

VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN
(Official Minutes)

SPECIAL JOINT MEETING
of the
VILLAGE BOARD OF TRUSTEES, PLAN COMMISSION and CDA
Wednesday, December 15, 2004

President Howell called the special joint meeting of the Village Board, Plan Commission and CDA to order at 5:06 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Trustees present: Roll call vote: President Howell, Petersen, Pollitt, Geye, Turner, O'Connell
Trustee absent: Bromfield

Plan Commissioners present: Roll call vote: Rauland-Mohr, Treptow, President Howell, Poivey, Larson, Geye
Plan Commissioner absent: Spadoni

CDA Members present: Roll call vote: Chairman Turner, Petersen, Chanson, O'Brien, Koepsel
CDA Members absent: Bliss (arrived at 6:59 pm), McHugh

Also present: Joel Bikowski, Village Administrator Kelly Hayden-Staggs, Village Clerk Dennis Martin, Attorney Michael Orgeman, CDA Executive Director Cindy Wilson, Public Works Director Craig Workman

Announcement for Board of Trustees, Plan Commission and CDA to Consider Going Into Closed Session - President Howell

Trustee Geye/Trustee Petersen 2nd made a MOTION for the Village Board to go into closed session pursuant to Chapter 19.85 (1) (e) Wis. Stats., for the purpose of “deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require,” and pursuant to Chapter 19.85 (1) (g) Wis. Stats., for the purpose of “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,” and the roll call vote followed:

Turner – Yes

O'Connell – Yes

President Howell – Yes

Petersen - Yes

Pollitt - Yes

Geye – Yes

The motion carried 6-0, with Bromfield absent.

Commissioner Treptow/Commissioner Geye 2nd made a MOTION for the Plan Commission to go into closed session pursuant to Chapter 19.85 (1) (e) Wis. Stats., for the purpose of “deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require,” and pursuant to Chapter 19.85 (1) (g) Wis. Stats., for the purpose of “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,” and the roll call vote followed:

Rauland-Mohr – Yes

Treptow – Yes

President Howell – Yes

Poivey – Yes

Larson – Yes

Geye – Yes

The motion carried 6-0, with Spadoni absent.

CDA Board Member Koepsel/Member Petersen 2nd made a MOTION for the CDA Board to go into closed session pursuant to Chapter 19.85 (1) (e) Wis. Stats., for the purpose of “deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require,” and pursuant to Chapter 19.85 (1) (g) Wis. Stats., for the purpose of “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,” and the roll call vote followed:

Chairman Turner – Yes

Petersen - Yes

Chanson - Yes

O’Brien - Yes

Koepsel – Yes

The motion carried 5-0, with Bliss not yet at the meeting and McHugh absent.

Bliss arrived at the meeting at 5:49 pm.

CDA Board Member Petersen/Chairman Turner 2nd made a MOTION to adjourn the CDA’s Closed Session at 5:58 pm and to reconvene in open session, and the MOTION carried without negative vote.

Commissioner Geye/Commissioner Treptow 2nd made a MOTION to adjourn the Plan Commission’s Closed Session at 5:58 pm and to reconvene in open session, and the MOTION carried without negative vote.

Trustee Petersen/Trustee O’Connell 2nd made a MOTION to adjourn the Village Board’s Closed Session at 5:58 pm and to reconvene in open session, and the MOTION carried without negative vote.

President Whowell announced that the Village Board, Plan Commission and CDA Board were still in session: 6:10 pm.

Also Present: John Clair, Dennis Condon, Therese Gulbransen, David and Fran Hill, Dave Johanson, Nancy Krei, Ron Nyman, Brian Pollard, Peg Pollitt, Bob Sandy, Mike Slavney, Skip Scherb, Sturges Taggart, Dale Thorpe, David C. Williams

General Business – President Whowell

Discussion of Closed Session Items

Whowell stated that among the items discussed by the Village Board, Plan Commission and CDA in closed session was a possible new location for the Village’s new Main Lift Pumping Station.

Workman stated Village staff discussed the possibility of locating the new Lift Station under the restroom building in Reid Park, which will cost up to \$500,000 less than the initial plan to construct it at the Mill Street Lift Station site. Workman stated new technology will allow a new Main Lift Station to operate “virtually odor free.” Turner stated the Village should direct its contractor, Strand Associates, to move ahead with preliminary engineering studies on the Reid Park site.

Chairman Turner/Petersen 2nd made a MOTION that the CDA approve moving forward with planning for the Main Lift Pumping Station to be located in Reid Park, under the restroom building, and the MOTION carried without negative vote.

Commissioner Geye/Commissioner Poivey 2nd made a MOTION that the Plan Commission approve moving forward with planning for the Main Lift Pumping Station to be located in Reid Park, under the restroom building, and the MOTION carried without negative vote.

Trustee O’Connell/Trustee Turner 2nd made a MOTION that the Village Board approve moving forward with planning for the Main Lift Pumping Station to be located in Reid Park, under the restroom building, and the MOTION carried without negative vote.

Village Board Approval of Abbey Springs Planned Development Ordinance (Tabled December 6, 2004)

Thorpe stated the proposed Ordinance had been finalized and there were no additional changes

made since the December 6, 2004 meeting.

Trustee Geyer/Trustee Turner 2nd made a MOTION to approve Ordinance 12-15-04-01, and the MOTION carried without negative vote.

Village Board Approval of Village and Utility Payables

Treasurer Pollitt presented a list of Village and Utility payables that were ready to be paid.

Trustee Pollitt/Trustee O'Connell 2nd made a MOTION to approve the Village and Utility Payables, and the MOTION carried without negative vote.

Plan Commission Recommendation to Village Board Regarding Land Conveyance to CDA

Thorpe stated that because of DNR stormwater regulations and foundation piling issues, the three governing bodies would not be in a position to approve the Developer's Agreement or the Real Estate Purchase and Sale Agreement with FairWyn, Ltd. at the meeting. Thorpe stated the Village Board, Plan Commission and CDA could go forward with the Land Conveyance and hold the Public Hearings with the CDA and Plan Commission at the meeting. The Developer's Agreement and Real Estate Purchase and Sale Agreement will have to be fine tuned and brought back for approval at a later date, Thorpe stated. President Whowell stated the Village Board and Plan Commission could act on the finalized Developer's Agreement and Real Estate Purchase and Sale Agreement at the Village Board's regular meeting scheduled for Wednesday, January 5, 2005. Turner stated the CDA could act on the finalized agreements at its next regular meeting scheduled for Tuesday, January 4, 2005. Hayden-Staggs stated that if the Village Board and Plan Commission voted to approve the Land Conveyance, the approval should include the provision that the debt on the land will be transferred from the Village to the CDA.

Commissioner Poivey/Commissioner Larson 2nd made a MOTION that the Plan Commission recommend in favor of the proposed sale of the Village property to the CDA, with the condition that the debt on the land be transferred from the Village to the CDA, and the MOTION carried without negative vote.

Village Board Approval of Land Conveyance to CDA

Trustee Geyer/Trustee Turner 2nd made a MOTION to approve the sale of the subject property to the CDA, with the condition that the debt on the land be transferred from the Village to the CDA, and the MOTION carried without negative vote.

Plan Commission, Village Board, CDA Approval of FairWyn, Ltd. Developer's Agreement

Commissioner Treptow/Commissioner Geyer 2nd made a MOTION for the Plan Commission to table consideration of the Developer's Agreement until a special joint meeting with the Village Board is held Wednesday, January 5, 2005, and the MOTION carried without negative vote.

Trustee Geyer/Trustee Turner 2nd made a MOTION for the Village Board to table consideration of the Developer's Agreement until a special joint meeting with the Plan Commission is held Wednesday, January 5, 2005, and the MOTION carried without negative vote.

Chairman Turner/Petersen 2nd made a MOTION for the CDA to table consideration of the Developer's Agreement until the CDA's regular meeting Tuesday, January 4, 2005, and the MOTION carried without negative vote.

CDA Public Hearing, Chairman Turner

Public Hearing pursuant to Wisconsin State Statute 66.1333 (9), for the purpose of hearing all interested participants concerning the proposed sale and provisions of sale of the Mill Street property owned by the Village of Fontana and being developed by the CDA and FairWyn, Ltd.

Chairman Turner opened the Public Hearing at 6:34 pm. The FairWyn, Ltd. development will encompass 2.5 acres of the former Hildebrand property, and 12 acres will remain in its natural state, Turner stated. The Planned Development will include a commercial building, some retail businesses, and 14 town home units. Turner stated the developer, Brian Pollard, has guaranteed a minimum of \$4 million for total assessed property value once the development is completed. The increment generated from the development will pay for the cost of the land, Turner stated. Pollard stated he will need to obtain two permits from the DNR and one from the DOT for the development. Chairman Turner closed the Public Hearing at 6:50 pm.

CDA Approval of Land Conveyance to FairWyn, Ltd.

Chairman Turner/Petersen 2nd made a MOTION for the CDA to table approval of the land conveyance to FairWyn, Ltd. until the CDA meeting on Tuesday, January 4, 2005, and the MOTION carried without negative vote.

Plan Commission Public Hearing – President Whowell

Public Hearing on Petition for Amendment of the Zoning Ordinance and Zoning Map of the Village of Fontana on Geneva Lake filed by FairWyn, Ltd., 851 Park Drive, Lake Geneva, from C-2 - General Commercial District to PD - Planned Development, for property owned by the Village of Fontana and located south of Porter Court, west of Highway 67 and east of Mill Street

President Whowell opened the Public Hearing at 6:59 pm. Whowell asked the audience if there were any additional questions or zoning concerns with regard to the FairWyn, Ltd. proposal. Slavney suggested that the Village include in the public record the finding that the proposal is consistent with the Village of Fontana Master Plan. Thorpe stated that the finding suggested by Slavney was included with five other findings in the proposed Amendment of the Zoning Ordinance. No other comments were made before President Whowell closed the Public Hearing at 7:01 pm.

General Business – President Whowell

Plan Commission Recommendation on FairWyn Ltd. Petition for Amendment of the Zoning Ordinance and Zoning Map

Commissioner Geye/Commissioner Treptow 2nd made a MOTION to table consideration of the Petition for Amendment of the Zoning Ordinance and Zoning Map until the special joint meeting with the Village Board on Wednesday, January 5, 2005, and the MOTION carried without negative vote.

Village Board Action on FairWyn Ltd. Petition for Amendment of the Zoning Ordinance and Zoning Map

Trustee Petersen/Trustee Geye 2nd made a MOTION to table consideration of the Petition for Amendment of the Zoning Ordinance and Zoning Map until the special joint meeting with the Plan Commission on Wednesday, January 5, 2005, and the MOTION carried without negative vote.

Adjournment of Village Board and CDA

Trustee Petersen/Trustee O’Connell 2nd made a MOTION to adjourn the Village Board at 7:03 pm, and the MOTION carried without negative vote.

Chairman Turner/Chanson 2nd made a MOTION to adjourn the CDA at 7:03 pm, and the MOTION carried without negative vote.

Plan Commission Announcements-President Whowell

Village Board Meeting – **Wednesday, January 5, 2005, at 6 pm**

Plan Commission Meeting – **Monday, January 31, at 6 pm**

Visitors Heard

None

Approve Plan Commission Minutes

Commissioner Geye/Commissioner Treptow 2nd made a MOTION to approve the Plan Commission meeting minutes for October 25, 2004, and the MOTION carried without negative vote.

Public Hearing

Conditional Use Permit Application filed by Sturges P. Taggart, Jr., 797 Wells St., Lake Geneva, WI 53147, for property owner Margaret C. Scherb, 1737 W. Winona Ave., Chicago, IL 60640, for Tax Parcel No. SGS 00031, 420 S. Lakeshore Drive, Fontana, to raze the existing residence and construct a two-story Frame Loft Home under the Nonconforming Lots Amendment to the Village of Fontana Municipal Code

President Howell opened the Public Hearing at 7:12 pm. Taggart distributed different plans from what he submitted with the CUP Application. Taggart stated that the new plans are similar to the initially submitted plans, with the exceptions that the total square footage was reduced to match that of the current structure and the footprint of the proposed new structure was moved. Taggart stated the proposed new structure is higher than the existing structure, but it still conforms with the Zoning Code. The new structure will not block the lake view from either of the neighboring properties, Taggart stated. Hayden-Staggs stated that the new plans came in after the initial plans were published and reviewed by the Village planning staff. Thorpe stated that when the CUP Public Hearing announcement is published, it locks the submitted plans in place. Thorpe stated that Taggart left the Plan Commission with no other option than to deny the initial application, because the total square footage of the proposed residence is larger than the total square footage of the existing residence. Thorpe suggested that Taggart submit the new plans with a new CUP application. Thorpe stated that Taggart should have Village staff review the plans prior to publishing the notice for another Public Hearing. Therese Gulbransen, the current president of the Glenwood Springs homeowner's association, stated she did not have a chance to review the new plans, so she could not render an opinion on them to the Plan Commission. Dave Johnanson also stated he did not have a chance to review the new plans. Peg Pollitt said she is concerned about allowing the applicant to build a taller residence than the current structure. Ron Pollitt said he would like to see the applicant keep the proposed new structure in the same location as called for in the initial plans because it squared the new home off better with the adjacent homes. Skip Scherb said he is frustrated with the process to earn approval for a new residence on his mother's property; however, he would be willing to straighten the new structure on the lot. Thorpe stated Taggart should schedule a meeting with the Village zoning administrator and Hayden-Staggs to review the plans before another public hearing is scheduled. President Howell stated Taggart should address the concerns stated in the public hearing that the new structure should be straightened on the lot, the height should remain the same as the current structure, and the new structure should be "pulled back" on the lot. President Howell stated that Taggart also should provide the square footage figures of the current and proposed structures. President Howell closed the public hearing at 7:41 pm.

Commissioner Rauland-Mohr/Commissioner Treptow 2nd made a MOTION to deny the initial CUP application submitted by Taggart because the square footage of the proposed structure exceeded the total square footage of the existing structure, and the MOTION carried without negative vote.

Plan Commission General Business

ETZ Amended Rezone Petition Filed by the Tracy Group, Inc., 200 Elizabeth Lane, Genoa City, WI 53128, from A-1 and R-1 to A-5 ETZ Rural Residential District, for the proposed Stonecrest subdivision located in Walworth Township (No Action Scheduled – Matter Initially Tabled on October 25, 2004 after Public Hearing was held, and again on November 1, 2004)

President Howell stated that Tracy still has not been able to schedule a meeting with the Village staff to work on his proposal. President Howell suggested that the Plan Commission move the agenda item to Pending Items for Next Agenda until the developer has time to meet with the Village.

Commissioner Poivey/Commissioner Larson 2nd made a MOTION to move the agenda item to Pending Items, and the MOTION carried without negative vote.

Dennis Condon Pottawatomi Drive and Slope Variance Update

Thorpe stated that although Condon has met with David and Fran Hill, the slope and excavation issues with their property still need to be resolved before the Village can act on any of the site-disturbance plans submitted by Condon. The project still is under a stop work order issued by the Village until all the issues are resolved, Thorpe stated. Thorpe repeated the statement that he made in writing to Condon that Condon may have to raze the foundation he had poured on Lot 8 in order to correct the zoning violations with regard to the slope and excavation issues. Thorpe stated the Village will need full written consent from the neighboring property owners before Condon receives final approval and occupancy permits for his project.

Schmidt Land Development Update

President Whowell stated that the Schmidts requested to set the Bear Claw development planning aside for a few months, and suggested that the agenda item be moved to Pending Items for Next Agenda.

Commissioner Poivey/Commissioner Larson 2nd made a MOTION to move the agenda item to Pending Items, and the MOTION carried without negative vote.

BZA Report

Nyman reported he issued Building Permits in December for two accessory structures or garages, four alteration or addition projects, two electrical projects, one ETZ zoning matter, and one razing permit. Nyman reported he also continues to issue citations to Richard Jevardian for the 229 First Avenue project, and the stop work order still is in place for Lot 8 at the Condon Construction Pottawatomie building site. The estimated total value of construction projects that received permits in 2004 is \$26,885,681, according to Nyman’s report.

Attorney Report

None

Pending Items for Next Agenda

Lyon Woods Pre-Annexation Agreement and Developer’s Agreement
Tree Ordinance Amendment

Adjournment

Commissioner Poivey/Commissioner Larson 2nd made a MOTION to adjourn the Plan Commission meeting at 7:51 pm, and the MOTION carried without negative vote.

Minutes prepared by: Dennis L. Martin, village clerk

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

APPROVED: **CDA 01-04-05**
Village Board 01-05-05
Plan Commission 01-05-05