

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

MONTHLY MEETING of the VILLAGE BOARD OF TRUSTEES
Monday, February 6, 2012

Village President Arvid Petersen called the monthly meeting of the Village Board to order at 6:01 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Trustees present: Roll call vote: Pat Kenny, Peg Pollitt, Cindy Wilson, George Spadoni, Bill Gage, President Arvid Petersen, Tom McGreevy

Also Present: Skip Bliss, Greg Blizard, Bob Chanson, Administrator/Treasurer Kelly Hayden, Don and Merilee Holts, Rob Ireland, Russel Larson, Village Clerk Dennis Martin, Assistant Zoning Administrator Bridget McCarthy, Building Inspector Ron Nyman, Police Chief Steve Olson, Village Attorney Dale Thorpe, Amanda Voss, Director of Public Works Craig Workman

Visitors Heard

Skip Bliss asked the Village Board members to consider amending its current policy on salting the village roads after snow storms. Bliss stated that the amount of salt being spread on the roads by the Department of Public Works crew seems excessive, especially considering the snow and ice melted within a few days of this season's two or three snow storms. Bliss stated that the village should consider the quality of the water that is entering Geneva Lake, and the deterioration of cement that excessive amounts of salt create. President Petersen stated that the issue will be directed to the Public Works Committee for review.

Announcements

1. GLLEA Board Meeting – **Wednesday, February 8, 2012, 10:00 am**
2. Read & Romp at Library – **Thursdays, February 9, 16 & 23, 2012, 10:00 am**
3. FW/WPCC Board Meeting – **Tuesday, February 14, 2012, 7:30 pm**
4. Library Board Meeting – **Wednesday, February 15, 2012, 10:00 am**
5. Plan Commission Staff Meeting – **Wednesday, February 15, 2012, 1:00 pm**
6. Park Commission Meeting – **Wednesday, February 15, 2012, 6:00 pm**
7. Evening Book Club at Library – **Thursday, February 16, 2012, 5:30 pm**
8. GLEA Board Meeting – **Thursday, February 16, 2012, 7:00 pm**
9. Protection Committee Meeting – **Monday, February 20, 2012, 5:45 pm**
10. Finance Committee Meeting – **Thursday, February 23, 2012, 6:00 pm**
11. Public Works Committee Meeting – **Saturday, February 25, 2012, 8:00 am**
12. Plan Commission Monthly Meeting – **Monday, February 27, 2012, 5:30 pm**
13. Lakefront and Harbor Committee Meeting – **Wednesday, February 29, 2012, 4:30 pm**

Approval of Minutes

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the minutes for the meetings held January 9, 23 and 30, 2012, as presented, and the MOTION carried without negative vote.

Village Treasurer's Report, Cash Flow Statement, Vendor Report, & Payroll Overtime Report

Trustee Spadoni/Trustee Kenny 2nd made a MOTION to acknowledge the receipt of the January 2012 treasurer's report and the current Cash Flow Statement, Vendor Report and Payroll Overtime Report and to place them on file for the audit. The MOTION carried without negative vote.

Approval of Village and Utility Payables

Trustee Spadoni/Trustee Gage 2nd made a MOTION to approve the village and utility payables as presented, and the MOTION carried without negative vote.

General Business/Administrator's Report – President Petersen/Administrator-Treasurer Hayden

Fontana Triathlon Proposal for Labor Day Monday, September 3, 2012

Russel Larson of Multisport Event Management Partners, LLC, stated that he is now working with

John Palmer of Fontana Endurance Sports, LLC to plan a joint Fontana Triathlon on a different date than their previously approved independent event dates of June 3, 2012 and September 9, 2012. Larson stated that they would like to hold their consolidated triathlon on Labor Day Monday, September 3, 2012, and abandon the previously approved event dates. Larson stated that water temperature concerns with an early season event on June 3, 2012, and potential conflicts with the September 9, 2012 date prompted them to target Labor Day as the date for a consolidated triathlon, which would feature Olympic and sprint distance races. Hayden stated that municipal beach attendance and revenue fluctuates on Labor Day depending on weather conditions. Hayden stated that two other potential concerns with holding the event on Labor Day are that the Water Safety Patrol staff is limited that late in the summer season with college students having left for the school year, and with the very heavy amount of boat traffic on Labor Day. Following discussion, the Village Board members were in consensus that the swimming portion of the triathlon event would start at 7:00 am and the participants all will be out of the water by 9:30 am; and any concerns can be worked out by the planners and the Water Safety Patrol and Geneva Lake Law Enforcement Agency. Larson stated that they also will bring in other qualified lifeguards and water safety personnel if necessary. Trustee Spadoni then made a motion, seconded by Trustee Kenny, to authorize the Monday, September 3, 2012 date for the Fontana Triathlon as proposed by Russel Larson and John Palmer, and to refer them to the Protection Committee, Lakefront and Harbor Committee, Park Commission and staff to finalize the event details. Hayden stated that support or opposition to the date change is the main reason for the agenda item that night. Petersen stated that he agrees with Spadoni and the Village committees can work with the planners to make the September 3, 2012 date work. Wilson stated that the concern with the beach being very crowded on Labor Day if the weather is nice will not be a big deal as the swimming portion of the event will be over before most people arrive at the beach. McGreevy stated that he just wants to make sure the Geneva Lake Law Enforcement Agency and Water Safety Patrol review the plans and that their concerns are addressed for the swimming portion of the event. Pollitt then suggested that the planners considering holding the event the weekend prior to the Labor Day. Larson stated that they didn't consider any dates between Memorial Day and Labor Day because they had been advised not to do so; however, Sunday, August 26, 2012 would be a good date for the event. Spadoni and Kenny then revised their motion on the floor. Trustee Spadoni/Trustee Kenny 2nd made a MOTION to authorize the Fontana Triathlon event date for Sunday, August 26, 2012 as proposed by Russel Larson and John Palmer, and to refer them to the Protection Committee, Lakefront and Harbor Committee, Park Commission and staff to finalize the event details and a contract to cover village expenses. The MOTION carried without negative vote.

Ordinance Amendment to Section 6-22 (b) Regarding Class A Liquor License Hours for Sale

An amendment to the state statutes regarding Class A Liquor license hours for sale that was adopted in December 2011 would allow the village to amend its ordinance to authorize Class A liquor license carryout sales to commence at 6:00 am, instead of the current 8:00 am for liquor and 9:00 am for beer and fermented malt beverages. Spadoni asked why the Village would want to change the current Municipal Code, which states Class A retail intoxicating liquor or fermented malt beverage licensed premises may not sell fermented malt beverages between midnight and 9:00 am, and may not sell liquor between 9:00 p.m. and 8:00 am. Petersen stated that he agrees with Spadoni and asked why the Village Board would want to change the approved hours for sales. The amendment was requested by the owners of the Fontana Mart gas station and convenience store at 286 Valley View Drive. Village Attorney Dale Thorpe stated that no action was necessary if the Village Board members did not want to amend the current code.

Business Association Committee – Draft Ordinance

Hayden stated that the draft of a new ordinance establishing a Business Association Committee should be ready for review at the next monthly meeting.

Non-Union Employees 2012 Payroll Resolution

Spadoni stated that he wanted to make a motion to table the resolution until the next monthly meeting, at which a closed session should be scheduled to discuss the non-union employee salaries. Thorpe stated that he is not sure that a discussion on the compensation for the non-union employees would be allowed in closed session, but he would research the question if directed. Pollitt stated that

she would like a history of the raises the non-union employees have received before acting on the resolution. Wilson stated that she would like the total benefit figures for all the employees as well. Spadoni asked why the municipal court judge position is included on the annual resolution when the position is an elected position. Spadoni asked when the Village Board member's salaries weren't included like the judge's position. Wilson stated that a category should be added to list all the elected officials on the resolution.

Trustee Spadoni/Trustee Pollitt 2nd made a MOTION to table the 2012 Payroll Resolution and to schedule a closed session at the next monthly meeting to discuss the non-union employee salaries, and the MOTION carried without negative vote.

Tax Collection Report

Hayden stated that the village processed about \$10.5 million in tax payments, which is about \$200,000 more than last year. Hayden stated that the village will settle with all the taxing jurisdictions on February 20, 2012.

Audit Report

Hayden stated that all the onsite work for the annual audit has been completed, and there will be some budget amendments that will require approval.

Summer Hiring Approval for Beach Manager, CSO and Harbormaster

Hayden stated that the Village has to begin the process of hiring the summer season employees. Hayden stated that the beach manager is scheduled to come back for another season and asked Chief Olson if the Police Department was going to hire the same CSO as last year. Olson stated that he is not sure of the CSO status, but he will post the CSO position in the near future. Hayden stated that she has not yet heard back from all of the launch staff personnel from last year.

CDA – President Petersen

2012 Budget Approval

Hayden stated that the 2012 budget was reviewed and recommended for approval by the CDA Board. The budget only includes the revenue items and no expenses other than the debt service payments. In response to questions, Hayden stated that the CDA shortfall on its debt payments is \$126,000 this year, and the increment projections are a very conservative, worst-case scenario. Wilson stated that if the state had not changed its methodology for calculating the increment level for TIDs, the Fontana TIF District would be showing a positive cash balance.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the 2012 CDA Budget as recommended, and the MOTION carried without negative vote.

Shabbona Path Continuation Opportunity

Workman stated that he presented information on an opportunity to finish another portion of the Village pedestrian path system to the CDA Board at its last meeting; however, since there currently is no available funding from the TID increment, the CDA members stated it was up to the Village Board members if they wanted to pursue the project. Workman stated that since there will be excavation equipment in the area for the approved road and storm sewer construction projects, and the area will be excavated, it could be very inexpensive to have limestone rock laid on the ground to create a path from the existing trail to the lakefront. Petersen asked the Village Board members if there were any objections to having Workman obtain cost estimates for the additional work to be completed with the storm sewer construction project, and there were none.

VPLE Application Resubmittal – AECOM Proposal

Workman stated that back in 2010, the CDA project to earn Volunteer Party Liability Exemption status on the former landfill site at the Duck Pond was thwarted because the DNR determined the landfill had formerly been licensed. Workman stated that the DNR regulation has been changed, and formerly licensed landfill sites are now eligible for VPLE status. Workman stated that AECOM has proposed to provide professional environmental consulting services to revise and resubmit a VPLE application for the former landfill site for \$1,000. The proposal states that after the DNR receives the request, staff will verify whether the correct determination was made, and an eligibility determination letter will be sent to the applicant. Within 30 days of receiving the letter of eligibility, the Village must

send the DNR an advanced deposit of \$3,000 to cover DNR project oversight costs. Petersen stated that the CDA was pursuing the VPLE status as a very valuable insurance measure, and a lot of funds have been spent on the proposal already.

President Petersen/Trustee Gage 2nd made a MOTION to approve the AECOM proposal to provide professional environmental consulting services for \$1,000, and to allocate the additional \$3,000 deposit for the DNR if the Village receives an eligibility determination. The MOTION carried without negative vote.

TID Distress Declaration – Meeting with Ehlers & Associates March 7, 2012

Hayden stated that Jim Mann is planning to attend the next CDA meeting on March 7, 2012 at 6:00 pm to discuss the pros and cons of having the Fontana TIF District declared stressed. Hayden stated that if declared stressed, the TIF District life can be extended by up to 10 additional years.

Protection Committee – Trustee Pollitt

Recommend on Proposed Ordinance Amendment for Carryout Liquor Sales

Pollitt stated that the Protection Committee members reviewed the ordinance amendment that would prohibit carryout sales of liquor at gas stations, and the proposal by the village attorney to rewrite Chapter 6 of the Municipal Code, and a motion was approved by the committee to recommend that nothing be done at this time. Spadoni stated that even if the Protection Committee recommended against prohibiting carryout liquor sales at gas stations, he thinks that the provision added by the village attorney to the draft amendment that prohibits carryout liquor sales for a premises that includes a drive-up window should be approved. Spadoni asked why the village would approve a drive-up window for a premises with a “Class A” carryout liquor license. Thorpe stated that the Fontana Mart gas station does not have a drive-up window and there is not one proposed for the building; the drive-up window prohibition was something he noted in ordinances from other municipalities. Hayden stated that she wanted to make sure that the Village Board members realize that they had Thorpe draft a proposed ordinance amendment that would prohibit any future gas station convenience stores from selling carryout liquor, and the motion on the floor would only prohibit drive-up window service.

Trustee Spadoni/Trustee Kenny 2nd made a MOTION to approve Ordinance 02-06-12-01, creating Section 6-8 (h) of the Municipal Code to state, “No ‘Class A’ license shall be issued for a premises that includes any form of drive-up window service.” The MOTION carried without negative vote.

Police Department Lieutenant Position and Second in Command Options – Tabled 10/3/2011, 11/7/2011, 12/5/2011 & 1/9/2012

Pollitt stated that the committee approved a motion at its January 16, 2012 meeting to recommend that the hiring process commence and advertisements be placed for candidates to fill the open lieutenant position; and if the person hired is a current fulltime officer, someone should be hired to fill the officer position. Spadoni then made a motion to deny the recommendation, and it was seconded by McGreevy. Petersen asked if all the possibilities were considered by the committee prior to making its recommendation. McGreevy stated that the minutes from the meeting do not state anything except the motion and he only learned of the various options by reading a newspaper article. McGreevy stated that a six-year-old study should not be the only basis for making an important financial decision. Spadoni stated that the item should be tabled and referred back to the committee so it can be properly considered. Pollitt stated that the committee has twice made its recommendation on filling the position and they don’t need it referred back a third time. Pollitt stated that it is ultimately a Village Board decision and if the Board members don’t like the recommendation, it’s up them to approve something different. Spadoni distributed copies of the documents he prepared for meetings he had with Pollitt and Chief Olson at which options for filling the second in command position and for police department staffing were discussed. Spadoni listed five options for police department staffing, and four options for filling the second in command position. Spadoni stated that the options were not even presented or discussed by the committee, and they should be referred back so that the pros and cons of each option can be discussed and reported back to the Village Board. Pollitt stated that the committee members don’t need to again review the options prepared by Spadoni, and the committee has already spent a lot of time on the issue. Pollitt stated that Spadoni should have attended the committee meeting at which the recommendation was made if he wanted to solicit more input. Spadoni stated that there are other

more cost-effective options for the Village to consider other than committing to about \$90,000 a year in salary and benefits for a new lieutenant. Spadoni stated the he wanted to call the question on the motion on the floor, and President Petersen requested a Roll Call vote.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to deny the Protection Committee recommendation and to refer the options for filling the second in command position and the options for Police Department staffing to the Protection Committee for a review that should include a discussion on the pros and cons of all the options, and to record the pros and cons in the meeting minutes. The Roll Call vote was as follows:

Trustee Kenny – Yes

Trustee Pollitt – No

Trustee Wilson – Yes

Trustee Spadoni – Yes

Trustee Gage – Yes

President Petersen – Yes

Trustee McGreevy – Yes

The MOTION carried on a 6-1 vote.

Police Chief Duties to Include Patrolling – Proposal for Written Outline or Document – Tabled 11/7/2011, 12/5/2011 & 1/9/2012

Pollitt stated that she does not know where the agenda item initiated and the committee does not have a recommendation to present.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

Mutual Aid Agreement with Village of Sharon Police Department – Tabled 1/9/2012

Pollitt stated that the Protection Committee recommended that the Village of Fontana work with the Village of Sharon with an informal mutual aid agreement to provide temporary command services in case there is an emergency situation and Chief Olson is unable to perform the duties. Pollitt stated that the committee members recommended that the proposal be approved and it just be carried out under the existing mutual aid agreement for emergency services. Thorpe stated that if necessary, the Police and Fire Commission could work with the Village Board to hire a temporary person to be in charge of the Police Department if something happens to Chief Olson. Thorpe stated that the mutual aid agreement does not have to be formalized for the temporary command services; the village can work with any of the local departments to provide assistance if necessary.

President Petersen/Trustee Spadoni 2nd made a MOTION that a formal agreement is not necessary and in the event that something happens to Chief Olson the Village is authorized under the existing mutual aid agreement to work with a local police department to provide temporary command services. The MOTION carried without negative vote.

Hiring Recommendation – Tabled 12/5/2011 & 1/9/2012

Chief Olson stated that testing is currently underway on candidates to fill the potential part-time officer positions for the summer season.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

Operating Procedures Amendment Regarding Waiver of First Offense for Open Intoxicants

Pollitt stated that the Protection Committee reviewed the procedures amendment and recommended approval. Thorpe stated that an adopted procedure would produce another possible layer of law that the Village would have to meet if a citation is challenged by a defense attorney. Thorpe stated that police officers already have the discretion to issue warnings for first offenses of the open intoxicants ordinance, and for other municipal violations as well. Thorpe stated that Chief Olson already also has authority to direct his officers to use discretion when determining if a citation should be issued or if a warning is appropriate. Spadoni stated that his concern is that the officers need to be directed to use discretion on open intoxicant violators, especially when an incident occurs between the Abbey Resort and the lakefront when people are walking to the pier to take a boat ride.

Trustee Spadoni/Trustee Kenny 2nd made a MOTION to direct Chief Olson to encourage the police officers to use their discretion when considering if a warning or a citation should be issued to first

time Open Intoxicants violators. The MOTION carried without negative vote.

Approval of Rescue Squad Officers for 2012 – Pending PFC Approval

The Protection Committee recommended approval of the 2012 Rescue Squad officers; however, the Police and Fire Commission still has to approve the list.

Trustee Pollitt/Trustee Spadoni 2nd made a MOTION to approve Chief Jon Kemmett, Captain Gary Grams, Secretary Beth Shodeen, Treasurer Shannon Hahn, Dive Team Coordinator Todd Prostner, and Truck Engineers Matt Pruessing and Dan Pajeau as the 2012 Rescue Squad officers, subject to approval by the Police and Fire Commission. The MOTION carried without negative vote.

Lakefront & Harbor – Trustee McGreevy

Austin Pier Service 2012 Village Pier Repairs Proposal

McGreevy stated that the committee recommended approval of the proposal for the annual maintenance work, which totals \$ 6,437.

Trustee McGreevy/Trustee Spadoni 2nd made a MOTION to approve the \$6,437 Austin Pier Service, Inc., proposal for annual pier maintenance work, as recommended, and the MOTION carried without negative vote.

Pier Permit Application Filed by Austin Pier Service for Adreani Fontana Trust, 594 Mohr Road

The committee recommended approval of the pier permit application with the condition it is approved by the DNR. The Village received notification from the DNR following the monthly committee meeting that the pier permit application has been approved.

Trustee McGreevy/Trustee Spadoni 2nd made a MOTION to approve the pier permit application filed by Austin Pier Service, Inc. for the Adreani Fontana Trust property at 594 Mohr Road, as recommended, and the MOTION carried without negative vote.

Village Mooring Lease Agreement Contract & Application Amendments and Associated Ordinance Amendment to Section 54-126

McGreevy stated that the committee recommended approval of the new mooring lease agreement contract and application and of an ordinance amendment drafted by Thorpe. The committee also recommended that the majority owner of a joint owned parcel be the only person allowed to lease a mooring; however, the village attorney stated that provision may put an undue burden on the Village to review operating agreements and documents to determine who is a majority owner of a tax parcel. Thorpe stated that by limiting mooring space to only one per parcel would effectively solve any issues with multiple owners having only minimal percentage interests in a parcel; and the owners can work it out amongst themselves who will be assigned the mooring space rights. Hayden stated that the new contract and application will change the annual process a little bit, with an application having to be filed between a person getting on the waiting list and acquiring a mooring lease. Hayden stated that the changes will allow the Village to make sure someone's priority status has not changed. The ordinance amendment also records the current policies that "No more than one mooring space shall be assigned on behalf of any one Village buildable tax parcel, and no more than one mooring space shall be assigned to any one individual regardless of how many buildable tax parcels are owned."

Trustee McGreevy/Trustee Spadoni 2nd made a MOTION to approve Ordinance 02-06-12-02 and the new contract and lease application for village moorings, as recommended. The MOTION carried without negative vote.

Thorpe stated that the Village Board should consider a separate motion to approve the new contract and lease for village moorings. Hayden stated that the Village will send out letters to the current mooring lease holders to note the changes in the annual application and lease agreement process.

Trustee Spadoni/Trustee McGreevy 2nd made a MOTION to approve the new contract and lease application for Village moorings, and the MOTION carried without negative vote.

Plan Commission – President Petersen

Chapters 17 & 18 Rewrite – Moratorium Extension Amending Ordinance 01-10-11-01 & Ordinance 12-05-11-01

Following discussion, the Village Board members reached a consensus that the moratorium should be extended by two months, from March 1, 2012 to May 1, 2012, in order to complete the project.

President Petersen/Trustee McGreevy 2nd made a MOTION to approve Ordinance 02-06-12-03, which states the moratorium shall expire 16 months from its effective date. The MOTION carried without negative vote.

Park Commission – Trustee Wilson

Park House Renovation Project Update

Wilson stated that the renovation project is underway and it should be completed by March 1, 2012.

Public Works – Trustee Gage

Pottawatomie Drive Reconstruction Contract Close Out Change Order No. 3

Workman stated that the change order calling for a contract decrease of \$108,243 will bring the final contract price in line with the actual work completed, and approval is recommended by the Village engineer.

Trustee Spadoni/Trustee Kenny 2nd made a MOTION to approve the Pottawatomie Drive Reconstruction Contract Change Order No. 3, calling for a decrease of \$108,243, as recommended, and the MOTION carried without negative vote.

Pottawatomie Drive Reconstruction Contract Final Pay Request No. 6

Workman stated that the sixth and final pay request for the Pottawatomie Drive Reconstruction Contract, totaling \$22,524, was reviewed by the village engineer and approval is recommended.

Trustee Spadoni/Trustee Kenny 2nd made a MOTION to approve the \$22,524 Pay Request No. 6 submitted by the Wanasek Corporation for the Pottawatomie Drive Reconstruction Contract, as recommended, and the MOTION carried without negative vote.

2012 Projects Update

The 2012 public works projects tentative schedule was distributed.

Finance Committee – Trustee Kenny

Next Meeting Date February 23, 2012

The January monthly meeting was cancelled. Hayden stated that budget amendments for the 2011 audit will be presented at the February 23, 2012 committee meeting.

F/W WPCC – President Petersen

Update

Petersen stated that operations are running smoothly at the wastewater treatment facility.

GLLEA Board – President Petersen

Update

Petersen stated that the monthly meeting on the second Wednesday of the month has to be rescheduled in February 2012 because Tom Hausner is at a conference.

Adjournment

Trustee Spadoni/Trustee Gage 2nd made a MOTION to adjourn the Village Board meeting at 7:16 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, the official minutes will be kept on file at the Village Hall.

APPROVED: 3/5/2012