

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

MONTHLY MEETING of the VILLAGE BOARD OF TRUSTEES
Monday, December 2, 2013

Village President Arvid Petersen called the meeting of the Village Board to order at 6:00 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Trustees Present: Roll call vote: Tom McGreevy, Pat Kenny, Rick Pappas, Cindy Wilson, George Spadoni, President Petersen

Trustee Absent: Bill Gage

Also Present: Ron Adams, Dennis Barr, Greg Blizard, Jade Bolack, Russ Ceschi, Administrator/Treasurer Kelly Hayden, Merilee Holst, Brian Jongetjes, Library Director Nancy Krei, Clerk Dennis Martin, Micki O'Connell, Police Chief Steve Olson, Edwin Snyder, IV, Dale Thorpe, Scott Vilona

Visitors Heard

None

Announcements

1. Lakefront and Harbor Committee Tentative Meeting Date – **Wednesday, December 4, 2013, 4:30 pm**
2. Public Works Committee Meeting – **Saturday, December 7, 2013, 8:00 am**
3. Fontana/Walworth Water Pollution Control Commission Meeting – **Tuesday, December 10, 2013, 7:30 pm**
4. GLLEA Monthly Board Meeting – **Wednesday, December 11, 2013, 10:00 am**
5. Park Commission Meeting Date (Tentative) – **Wednesday, December 18, 2013, 6:00 pm**
6. Village Newsletter Article Submission Deadline – **Thursday, December 19, 2013**
7. Village Hall and Library Closed for Christmas Holiday – **Tuesday and Wednesday, December 24 & 25, 2013**
8. Village Hall and Library Closed for New Year – **Tuesday, December 31, 2013 & Wednesday, January 1, 2014**
9. Village Board Monthly Meeting – **Monday, January 6, 2014, 6:00 pm**

Approval of Village Board Minutes

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the minutes for the October 28, 2013 closed session, and for the open and closed session meetings held November 11 and 15, 2013, as presented. The MOTION carried without negative vote.

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

The October 2013 reports were distributed.

Trustee Spadoni/Trustee Kenny 2nd made a MOTION to approve the reports as distributed and to place them on file for the annual audit, and the MOTION carried without negative vote.

Approval of Village and Utility Payables

Hayden stated that besides the distributed list of payables, the monthly invoice for the Village attorney totaling \$11,478 was emailed out after the meeting packets were sent out last Wednesday. Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the payables as submitted and as presented at the meeting, and the MOTION carried without negative vote.

Public Works Committee – Trustee McGreevy

Shabbona Drive Construction Contract Pay Request No. 3

McGreevy stated that the \$332,767 Pay Request No. 3 submitted by McGuire, Inc., for the Shabbona Drive construction contract was reviewed by the village engineer and approval is recommended. Pappas asked if there is a retainer amount still being held in case all of the concerns that have been brought up the past several months have not been adequately addressed by McGuire. Pappas stated that the village may also want to consider increasing the retainer amount in future construction contracts in order to have an adequate amount of funding held to correct the potential problems that could come up during a large construction project. McGreevy stated that this is not the last pay request for the contract, and there is \$33,984 being held as a retainer. Petersen stated that it appears

all of the concerns with the Shabbona project have been addressed in recent weeks.

Trustee McGreevy/Trustee Pappas 2nd made a MOTION to approve the \$332,767 Pay Request No. 3 submitted by McGuire, Inc., for the Shabbona Drive construction contract, as recommended, and the MOTION carried without negative vote.

Mohr Road Sanitary Sewer Televising Invoice

McGreevy stated that the \$12,025 pay request submitted by McCann's Underground, Inc., Oregon, for the emergency project to abate the tree roots that grew into the old sewer line was reviewed by the village engineer and approval is recommended.

Trustee McGreevy/Trustee Spadoni 2nd made a MOTION to approve the \$12,025 pay request submitted by McCann's Underground, Inc., Oregon, for a sanitary sewer televising project on Mohr Road, and the MOTION carried without negative vote.

General Business – President Petersen

Class “B” Liquor License Application Filed by Abbey Harbor Yacht Club, Inc., Agent: Edwin L. Snyder, IV, 124 Prairie Drive, Walworth, WI, 53184

President Petersen opened the public hearing at 6:15 pm. The application for a Class “B” Fermented Malt Beverage License was filed to replace the fermented malt license the club had issued the last several years from the Wisconsin Department of Revenue. Martin stated that DOR Special Agent Roger Johnson provided him with contrary information in May and September 2013 with regard to the Class “B” Fermented Malt Beverage License that had been previously issued by the DOR with a state Private Sports Club Liquor License. At the time of renewal for the annual liquor licenses in May 2013, Martin was informed in an emailed message from Johnson that the Abbey Harbor Yacht Club's state issued Private Sports Club Liquor License also covered the sale of wine and beer or other fermented malt beverages; however, Martin stated that he was again contacted by Johnson on September 3, 2013 and informed that only the liquor and wine sales are covered by the state issued license and a Class “B” Fermented Malt Beverage License is required to be issued by the municipality. Martin stated that the application is in order, the fees have been paid, and all the background checks and inspections have been completed. The public hearing was closed at 6:16 pm. Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the issuance of a Class “B” Beer and Fermented Malt Beverages License to the Abbey Harbor Yacht Club, Inc., 271 Fontana Boulevard, agent Edwin L. Snyder, IV, as presented. The MOTION carried without negative vote.

Appointment of Election Inspectors

The two-year appointments run from January 1 of even number years to December 31 of odd numbered years, per state statutes. Martin stated that the Republican Party of Walworth County nominated the appointment of three current election inspectors to be reappointed, and the Democratic Party of Walworth County did not submit any nominations. Martin stated that all of the current inspectors would like to be reappointed, with the exception of Jacqueline Berg. Martin stated that he will nominate a registered voter to take Berg's position at a future Village Board meeting. Trustee McGreevy/Trustee Pappas 2nd made a MOTION to approve the two-year appointments of Rick Treptow, Mary Kay Frazier, Jane Klockars, Gretchen McCarthy, Jerrold Wagner, Merilyce O'Connell, Carlene Sensenbrenner, Joan Tierney, Karla Tildahl, Karen Varhula, Kathie Walsh and Jill Wegner, and the MOTION carried without negative vote.

CDA Reappointment of Commissioner Jeff Fisk

The four-year term of CDA Board Commissioner Jeff Fisk expires December 31, 2014.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the reappointment to a four-year term of CDA Board Commissioner Jeff Fisk, and the MOTION carried without negative vote.

Consider Increase for Municipal Court Fees

The state recently adopted Assembly Bill 22 authorizing municipalities to increase the maximum court fees it can charge defendants from \$28 to \$38 for each violation. Thorpe stated that an ordinance amendment may be necessary to codify the municipal court fee schedule amendment.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to authorize an increase for the maximum municipal court fee from \$28 to \$38 for each violation, and the MOTION carried without negative vote.

Resolution Amendment for Resident Parking Sticker Fee Increase

The Village Board previously approved an increase of \$5 for the cost one resident parking sticker and the resolution amendment is to update the Village fee schedule.

Trustee McGreevy/President Petersen 2nd made a MOTION to approve Resolution 12-02-13-01, amending Resolution 060313-01 establishing fees pursuant to Section 10-4 of the Municipal Code, as presented, and the MOTION carried without negative vote.

Resolution Recognizing the 2013 Tax Levies – Tabled 11/11/2013

Hayden stated that all the taxing jurisdictions have provided their approved levies and the annual resolution can be adopted.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve Resolution 12-02-13-02, recognizing the 2013 Tax Levies for Collection in 2014, as presented, and the MOTION carried without negative vote.

Tax Collection 2013/2014

Hayden stated that all the levies have been reported to Walworth County and the tax bills will be mailed out this year by a central location. The Village of Fontana tax bill information sheet will be included, but village staff will not have to do the mailing this year. Hayden stated that the county has changed the entire tax collection system to a new web based system this year.

Deer Hunting Resolution Amendment

Petersen stated that the proposed amendments to the deer bow hunting authorization resolution are to remove an approved hunter who has moved out of the area, and replace him with Derek Brown; and to correct the contact telephone number for DNR Warden Juan Gomez.

Trustee Spadoni/Trustee Pappas 2nd made a MOTION to approve Resolution 12-02-13-03, amending Resolution 090913-01, as presented, and the MOTION carried without negative vote.

Amendments for Walworth State Bank and Talmer Bank Resolutions

Hayden stated that the bank resolutions that authorize the signatories for the village general fund and utility fund accounts need to be amended following her last day with the Village of Fontana on December 7, 2013. Hayden will have to be removed, and the new temporary, part-time treasurer Scott Vilona, and Deputy Clerk/Treasurer Julie Olson have to be added. The other two signatories will remain Village Clerk Dennis Martin and Village President Arvid Petersen.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve Resolution 12-02-13-04, amending the signatories for the Village and Utility bank accounts at Walworth State Bank and Talmer Bank, Walworth, to remove Kelly Hayden and to add Scott Vilona and Julie Olson. The MOTION carried without negative vote.

Authorize 2013 Payables Through End of Year

Hayden stated that the Village Board has historically preauthorized the payment of invoices that come in after the monthly meeting in December, but before the end of the year to help expedite and assist with the annual audit process. A list of all the payables that are prepaid will be presented at the monthly meeting in January.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to authorize staff to prepay any 2013 payables that come in prior to the end of the year, with the condition a list of the prepaid invoices is presented and approved at the January 2014 monthly meeting. The MOTION carried without negative vote.

John's Disposal Recyclables Collection Contract

Hayden stated that the Finance Committee puts out Requests for Proposals (RFPs) for all the village services every few years, and the proposals submitted by Johns for recyclable collection and by Keizer and Sons for garbage collection are the best bids submitted. Johns Disposal President Brian Jongetjes stated that his firm is seeking a five-year renewal agreement for the weekly collection of residential recyclable items at the rate of \$72,204 per year, which is a 3 percent increase from the 2013 rate of \$70,104. The proposed agreement states that if the annual rate is going to be increased, the Village Board will have to approve the new fee after it is negotiated with Johns; however, any

proposed increase cannot exceed the annual CPI increase. Pappas stated that he is not concerned about the service being provided by Johns; however, he is concerned about approving long-term service agreements and contracts in general. Spadoni stated that he understands the concerns, but Johns has provided excellent service to the Village residents for many years.

Trustee Spadoni/Trustee Kenny 2nd made a MOTION to approve the five-year agreement with Johns Disposal Service, Inc., for weekly residential recyclable collection through 2018, and the 2014 rate of \$72,204, as presented. The MOTION carried without negative vote.

Keizer and Sons Residential Garbage Collection Contract

Hayden stated that Keizer & Sons, Inc., has proposed a three-year contract renewal, with a two percent increase for 2014 due to the cost of fuel, landfill charges and insurance. The two percent increase would be \$334 per month and make the total monthly charge \$17,075, which would total \$204,900 per year. According to the contract terms, the cost of service for 2015 and 2016 shall be negotiated. Spadoni stated that Keizer and Sons has provided excellent service for many years and a three-year contract is appropriate.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the three-year renewal proposal for the contract with Keizer and Sons, Inc., for weekly residential garbage collection services as proposed, with the 2014 rate of \$204,900 to be paid monthly, and subject to the receipt of the updated contract document. The MOTION carried without negative vote.

2014 Utility Budget

Hayden stated that the 2014 Utility Budget has been completed and is ready for adoption consideration. Hayden stated that the budget calls for some borrowing to complete all the proposed construction projects, which are scheduled to be on Church, Van Slyke, Mohr Road, South Lakeshore, and at the Lake Geneva Yacht Club and Abbey Springs.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the 2014 Utility Budget as presented, and the MOTION carried without negative vote.

Consider VOF Administrator/Treasurer Compensation

At the November 15, 2013 Village Board meeting, a motion was approved on a 6-1 vote, with Trustee Pappas opposed, to authorize the buyout of \$28,987.20 of unused sick time and \$10,870.20 of unused vacation time for outgoing Administrator/Treasurer Kelly Hayden, subject to review and written confirmation by the village attorney of the village policies and legal justification for the buyout of unused sick and vacation time when an employee resigns, and subject to review and approval of the payroll records and the accounting used to calculate the total figures. Spadoni stated that the village attorney provided a written report and the village auditor reviewed the payroll records and accounting and both indicated that everything is in order. Pappas stated that he wished the Village Board members would have received the report from the village attorney prior to the meeting, and he is still not convinced that there is a contractual or legal obligation for the buyout. Pappas stated that future contracts with Village employees should be written to exclude the provision that any unused vacation or sick time is bought out when an employee resigns or retires after 10 or more years of service. Thorpe stated that there is a contracted obligation that exists with Hayden, and it has been a past practice of the Village of Fontana for many years that the unused vacation and sick time is bought out when an employee resigns or retires after 10 years or more of service.

Trustee Spadoni/Trustee Kenny 2nd made a MOTION to approve the confirmation of the village policies and legal justification for the buyout of Kelly Hayden's unused sick and vacation time as presented, and the MOTION carried on a 5-1 vote, with Trustee Pappas opposed and Trustee Gage absent.

Park Commission – Trustee Wilson

Northwind Perennial Farm 2014 Maintenance Work Agreement

Wilson stated that the Park Commission recommended taking the maintenance work for the Porter Court Plaza out of the Blackstone Landscape, Inc. contract and including it with the contract with Roy Diblik and Northwind Perennial Farm. The contract with Northwind for the Fontana Boulevard, Highway 67 and Village Hall areas that have been assigned to Diblik in previous years totals \$13,870. The proposed additional contract for the Porter Court Plaza, which includes the initial purchase of assorted perennials and ornamental grasses, totals \$5,176. Following a lengthy

discussion on the landscape and flower bed maintenance contracts and the contracted services budget for the Park Commission, the Village Board directed Wilson to meet with Diblik and Matt Moore of Blackstone Landscape, Inc. to work out their contracted duties for the 2014 season and to work out the allocation of the budgeted funds.

Trustee Wilson/Trustee Pappas 2nd made a MOTION to approve the \$13,870 contract with Northwind Perennial Farm, Burlington, to provide planting care and maintenance services on Fontana Boulevard, Highway 67 and at the Village Hall from April 2014 through August 2014, as presented, and the MOTION carried without negative vote.

Trustee Wilson/Trustee Pappas 2nd made a MOTION to approve the \$5,176 contract with Northwind Perennial Farm, Burlington, to provide planting care and maintenance services at Porter Court Plaza, as presented, subject to the maintenance work being removed from the contract with Blackstone Landscape, Inc., Woodstock, IL and a contract amendment being negotiated with Blackstone Landscape. The MOTION carried without negative vote.

Park Permit Application Filed by Krystal O’Neill

There are no conflicts with the date and the Park Commission recommended approval.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the Park Permit application filed by Krystal O’Neill for the Reid Park Gazebo on Saturday, July 12, 2014, from 11:00 am to 3:00 pm, with the condition the permit fee is paid prior to the event. The MOTION carried without negative vote.

Resolution Recognizing IMBD & Bird City Wisconsin Renewal Application

The annual renewal application for the Bird City Wisconsin designation requires the scheduling of an International Migratory Bird Day observance program and resolution, as well as a \$100 renewal fee. The Fontana Elementary School fourth-grade class has again agreed to include the Bird City observance with the annual Arbor Day Program on the last Friday in April, which is the 25th in 2014. This will be the third year that the Village of Fontana has earned the Bird City designation.

Trustee Spadoni/Trustee Pappas 2nd made a MOTION to approve Resolution 12-02-13-05, recognizing International Migratory Bird Day, and the filing of the Bird City Wisconsin Renewal Application, and the MOTION carried without negative vote.

Plan Commission – Trustee Spadoni

Sellas CSM Approval

Spadoni stated that the Plan Commission approved a motion at its November 25, 2013 monthly meeting to recommend Village Board approval of the Certified Survey Map application as filed, with the conditions as outlined in the October 16, 2013 staff report and with the two following exceptions: 1. Waive requirement number 4 of the Ruekert-Mielke review letter dated Oct. 16, 2013 that references Sec. 17-6(b)(2): “show subsurface soil, rock and water conditions including depth to bedrock and average depth to groundwater table.” Note: The building and zoning department reserves the right to require soil testing prior to the issuance of building permits, on either lot, to determine suitability of soil conditions for construction. Engineered plans may be required depending on the results of the soil test; and 2. Waive requirement number 5 of the Ruekert-Mielke review letter dated Oct. 16, 2013 that references Sec. 17-6(b)(2)(h) regarding location of existing sanitary and storm sewers, existing water and gas mains, etc. Note: The building and zoning department may require a plan and a review of all existing and proposed utilities prior to the issuance of building permits on either lot.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the Certified Survey Map application as recommended, with the conditions as outlined in the October 16, 2013 staff report and with the two following exceptions:

- 1.) Waive requirement number 4 of the Ruekert-Mielke review letter dated Oct. 16, 2013 that references Sec. 17-6(b)(2): “show subsurface soil, rock and water conditions including depth to bedrock and average depth to groundwater table.” Note: The building and zoning department reserves the right to require soil testing prior to the issuance of building permits, on either lot, to determine suitability of soil conditions for construction. Engineered plans may be required depending on the results of the soil test.
- 2.) Waive requirement number 5 of the Ruekert-Mielke review letter dated Oct. 16, 2013 that references Sec. 17-6(b)(2)(h) regarding location of existing sanitary and storm sewers,

existing water and gas mains, etc. Note: The building and zoning department may require a plan and a review of all existing and proposed utilities prior to the issuance of building permits on either lot.

The MOTION carried without negative vote.

Shodeen Group Presentation Follow-up

Village Planner Mike Slavney provided the following update in an emailed message on November 27, 2013: “My meeting on Monday afternoon (November 25, 2013) went far longer than I anticipated. I’m sorry. I would not have arrived at the (special Joint Session) meeting (of the Plan Commission and Village Board) until about 6:45. Aside from preparing for last Monday’s meeting by looking at the various adopted Village plans and zoning regulations for the area; and subsequent to the meeting, reviewing the Shodeen presentation and talking about it with Kelly and Dale, I have not done any work on this issue. I will await contact from (David Patzelt) Shodeen, and discuss their alternatives from the perspective of what the Village has formally adopted. This discussion will thereby identify which alternatives are currently allowed by right or by conditional use; and which alternatives would require additional approvals by the Village. After this meeting, I think the process to consider the current set of alternatives will be clear. This will also help inform the potential required processes for other alternatives, or combinations or alternatives. At that point, another meeting with the Village would be appropriate.” Spadoni asked that the Village Board members try to keep an open mind during the preliminary meetings with the Shodeen Group is an effort to come up with a favorable development proposal that will benefit both the Village of Fontana TIF District as well as the Shodeen Group.

Next Monthly Meeting Date: Monday, January 27, 2014

Spadoni stated that because of a lack of business and the Christmas holiday, the monthly Plan Commission meeting in December 2013 has been cancelled.

Protection Committee – President Petersen

Cooperative Rescue Services Proposal

Petersen stated that preliminary meetings are commencing with some of the neighboring municipalities to come up with a new, cooperative plan to provide rescue services.

Disposition of Old Police Vehicle

Petersen stated that there is a preliminary proposal for the 2005 Ford Crown Victoria squad car that is being replaced by the Police Department in 2014 not to be sold, but instead to be transferred to the Fire and Rescue Department for use as a response vehicle.

Training and Schooling Hourly Wage

The recommendation by the Protection Committee to amend the compensation for the Fire and Rescue Department members for responding to calls, drills and meetings is to make all of them \$15 per hour for calls and mechanic work, \$15 per drill, and \$15 per meeting.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the recommendation to amend the Fire and Rescue Department compensation for members to be paid \$15 per hour for calls and mechanic work, \$15 per drill, and \$15 per meeting, and to authorize the amendments in the form of Resolution 12-02-13-06. The MOTION carried without negative vote.

Ice Party Approval

The annual fund-raiser for the Fire and Rescue Department is being planned for Saturday, January 25, 2014 on Geneva Lake at the Abbey lagoon. If a Temporary Beer and Wine License is going to be sought for the event, the application will be on the agenda for the next monthly meeting.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the January 25, 2014 Ice Party fund-raising event for the Fire and Rescue Department as proposed, and the MOTION carried without negative vote.

Chuck’s Fire Party

The annual Fire Department appreciation party hosted by Chuck’s Lakeshore Inn is scheduled for Friday evening, December 13, 2013.

Fire and Rescue Department Fleet Items

Petersen stated that a decision has not yet been made on what to recommend with regard to the replacement and disposition of Fire and Rescue Department fleet items, including the old step van that has to be replaced.

Closed Session

Trustee Spadoni/Trustee Pappas 2nd made a MOTION at 6:36 pm to adjourn into Closed Session pursuant to Wis. Stats. Chapter 19.85 (1)(e) “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,” specifically 138 Fontana Boulevard. The roll call votes was as follows:

Trustee Kenny – Aye

Trustee Pappas – Aye

Trustee Wilson – Aye

Trustee Spadoni – Aye

President Petersen – Aye

Trustee McGreevy – Aye

The MOTION carried on a 6-0 vote, with Trustee Gage absent.

Trustee Spadoni/President Petersen 2nd made a MOTION at 6:38 pm to adjourn the closed session and to reconvene in open session, and the MOTION carried without negative vote.

Adjournment

Trustee Spadoni/Trustee Kenny 2nd made a MOTION at 6:39 pm to adjourn the meeting, 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, the official minutes will be kept on file at the Village Hall.

APPROVED: 1/6/2014