

VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN
(official minutes)

JOINT VILLAGE BOARD, PLAN COMMISSION
AND CDA MEETING

Monday, November 3, 2003
Beginning @ 5:30 p.m.

Date: Monday, November 3, 2003

Time: starting @ 5:30 p.m.

Location: Village Hall Meeting Room, 175 Valley View Drive, Fontana, Wisconsin 53125

President Whowell called the Joint Village Board, Plan Commission and Community Development Authority (CDA) meeting to order.

Village Board of Trustees present:

Present: Bromfield, Cole, Geye, O'Connell, Petersen, Turner, President Whowell

Plan Commissioners present:

Geye, Poivey, Ripkey, Spadoni, Treptow, President Whowell

Absent: Rauland

CDA members present:

Bliss, Canfield, Chanson, McHugh, O'Brien, Petersen, Chairman Bill Turner, Executive Director Cindy Wilson

Also present: Village Attorney Thorpe, CDA Attorney Hank Gempeler, Financial Analyst Mike Harrigan, Village Administrator Hayden-Staggs, Village Clerk Smith, Chief of Police Steve Olson, Police Officer Mark Chalchhoff, DPW Director Craig Workman, Fontana Librarian Nancy Krei, Village Treasurer Peg Pollitt, Geneva Lake Conversancy Executive Director Chris Goebel

Pledge of Allegiance was lead by President Whowell.

Abbey Negotiations Status Presentation

Trustee and CDA Chairman Bill Turner, CDA Attorney Hank Gempeler from Foley and Lardner and Financial Analyst Mike Harrigan from Ehlers and Associates assisted each other in giving the Abbey Negotiations Status presentation to the Village Board, Plan Commission, CDA and the citizens in the audience. Discussed followed on the following submittals:

- o 5 pg. document titled Draft Terms of Agreement between the Abbey and the CDA, dated 10/30/2003 attached to official meeting minutes;
- o conditions to be added on page 4 under Conditions Precedent to Closing;*
- o 4 pg. document titled Fontana Abbey Project Outline of Comments of Michael J. Harrigan, dated 11/3/03 attached to official meeting minutes;

- 4 pg. document titled Abbey Redevelopment Timeline prepared and dated 31st day of October, 2003;
- 1 pg. document titled CDA Creation, Project Plan and Redevelopment Plan Timeline prepared and dated 31st day of October, 2003;
- 2 pg. document titled What is Tax Increment Financing (TIF) with no date;
- 2 pg document outline titled The Abbey Renovation hand-out with no date.

* the revised 5 pg. document titled Draft Terms of Agreement between the Abbey and the CDA with the added conditions will be attached to the official minutes.

Speaking with questions and concerns from the audience:

Gary Blizard, Lou Loenneke, Jim Feeney, Russ Hovde, Betty Hovde, Phil Harvey, Don West Gerald Millsap, Curtis Hubertz, Chris Goebel, Bob Sandy, Laurie Larson, Bruce Jensen, an unidentified man

Documents submitted:

- 2 pg. document titled Questions on Abbey Redevelopment and Public Financing submitted by Chris Goebel, Geneva Lake Conservancy;
- 2 pg. document titled Questions on the Abbey submitted by Bruce Jensen.

Draft Terms of Agreement between the Abbey and the CDA

CDA Resolution No. 11-03-03-1

A Resolution Making Certain Findings With Respect To The Abbey Redevelopment Project; Approving The Draft Terms of Agreement with Respect Thereto; and Authorizing Village and CDA Representatives to Prepare Agreements and Such Other Documents for Further Consideration and Approval of the CDA and Village Board

CDA MOTION #1

CDA Chairman Turner/2nd Sharon O'Brien. MOTION was made to add a condition under page 4 of the Draft Terms of Agreement/Conditions Precedent to Closing which is written opinion from legal and financial counsel that the project is beneficial to the Village taking into account the risks and rewards of the project. MOTION carried without negative vote.

AMENDED CDA MOTION #2

Margaret Canfield/2nd Arvid Petersen. CDA Chairman Turner worded an AMENDMENT TO THE MOTION: that the first bullet under conditions precedent to closing be amended and the following phase be added: with a sunset clause agreeable to the CDA and the Village. MOTION carried without negative vote.

AMENDED CDA MOTION #3

Bob Chanson/2nd Margaret Chanson. CDA Chairman Turner worded another AMENDMENT TO THE MOTION under conditions precedent to closing – an agreement in the Precise Implementation Plan (PIP) on the expansion areas which is satisfactory to the CDA and the Plan Commission. MOTION carried without negative vote.

AMENDED CDA MOTION #4

Skip Bliss/2nd Bob Chanson. CDA Chairman Turner worded another AMENDMENT TO THE

MOTION under conditions precedent to closing – an agreed limit in the PIP on the number of hotel related public launches at The Abbey Harbor. MOTION carried with Canfield voting nay.
Yes Vote – 6
No Vote - 1

FINAL CDA MOTION #5

CDA Chairman Turner/2nd Bob Chanson. MOTION was made to pass the Resolution as prepared by Hank Gempeler which includes the approval of the Draft Terms of Agreement.

Discussion: Attorney Thorpe suggested that under the Draft Terms of Agreement dated October 29, 2003 (pg.2 of the Resolution) the phrase be changed to add: as amended (because of amendments made tonight). Thorpe added one more thing, the Draft Terms of Agreement is dated October 30th not October 29th.

MOTION carried with Joseph McHugh abstaining.

Yes Vote – 6

No Vote – 0

Abstention- 1

Adjourn CDA

CDA Chairman Turner/2nd Sharon O'Brien. MOTION was made to adjourn the CDA meeting. MOTION carried without negative vote.

Time: 9:00 p.m.

Plan Commission Recommendation on CDA Resolution

A Resolution Making Certain Findings With Respect To The Abbey Redevelopment Project; Approving The Draft Terms of Agreement with Respect Thereto; and Authorizing Village and CDA Representatives to Prepare Agreements and Such Other Documents for Further Consideration and Approval of the CDA and Village Board

Attorney Thorpe summarized issues to come back before the Plan Commission:

- Precise Implementation Plan
- Platting issues
- Development Agreement including Public Improvement issues
- Subdivision issues
- Condominium Plat
- Condominium Declaration

PLAN COMMISSION MOTION

Commissioner Spadoni/2nd Mike Poivey. MOTION was made to recommend approval of the Village Board version of the substantially same Resolution adopted by the CDA a moment ago with the same changes outlined in the CDA Resolution a moment ago. MOTION carried with

Commissioner Geye voting nay and President Whowell abstaining.

Yes Vote – 4

No Vote – 1

Abstention – 1

Commissioner Spadoni/2nd Mike Poivey. MOTION was made to adjourn Plan Commission. MOTION carried without negative vote.

Time: 9:10 p.m.

Village Board Resolution No. 11-03-03-1

A Resolution Making Certain Findings With Respect To The Abbey Redevelopment Project; Approving The Draft Terms of Agreement with Respect Thereto; and Authorizing Village and CDA Representatives to Prepare Agreements and Such Other Documents for Further Consideration and Approval of the CDA and Village Board

Attorney Thorpe explained: CDA Attorney Gempeler prepared a draft Resolution substantially identical to the document that the CDA voted on a moment ago.

The recommended document by Plan Commission includes two changes:

- pg. 2, changing the date of the Term from October 29th to October 30th
- pg. 2, recognizing that it is an 'as amended' document

Attorney Thorpe further stated that the intent here is to generate a commitment to these terms, generally, and to direct Village professionals to continue the work of negotiating the documents and contracts and bringing those back to the Village Board for subsequent approval.

VILLAGE BOARD MOTION #1

Trustee Petersen/2nd Trustee Turner. MOTION was made to adopt Resolution No. 11-3-03-1.

AMENDED VILLAGE BOARD MOTION #2

Trustee Petersen/2nd Trustee Turner. AMENDED MOTION: to include a requirement that a draft of the condominium declaration be submitted within 30 days.

AMENDED VILLAGE BOARD MOTION #3

Trustee Petersen/2nd Trustee Turner. AMENDED MOTION: under conditions precedent to closing, a condition precedent to closing is a copy of the updated existing marketing study to verify occupancy and room rates and to consider the proposed conversion of Lake Lawn Resort to a Condominium Resort.

Discussion: Trustee Turner and Attorney Thorpe outlined four more conditions precedent to closing outlined by the Village Board

1. 30 day deadline to initiate through the filing process of the condominium declaration draft
2. that the black hole scenario be put into writing in a form acceptable to the Village Board
3. analysis of conference center costs or value in order to justify the expenditure in the lease revenue bond
4. a copy of the updated marketing study to be provide to the Village Board to their satisfaction to include verification of average room rates and occupancy rates for similar

hotels and the impact of Lake Lawn Lodge Condominium conversion

FINAL VILLAGE BOARD MOTION #4

Trustee Petersen/2nd Trustee Turner. MOTION was made to approve the Resolution as amended subject to the changes and the Terms of Agreement as amended.

MOTION carried with voice roll vote taken:

Trustee Cole – no

Trustee O'Connell – yes

Trustee Petersen – yes

Trustee Turner – yes

Trustee Bromfield – abstain

Trustee Geye - no

President Whowell - abstain

Time: 10:10 p.m.

- 5 minute break -

Announcement by President Whowell

2004 Budget Public Hearing scheduled for Thurs., November 20, 2003 @ 6:00 p.m.

Lake Geneva Extreme Sports Triathlon for September 11, 2004

Patty Schroeder (present) representing the Triathlon requested that the Village Board approve the September 11, 2004 race date. President Whowell announced that \$2,000 was donated to the Fontana Park Commission Flag Pole Fund from the 2003 race.

Trustee Petersen/2nd Trustee Bromfield. MOTION was made to accept September 11th for the Lake Geneva Extreme Sports Triathlon date for next year. MOTION carried without negative vote.

Rezone Request - Steve Beers, 453 North Lakeshore Drive

At their last meeting, Plan Commission asked Steve Beers to come before the Village Board for his proposed rezone from RS-1 to PD zoning.

Attorney Thorpe explained: The request for a Planned Development District is being used to make legal what otherwise would be illegal and impossible to do under RS-1. The way you differentiate this from most properties around the lake is that the two structures already exist. The property looks the same the day after approval as the day before approval and no construction takes place. It will go from being un-dividable to being dividable and they potentially could then be separately owned, the lake house and the road house could be separately owned. Thorpe added: the PD Ordinance would be carefully written to include a covenant.

President Whowell sent this matter back to Plan Commission for the 11/24/03 meeting.

No action taken.

Direct Legislation Petition for Spring 2004 Election

Administrator Hayden-Staggs reported that the Village Board has 30 days to act from November 1, 2003. She recommended that the Village Board take some time to review the ordinance and table to November 20th.

It was noted that the 2004 Budget Public Hearing is already scheduled and noticed for that night and this item could be added to the agenda.

Attorney Thorpe added that this would also give us a chance to report on the legality to the ordinance and whether it meets the various tests imposed by law. Attorney Thorpe would like an opportunity to continue working on that issue.

Attorney Thorpe addressing the Village Board: You have the option to just adopt it tonight, if you wish to, or set it for referendum. If you found that it was illegal for some reason you could do neither. That's the option that we have not exhausted our research on yet. I'll tell you frankly though, from what I've read so far, Hank is not here any more, but he and I have agreed that it complies with what the Supreme Court has ruled is a reasonable ordinance under the Mt. Horeb case and it probably should go forward to at least referendum.

The League of Municipalities is recommending against adopting it outright for a number of reasons but those are your choices.

Direct Legislation Petition MOTION

Trustee Geye/2nd Trustee Turner. MOTION was made to accept this Direct Legislation Petition and put it on the Spring Ballot subject to final review by the Attorney by November 20th. MOTION carried without negative vote.

Village Clerk Resignation

Phyllis Sallye Smith submitted her written 60 day notice to resign. Her last day will be December 31, 2003.

Trustee Turner/2nd Trustee O'Connell. MOTION was made to accept her resignation with great regret and with a 30 day window. MOTION carried without negative vote.

Water Safety Patrol Lifeguard Services Contract for 2004 Summer Season

Operations Director, Ted Pankau submitted the 2004 contract and service description.

Trustee Geye/2nd Trustee Bromfield. MOTION was made to approve the Water Safety Patrol Contract as presented here for 2004. MOTION carried without negative vote.

Approve Village Board minutes from 10/6/03, 10/13/03, 10/20/03

Trustee Bromfield/2nd Trustee Turner. MOTION was made to approve those four sets of minutes. MOTION carried without negative vote.

Approve Payment of Village Bills

Financial Assistant Peg Pollitt prepared the Claims Register Utility Report (3 pg. Report) dated 10/31/2003 and the Fontana Claims Register Report (4 pg. Report) dated 10/31/2003.

Trustee Cole/2nd Trustee Petersen. MOTION was made to approve the bills as reviewed by the Finance Committee. MOTION carried without negative vote.

Village Treasurer Report

Financial Assistant Peg Pollitt prepared the Treasurer's Report (1 pg. Report) dated September 30, 2003.

Hiring Process Timeline for Village Clerk Position

Administrator Hayden-Staggs reported that she has already contacted two individuals who had previously applied a few months ago for the Treasurer's position. One individual is extremely interested and Administrator Hayden-Staggs would like to schedule a meeting with her as soon as possible.

Trustee Turner/2nd Trustee O'Connell. MOTION was made that we post the position and met this lady with the Administrator deciding the terms, the time frame on this. MOTION carried without negative vote.

Police and Fire Commission (PFC) update

Administrator Hayden-Staggs reported that a draft resolution will be prepared by Attorney Scott Herrick, Herrick & Kasdorf, LLP. This matter will be addressed at the December 8th meeting.

No action taken.

Ordinance No. 11-03-03-1

Ordinance Amending Building Permits and Construction Record Keeping Requirements

Attorney Thorpe and Zoning Administrator Henke prepared the ordinance for adoption tonight.

Trustee Turner/2nd Trustee Petersen. MOTION was made to approve Ordinance 11-03-03-1. MOTION carried without negative vote.

Lake Use Committee

Ken Bell (absent). No meetings are planned for November or December unless required.

No action taken.

SOP Guidelines

Subject: Investigations and the Use and Regulation of Surveillance Equipment

Attorney Thorpe reported that he spoke with Walworth County and Thorpe is confident that they will support the ordinance as written, subject to a reasonable application. Administrator Hayden-Staggs reported that the Police Union agrees that personal surveillance equipment should not be allowed. It is management's intention for this not to cover minor traffic violations or other minor offenses. It is intended to cover misconduct in office or other such offenses.

Trustee Bromfield/2nd Trustee Cole. MOTION was made to accept this SOP as written. MOTION carried without negative vote.

Ordinance No. 11-03-03-2

Ordinance Creating Section 22-10 Extraordinary Expense

Protection Committee recommends approving this ordinance.

Trustee Bromfield/2nd Trustee Petersen. MOTION was made to approve Ordinance 11-03-03-2. MOTION carried without negative vote.

Resolution No. 11-03-03-2

Resolution Establishing Fees and charges Pursuant to Section 22-10 of the Municipal Code of the Village of Fontana on Geneva Lake; Specifically Extraordinary Expense

Trustee Bromfield/2nd Trustee Petersen. MOTION was made to approve Resolution 11-03-03-2. MOTION carried without negative vote.

North Lakeshore Project Update

DPW Director, Craig Workman reported that blacktopping will end this week.

No action taken.

Brookwood Sewer Main Update

DPW Director, Craig Workman reported that Brookwood started today and will finish Thursday.

No action taken.

Outside Watering Meter Discussion

Public Works Committee recommends no action whatsoever on outside watering meters.

No action taken.

Final Pay Request for Mann Brothers – Contract 1-2003 Harvard Club Sewer Project

Amount: \$2,567.98

Engineer Mike Bridwell, Strand Engineering submitted and approved the request for payment.

Craig Workman and Public Works Committee recommend approval of the final pay request.

Trustee Turner/2nd Trustee Bromfield. MOTION was made to approve the final payment of \$2,567.98 for the Harvard Club Sewer project. MOTION carried without negative vote.

Final Pay Request for Water Well Solutions Service Group, Inc.

Water Supply Well No. 2 Rehabilitation

Amount: \$9,481.00

Gary Vogel, Baxter Woodman Consulting Engineers submitted and approved the request for payment.

Craig Workman and Public Works Committee recommend approval of the final pay request.

Trustee Bromfield/2nd Trustee Turner. MOTION was made to approve the payment of \$9,481.00 for Water Well Solutions. MOTION carried without negative vote.

V Box Equipment Purchase

Approximate Amount: \$7,200.00

Craig Workman and Public Works Committee recommend purchasing the V Box equipment for road salt and sand application.

Trustee Bromfield/2nd Trustee Petersen. MOTION was made to approve the purchase of a V Box for approximately \$7,200.00 coming out of the budget. MOTION carried without negative vote.

Park Commission Update

Trustee Geye reported that the flagpole will be ordered and noted the donation from Lake Geneva Extreme Sports Triathlon. No action taken.

Pending Business for Park Commission:

- Outdoor Grilling in Fontana Parks will be reviewed by Park Commission
- Recommendation for the style of lighting to CDA for Highway 67
- Recommendation for the Mill House to CDA

Lakefront and Harbor Update

Trustee Bromfield reported that a Committee meeting is scheduled for tomorrow.

No action taken.

Adjournment

Trustee Bromfield/2nd Trustee Petersen. MOTION was made to adjourn. MOTION carried without negative vote.

Time: 11:00 p.m.

Minutes prepared by:

Phyllis Salby Smith, Village Clerk

clerk@villageoffontana.com

Note: These minutes are subject to further editing. Once approved by the Village Board, the official minutes will be on file at the Village Hall.

APPROVED: 12/8/03