

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

(Final Minutes)

Special Joint Meeting of the VILLAGE OF FONTANA VILLAGE BOARD OF TRUSTEES &
Special Joint Meeting of the VILLAGE OF FONTANA POLICE AND FIRE COMMISSION

Tuesday, September 26, 2023

The Special Joint Virtual Meeting of the Village of Fontana Village Board of Trustees & Special Joint Meeting of the Village of Fontana Police and Fire Commission was called to order by Village President Kenny for the Village Board and Police and Fire Commission at 5:30 pm on Tuesday, September 26, 2023.

Police and Fire Commission Members Present: Jay Hicks, Tom Hausner, Cliff Woodbury

Village Board Members Present: President Kenny, Trustee Marek, Trustee McGreevy, Trustee O'Neill

Police and Fire Commission Members Absent: Joe Haughey, John Tierney

Village Board Members Absent: Trustee Petersen, Trustee Livingston, Trustee Pappas

Also Present: Liz Baumann, Attorney Jim Carroll, Chief Cates, Theresa Loomer, Drew Lussow, Rick Manthy

Joint General Business

Police and Fire Commission Legal Overview – Attorney Jim Carroll Buelow Vetter

Attorney Jim Carroll from Buelow Vetter gave a presentation on the responsibilities of the Police and Fire Commission (PFC) and reviewed how they function separately from the Village Board. Attorney Carroll gave a brief synopsis of what PFC is and why it was created. Attorney Carroll stated that PFC's have been in Wisconsin for over 100 years, and they were established to remove the administration of fire and police departments from any municipal politics and to place it in the hands of impartial and nonpolitical citizens. Attorney Carroll stated that a Police and Fire Commission has to be created under certain circumstances, one of the factors that goes into determining if a commission is needed is the population of the municipality. Attorney Carroll stated that because the population the Village of Fontana does not meet the threshold and is not required to have a PFC. Attorney Carroll stated that ultimately it is up to the Village Board to decide, and they could choose to keep or eliminate the PFC, but if they do away with the PFC a committee or supervisors would still have to perform the duties of hiring, discipline, firing, etc. Attorney Carroll then stated that if a PFC is created it is up to the PFC to annually designate the roles of president, vice president, and treasurer. Attorney Carroll stated that the law doesn't specify how many meetings are required for a PFC or when the meetings must be held. Attorney Carroll said that it is usually in the interest of the Village to establish and adopt rules and guidelines to help govern the PFC and give them guidance on how business should be conducted. Attorney Carroll stated he and Administrator Loomer began working on the Rules and Regulations, but decided to pause to ensure the Village Board has full understanding of the PFC's role with the police and fire departments. Administrator Loomer stated that is one of the reasons for this presentation to make sure the Village and PFC are aware of each other's responsibilities and to make sure the Village wants to proceed with a PFC before more work, time, and money is put into the drafting of the rules and regulations. Additionally, she stated there are related ordinances that will need updating if the Village opts to keep the PFC. Attorney Carroll stated that the duties of the PFC are governed by state statute and are all or nothing; the option of having a "limited" PFC does not exist. Attorney Carroll outlined some of the duties that the PFC should handle which include but are not limited to approving appointments by the chief, competitive examination, eligibility lists, suspending of chief, initiating charges against chief or subordinates, hearing charges against any individual, and disciplinary powers. Attorney Carroll then stated that it is the PFC that appoints the chief of police and fire departments. The Chiefs make hiring recommendations for approval by the PFC. Trustee McGreevy raised a question on whether the authority or power of the PFC can be more than what has already been covered and described by Attorney Carroll. Attorney Carroll stated that more authority/power can be given to PFC if a Board wishes to involve them even more, but it is not very common. Attorney Carroll wanted to make clear that the best practice the Village could enforce if they continue with a PFC would be to establish a clear process in place with all the rules and regulations that could be followed consistently, in case

anyone should question the process and if it was followed the PFC would have clear guidelines they could point to. Attorney Carroll then touched on the discipline procedures of the PFC. Attorney Carroll stated that the PFC in some instances acts as a Quasi-judicial body since they must play the role of jury and judge when it comes to disciplinary action. Attorney Carroll stated charges can be filed by the Chief for disciplinary action, a member of the commission, or the commission as a whole, but charges from the commission as a whole can create some awkwardness since they are the same body who hears the charges. Attorney Carroll outlined that charges have to be in writing and provide sufficient detail for the accused to defend themselves of the charges. Attorney Carroll also stated that in some instances the PFC could retain a lawyer in a hearing for disciplinary action, but the attorney does not make decisions for the disciplinary action and that it must come from PFC. Attorney Carroll stated that any retained litigator can advise and write pleadings on PFC's behalf, however final say always belongs to the PFC. Attorney Carroll then stated some of the processes involved in a disciplinary hearing which can conduct itself much like a court since there is a statute that requires a prompt hearing, witnesses who can be subpoena and sequestered, evidence that is presented, and ultimately a body deliberates in closed session to give a final decision. Attorney Carroll wanted to let the PFC members know that if this circumstance ever should happen to them then the body is allowed to reconvene with proper notice if after reviewing evidence there is no time left for a decision. Attorney Carroll stated that when making a decision there are seven crucial factors that must apply and are set by statute which were included in the packet that Attorney Carroll provided to all members in attendance. Attorney Carroll stated that if all seven standards are applicable then a written decision must be issued within three days. If discipline is not imposed the subordinate must be reinstated if previously suspended. Attorney Carroll stated that there are appeal rights as well should it come to it. PFC Commissioner Hausner made a comment that he agrees with what Attorney Carroll has been presenting and knows that he and his fellow Commissioners had questions in the past regarding the procedure and rules for the PFC. PFC Commissioner Hausner believes that all of this would be good to enforce and wants to make sure that the Village Board and PFC are covered, and proper procedures and policies are in place to make this as smooth as possible. Chief Cates then made a comment regarding the hiring process and the speed of the process and asked if there was anything we could do to expedite that since we have lost good applicants in the past to neighboring municipalities due to slow turnaround time with all the approvals needed before they could extend an offer to a candidate. Attorney Carroll stated that putting rules and procedures in place could speed up the process and stated that in the future there would be no need for the Village Board to approve, only the PFC. Attorney Carroll also stated that there is nothing that would prohibit the PFC from meeting virtually to give approval of any candidates through a zoom or other electronic means meeting. PFC Commissioner Woodbury made a comment that most of the PFC items are hiring process and they lean heavily on Chiefs for input and want to be able to help them get the best candidates possible. PFC Commissioner Hicks asked if they decide to keep the PFC could the chiefs potentially hire candidates with a 30-day retroactive to PFC approval to allow for quicker hiring. Attorney Carroll said if that is how the rules and regulations are written that it may be possible. Deputy Fire Chief Manthy made a comment that we don't have many eligibility lists anymore and that they only have postings which have led to very few applicants. Of those applicants he would love to streamline a process to allow for those good applicants to get hired before they are poached away. Deputy Fire Chief Manthy also commented that he appreciates having the backing of the PFC since it adds another layer of review to hiring and other procedures. Administrator Loomer asked that based on all that Attorney Carroll has outlined what would the Board like to do going forward. The Village Board was in favor of proceeding with having a PFC and explored moving forward with the creation of the rules and regulations as well as the ordinance and code changes needed.

Adjournment Village Board

Trustee McGreevy/Trustee Marek 2nd made a MOTION at 6:52 pm to adjourn the meeting, and the MOTION carried without negative vote.

Police and Fire Commission Business

Approve Rehiring Firefighter/Paramedic Simon Lee

Deputy Fire Chief Manthy stated that Firefighter/Paramedic Simon Lee is looking to come back to the Village of Fontana after things did not work out at his new position, he accepted at a different

municipality's station. Deputy Fire Chief Manthy recommended that Simon Lee should start back fresh as a new hire and no time would roll over from his previous time here.

Commissioner Hausner/Commissioner Hicks 2nd made a MOTION to approve the rehiring of Firefighter/Paramedic Simon Lee, as presented, and the MOTION carried without negative vote.

Adjournment Police and Fire Commission

Commissioner Hausner/Commissioner Hicks 2nd made a Motion to adjourn the Police and Fire Commission meeting at 6:54 pm, and the MOTION carried without negative vote.

Minutes prepared by: Drew Lussow, Village Clerk

Approved: 10/09/2023