

**VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN**

(Official Minutes)

RESCHEDULED MONTHLY MEETING of the VILLAGE BOARD OF TRUSTEES
Monday, March 5, 2019

Village President Pat Kenny called the monthly meeting of the Village Board to order at 6:01 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Trustees Present: Roll call vote: President Kenny, Trustee O'Neill, Trustee Pappas, Trustee Prudden, Trustee Petersen

Trustees Absent: Trustee Livingston, Trustee McGreevy

Also Present: Suzy Brady, Jeff Cates, Kevin Day, Theresa Loomer, Joe Mesler, Mike Misch, Kathie Perkins, Wally Perkins, Ted Peters, Todd Reschke, Bonnie Schaeffer, Chris Schultz, Dale Thorpe, Scott Vilona

Visitors Heard

None

Approval of Minutes

The minutes for the meeting held on February 4, 2019 were distributed.

Trustee Petersen/Trustee O'Neill 2nd made a MOTION to approve the minutes from the February 4, 2019 meeting, as submitted, and the MOTION carried without negative vote.

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

Trustee Petersen/Trustee Prudden 2nd made a MOTION to approve the Treasurer's Report, the Vendor Report and Payroll Overtime Report, as distributed, for February, and to place them on file for the audit, and the MOTION carried without negative vote.

Approval of Village and Utility Payables

Seven additional payables were added and include Thorpe & Christian for February legal services - \$9,228.30, Core and Main for sewer maintenance parts - \$28.58, D&K Services for emergency water main repairs - \$7,100.00, WI Rural Water Assoc. for 2019 membership renewal - \$390.00, Terracon for borings for Lake Street project - \$6,700.00, US Cellular for modem - \$20.00, and Velocity Solutions for IT equipment and labor - \$7,507.00.

Trustee Petersen/Trustee O'Neill 2nd made a MOTION to approve payment of the Village and Utility payable list, including the seven additional payables, as presented, and the MOTION carried without negative vote.

General Business – President Kenny

Starry Stonewort Presentation by Ted Peters, GLEA

Geneva Lake Environmental Agency President Ted Peters gave a presentation on the invasive plant Starry Stonewort which the agency has been working to eradicate from Geneva Lake. Peters stated there are two potential ways to eradicate the species – through chemical treatment or by dredging. Since the plant is isolated to the Trinky Bay area of the lake and it is early in the invasion, Peters believes that dredging is the best option. While there are two grants available, Peters stated it will likely cost upwards of \$150,000 and the GLEA is accepting donations directly and through a GoFundMe account.

Appoint Election Inspector Ann Barth

Trustee Petersen/Trustee Prudden 2nd made a MOTION to appoint Ann Barth as Election Inspector for the 2018/2019 appointment term, and the MOTION carried without negative vote.

Operator's License Application Filed by Poteet Ozmun (Fontana Shell)

There were no concerns with the background check and the \$60 fee has been paid.

Trustee Prudden/Trustee O'Neill 2nd made a MOTION to approve the operator's license application filed by Poteet Ozmun (Fontana Petro), and the MOTION carried without negative vote.

Peddler's Permit Applications Filed by Collin J. Luzinski, Jacob R. Pecha, Jason A. Dzbinski, Anthony A. Morton and Zakery T. Scott for Weed Man Lawn Care

Five peddlers permit applications were submitted on behalf of Weed Man lawn care.

Trustee Petersen/Trustee O'Neill 2nd made a MOTION to deny the peddler permit applications filed by Collin J. Luzinski, Jacob R. Pecha, Jason A. Dzbinski, Anthony A. Morton and Zakery T. Scott, and the MOTION carried without negative vote.

Fall 2019 Triathlon Contract Approval

An initial agreement was presented at the February board meeting and approved subject to attorney review. The village attorney had concerns with the initial document and submitted an updated contract for review by the Village board. At the meeting there were still concerns regarding the specific details of the contract but the draft contract was recommended for approval subject to additional details being worked out between staff and the event organizers.

Trustee Pappas/Trustee O'Neill 2nd made a MOTION to approve the Fall 2019 Triathlon Contract, with the condition staff work out the event details with the Peak Performance Professionals, LLC, and the MOTION carried without negative vote.

Lake Street Construction Controlled Archeological Monitoring Services by UWM Cultural Resource Management Proposal

During the DNR permitting process for the Lake Street and Parking Lot No. 1 construction, the DNR determined a portion of the construction area is located within an archeological burial site. Ruckert & Mielke contract with the Archeology Dept. at UW-Milwaukee and together they have submitted all necessary documents to the Wisconsin State Historical Society for review. The proposal from UWM is in anticipation that the State Historical Society might require a field archeologist attend the excavation of Lake Street and Parking Lot No. 1.

Trustee Prudden/Trustee Petersen 2nd made a MOTION to approve the US Milwaukee Cultural Resource Management proposal, contingent on approval of the plan by the Dept. of Natural Resources and Wisconsin Historical Society, in the amount not to exceed \$12,293.76, and the MOTION carried without negative vote.

Park Commission – Trustee Livingston

Garden Club Proposal to Redo Landscaping by Chief Bigfoot Statute in Reid Park

Garden Club President Sally Ratay in conjunction with Roy Diblik have proposed to redo the landscaping by the Chief Bigfoot statue in Reid Park. The proposal is to have public works remove the shrubbery that is there now and plant two burr oak trees either 2" or 2.5" in diameter for a cost not to exceed \$470. Diblik will donate the native species that grow beneath the oak tree under the shade and indicated the native plantings could be an ongoing community or school event.

Trustee Pappas/Trustee Petersen 2nd made a MOTION to approve redoing the landscaping by Chief Bigfoot in Reid Park, for an amount not to exceed \$1,000, and the MOTION carried without negative vote.

Public Works Committee – Trustee O'Neill

Well No. 3 Maintenance Cost Approval

Well No. 3 was pulled for routine maintenance as previously approved. The inspection revealed several areas of graphitization, corrosion, and several parts identified as beyond disrepair and in need of replacement including the carbon steel line shaft line and bowl assembly. The quote for the repairs is \$19,834.

Trustee Petersen/Trustee O'Neill 2nd made a MOTION to approve the cost for the pump repair for Well No. 3 in an amount not to exceed \$19,834, and the MOTION carried without negative vote.

Water Credit Invoice Request for Robert Wisbey at 908 Duck Pond Road – Tabled 02/04/19

Since there were only five trustees present for discussion the item was tabled.

Trustee O'Neill/Trustee Prudden 2nd made a MOTION to table the Water Credit Invoice Request for Robert Wisbey at 908 Duck Pond Road, and the MOTION carried without negative vote.

Plan Commission – Trustee Prudden

Adopt Outdoor Boat Display and Sales Ordinance Amendment

The proposed ordinance amends Sections 18-13, 18-38, 18-39 and 18-56 and uses the state definition of ‘Boat’ which is specified as a watercraft at least 16’ in length with a registered Wisconsin Department of Natural Resources Boat Certificate of Title. Boats do not include personal watercraft and in the Village’s current code boats are treated the same as vehicles. The ordinance amendment would allow for boat display, regardless of whether or not it is associated with a building, through a conditional use permit application process.

Trustee O’Neill/President Kenny 2nd made a MOTION to approve Ordinance 030519-01, adopting outdoor boat display and sales ordinance amendment, and the MOTION carried without negative vote.

Conditional Use Permit Application Filed by Jerry’s Marine for 102 W. Main Street for Outdoor Boat Display

Jerry’s Marine filed a conditional use permit application in conjunction with the outdoor boat display and sales ordinance amendment. Jerry’s Marine has requested to continue the practice of displaying boats on the lot at 102 W. Main Street for a period of five years. The board agreed to limit the total number of boats that can be displayed to a maximum of five. The plan commission also recommended in favor of not requiring the staff condition which stated the boat display area must be located on a gravel surface or be paved with concrete or asphalt in order to not increase the amount of impervious surface, and the board agreed to not impose the condition.

Trustee Prudden/Trustee O’Neill 2nd made a MOTION to approve the conditional use permit application filed by Jerry’s Marine for outdoor boat display at 102 W. Main Street with the following conditions:

1. Granted to a specific operator.
2. Granted up to a maximum of five years.
3. The number of boats displayed shall be a maximum of five (5). The display of “boats” shall be limited to watercraft as defined by Wisconsin DNR Boat Certificate Title requirements.
4. The following watercraft and equipment may not be displayed outside:
 - a. Personal watercraft (i.e. jet skis)
 - b. Manually propelled (i.e. canoe, kayak, raft, inflatable paddle boats, paddle boats, surf boards).
 - c. Empty trailers and/or other boats accessory equipment.
5. Boat display land uses may be established without a principal building on-site.
6. Signage is limited to a monument sign or a temporary business sign. Signs on individual boats shall be less than 1 square foot.
7. The use of outdoor display shall be seasonal in nature and shall be restricted to April 1 to November 1, at which time all boats, trailers, stands, blocks and steps shall be removed from the property.
8. Sales are restricted to boats only; sales of vehicles is expressly prohibited.
9. Boats shall be displayed horizontal in nature; no stacking or vertically angled display is allowed.
10. Boat display shall not occur within ten feet of the rights-of-way of St. Hwy 67 or West Main Street.

The MOTION carried without negative vote. Trustee Pappas abstained.

Adopt Ordinance Approving Zoning Map Amendment for Property at 329 Third Avenue, Parcel SRA 00039, from Institutional to Village Center Zoning

The Village initiated a zoning map change after agreeing to enter into a lease with Maryanne Bruss from the Coffee Mill for a second Coffee Mill location. The current zoning designation is Institutional which is not the appropriate zoning for a coffee shop. The proposed zoning is Village Center which is consistent with the surrounding parcels.

Trustee Prudden/Trustee Pappas 2nd made a MOTION to adopt Ordinance 030519-02 approving a zoning map amendment for the property at 329 Third Avenue, Parcel SRA 00039, from Institutional to Village Center, and the MOTION carried without negative vote.

Site Plan Application Filed by Maryanne Bruss for Coffee Mill By the Water Located at 329 Third Avenue

Maryanne Bruss filed a site plan application for 329 Third Avenue for Coffee Mill By the Water. Based on the previously approved lease, the applicant was granted use of all four parking stalls (up to the property line) to be used for outdoor dining. The plan commission recommended in favor of the application but eliminated the requirement found in the staff memo that states “Indoor and outdoor restaurants require a minimum of one parking space for every 400 square feet of primary floor area. Two (2) onsite parking spaces should be available according to the zoning ordinance requirement,” and the board agreed to not impose the condition.

Trustee O’Neill/Trustee Petersen 2nd made a MOTION to approve the Site Plan Application submitted by Maryanne Bruss for Coffee Mill by the Water at 329 Third Avenue with the following conditions:

1. During any and all hours of operation, the operator shall erect a temporary vehicular barrier parallel to and three feet south of the marked pedestrian crosswalk directly north of the marked vehicle parking stalls and then continue southerly to the northwest corner of the building. The western end of this barrier shall not extend westerly so as to block the access driveway west of the Park House building. This barrier shall be attractive and durable, such as a portable metal picket or resin lattice fence sections. Access into the dining area shall be provided from the crosswalk, and not from the drive on the west side of the area.
2. The seating area behind the building should remain landscaped/pervious.

The MOTION carried without negative vote.

Adopt Ordinance Approving Zoning Map Amendment for Property at 105 W. Main Street, Parcel SOP 00058, from Planned Development to Village Center Zoning

Due to a mapping error, 105 W. Main Street was designated on the last official map as planned development; however, it is not part of a planned development. The public hearing was to amend the zoning and zoning map of the parcel to Village Center, which was also the previous zoning designation.

Trustee Pappas/Trustee O’Neill 2nd made a MOTION to adopt Ordinance 030519-03 approving the Zoning Map Amendment for 105 W. Main Street, Parcel SOP 00058, from Planned Development to Village Center, and the MOTION carried without negative vote.

Site Plan Application Filed by Todd Reschke and Suzy Brady for Blue Heaven Ice Cream Located at 105 W. Main Street

The site plan application filed for 105 W. Main Street is for approval to convert 240’ square-feet of the main floor of the S.S. Fontana building to an ice cream shop where 24 flavors of ice cream will be sold. Outdoor seating in the open space adjoining the driveway is also proposed in the application.

Trustee O’Neill/Trustee Prudden 2nd made a MOTION to approve the site plan application filed by Todd Reschke and Suzy Brady for Blue Heaven Ice Cream at 105 W. Main St. with the following conditions:

1. The outdoor seating area shall remain landscaped (pervious) in order to maintain the 20% minimum landscape surface area ratio required in the VC District.
2. During any and all hours of operation, the operator shall erect a temporary vehicular barrier between the seating area and the driveway/parking lot. This barrier shall be attractive and durable, such as a portable metal picket or resin lattice fence sections.
3. Any proposed signage must comply with the Village ordinances and shall not be erected until such time as all requirements have been met and permits have been issued.

The MOTION carried without negative vote.

Site Plan Application Filed by Southbound Development, LLC, for Proposed Amendment to Existing Site Plan Approval at 138 Fontana Boulevard

A site plan application was filed by Kathie and Wally Perkins, Southbound Development, LLC, to extend the existing Phase I site plan for 138 Fontana Boulevard most recently amended in April,

2017. The extension request is for a period of five years through April 30, 2024. Thorpe explained the application is for continuance of the same terms of the most recent approval of conditions in April, 2017. The original applicant sold the property to the Perkins' who are the applicant for the current site plan approval. The plan commission made a recommendation at its last meeting for approval of the site plan extension, subject to staff's review of the supplemental documents detailing the size of boat display area including dimensions, size of green areas shown outside the boat display area, landscaping to be installed along the boat display area, all outdoor lighting locations, and signage types and locations, prior to the board meeting. Upon review of the documents submitted after the plan commission meeting, staff recommended adding a condition to prohibit flutter signs and sandwich board signs which were displayed last summer and without the proper permits. There was discussion regarding the original plan to tear down the building and construct a new building, but that having the property occupied, even in the current building, would be preferred over a vacant building on the corner that is considered the entryway to the community. Discussion ensued about deciding on a concrete number of boats that could be displayed, and after discussion the board agreed that a maximum of ten (10) boats could be displayed at any given time.

Trustee Pappas/Trustee Prudden 2nd made a MOTION to approve the Site Plan Application filed by Southbound Development, LLC., for the proposed extension of the existing site plan for 138 Fontana Boulevard, with the applicable conditions that were approved in 2017 with the additional conditions recommended by staff:

1. Granted to a specific operator.
2. Granted up to a maximum of five years.
3. The number of boats displayed shall be a maximum of ten (10). The display of "boats" shall be limited to watercraft as defined by Wisconsin DNR Boat Certificate Title requirements.
4. The following watercraft and equipment may not be displayed outside:
 - a. Personal watercraft (i.e. jet skis)
 - b. Manually propelled (i.e. canoe, kayak, raft, inflatable paddle boats, paddle boats, surf boards).
 - c. Empty trailers and/or other boats accessory equipment.
5. During Phase 1, except as set forth below, exterior lighting shall remain and be utilized as-is. Exterior lighting shall be allowed to be maintained but shall not be moved, relocated, or added to, including increasing lumens. Exterior lighting on the west wall of the building is allowed with the conditions it is shielded or down-lit and will be turned off after business hours.
6. Signage is limited to the existing monument sign, wall sign, and canopy sign. The existing sandwich board sign shall be removed. No fluttering or other prohibited types of signs are permitted.
7. Throughout both phases, the use of the outdoor display on this property as proposed shall be year round. In the event boats are removed from the display area, all support fixtures used to display the boats shall be removed within ten (10) calendar days of the boats removal. No boats shall be shrink wrapped while on display.
8. Throughout both phases, sales are restricted to boats and pro shop equipment only; sales of vehicles is expressly prohibited. No boat on outdoor display shall exceed 30-feet in length. Boats shall be displayed horizontal in nature; no stacking or vertically angled display is allowed.
9. Throughout both phases, service and storage shall not be permitted at the property. (The applicant may promote these as available off site and at other locations.)
10. Throughout both phases, there shall not be storage of empty boat trailers or other storage of items or materials allowed;
11. In accordance with Sec. 18-56(e)(4), display areas shall be separated from any circulation area by a minimum of ten (10) feet. This separation shall be clearly delineated by a physical separation such as a greenway, curb, fence or line of planters, or by a clearly marked paved area. The site plan submitted for Phase 1 depicts two boats for outdoor display resting on parking areas; this is not permitted. The location of all outdoor display throughout both phases shall meet the requirements of Section 18-56(e)(4). In addition, outdoor display shall not extend outside the area marked on the site plan as dedicated for outdoor display. This includes any and all portions of boats, trailers, stands, blocks and steps.

12. The size of the boat display area, size of the green space area on property, the layout of the landscaping including planters and existing trees, and all outdoor lighting shall be as depicted on the Ferris Hansen Survey dated February 19, 2019 and in accordance to the Final Revised Narrative submitted on February 22, 2019.

Lakefront Committee – Trustee Pappas

Austin Pier Service Inc. 2019 Proposal for Pier No. 4 Boat Landing

Pier No. 4 boat landing was erroneously left out of the 2019 Austin Pier Service Inc. proposal which was approved at last month's board meeting. The remainder of the proposal for repairs is \$2,250. Trustee O'Neill/Trustee Prudden 2nd made a MOTION to approve the 2019 Austin Pier Service proposal for Pier No. 4 boat landing, for the amount not to exceed \$2,250.00, and the MOTION carried without negative vote.

Gage Marine Pier Lease Agreement Renewal

Trustee Pappas explained that last year after having nice weather in May, he received complaints from village slip holders that while Pier No. 1 had been installed early in the season, the rest of the Village piers were not installed until near the end of May. Last summer, the Village slip holders were asked if they would be willing to pay more for their lease in order to have their slips installed earlier in the season and an overwhelming majority answered no. Gage Marine was given the same option to have Village Pier No. 1 installed earlier in the season since they use it in conjunction with the Abbey to arrange for boat cruises. At the last Lakefront and Harbor meeting, F.J. Frazier attended on behalf of Gage Marine and agreed to a 10% fee increase in 2019, 10% fee increase in 2020 and 3% fee increase in 2021 in order to have the pier installed by May 1st each year.

Trustee Pappas/Trustee O'Neill 2nd made a MOTION to approve the three-year Gage Marine lease agreement renewal, with a 10% fee increase in 2019 to \$5,066.89, 10% fee increase in 2020 and 3% fee increase in 2021, and the MOTION carried without negative vote. Trustee Petersen abstained.

Adopt Ordinance Repealing and Recreating Section 54-163 – Commercial Launches

Last summer the village board directed Trustee Pappas to work with Attorney Thorpe to develop ordinance language to prohibit private boat rental companies from operating off any of the village piers. A draft ordinance amendment of Chapter 54-163 was submitted to include a section on Commercial Use of Village Launch Site and requires issuance of a Village Commercial Launch Permit to operate. The ordinance amendment requires that any business operating off the launch pier have a substantial business presence in the community, the ability to operate safely, the ability to respond to village and customer requests and provide the appropriate levels of insurance. If a business meets all the requirements laid out in the ordinance they will be issued a permit and if any commercial boating company does not have a permit, they will be in violation of the ordinance and subject to a fine. The board will need to set a fee at a future meeting.

Trustee Pappas/Trustee Prudden 2nd made a MOTION to approve Ordinance 030519-04, repealing and recreating Section 54-163 regarding commercial launches, as presented and recommended, and the MOTION carried without negative vote.

Closed Session

Trustee Petersen/Trustee Pappas 2nd made a MOTION at 6:57 pm to go into Closed Session 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 Claim Filed by Gail Blum.

The Roll call vote was as follows:

Trustee O'Neill – Aye

Trustee Pappas – Aye

Trustee Prudden – Aye

Trustee Petersen – Aye

President Kenny – Aye

The MOTION carried on a 5-0 vote with Trustee McGreevy and Trustee Livingston absent.

Open Session

Claim Filed by Gail Blum

Trustee Pappas/Trustee O'Neill 2nd made a MOTION to deny the claim filed by Gail Blum, and the MOTION carried without negative vote.

Adjournment

Trustee Prudden/Trustee Pappas 2nd made a MOTION to adjourn at 7:03 pm, and the MOTION carried without negative vote.

Minutes prepared by: Theresa Loomer, Village Administrator/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: 04/04/19