

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

CLOSED and OPEN SESSION MONTHLY MEETING
of the
VILLAGE BOARD OF TRUSTEES
and
SPECIAL JOINT OPEN SESSION MEETING
with the PLAN COMMISSION

Wednesday, January 5, 2005
(Closed Session @ 5:30 pm, Open Session @ 6:00 pm)

President Whowell called the Village Board meeting to order at 5:30 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Trustees present: Roll call: Pollitt, Geye, Turner, O'Connell, Bromfield, President Whowell, Petersen

Also present: Village Administrator Kelly Hayden-Staggs, Village Clerk Dennis Martin, Village Attorney Dale Thorpe

Announcement for Board of Trustees to Consider Going Into Closed Session - President Whowell

Trustee Bromfield/Trustee Petersen 2nd made a MOTION to go into closed session pursuant to Wisconsin State Statute 19.85(1) (e) 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 the roll vote followed:

Pollitt – Yes

Geye – Yes

Turner – Yes

O'Connell – Yes

Bromfield – Yes

President Whowell – Yes

Petersen - Yes

Trustee Petersen/Trustee Pollitt 2nd made a MOTION to adjourn the Closed Session at 5:45 pm, and the MOTION carried without negative vote.

President Whowell announced that the Village Board will still in session and called the Plan Commission to Order at 6:00 pm

Plan Commission members present: Roll call: Spadoni, Treptow, Poivey, President Whowell, Geye

Plan Commission member late: Larson (arrived at 6:04 pm)

Plan Commission member absent: Rauland-Mohr

Also Present: Police Officer Mark Chalcoff; John Clair; Mike Falls; Tom Greenwald; Librarian Nancy Krei; Jordan Madorsky, reporter; Sharon O'Brien; Brian Pollard; Chris Schultz, reporter; Cindy Wilson; Public Works Director Craig Workman

Approve Village Board and Plan Commission Joint Meeting Minutes

President Whowell stated the minutes for the closed and open session joint meeting with the Village Board, Plan Commission and CDA on December 15, 2004 required approval by the Village Board and Plan Commission.

Commissioner Spadoni/Commissioner Treptow 2nd made a MOTION to approve the minutes for the December 15, 2004 Closed Session and the December 15, 2004 Open Session, and the MOTION carried without negative vote.

Trustee O'Connell/Trustee Bromfield 2nd made a MOTION to approve the minutes for the December 15, 2004 Closed Session and the December 15, 2004 Open Session, and the MOTION carried without negative vote.

General Business – President Whowell

CDA Report on January 4, 2005 Meeting With FairWyn, Ltd.

Trustee Turner reported the CDA voted unanimously at its January 4, 2005 meeting to approve the Real Estate Purchase and Sale Agreement and the Development Agreement with Brian Pollard and FairWyn, Ltd. Turner stated there were some changes made to the Development Agreement that were suggested by Geye. One change sets the project completion deadline for 2009, instead of the initially proposed 2012. Also, the initially presented Development Agreement had two Guarantor signature lines, one for Pollard and for FairWyn, Ltd.; the Development Agreement presented January 5 was changed so there is only one Guarantor signature line for Pollard. Turner stated Exhibit A also was changed with regard to phases of construction, and the developer will be responsible for paying for construction pilings, so the total price for the three parcels of land was reduced to \$120,000. Geye stated while she favored the proposal as a Trustee because of its economic benefits to the Village, she was concerned as a member of the Plan Commission and Park Commission about the potential groundwater problems Pollard may face with regard to the development. Geye stated she also felt uncomfortable acting on the Development Agreement at the meeting because she did not get the final document until “five minutes before the meeting.” Pollitt stated he agreed with Geye and he also would have liked to have the final document prior to just before the meeting. Pollitt also stated he agreed with Thorpe’s suggestion that if the Board voted to approve the Development Agreement, it should be with the condition it go through a final review by the attorneys. Turner responded that other than the shortened construction period and the adjustment on the signature lines, the changes in the Development Agreement between the one presented the previous night at the CDA meeting and the one distributed January 5, were “minor tweaking and correcting inconsistencies.” The changes made in the document presented January 5 were made at Geye’s suggestion, and there are no substantial issues left to be negotiated, Turner stated. Turner stated the Village Board and Plan Commission should follow the lead of the CDA and approve the Development Agreement with the condition that a final legal review be executed by Thorpe and Pollard’s attorney, John Clair.

Plan Commission Approval of FairWyn, Ltd. Developer’s Agreement (Tabled December 15, 2004)

Commissioner Spadoni/Commissioner Poivey 2nd made a MOTION that the Plan Commission recommend in favor of the proposed Development Agreement, subject to final attorney review. The MOTION was approved on a 5-1 vote, with Commissioner Geye voting “no,” and Rauland-Mohr absent.

Village Board Approval of FairWyn, Ltd. Developer’s Agreement (Tabled December 15, 2004)

Trustee Turner/Trustee O'Connell 2nd made a MOTION to approve the Development Agreement, subject to final attorney review, and the MOTION was approved on a 6-1 vote, with Trustee Geye voting “no.”

Plan Commission Recommendation on FairWyn Ltd. Petition for Amendment of the Zoning Ordinance and Zoning Map (Tabled December 15, 2004)

Thorpe suggested four conditions for approval if the Plan Commission and Village Board decided to approve the Petition for Amendment of the Zoning Ordinance and Map and the General Development Plan filed by FairWyn. Thorpe stated the conditions should include that the developer acquire the subject property, the developer and the CDA execute the Development Agreement, the proposed covenants for the subject property be included in a Village-approved Precise Implementation Plan, and the Zoning Ordinance and General Development Plan be reviewed by

Thorpe and Clair. Thorpe stated if the zoning amendment and General Development Plan were approved that night, a Precise Implementation Plan still will have to be submitted and approved by the Plan Commission and Village Board. In response to a concern stated by Falls, Pollard said he will restore the property to its existing condition if it is determined after soil testing that the property can't be developed.

Commissioner Spadoni/Commissioner Treptow 2nd made a MOTION to recommend in favor of the proposed rezone of the subject property to the Planned Development Zoning District and approve the General Development Plan, subject to: the Developer acquiring the subject property, the Developer and CDA executing the Development Agreement, the proposed covenants for the subject property being included in a Village-approved Precise Implementation Plan, and final attorney review of the Ordinance and General Development Plan. The MOTION carried without negative vote.

Village Board Action on FairWyn Ltd. Petition for Amendment of the Zoning Ordinance and Zoning Map (Tabled December 15, 2004)

Trustee Petersen/Trustee Bromfield 2nd made a MOTION to approve the Petition for Amendment of the Zoning Ordinance and Zoning Map for the subject property to the Planned Development Zoning District and approve the General Development Plan, subject to: the Developer acquiring the subject property, the Developer and CDA executing the Development Agreement, the proposed covenants for the subject property being included in a Village-approved Precise Implementation Plan, and final attorney review of the Ordinance and General Development Plan. The MOTION carried without negative vote.

Dennis Condon Pottawatomi Drive Slope Variance

Thorpe stated that Condon submitted a revised site, grading, drainage and erosion control plan for Lots 7 and 8 of his construction site that Condon initially stated was approved by adjacent property owners David and Fran Hill; however, prior to the meeting, Thorpe was informed by the Hills' attorney that the plan was not in conformance with their agreement. Thorpe stated he confirmed with Condon and his attorney that the revised plan submitted by Condon should be disregarded, and that they would not be attending the Village meeting that night. Thorpe stated that after the Hills and Condon reach a resolution, Condon's plans still will have to be approved by the Plan Commission. Also, the Plan Commission and Village Board members indicated they do not want to grant Condon's request to separate Lot 7 from the rest of the development with regard to earning final approval. Thorpe stated there was nothing to act on at the meeting, and President Whowell stated the item will be put on the Plan Commission meeting agenda for Monday, January 31, 2005.

Adjournment of Plan Commission

Commissioner Poivey/Commissioner Spadoni 2nd made a MOTION to adjourn the Plan Commission at 6:55 pm, and the MOTION carried without negative vote.

Open Session VILLAGE BOARD AGENDA

President Whowell announced that the Village Board was still in session for its regular monthly meeting at 7:07 pm

Announcements-President Whowell

Plan Commission Meeting – **Monday, January 31, 2005 at 6 pm**

Village Board Meeting – **Monday, February 7, 2005, at 6 pm**

Approve Minutes

President Whowell stated the Village Board needed to approve the minutes for meetings held December 6, 2004 and December 20, 2004. Petersen stated there was an error made with regard to an item on the FW/WPCC in the December 6, 2004 minutes. The minutes incorrectly stated a Change Order was approved by the Walworth Town Board. The minutes were corrected to state the Change Order was approved by the Walworth Village Board.

Trustee Pollitt/Trustee Petersen 2nd made a MOTION to approve the December 6, 2004 and December 20, 2004 minutes, with one correction, and the MOTION carried without negative vote.

Village Treasurer's Report

Trustee Petersen/Trustee Turner 2nd made a MOTION to accept the report and place it on file for the audit, and the MOTION carried without negative vote.

Approval of Village and Utility Payables

Hayden-Staggs stated there were additions made to the Village and Utility Payables distributed in the meeting packets. Hayden-Staggs stated the additional items were end-of-the-year bills that were added in order to close out the Village's financial books for 2004.

Trustee Petersen/Trustee Bromfield 2nd made a MOTION to approve payables with the additions presented at the meeting, and the MOTION carried without negative vote.

CDA - Trustee Turner

Mill and Main Street Update

Trustee Turner stated preparation of the engineering plans is proceeding. At a recent meeting, it was determined that easements will be needed from property owners to complete construction on the Main Street project. The projects should be ready to be put out for bids in March, Turner stated. The goal is to finish construction prior to Labor Day, Workman stated.

Ruekert & Mielke Project Management Report

Trustee Turner stated a meeting was scheduled for February 7, 2005 with Ruekert & Mielke to draft the anticipated construction schedule for 2005, and to develop an overall strategy with regard to all the anticipated Village and CDA projects.

Highway 67 Update

Trustee Turner stated a meeting was held to develop the phased construction schedule for the Highway 67 plan. The project information will be presented at a public meeting scheduled for Wednesday, January 19, 2005, with officials from Walworth County and the other local municipalities. Turner stated a meeting also has been scheduled with the Wisconsin DOT in mid-March.

Mill Restoration/Grant Writing Proposal

Trustee Turner stated Trustee Pollitt will work with the Park Commission and CDA in submitting grant applications for park projects.

Park Commission Master Planning and Implementation

Trustee Turner stated a master plan for the Village's parks and an implementation schedule is being developed by the CDA and Park Commission. Turner stated that it is hoped the capital park projects can be funded through the CDA's TIF funds. Sharon O'Brien stated the Park Commission and CDA want to establish a 10-year environmental plan to take care of the Village's natural areas.

F/W WPCC-Trustee Petersen

Monthly Update

Trustee Petersen stated the Village received its copy of the executed contract for a screen replacement at the wastewater treatment facility, and he thanked all the officials who attended the annual FW/WPCC Holiday Luncheon.

Lakefront and Harbor - Trustee Bromfield

Lyon Pier Permit

Trustee Bromfield stated the DNR and Lakefront and Harbor Committee approved the pier permit submitted by Edward S. Lyon.

Trustee Bromfield/Trustee Geye 2nd made a MOTION to approve the Pier Permit submitted by Edward S. Lyon, and the MOTION carried without negative vote.

New Buoys – Swim & No Wake

Trustee Bromfield stated the Geneva Lake Water Safety Patrol requested that the Village install an additional buoy line between the swimming area buoys and the no-wake buoys. Hayden-Staggs stated

the buoys will cost about \$600 each, and the funds are in the budget.

Trustee Bromfield/Trustee Petersen 2nd made a MOTION to approve the purchase of new buoys, and the MOTION carried without negative vote.

Tracy Rip Rap Permit

Trustee Bromfield stated that John Tracy submitted a Rip Rap Permit application at his residence being constructed at 552 Sauk Trail. Bromfield stated the permit was approved by the DNR and Lakefront and Harbor Committee.

Trustee Bromfield/Trustee Turner 2nd made a MOTION to approve the Rip Rap Permit application filed by John Tracy, and the MOTION carried without negative vote.

Mooring Lease Changes

Hayden-Staggs stated the Lakefront and Harbor Committee is considering further changes to the Mooring Lease Resolution, which was amended last year. The proposed changes will be discussed by the committee at its next meeting.

Trustee Bromfield was excused from the meeting at 7:25 pm.

Park Commission - Trustee Geye

Tree Ordinance Update

Trustee Geye stated the commission did not meet in December, so the Tree Ordinance was not ready to be presented.

Dogs in the Park Ordinance Review

Trustee Geye stated she has not received any complaints with regard to residents walking dogs on the beach. Geye stated the Park Commission has not made any recommendations with regard to fine tuning the Ordinance. On November 1, 2004, the Village Board approved the Ordinance that allows residents to walk their dogs in Village parks and on the beach from October 15 to March 31. Owners have to collect and dispose of their pet's fecal matter. The Board referred the Ordinance to the Park Commission for fine tuning; however, the portion that allows owners to walk dogs on the beach was approved in the interim.

Landscape and Park Maintenance RFP Results

Trustee Geye stated the Park Commission received five proposals for landscape and park maintenance services. The RFPs will be reviewed by the commission, and a recommendation will be presented to the Village Board at its February 7, 2005 meeting.

Protection Committee - Chief Olson

Monthly Report

Officer Mark Chalchoff provided an update on the Police Department in the absence of Chief Olson. Chalchoff reported the holiday season did not present any problems, and there was nothing major to report. Chalchoff stated the Department of Public Works crew did an outstanding job keeping the Village roads plowed during recent snowstorms.

General Business – President Whowell

CWD Hunting Period Continuation

President Whowell stated the DNR requested the Village to extend the final date of its CWD Eradication Hunt from January 3, 2005, to March 31, 2005. As well as extending the hunting period, the proposed amended Resolution removed from the list of approved hunting areas the “L-shaped” area of Village land located adjacent to the Pheasant Ridge subdivision, and the “back 40” acres of Country Club Estates. The approved Hunting Agents and individual hunters will be contacted by the Village.

Trustee Turner/Trustee Petersen 2nd made a MOTION to approve Resolution 01-05-05-1, and the MOTION carried without negative vote.

Administrative Report/Finance Committee – Administrator Hayden-Staggs and Trustee Pollitt

Cellular Tower Agreement – Steven Fittig (Tabled December 6, 2004)

Hayden-Staggs stated Fittig requested that the matter be tabled again for further study.

Trustee Petersen/Trustee Geye 2nd made a MOTION to table the matter until the February 7, 2005 Village Board meeting, and the MOTION carried without negative vote.

BZA Year-to-Date Report on Abbey Resort Project

Hayden-Staggs stated BZA Consultants, LLC, prepared and distributed a report on its inspection activities at the Abbey Resort for the past year.

Nextel Lease Amendment

Hayden-Staggs stated the Nextel Lease Amendment calls for the addition of another site on the tower. There will be no equipment added to the tower, and Nextel will pay for all expenses related to the project.

Trustee Petersen/Trustee Turner 2nd made a MOTION to approve the Nextel Lease Amendment, with the condition the Village recoups all project costs, and the MOTION carried without negative vote.

Public Works - Trustee Petersen and Public Works Director Workman

Mann Pay Request

Workman stated that Mann Brothers has not submitted anything with regard to the Tarrant Drive construction project.

Odling Pay Request

Workman stated that Odling Construction submitted its final bill payment request totaling \$34,948.45, which included a change order. The change order was with regard to deductions made to the contract for over-calculated bid quantities and for items that were paid for by the Village during the construction period.

Trustee Petersen/Trustee Turner 2nd made a MOTION to approve the Odling Pay Request and Change Order, and the MOTION carried without negative vote.

Pending Agenda Items

President Whowll stated items for future Village Board agendas were listed on the agenda as follows: WPPA Contract, 2005 Utility Budget, Abbey Bridge Study, and FEMA Floodplain Designation.

Adjournment

Trustee Turner/Trustee Petersen 2nd made a MOTION to adjourn the Village Board meeting at 7:38 pm, and the MOTION carried without negative vote.

Minutes prepared by: Dennis L. Martin

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: _____