negative vote.

**Discussion or Action on Recommendation by Plan Commission to Approve the Conditional Use Permit Filed by Sauk 556 LLC / Mark Tabit for Accessory Dwelling Unit for the Property Located at 556 Sauk Trail**

Zoning Administrator Allison Schwark explained that the CUP for the property is for a new principal structure that will be used as an accessory dwelling unit. She stated that the structure is under 400 square feet and recommends approval of the project.

Trustee Petersen/Trustee Pappas 2<sup>nd</sup> made a MOTION to approve the Conditional Use Permit Application Filed by Sauk 556 LLC / Mark Tabit for property located at 556 Sauk Trail for the addition of an accessory dwelling unit pending final approval subject to the following staff recommendations:

#### APPROVAL CONDITIONS:

Accessory dwelling unit. A dwelling unit established in conjunction with and clearly subordinate to the principle dwelling unit.

Accessory dwellings may be located on the same lot as a single-family dwelling unit, either in the same building as the single-family dwelling unit or in a detached accessory building. Accessory dwelling units may also be permitted on the ground floor of a building used for an office, commercial or institutional land use, but may not be within the first 24 feet of the ground floor measured from the front of the building. More than one dwelling unit within a mixed-use structure shall be treated as a mixed-use residential land use.

Accessory dwelling units shall adhere to the following listed regulations:

(1) Accessory dwelling units shall adhere to the accessory land use requirements in subsection 18-52(2)

(2) Only one accessory dwelling unit shall be permitted on any one site, if permitted by the zoning district of the subject site.

(3) Accessory dwellings shall not exceed 50 percent of the principal dwelling's floor area, up to a maximum size of 1,500 square feet, whichever is smaller in size.

(4) The principal building must be owner-occupied.

(5) The accessory dwelling unit shall not be sold separately from the principal dwelling or the remainder of the property.

(6) The accessory dwelling unit may be occupied by family or nonfamily members.

(7) Additional entrances shall not be added to the front elevation of an existing building but may be added to side or rear or street-side elevations.

(8) Entryways within a rear or side yard shall be connected to a street frontage by a paved walkway or driveway. On corner lots, primary entrances to accessory dwelling units shall be placed on the facade parallel to the side street.

(9) The appearance or character of the principal building must not be significantly altered so that its appearance is no longer that of a single-family dwelling; however, a distinct address and/or distinct utility meter is permitted.

(10) Accessory dwelling units shall not be located in a boat house or in a structure less than 75 feet from the ordinary high-water mark.

#### **Staff Recommendations:**

Per Section 18-246(f) the Zoning Administrator has reviewed the application and determined that the following conditional use standards are met:

1. Is in harmony with the recommendations of the comprehensive plan, to support economic development and to provide more diverse and affordable housing options.

2. Will not result in a substantial or undue adverse impact on nearby property, the character of the neighborhood, environmental factors, traffic factors, parking, public improvements, public property or rights-of-way, or other matters affecting the public health, safety or general welfare, either as they now exist or as they may in the future.

3. Maintains the desired consistency of land uses, land use intensities, and land use impacts as related to the environs of the subject property.

4. The conditional use is located in an area that will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities or services provided by public agencies serving the subject property.

5. The potential public benefits outweigh any and all potential adverse impacts of the proposed conditional use, after taking into consideration the applicant's proposal and any requirements recommended by the applicant to ameliorate such impacts.

**Staff recommends approval of the Conditional Use Permit application for Sauk 556 LLC, for an accessory dwelling unit located at 556 Sauk Trail with the following conditions:**

- a. All proper zoning and building permits shall be applied for and approved prior to construction.
  - b. All outstanding cost recovery fees billed to date applicable to this project shall be paid prior to the issuance of any building & zoning permits. This condition does not alleviate the applicant from any cost recovery fees not yet billed.
  - c. An as-built survey shall be required depicting the proposed ADU all required distances. If found to be noncompliant with this approval, it is the responsibility of the applicant to bring it into compliance.
- The MOTION carried without negative vote.

**Closed Session – President Kenny**

Trustee Pappas/Trustee Petersen 2<sup>nd</sup> made a MOTION pursuant to Wis. Stats. Chapter 19.85(1)(g), “Conferring 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, Rasmussen vs. Fontana, 22-CV-758. The roll call vote was as follows:

President Kenny – Aye

Trustee Petersen – Aye

Trustee Pappas – Aye

Trustee Marek – Aye

Trustee Livingston – Aye

Trustee O’Neill – Aye

The MOTION carried 6-0 without a negative vote.

**Rasmussen vs. Fontana (22-CV-758)**

This item was discussed in closed session.

**Adjourn Closed Session**

Trustee Petersen/Trustee O’Neill 2<sup>nd</sup> made a MOTION to go into open session at 5:45 pm, and the MOTION carried without negative vote.

**Adjournment**

Trustee Pappas/Trustee Livingston 2<sup>nd</sup> made a MOTION at 5:46 pm to adjourn the meeting, and the MOTION carried without negative vote.

Minutes prepared by: Drew Lussow, 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: 02/12/2024