

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

SPECIAL JOINT WORKSHOP SESSION of the VILLAGE OF FONTANA
BOARD OF TRUSTEES with PLAN COMMISSION and
SPECIAL CLOSED SESSION MEETING
Monday, January 30, 2012

Village President Arvid Petersen called the special meeting of the Village of Fontana Board of Trustees and Plan Commission to order at 5:45 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Plan Commissioners present: Roll call: President Petersen, Derek D’Auria, F.J. Frazier, Sarah Lobdell

Plan Commissioners absent: Harry Nelson, Micki O’Connell, George Spadoni

Village Board members present: Roll call: President Petersen, Tom McGreevy, Peg Pollitt, Cindy Wilson, Bill Gage

Village Board members absent: Pat Kenny, George Spadoni

Also present: Amy Giovannoni, Administrator/Treasurer Kelly Hayden, Don and Merilee Holts, Robert Ireland, Lynn Ketterhagen, Robert Klockars, Library Director Nancy Krei, John Maier, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, Building Inspector/Zoning Administrator Ron Nyman, Ted Peters, Village Planner Mike Slavney, Village Attorney Dale Thorpe, Director of Public Works Craig Workman

Plan Commission Business

Approve Minutes for Meeting Held January 9, 2012

Commissioner Lobdell/Commissioner D’Auria 2nd made a MOTION to approve the minutes for the meeting held January 9, 2012 as presented, and the MOTION carried without negative vote.

Joint Meeting Business

Chapters 17 and 18 Final Draft – Provide Direction on Proposed Revisions

- A. Geneva Lake Conservancy Concerns & Proposals***
- B. Signage Ordinance Amendments***
- C. Interior Lot Line Adjustments that Don’t Impact Density***
- D. Lakefront District Regulations Creating “Built Out” District***
- E. Use of Platted Lots or Tax Parcels for Zoning Code***

President Petersen asked Village Attorney Thorpe to provide an update on the staff meeting held January 18, 2012 with William O’Connor, the attorney representing the Geneva Lake Conservancy (GLC). Thorpe stated that O’Connor’s concerns articulated in memos dated November 23, 2011 and January 18, 2012 and at the staff meeting have to do with the possible conveyance of riparian rights to off-lake property owners, the proliferation of moorings, protection of the lakefront vegetative cover, and with regulating moorings. Thorpe stated that a number of possible revisions to the village’s anti-pyramiding ordinance were discussed; however, staff pointed out at the January 18 meeting to O’Connor and GLC Board of Directors President Robert Klockars that enhancing the regulation of moorings and riparian rights, and in particular moving the Chapter 54 lakefront mooring regulations into the Zoning Chapter 18, has not been articulated by the Village Board as a drafting policy for the Chapters 17 and 18 rewrite project. Thorpe stated that the implications and all the possible ramifications of O’Connor’s proposals have not been fully reviewed by staff. Thorpe stated that one point that staff agreed on was the need for possible clarifications on the anti-pyramiding ordinance that was newly adopted on November 1, 2010. Thorpe presented a simple

revision that he was able to draft and stay within the approved budget; however, Thorpe stated that the draft was just a starting point and it also needs to be reviewed prior to consideration. Thorpe stated that the proposed amendment he drafted for the meeting has to be reviewed to make sure it does not affect the current rights of the lakefront business owners. Thorpe stated that staff also discussed whether or not a new direction from the Village Board to undertake some or all of the changes based on the concerns raised by O'Connor should be included in the Chapters 17 and 18 rewrite project, or if they should be undertaken in a trailer ordinance with other housekeeping items that are likely to come up immediately following adoption of the new Chapters 17 and 18. Thorpe stated that staff needed direction on all the items. Trustee Wilson asked what the Village would gain from moving the Chapter 54 mooring regulations into the zoning ordinance, as suggested by O'Connor. Wilson stated that her concern would be that mooring regulation decisions could then be appealable through the Village Board of Zoning Appeals. Thorpe stated that even though the door would be open for the appeals process before the Board of Zoning Appeals, the standard for approval for a variance would still be very tough. Thorpe stated that there are other consequences of the Chapter 54 proposal; however, it will be a big job for staff to review all of the possible ramifications. Thorpe stated that the Village Board will want to make sure it's worth the extra funding and if it is important enough to move the mooring regulations in the Municipal Code into Chapter 18. Thorpe stated that based on his past experience with the Village of Fontana's Municipal Code, he is not convinced a change to Chapter 54 is warranted. Petersen stated that the Village Board and Plan Commission have made it clear during the past two years that pyramiding riparian rights to non-lakefront property owners is no longer permitted in the Village of Fontana. Gage stated that the Village Board should take the GLC up on its offer to have Attorney O'Connor draft proposed additional language for the anti-pyramiding ordinance. Thorpe stated that nothing has been turned into the Village staff members yet, and if a proposal is going to be included with the rewrite project, it will delay the public hearing and final approval date. Klockars thanked the Village Board and Plan Commission for working with the GLC to protect the lake, and stated that it is the goal of the GLC to have the anti-pyramiding ordinance regulations tightened up as much as possible. Thorpe stated that the staff needed direction of whether the GLC items should be reviewed and added to the rewrite project, or if they should be undertaken as part of the likely trailer ordinance. Petersen stated that he would like the rewrite project to move forward and get approved so that the Village can end the moratorium, and the GLC issues should be considered with a trailer ordinance. Hayden stated that the current anti-pyramiding ordinance is working and any revisions could be considered in the future without risk of a pyramiding proposal earning approval. Hayden stated that if the Village Board wants to consider the proposal to move the Chapter 54 regulations, which were just updated on October 3, 2011 following a review by the Wisconsin DNR and Lakefront and Harbor Committee, staff should be directed to try to figure out what would be gained by approving the proposal and what would be the negative ramifications. Petersen stated that if the Village Board decides to take another look at the Chapter 54 regulations, it should be done after the new Chapters 17 and 18 are adopted and the moratorium is lifted. Petersen stated that he wanted to make a motion for the Plan Commission to recommend that the Village Board move forward with publishing the rewritten Chapters 17 and 18 as presented, and for the Village to look into the items brought up by the GLC attorney as part of a trailer ordinance. The motion was seconded by Lobdell and discussion followed. Slavney stated that it is inevitable that staff will find items that need to be addressed in a trailer ordinance. Slavney stated that whenever a rewrite project is undertaken, some items just slip through the cracks or are not foreseen and they get addressed in trailer ordinances. With regard to the GLC proposal to move the Chapter 54 mooring regulations into Chapter 18, Slavney stated that his expertise is zoning regulations, not with the statutes covering in-water provisions. Slavney stated that staff did explore vegetative covers early in the rewrite process. Thorpe stated that if the Village Board is interested in pursuing the concept of moving Chapter 54 into Chapter 18, he can research the issues and present more information at a future meeting.

President Petersen/Commissioner Lobdell 2nd made a MOTION to recommend that the Village Board move forward with publishing the rewritten Chapters 17 and 18 as presented, and to look into

the items brought up by the Geneva Lake Conservancy attorney as part of a trailer ordinance. The MOTION carried without negative vote.

Petersen stated that after the approval for the Chapters 17 and 18 rewrite project, and the moratorium has been lifted, the Plan Commission and Village Board can address the Chapter 54 proposal and incorporate it into a trailer ordinance, if the proposal is pursued. Wilson asked why the Village Board would not just wait and resolve the issue before the rewritten Chapters 17 and 18 are published for the public hearing. Wilson stated that Thorpe should review the ramifications of the proposal prior to publication so all the changes are presented at the same time. Thorpe stated that he is not sure the Village Board should change the Chapter 54 regulations. McGreevy asked Thorpe if a municipality can enforce zoning regulations beyond the shoreline. Thorpe stated that he is not sure of the ramifications of the proposal because he has not looked into it; however, the Village does have an anti-pyramiding ordinance in place that addresses the Geneva Lake Conservancy's overall concern of the proliferation of moorings.

Petersen stated that he wanted to make a motion to have the Village Board direct staff to publish the rewritten Chapters 17 and 18 as presented, and to authorize staff to work on the changes proposed by the GLC. Petersen stated that staff can bring back its evaluation of all the GLC proposals and a decision can be made if the items should be included in a trailer ordinance. Lobdell stated that once the new land division and zoning ordinances are adopted, the Plan Commission can consider all the related issues of the GLC proposals and take into consideration the staff review so all the benefits and negative ramifications are considered. Pollitt asked if the other items on the agenda were going to be considered prior to approving the drafts of the rewritten chapters for publication. Hayden stated that some of the agenda items would not take too much work to amend if staff is directed to do so; however, the GLC items will need to be explored in depth. Wilson stated that there are several provisions in the preliminary drafts of the rewritten chapters that will affect property owners and they need to be discussed prior to the public hearing. Wilson stated that the meeting was posted as a workshop and that's what should take place. A lengthy discussion followed on whether there should be any direction given on the non-GLC agenda items or if any other amendments should be made to the current drafts of the rewritten Chapters 17 and 18 prior to approving the drafts for publication. Following a straw vote of the Village Board in which all the members indicated more discussion was warranted, Petersen stated he would withdraw the motion he previously stated. Petersen's motion did not receive a second. He then asked McCarthy to present the other agenda items.

Interior Lot Line Adjustments that Don't Impact Density

McCarthy stated that an item that was suggested by Amy Giovannoni at the January 18, 2012 staff meeting is allowing for Interior Lot Line Adjustments that Don't Impact Density in the Lakefront Residential District. McCarthy presented a diagram she created to demonstrate the proposal. Thorpe stated that if the Village Board wants to consider the proposal, new language will have to be drafted and brought back for review and approval. Slavney stated that language can be drafted that would allow for interior lot line adjustments in the Lakefront Residential Zoning District if they don't impact density, if the proposal is for an addition or renovation project for an existing structures, and as long as no new principal dwelling units are created.

Trustee McGreevy/Trustee Wilson made a motion to direct staff to draft new language to be included in the Chapters 17 and 18 rewrite project that allows for interior lot line adjustments in the Lakefront Residential Zoning District if they don't impact density, if the proposal is for an addition or renovation project for an existing structure, and as long as no new principal dwelling units are created. The MOTION carried without negative vote.

Lakefront District Regulations Creating "Built Out" District Use of Platted Lots or Tax Parcels for Zoning Code

McCarthy stated that another item that came up at the January 18, 2012 staff meeting is whether platted lots or tax parcels would be used when determining the built-out status in the new Lakefront Residential Zoning District. McCarthy explained the situation and presented a diagram that demonstrates the effect of using platted lots or tax parcels. In response to a question, Slavney stated that the Village of Fontana code has always used platted lots not tax parcels. Thorpe stated that the

Town of Linn code uses tax parcels not platted lots. McCarthy stated that the current draft of the rewritten chapters does not specify what method to use. Hayden stated that the statement in the new Lakefront Residential Zoning District that the district is “built out” has to be better defined. Hayden stated that if the current language is not changed, platted lots would be used in the other zoning district; however, it would be irrelevant in the Lakefront Residential District if it is deemed “built out” and no development proposals can be approved. Thorpe stated that the new code should state that existing platted lots that meet the minimum size standards as being “buildable” should be allowed to be developed. Slavney stated that he agrees with Thorpe and if there is an existing vacant parcel in the Lakefront Residential Zoning District and it is a legally platted lot that is conforming size, it can be developed. McCarthy stated that the lakefront zoning district in the current code features minimum lot size standards, but the draft of the rewritten chapters does not have minimum lot sizes spelled out. McCarthy stated that the current draft states that the Lakefront Residential Zoning District is built out and the minimum lot sizes are frozen as they currently exist. Following lengthy discussion, the Village Board and Plan Commission members reached a consensus that the rewritten chapters should state if there is an existing platted lot in the Lakefront Residential District that is conforming and meets the minimum lot size regulations for total size and width that are in the existing code, it can be developed.

Trustee McGreevy/Trustee Gage 2nd made a MOTION to direct staff to draft language for the rewritten Chapters 17 and 18 that states if there is an existing platted lot in the Lakefront Residential District that is conforming and meets the minimum lot size regulations for total size and width that are in the existing code, it can be developed. The MOTION carried without negative vote.

Signage Ordinance Amendments

McCarthy stated that staff also is seeking direction on flag signs, and Section 18-197 (b) which states fluttering signs are not permitted in the Village. McCarthy stated that several businesses in the Village currently display flag signs that have “open” printed on them. McCarthy asked if the flag signs should be allowed, should they be allowed with only the word “open” printed on them or with other copy and logos, should there be a size requirement, and if there is a size requirement, what size should be allowed. Petersen stated that if a business has an open sign displayed, the sign should have to come down immediately if the business has closed. Pollitt stated that fluttering flag signs are not allowed in the current code and business owners should not be allowed to erect them. Pollitt stated that she does not want to see the Village of Fontana looking like a used car lot.

President Petersen/Trustee Pollitt 2nd made a MOTION to direct staff to incorporate language in the rewritten chapters that prohibits fluttering flag signs and to direct the Building and Zoning Department to have municipal citations issued to business owners who do not take their fluttering flags down after receipt of a warning. The MOTION carried without negative vote.

McCarthy stated that staff also is seeking direction on illuminated message board signs, and Section 18-197 (c) which describes flashing signs as having a display that changes more than once every 60 seconds. McCarthy stated that these signs are not allowed; however, electronic message board signs are permitted with a Conditional Use Permit. McCarthy asked if the illuminated message board signs should be prohibited village-wide with no exceptions, and if allowed through a CUP, should there be specific requirements on size, minimum display time and location. Following discussion, the Village Board members reached a consensus that the illuminated message board signs should not be allowed in the Village.

Trustee McGreevy/Trustee Wilson 2nd made a MOTION to direct staff to incorporate language in the rewritten chapters that prohibits illuminated message board signs in the Village of Fontana. The MOTION carried without negative vote.

McCarthy stated that staff also is seeking direction on the signage regulations for Planned Development zoning. McCarthy stated that the code does not spell out signage requirements for Planned Developments because theoretically all information regarding zoning, including signage, should be included in the approved Precise Implementation Plan for the Planned Development. McCarthy asked if the new code should include verbiage that allows for at least temporary signs based on the use area of a PD instead of making the property owner amend the PIP for new

businesses or temporary events. Slavney suggested that the Village Board consider incorporating language that states temporary signs in a Planned Development have to abide by the Municipal Code regulations for a temporary sign in the other zoning districts.

Trustee McGreevy/Trustee Wilson 2nd made a MOTION to direct staff to incorporate language in the rewritten chapters that allows Planned Development owners to erect temporary signage in the PUD according to the regulations for temporary signage in the other zoning districts. The MOTION carried without negative vote.

Geneva Lake Conservancy Concerns & Proposals

Hayden stated that the Village Board did not record its direction provided earlier the meeting regarding the GLC items into an official motion. Klockars stated that the GLC will fund Attorney O'Connor's time in drafting proposed language for the items suggested by the GLC.

President Petersen/Trustee McGreevy 2nd made a MOTION to direct staff to carry on with the Chapters 17 and 18 rewrite project with the direction provided that night, and to consider the Geneva Lake Conservancy issues in a trailer ordinance. The MOTION carried without negative vote.

Update on Zoning Map

Slavney stated that he looked into a concern brought up by Trustee George Spadoni at the last workshop meeting that the proposed new zoning district for the Big Foot Country Club and Country Club Estates Association golf courses is AH-35 Agricultural Holding and it could adversely affect any potential future condominium development proposals. Building Inspector Ron Nyman met with two of the Big Foot Country Club Board members and explained the new zoning district as compared to the current district, titled Performance Standards, which is not included in the rewritten chapters. Slavney stated that if the golf course owners want to pursue residential development proposals on the golf course land at some time in the future, they will have to rezone the appropriate parcels; however, the proposed AH-35 Agricultural Holding District adheres to the stated objective of approving what currently exists, so he has not changed the preliminary draft of the new zoning map.

Schedule for Project Finalization & Schedule Public Hearing If Appropriate

Slavney stated that he can have the current drafts of the rewritten Chapters 17 and 18 updated with the directives provided that night by the end of the week. Staff will review the updated drafts of the rewritten Chapters 17 and 18 before they are presented to the Plan Commission for a recommendation and the Village Board for approval. The required public hearing will then be scheduled. Thorpe stated that the Village Board will have to consider at its next meeting another extension of the ordinance establishing a moratorium while the rewrite project is completed.

Adjournment Plan Commission

Commissioner Lobdell/Commissioner Frazier 2nd made a MOTION to adjourn the Plan Commission meeting at 7:20 pm, and the MOTION carried without negative vote.

Village Board Business

Retirement Contribution for Chief of Police

Hayden stated that Thorpe reviewed the state statutes regarding the retirement contribution, and the chief of police contribution is required to mirror what the police officers pay. Hayden stated that the terms of the renewed contract with the WPPA call for the officers and the chief to pay 2 percent of their WRS contribution in 2012, and 4 percent in 2013.

Village Board Approval of AFSCME Union Contract

Hayden stated that the Public Works employee union representatives signed the proposed one-year contract as presented to the Village Board on November 7, 2011. Petersen stated that the contract could be considered at the next meeting of the Village Board, as requested by an absent trustee. Trustee McGreevy then made a motion to table the item, but the motion did not receive a second. Pollitt asked why McGreevy wanted to table the item, and McGreevy responded that he just made

the motion in response to Petersen's statement. Petersen stated the Trustee Spadoni asked that the item be tabled so that he could make a statement prior to Village Board consideration. Pollitt asked why the Village Board should consider tabling the proposed contract just because one of the trustees was not at the meeting. Pollitt stated that the contract was previously reviewed by the Village Board and it has been approved by the union. Pollitt stated that the contract is exactly what the Village Board approved back in November. McGreevy stated that the meeting minutes for November 7, 2011 state that Trustee Spadoni stated the negotiating committee should get the union to vote on the contract presented that night and bring it back for Village Board approval.

Trustee Pollitt/Trustee Gage 2nd made a MOTION to approve the one-year contract with the AFSCME Union as presented, and the MOTION carried without negative vote.

Closed Session

Pursuant to Wis. Stats. Chapter 19.85 (1)(c), "considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility," specifically Village of Fontana non-union employee wages.

Hayden stated that the Village Board has to adopt the 2012 payroll resolution for the non-union employees, and the closed session was posted in case the trustees had questions or wanted to provide direction. Petersen stated that payroll resolution can be considered at the monthly meeting scheduled for Monday, February 6, 2012; and if necessary, a closed session can be conducted at the meeting.

Adjournment Village Board

Trustee Pollitt/Trustee McGreevy 2nd made a MOTION to adjourn the Village Board meeting at 7:28 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 and Plan Commission, the official minutes will be on file at the Village Hall.

APPROVED: VB – 2/6/2012; PC – 2/27/2012