

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

MONTHLY MEETING of the VILLAGE BOARD OF TRUSTEES
Monday, November 3, 2014

Village President Arvid Petersen called the monthly 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: George Spadoni, Bill Gage, President Petersen, Tom McGreevy, Rick Pappas, Dave Prudden

Trustee Absent: Pat Kenny

Also Present: Director of Streets Ron Adams, Bob Ahern, Jade Bolack, Bob Chanson, Therese Gulbransen, Joseph Haughey, Merilee Holst, David Jensen, Donald Jorgensen, Library Director Nancy Krei, Clerk Theresa Linneman, Administrator Dennis Martin, Fire Chief Wolfgang Nitsch, Building Inspector/Zoning Administrator Ron Nyman, Micki O'Connell, Village Attorney Dale Thorpe (arrived at 6:04 pm), Treasurer Scott Vilona

Visitors Heard

Bob Ahern from 338 Kinzie Avenue stated he is representing Buena Vista Club regarding the snow plow issue. He stated he believes the League of Wisconsin Municipalities is a political conduit to support candidates for state office that support municipalities and stand for local control. He disseminated a letter which he explained expresses an opposing viewpoint on why the Village should continue to plow the roads that belong to private associations. Ahern introduced Joseph Haughey and said he is a resident, taxpayer and Trustee Spadoni added he is a well-known attorney. Haughey stated he lives at 315 Spring Street. His printed legal opinion was distributed to the board members and staff. Another resident stated he has been a Fontana property owner since 1970, his wife's parents have been property owners since 1944 and his parents since 1951. He questioned why the change in services was happening now after all of these years. He asked why this opinion written was dated 60 days ago and not circulated before. President Petersen iterated that the Village is wrestling with the issue and cutting services is not something that anybody wants to do; however, the Village does not want to be in violation of the state statutes. Petersen stated he believes the Village could be threatened with a lawsuit if it keeps plowing contrary to the state statutes and additionally there is a big liability risk if someone were to get hurt while plowing private roads. Martin presented a timeline of the snow plow issue. It was first brought up at the September Public Works Committee meeting after a request was made from two private subdivisions at the August Public Works meeting to plow their streets since the Village was already plowing the roads of many other private subdivisions. Upon looking further into the issue, it was clear the Village does not meet the criteria to legally plow private roads and that was confirmed by the League of Wisconsin Municipalities. At the October 6, 2014 Board meeting, and in conjunction with Attorney Thorpe, staff was directed to send out contractual agreements to the homeowner's associations. The future directive is to revisit the issue in the spring of 2015 to find a more permanent solution. Therese Gulbransen of 641 Hazel Court stated she is a member of the Board of Directors for Glenwood Springs, established in 1892. She stated all 108 taxpayers are unanimously opposed to the changes proposed with regard to the snow plow issue. She questioned the delivery, timing and proposed execution of the directive. She stated the latest village newsletter that went out suggested a Town Hall meeting be held in 2015. Gulbransen suggested the snow plow issue be tabled until that time. She said the association's hands are tied and they have no choice but to pay the \$250 because there are no options or alternative solutions that have been provided. Bob Chanson, 340 Home Avenue, asked if as long as the Village charges for snow plow service, whether it is then okay to plow roads. Thorpe clarified that the state statute provides a three prong test and one of those prongs requires the Village must charge a reasonable fee and determine that there is no other plow service that can reasonably be provided, meaning the Village would have to determine that no one else is available to do the plowing. He stated that the \$250 was derived as an administrative cost to get the communities attention. Micki O'Connell, 611 Agaming Road, asked whether associations need to find a provider individually or collectively.

Thorpe stated it is a subdivision-by-subdivision (or case-by-case) basis. The Village is not seeking a single provider to cover all subdivisions. Indian Hills First Addition Association President Donald Jorgensen, 526 Mesita Road, read a letter submitted by the association which states they have signed their snow plow agreement under protest and they believe there are other solutions for the situation. Petersen stated the Village Board agrees. David Jensen, 738 Adahi Way, read the law which states “the governing body of any county, town, city or village may enter into contracts to remove snow from private roads and driveways.” Spadoni stood and asked the visitors to come to every meeting between now and spring and challenge the board. He stated he was the only trustee to vote “no” on the snow plow issue and sending out the letter. Spadoni stated he asked for other options from the Village Attorney but has not received any. He said the case is based on a 1949 Supreme Court ruling and a lot has changed between then and now. Trustee Pappas stated he was in favor of sending letters to associations to get through this winter. Trustee Prudden and Trustee McGreevy stated the biggest concern is the issue of liability. McGreevy stated the Village had an accident where a former employee suffered permanent damage to his neck and spine while plowing a public parking lot, if that happened on a private road, the Village, without having the association sign waivers, would not have been protected from liability. McGreevy stated Attorney Thorpe said if a lawsuit was filed it could potentially bankrupt the Village. Prudden and Pappas also addressed the potential liability regarding keeping the roads relatively clean for emergency vehicles to get through. Thorpe stated the board agreed it was necessary to keep the roads clean enough for emergency vehicles to gain access if needed. A member of the audience asked if that meant the Village would plow roads regardless of whether the agreement and \$250 was turned in, and Petersen replied yes, at least well enough for emergency vehicles to get through. When asked where the amount of \$250 came from, Petersen replied it was not an effort to raise funds, it was done in an effort to get the community’s attention to the issue and it has done just that. Trustee Gage added if the Village was trying to raise money it could not be done by charging \$250, it would need to raise tens of thousands of dollars. He also responded to an earlier public comment that the Village handled the communication poorly by sending out letters, but Gage stated that was the only practical way to get the information out to those it affects. He stated it would have been impractical to contact every association by phone.

Announcements

None

Approval of Village Board Minutes

The open and closed session minutes for the October 6 and October 23, 2014 Village Board meetings were distributed.

Trustee Spadoni/Trustee Gage 2nd made a MOTION to approve the open and closed session minutes for the meetings held October 6 and October 23, 2014, as presented, and the MOTION carried without negative vote.

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

The October 2014 reports had not been completed and will be distributed at next month’s meeting.

Approval of Village and Utility Payables

After approving the motion, Pappas asked if the Village could obtain a credit card without an annual \$60 fee. Treasurer Vilona replied that the card earns points so it comes out as a wash. Pappas asked why there is a Paratech Intercept charge for \$1,401.08. Fire Chief Wolfgang Nitsch explained the Village contract covers BLS; however for ALS calls, the Village is charged extra, but the charge is capped at \$500 per call. Petersen asked staff to look into both questions brought up by Pappas.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the Village and Utility payables as distributed with the four additional invoices presented at the meeting, and the MOTION carried without negative vote.

General Business – President Petersen

Public Hearing: FEMA Countywide Natural Hazards Mitigation Plan Update

Martin stated an updated FEMA Natural Hazards Mitigation Plan has been drafted and recommended for approval by Walworth County Emergency Management Director Lt. John Ennis. The original plan was adopted in 2009 and the county has furnished the Village with an updated plan

for 2014 – 2018. The county administers the plan, the Village simply needs to adopt it in order to be in compliance. Martin stated a public hearing is required prior to adopting the plan and the hearing notice has been posted. President Petersen opened the public hearing at 6:05 pm for comment. No comments were made during the public hearing and the hearing was closed at 6:05 pm.

Adopt Resolution for Countywide Natural Hazards Mitigation Plan

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to adopt Resolution 11-03-14-01, adopting the Walworth County Natural Hazards Mitigation Plan 2014 - 2018, and the MOTION carried without negative vote.

Adopt Resolution to Use Bonded Funds on Hand for Bridge Repair Invoices

This item was combined with the General Business Item No. 5, Bridge Replacement Project Resolution Indicating Local Support for SIB Loan. Thorpe stated that the drafted resolution will authorize the use of previously bonded funds on hand to pay for the South Lakeshore Drive bridge repair invoices totaling roughly \$200,000, and the funds will be replaced with borrowing to take place in 2015. A resolution also is required by the Wisconsin DOT to indicate local support for the \$1.5 million SIB Loan application for construction of a new South Lakeshore Drive bridge.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve Resolution 11-03-14-02, regarding a State Infrastructure Bank loan, and the MOTION carried without a negative vote.

Bridge Construction Bidding Services Contract – Ruekert-Mielke

Martin stated the Ruekert-Mielke contract for the bidding services totals \$5,000 plus reimbursable costs which will be roughly \$2,000. McGreevy asked if Collins Engineers, Inc. offered the bidding service with the bridge design contract and whether the Village could get a more competitive bid by using them. Martin replied that going with Ruekert-Mielke was the original plan and Collins Engineers had recommended Ruekert-Mielke since they are experienced with bidding village projects.

Trustee McGreevy/Trustee Prudden 2nd made a MOTION to approve the Ruekert-Mielke contract for the bridge construction bidding services, as presented, and the MOTION carried on a 5-1 vote with Trustee Spadoni opposed.

Bridge Replacement Project Resolution Indicating Local Support for SIB Loan

The agenda item was included with General Business Item No. 3, Adopt Resolution to Use Bonded Funds on Hand for Bridge Repair Invoices.

Village of Walworth Library Construction Building Fees Request

Martin stated the Village of Walworth is building a new public library and the Board of Trustees has submitted a request asking that the Village of Fontana waive the regular building permit fees.

McGreevy asked the amount that would be waived and Building Inspector/Zoning Administrator Ron Nyman replied around \$4,000. The Village of Walworth is proposing to pay \$500 plus the building inspection expenses for Ron Nyman and Barney Brugger.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to reduce the regular building permit fees to \$500 plus the cost for the required inspections to be completed by Ron Nyman and Barney Brugger for the construction of the new Village of Walworth public library, and the MOTION carried without negative vote.

Lakefront Committee – Trustee Prudden

Pier Permit Application Filed by Hugh Plunkett, 1056 S. Lakeshore Drive

Prudden said the Lakefront and Harbor Committee needs more information prior to considering the Pier Permit Application submitted by Hugh Plunkett and requested the board table the item.

Trustee Prudden/Trustee Pappas 2nd made a MOTION to table the Pier Permit Application filed by Hugh Plunkett, 1056 S. Lakeshore Drive, and the MOTION carried without negative vote.

Public Works – Trustee McGreevy

Boom Truck Purchase Direction

The Street Department would like to purchase a used 2000 International boom truck to replace the recently sold boom truck. A brand new truck would cost \$40,000 to \$45,000 but Ron Adams has tracked down the used truck which is available for \$25,000 from Utility Sales and Services, Appleton. Martin stated the old

truck sold for \$7,500. Answering questions posed by the board, Adams stated that the 2000 International and boom still has some work to be completed before it can be certified for safety and the Village will get at least 10 years out of the truck.

Trustee McGreevy/Trustee Pappas 2nd made a MOTION to approve the purchase of the 2000 International boom truck for an amount not to exceed \$25,000, with the condition the required modifications are completed and safety certifications are completed, and the MOTION carried without negative vote.

Revised Change Order No. 1 and Pay Request No. 2 for Church and Van Slyke Contract

A revised change order was received from Payne & Dolan, Inc. to remove the work that was added to the contract at last month's meeting. Martin stated that the work initially included in the Shabbona Drive construction project has now been completed by the project contactor, McGuire, Inc., and it no longer needs to be added to the Church and Van Slyke construction project. The \$35,315 change order approved last month was reduced to \$16,610. Payne & Dolan also submitted pay request No. 2 in the amount of \$645,980 for the Church and Van Slyke Drive reconstruction contract. Martin stated that both items have been reviewed by the Village engineer and approval is recommended.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the revised Change Order No. 1 calling for a \$16,610 contract increase, and the \$645,980 Pay Request No. 2 submitted by Payne & Dolan, Inc., for the Church and Van Slyke contract, and the MOTION carried without a negative vote.

Human Resources – President Petersen

Probationary Review Recommendation for Administrator Dennis Martin

President Petersen/Trustee McGreevy 2nd made a MOTION to approve the probationary review for Village Administrator Dennis Martin, and the MOTION carried without negative vote.

Probationary Review Recommendation for Clerk Theresa Linneman

Trustee Spadoni/Trustee Pappas 2nd made a MOTION to approve the probationary review for Village Clerk Theresa Linneman, and the MOTION carried without negative vote.

Closed Session

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION at 6:40 pm to adjourn into 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 for Fire and Rescue Dept. Officer Appointments Review, and 2014 Administrative Staff Salaries; and pursuant to 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 Offer Received to Purchase Beach Fence Gate; Offer to Purchase 2003 Ford DPW Truck; and AFSCME and WPPA Union Contract Renewals. The roll call vote was as follows:

Trustee Gage – Aye

President Petersen – Aye

Trustee McGreevy - Aye

Trustee Pappas – Aye

Trustee Prudden – Aye

Trustee Spadoni – Aye

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

Adjourn Closed Session

Trustee McGreevy/Trustee Prudden 2nd made a MOTION at 7:09 pm to adjourn the Closed Session and to reconvene in Open Session, and the MOTION carried without a negative vote.

Closed Session Business

Offer Received to Purchase Beach Fence Gate

Trustee McGreevy/President Petersen 2nd made a MOTION to sell to Frank Sottrel the beach gate and fence that the Village installed at 404 Harvard Avenue for the initial cost of \$2,500, and the MOTION carried without negative vote.

Offer to Purchase 2003 Ford DPW Truck

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the sale of the 2003 Ford F550 DPW truck for \$19,000 to John Nagel, and the MOTION carried without negative vote.

2014 Administrative Staff Salaries

The employment contracts for Martin and Linneman call for salary increases to \$65,000 for Martin and \$40,000 for Linneman following their six-month probationary periods.

Trustee McGreevy/Trustee Gage 2nd made a MOTION to approve Resolution 11-03-14-03, amending Resolution 07-07-14-01 setting exempt salaried and hourly non union personnel rates for the 2014 calendar year. The MOTION carried without negative vote.

Adjournment

President Petersen/Trustee McGreevy 2nd made a MOTION at 7:11 pm to adjourn the meeting, and the MOTION carried without negative vote.

Minutes prepared by: Theresa Linneman, 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: _____