

VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN
(Final Minutes)
Monthly Meeting of the
VILLAGE OF FONTANA BOARD OF TRUSTEES
Monday, July 10, 2023

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

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

Also Present: Liz Baumann, Skip Bliss, Chief Cates, Mary Constable, Kevin Day, Dan Dolan, Rick Donner, Dan Fina, Tom Freytag, Christina Green, Phil Greening, Eric Johnson (Lake Geneva Regional News), Cary Kerger, Bobby Klockars, Sonja Kruesel, Sarah Lobdell, Theresa Loomer, Scott Lowell, Michael Lucero, Rick Manthy, Chief Nitsch, Dave Patzelt, Kathy Perkins, Wally Perkins, Kevin Radtke, Margaret Rauland, Julie Runzel, Alison Schwark, Tim Sommerville, Terry Tavera, Dale Thorpe, Tom Whowell, Cindy Wilson

Visitors Heard

Tom Whowell provided an update on the 2024 Centennial Celebration and events planned for next year. He stated the group will have booths set up at the Lobster Boil and other various events and were previously set up at Pig in the Park and the Garden Fair. Bob Klockars, 1201 Bridget Court, stated he was doubling down his support for the Abbey Provident Venture (APV) Townhomes. Julie Runzel, N1596 Shorehaven Drive, asked the board to consider the plan commission vote on the APV Project. Kevin Radtke, 307 Deerpath East, stated that as a resident and on behalf of Adams Electric, the APV Townhomes is a nice project with a mix of residential and retail. Mary Constable, on behalf of the Geneva Lake Conservancy, entered a letter into the record opposed to the APV Townhome project concerning primarily density and additional stormwater runoff. Dan Dolan, Sales and Marketing Manager for the Abbey Resort, expressed support for the APV Townhome project, particularly improved aesthetics to Fontana Boulevard. Wally Perkins, 834 S. Lakeshore Drive, stated he would like to see a compromise on the APV Townhome Project to include additional commercial space as it is a prime retail area. Dan Fina, 749 Odsila Way, stated he feels the APV Townhomes are a great project. Tim Sommerville, Abbey Resort Manager, stated that he supports the APV Townhome project and if there were more retail it would need to include more parking. Sarah Lobdell, 570 Mill Street, stated the plan commission voted against the project because it did not meet all the necessary criteria including consistency with the Master Plan

Approval of Village Board Minutes

The open and closed session Village Board minutes for the June 12, 2023 meeting were distributed. Trustee McGreevy/Trustee Petersen 2nd made a MOTION to approve the Village Board minutes from the June 12, 2023 meetings, as submitted, and the MOTION carried without negative vote.

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

Trustee Petersen/Trustee McGreevy 2nd made a MOTION to approve the Vendor Report and Payroll Overtime Report as distributed for June and July, 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 2nd made a MOTION to approve payment of the Village and Utility payable list, as presented, and the MOTION carried without negative vote.

General Business – President Kenny

Discussion or Action on July Village Hall Saturday Hours

Loomer stated for the past three Saturdays there have only been between two or three walk-ins during the Saturday hours. She stated staff are prepared to work the remainder of Saturdays in July but anticipates now that we are beyond the 4th of July if the board wants to keep village hall open and pay staff if there are so few

customers. The board directed village hall stay open for the remainder of the month and office hours could be reconsidered for 2024.

Discussion or Action on Deer Bow Hunting Policy

Loomer stated at the direction of the board last fall, she investigated options for how to run the bow hunting program in the Village. She stated she met with the police chief over in Williams Bay and discussed how their program is run and their regulations. Their police department runs the program and keeps records of the driver license of the individual and hunting permit. The program reportedly runs well, and it is a benefit for the police dept. to have all information on file. Loomer stated she and Chief Cates met about developing a program and the proposed policy, rules and application form were included in the packet. Preference to hunt will be given to residents, followed by employees, and then non-residents. Applications will be due by August 31st and assignments will be made by the police chief. Any deer taken are required to be reported within 24 hours and stands are required to be labeled and must be taken down within 15 days of the end of the hunting season. Trustee Pappas/Trustee O'Neill 2nd made a MOTION to approve the Deer Bow Hunting Policy and Application, as presented, and the MOTION carried without negative vote.

Discussion or Action on Code of Conduct/Ethics Ordinance for Elected Officials

Loomer stated a draft ordinance was included in the packet, but further revisions are needed. She asked for the item to be tabled until next month.

Trustee Pappas/Trustee O'Neill 2nd made a MOTION to Table the Code of Conduct/Ethics Ordinance for Elected Officials, and the MOTION carried without negative vote.

Accept Resignation of Police Officer Dillon McGuire

Trustee Petersen/Trustee Livingston 2nd made a MOTION to accept the resignation of Police Officer Dillon McGuire, and the MOTION carried without negative vote.

Operator License Application filed by Benas Urbietis (Abbey Provident Resort)

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

Trustee McGreevy/Trustee O'Neill 2nd made a MOTION to approve the operator license application filed by Benas Urbietis for the Abbey Provident Resort, and the MOTION carried without negative vote.

Plan Commission – Trustee Petersen

Action on Zoning Ordinance 071023-00 to Rezone Property from A1 ETZ Zoning to C2 ETZ Zoning; Application filed by Shodeen Family Property Co. LLC, 77 N. First St., Geneva, IL 60134, to Amend Current Zoning of Property Located at Tax Parcel E W 2300008 in Walworth, WI 53184 – Tabled on 06/12/2023

The rezone application seeks to rezone a portion of tax parcel EW2300008 in the Town of Walworth from A1 ETZ to C2 ETZ Zoning. The rezone request is for consistency with surrounding parcels and portions of the same parcel. The item was tabled at the Jun 12, 2023 meeting due to concerns expressed by Trustee Pappas. Shodeen Representative Dave Patzelt stated the application seeks to rezone a portion of the parcel from A1 to C2 zoning. Trustee Pappas indicated concern with whether the application should be voted on given that the boundary agreement with the Village of Walworth is likely to be renegotiated and the ETZ parcels designated in the Master Plan. Trustee Pappas stated the land is currently farmed and should remain A1 Prime Ag land. He stated that by rezoning the property another house will be able to be built on that parcel. Attorney Thorpe stated that while past practice has allowed the plan commission members to vote on ETZ agenda items, statutorily the ETZ carries all of the authority to vote, and the ETZ voted in favor of the application at its meeting. Village Planner Sonja Kruesel presented her staff memo for the rezone application and stated she supported the rezone for consistency of the parcel and due to growth. Trustee Pappas asked what growth pattern has changed and noted the majority of the frontage with adjacent parcels is A1.

Trustee McGreevy/Trustee Petersen 2nd made a MOTION to approve Rezone Ordinance 071023-01 to Rezone Property from A1 ETZ to C2 ETZ for Tax Parcel EW 2300008 in the Town of Walworth. The MOTION carried on a 6-1 vote with Trustee Pappas opposed.

Discussion or Action on Request Filed by Abbey Provident to Remove Four Trees on Fontana Boulevard Located in Road Right-of-Way – Tabled 5/1/23

As part of the proposed project, the developer is requesting permission to remove four trees in the village road right-of-way. Trustee Pappas asked if some of the proposed replacement trees could be changed as there were several, he did not feel were appropriate for the median. Attorney Thorpe stated they cannot make changes without board approval under the current landscape plan. The developer stated he is willing to work with the Village and discuss and revise the landscape plan to make it suitable for the village.

Trustee McGreevy/Trustee Marek 2nd made a MOTION to approve the removal and replacement of the four trees in the road right-of-way, and require a tree permit for all trees removed, and the MOTION carried without negative vote.

Action on Zoning Ordinance 071023-00 to Rezone from VC to Planned Development Zoning; Application Filed by Abbey Provident Venture LLC, at 1776 S. Naperville Road, #204B, Wheaton, IL 60189 for a Condominium Development (Residences on Geneva Lake) Including Residential and Commercial Uses Located on Tax Parcels SOP 00039, SOP 00041, SOP 00042, & SOP 00043

Developer Scott Lowell from Lowell Construction presented the proposed townhomes which include 17 residential spaces and two commercial spaces proposed as “book ends” on Fontana Boulevard. Lowell stated they have consulted with village staff, residents, plan commission and board members, and based on feedback received over the past several months, they have acquired two additional parcels of land and have added 23 extra parking spaces. Lowell stated they are seeking to improve the blighted parking lot and vacant home to produce a high-end development in its place. Lowell stated the current proposal places two commercial spaces at the west end of building one and east end of building two. He proposed the option of moving the commercial space in building two to building one and selling the building as all. Lowell stated he has been advised that commercial will not work here (the Village of Fontana) and one of the obstacles is lack of parking. Lowell stated if they go that route, they will try to find a buyer for the building, and if not successful, they will come back to the village to discuss options. The other change they would like to propose, based on plan commission feedback, is the retaining wall, where at its highest point is 6.2-feet above grade on the southeast side due to the 9-foot slope from end to end of the property. Architect Peter Davis from Johnson Design presented an alternative option to drop the wall approximately two-feet to a four-foot retaining wall and add a landscaped wall for the remaining 2-feet. The two-foot wall would be covered in ivy and surrounded by plants and flowers. The reason they are proposing a two-foot wall is anything higher would require another railing which would create a visual barrier. There was discussion about whether the proposal meets the comprehensive plan, which the Plan Commission did not feel that it did and therefore voted unanimously to recommend against the project. Lowell reminded the village board members that the development was presented to the board in January and at that time they asked the board if they felt the development meets the comprehensive plan, and the board agreed at that time which is why they kept moving forward. Attorney Thorpe explained the approvals needed beginning with the rezone followed by the Precise Implementation Plan (PIP). The PIP would include the details such as moving the commercial spaces and adding the stepped retaining wall. Thorpe stated the developer is asking for a conditional approval on the PIP which entails approval the project as submitted and includes the proposed changes which would not be considered a material change and would not require a re-noticing of the meeting. The proposed changes do not alter the use or density of the project. Thorpe stated if the board wishes they could make a motion to approve the project as presented with two conditionally approved alternates in the form of the detailed drawings distributed and presented to the board.

Trustee McGreevy/Trustee Marek 2nd made a MOTION to approve Rezone Ordinance 071023-02 to rezone SOP 00039, SOP 00041, SOP 00042 and SOP 00043 from Village Center to Planned Development Zoning and the roll call vote was as follows:

Trustee Livingston: Aye

Trustee Petersen: Aye

President Kenny: Aye

Trustee McGreevy: Aye

Trustee O’Neill: Aye

Trustee Pappas: Nay

Trustee Marek: Aye

The MOTION carried on a 6-1 vote with Trustee Pappas opposed.

Discussion or Action on Plan Commission Recommendation on Precise Implementation Plan Filed by Abbey Provident Venture LLC, at 1776 S. Naperville Road, #204B, Wheaton, IL 60189 for Tax Parcels SOP 00039, SOP 00041, SOP 00042, & SOP 00043

Trustee McGreevy/Trustee Marek 2nd made a MOTION to conditionally approve the PIP as submitted and adopt PIP Resolution 071023-01 as submitted for parcels SOP 00039, SOP 00041, SOP 00042 and SOP 00043, subject to two conditions:

1. That the Village will accept and does approve a stepped back retaining wall along High Street as depicted in the filed drawing by Johnson Design, dated 7/10/23 (two pages) as an approved alternative to the retaining wall depicted in the PIP application.
2. That the Village will accept and does approve the proposed relocation of Unit 8 to the location of Unit 4 and the relocation of Unit 4 to the location of Unit 8 (resulting in both commercial units being located in Building 1 and Building 2 becoming 100% residential), as an alternative to the commercial unit location depicted in the PIP application.

The roll call vote was as follows:

Trustee Petersen: Aye

President Kenny: Aye

Trustee McGreevy: Aye

Trustee O'Neill: Aye

Trustee Pappas: Nay

Trustee Marek: Aye

Trustee Livingston: Aye

The MOTION carried on a 6-1 vote with Trustee Pappas opposed.

Discussion or Action on Plan Commission to Consider Action on Certified Survey Map Application Filed by Abbey Provident Venture LLC, at 1776 S. Naperville Road, #204B, Wheaton, IL 60189 for Tax Parcels SOP 00039, SOP 00041, SOP 00042, & SOP 00043

The plan commission recommended in favor of the proposed Certified Survey Map to combine all tax parcels. Trustee Pappas/Trustee Petersen 2nd made a MOTION to approve the Certified Survey Map for Parcels SOP 00039, SOP 00041, SOP 00042 & SOP 00043, as presented, and the MOTION carried without negative vote.

Discussion or Action on Plan Commission Recommendation on Condominium Plat Application Filed by Abbey Provident Venture LLC, at 1776 S. Naperville Road, #204B, Wheaton, IL 60189 for Tax Parcels SOP 00039, SOP 00041, SOP 00042, & SOP 00043

Trustee McGreevy/Trustee Marek 2nd made a MOTION to approve the Condominium Plat Application Filed by Abbey Provident Venture LLC, at 1776 S. Naperville Road, #204B, Wheaton, IL 60189 for Tax Parcels SOP 00039, SOP 00041, SOP 00042 & SOP 00043. The MOTION carried on a 6-1 vote with Trustee Pappas opposed.

Discussion or action on a Development Agreement with Abbey Provident LLC for the Residences of Geneva Lake Condominium project

Attorney Thorpe stated he has been working with APV Attorney Donner on the Development Agreement. Village Engineer Terry Tavera stated the applicant will be responsible for public improvements including running a public water main through the development, as well as the sidewalk, any portion of the disturbed street, manholes, and the village engineer and public works time. A letter of credit and guarantee bond will be required from the developer for the work. A village easement will be required for the improvements.

Trustee McGreevy/Trustee Marek 2nd made a MOTION to approve the Development Agreement with Abbey Provident LLC for the Residences of Geneva Lake Condominium Project, as presented, and the MOTION carried without negative vote.

Discussion or Action on Boundary Agreement with Village of Walworth

The 2004 boundary agreement with the Village of Walworth expires next year and was put in place to control annexations and future growth between the two communities. Thorpe stated there is not really a need for a boundary agreement in slow growing areas as it tends to tie the hands of future boards. Kenny and Pappas stated they feel the boundary agreement is a good thing. Thorpe asked if it should affect the limits of the comp plan, ETZ zoning, etc. Loomer stated that the ETZ com plan designation should be extended to the areas affected by the boundary agreement.

Discussion or Action on Village of Fontana's Annual Comprehensive Plan Amendment Process

Loomer stated since the comp plan application deadline closes on August 1, if the village wishes to extend the comp plan designations in the ETZ, which for whatever reason were left out, the board needs to decide whether to move forward with that at this meeting as there is not another meeting before August 1. The board requested the planner initiate an amendment to extend the comp plan to every area which the Village of Fontana has zoning authority.

Trustee Pappas/Trustee McGreevy 2nd made a MOTION initiate a comprehensive plan amendment to extend the comprehensive plan to all areas the Village of Fontana has zoning authority including to the ETZ boundary. The MOTION carried without negative vote.

Finance Committee – President Kenny

Discussion or Action on 2022 Audit Presentation

Phil Greening from Sitzberger and Associates provided an overview of the 2022 audit. The complete audit is on file and is available at the village hall for review.

Trustee McGreevy/Trustee Marek 2nd made a MOTION to approve the 2022 Audit, as presented, and the MOTION carried without negative vote.

Discussion or Action on Seeking RFP's for Village Attorney, Auditor, and Planner

Loomer stated the recommendation of the Finance Committee was to hold off on RFP's for the attorney, auditor, and planning services, and revisit again next year.

Trustee McGreevy/Trustee Marek 2nd made a MOTION to continue services with the current village attorney, auditor, and planner for 2024, and revisit again next year before the 2025 budget year, and the MOTION carried without negative vote.

Discussion or Action on Fire/EMS Turnout Gear Invoice

Loomer stated \$19,900 worth of turnout gear was budgeted and ordered in 2022, but was not delivered or invoiced until 2023. She asked for the invoices to be approved using referendum funds.

Trustee McGreevy/Trustee O'Neill 2nd made a MOTION to approve the Fire/EMS Turnout Gear Invoices in the amount of \$19,900, using referendum funds, and the MOTION carried without negative vote.

Approval of Resolution 071023-01 for a New Bank Account for ACH Accounts Receivable Payments

At last month's board meeting, the board recommended opening a separate account for ACH Receivable Payments. Staff have begun that process which requires approval of a resolution in order to open a new account.

Trustee Pappas/Trustee O'Neill 2nd made a MOTION to approve Resolution 071023-02 for a new bank account for ACH accounts receivable payments, and the MOTION carried without negative vote.

Protection Committee – Trustee Petersen

Discussion or Action on Proposed Williams Bay Ambulance Lease Agreement

For Fontana to utilize and staff Williams Bay's ambulance and bill accordingly, Williams Bay either needed to enter into their own contract with the billing company or lease the ambulance to Fontana. They have agreed to lease their ambulance which will allow Fontana to staff the ambulance and provide ALS services. The lease agreement is labeled as Addendum B in the IGA.

Trustee McGreevy/Trustee Marek 2nd made a MOTION to approve the Lease agreement for the Williams Bay ambulance as part of the First Amended IGA for Emergency Services, and the MOTION carried without negative vote.

Discussion or Action on First Amended IGA with Village of Williams Bay – Tabled 5/1/23

Loomer stated the First Amended IGA was tabled in May in order for Williams Bay to establish either a separate billing agreement or lease agreement. There have been no additional changes to the draft from the one presented in May, except for Section 8(b) which references Addendum B, the ambulance lease agreement.

Trustee McGreevy/Trustee O’Neill 2nd made a MOTION to approve the First Amended IGA for Emergency Services with the Village of Williams Bay, as presented, and the MOTION carried without negative vote.

Lakefront & Harbor Committee – Trustee Pappas

Discussion or Action Pier Permit Application filed by Kent Shodeen for 724 S. Lakeshore Dr

Trustee Pappas stated the Lakefront Committee reviewed the pier permit application to replace the pier. The application included a survey, and the proposed pier meets all required setbacks. Pappas stated he was contacted by Elite Piers earlier in the day and they requested to move the pier 22-feet closer to shore. Moving the pier would still meet all required setbacks and Pappas recommended approval of the pier permit application to include the most recent diagram that shows the proposed pier 22-feet closer to shore.

Trustee Pappas/Trustee McGreevy 2nd made a MOTION to approve the pier permit application filed Elite Piers on behalf of Kent Shodeen for 724 S. Lakeshore Drive, per the survey included in the application, except the slips will be 22-feet closer to shore as depicted with the 07-10-23 pier diagram, and as-built survey filed upon completion of the project, and the MOTION carried without negative vote.

GLEA – President Kenny

Discussion or Action on Proposed Ordinance Amendment to Section VII – Preventing the Spread of Aquatic Plants and Invasive Animals in Geneva Lake & Surrounding Bodies of Water

Attorney Thorpe stated he is still working on revising the ordinance.

Trustee Pappas/Trustee O’Neill 2nd made a MOTION to Table the proposed ordinance amendment to Section VII – Preventing the Spread of Aquatic Plants and Invasive Animals in Geneva Lake & Surrounding Bodies of Water, and the MOTION carried without negative vote.

Adjournment

Trustee McGreevy/Trustee O’Neill 2nd made a MOTION at 6:09 pm to adjourn the meeting, and the MOTION carried without negative vote.

Minutes prepared by: Theresa Loomer, Village Administrator

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: 08/07/2023