

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

MONTHLY MEETING of the VILLAGE BOARD OF TRUSTEES

Tuesday, February 7, 2006

In the absence of President Whowell, Trustee Turner called the meeting of the Village Board to order at 5:00 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Trustees present: Roll call vote: Turner, Petersen, Larson, Pollitt, O'Connell, Bromfield

Trustees absent: President Whowell

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

O'Connell/Larson 2nd made a MOTION to elect Turner as the chairman for the meeting, and the MOTION carried without negative vote.

Announcement for Board of Trustees to Consider Going Into Closed Session

Bromfield/Petersen 2nd made a MOTION to go into closed session pursuant to Chapter 19.85 (1), (c) Wis. Stats. to "consider employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility," specifically non-union contracts, and pursuant to Chapter 19.85 (1) (g) Wis. Stats. to "confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved," specifically the settlement agreement for the Writ of Mandamus filed by Robert Sandy, and the roll call vote followed:

Petersen – Yes

Larson – Yes

Pollitt – Yes

O'Connell – Yes

Bromfield – Yes

Turner - Yes

The MOTION carried on a 6-0 vote, with President Whowell absent.

Adjournment of Closed Session

Petersen/O'Connell 2nd made a MOTION to adjourn the closed session at 5:50 pm and to reconvene in open session at 6:00 pm, and the MOTION carried without negative vote.

Turner called the Village Board back to order in Open Session at 6:00 pm.

Also present: Police Lieutenant Brad Buchholz, Village Engineer Mike Bridwell, Jim and Megan Feeney, Library Director Nancy Krei, CDA Executive Director Joseph McHugh, Building Inspector Ron Nyman, Arlene Patek, Andy Pearce, Dr. Mark Pienkos, Treasurer Peg Pollitt, Rick Rosenow, Robert Sandy, Paul Sloth, Attorney Tim Swatek, John Tracy, Jamie Whowell, Public Works Director Craig Workman

General Business/Administrator's Report – President Whowell/Administrator Hayden-Staggs

Settlement Agreement With Robert Sandy, "FROG"

Turner stated that he wanted to move the item up to the first matter of business because it pertained to one of the closed session items.

Pollitt/Bromfield 2nd made a MOTION to approve the Draft Settlement Agreement, and the MOTION carried without negative vote.

Visitors Heard

None

Announcements

Hayden-Staggs announced that a Town Hall Meeting to host a Candidates Forum will be held Saturday, February 18, 2006, at 10:00 am; the Primary Election will be held Tuesday, February 21, 2006, with the Polls open from 9:00 am to 8:00 pm; a special Village Board meeting will be held Tuesday, February 28, 2006, at 5:00 pm; a joint Plan Commission and Joint ETZ Committee meeting will be held Tuesday, February 28, 2006, at 5:30 pm; a Half Day Community Workshop for the Lakefront Projects will be held Saturday, March 4, 2006, at 9:00 am; the next Monthly Village Board meeting will be held Tuesday, March 7, 2006, at 6:00 pm; and the monthly CDA meeting will be held Wednesday, March 8, 2006, at 6:00 pm.

Approval of Minutes

O'Connell/Pollitt 2nd made a MOTION to approve the minutes for meetings held December 6, 2005, January 4, 2006, January 18, 2006 (Closed Session and Joint Committee meeting), January 24, 2006 (Special Village Board and joint meeting), January 27, 2006, January 30, 2006, and January 31, 2006, and the MOTION carried without negative vote.

Village Treasurer's Report

Petersen/Bromfield 2nd made a MOTION to accept the Treasurer's Report for December 2005 and to place it on file for the audit, and the MOTION carried without negative vote.

Approval of Village and Utility Payables

Workman requested that the Village Board consider approving an additional bill that was submitted for the Fontana-Walworth Emergency Water Connection project. The total bill is for \$82,198, of which Fontana is responsible for half, or \$41,099.

Pollitt/Petersen 2nd made a MOTION to approve the payables as presented, with the addition of the \$41,099 bill for the Fontana-Walworth water connection project, and the MOTION carried without negative vote.

General Business/Administrator's Report – President Whowell/Administrator Hayden-Staggs

Approve Ordinance Amending Annexation Fee Requirements (Tabled January 24, 2006)

Turner stated that he wanted to move the item up on the agenda because it is related to the agenda item on the Pre-Annexation Agreement for the Tracy Group's Highlands of Fontana proposal. Thorpe stated that the proposed ordinance would not eliminate the annexation fee requirement, but it would allow the Village Board to waive the fee in lieu of other provisions. The proposed ordinance states, "The Village may adjust said impact fee by recognizing the cost of other direct contributions or improvements made by the developer for the benefit of the Village or Village property, but in no case shall said impact fee be less than zero."

Turner/Petersen 2nd made a MOTION to approve Ordinance 02-07-06-01 as presented, and the MOTION carried without negative vote.

Plan Commission – President Whowell

Approval of Pre-Annexation Agreement for Tracy Group Highlands of Fontana Proposal

Turner stated that the pre-annexation agreement calls for a density of 106 units. The proposed plat would keep 46 percent of the 89.71-acre site as green space. Turner stated that John Tracy offered in a February 6, 2006 letter to increase his financial commitment to the Village with regard to the terms of the initially proposed pre-annexation agreement. The letter states that the Tracy Group will pay for all off-site sewer and water utilities at no expense to the Village in lieu of annexation fees and impact fees. The letter states, "off-site utility work includes the installation of a water booster station, water main from the booster station to the Tracy Group property, and sanitary sewer from the last existing manhole to the Tracy Group property. The Tracy Group will be responsible for the costs of all the water and sanitary sewer on-site, and the Village, if they choose, will only be responsible for the costs associated with the oversizing of the on-site water main. In addition to the off-site utility

costs, the Tracy Group has already committed to the completion of the last wing of the Duck Pond pavilion.” The Village also received a memorandum dated February 6, 2006 from Mike Bridwell, which addresses increased valuations to the individual lots that will offset any increased cost for the village in providing municipal services to the area, the potential affect of the development on water and wastewater servicing, and the benefits related to the proposed storm water management system for the Highlands subdivision. Bridwell states in the memo, “Overall water quality impacts associated with the storm water management plan for this subdivision should be very positive and important to the village water supply system and the Geneva Lake watershed.” Trustee Pollitt stated that he reviewed all the numbers related to the annexation fee calculations, the impact fees that were proposed but not adopted in 2004, Bridwell’s engineering report, the calculated infrastructure costs for the proposed subdivision and the increased financial offer by the Tracy Group, and it is his opinion that the proposal is “a good deal” for the village. Pollitt stated that under the proposed impact fee structure that was not approved by the Village Board, the Tracy Group would have paid about \$472,000 for the Highlands proposal; under the current annexation fee structure, the Tracy Group would have had to pay about \$168,000. The current proposal calls for \$570,000 in public improvements to be paid for by the Tracy Group. Trustee Pollitt stated that the proposal also will have a positive impact on Fontana Elementary School and Big Foot High School. According to figures provided by Dr. Mark Pienkos, the principal/administrator of the elementary school, the district needs more students to help alleviate current budgeting problems. Larson stated that as well as addressing the concern of the development’s impact on municipal service expenses, the engineering report from Bridwell points out the storm water management benefits of the Highlands project. Larson stated that the project will help the village comply with the Wisconsin DNR’s mandate that municipalities must capture its storm water runoff before it enters the lake, and it will also help the village replenish the aquifer. Turner stated that after several years of negotiations and planning, the pre-annexation agreement for the project was ready to be approved considering the proposed density of the proposal and the fact that 46 percent of the site will remain in green space. Bromfield/O’Connell 2nd made a MOTION to approve the Pre-Annexation agreement as presented, subject to the terms of the February 6, 2006 letter to the Village Board and Plan Commission from the Tracy Group, and with the provision that the Village Annexation Fee be reduced to \$1. The MOTION carried without negative vote.

Approval of Fontana Holding Company/Craig and Tigrr Workman CSM

Turner asked the staff to present its report on the proposal and the suggested conditions for approval. The CSM received a positive recommendation from the Plan Commission. The four proposed lots are part of an initial annexation plan that called for seven lots.

O’Connell/Larson 2nd made a MOTION to approve the CSM as submitted with the conditions that a subdivision variance be granted to waive the public street frontage requirement, a subdivision variance be granted to waive the cul-de-sac maximum length requirement, Outlot 1 on the CSM be labeled as a “Private Road,” and a notation be made on the face of the CSM that states Lot 4 shall remain unbuildable until such time as Outlot 1 becomes improved as a private road that meets the requirements of the Municipal Code. The MOTION carried without negative vote.

Approval of Natural Resources Conservation Ordinance Amendment & Two Related Ordinance Amendments

Hayden-Staggs stated that the amendments to the Natural Resources Conservation Ordinance (Tree Ordinance) were suggested by the Park Commission and favorably reviewed by the Plan Commission. As well as the Tree Ordinance, two related ordinances had to be amended to accommodate the changes.

Petersen/Larson 2nd made a MOTION to approve Ordinance 02-07-06-02, Ordinance 02-07-06-03 and Ordinance 02-07-06-04 as presented, and the MOTION carried without negative vote.

Approval of Ordinance to Amend Municipal Code – Second-Floor Residential Uses in VCP District Under the CUP Process

Hayden-Staggs stated the proposal was advanced in order to address an inadvertent hole in the Municipal Code. There are currently some business buildings in the Village Center Preservation District that have second-floor residential units. Under the current code, new proposal couldn’t be allowed. The amendment allows property owners to seek approval for the second-floor residential

proposals under the conditional user permit process. The amendment received a positive recommendation from the Plan Commission.

Larson/O'Connell 2nd made a MOTION to approve Ordinance 02-07-06-05 as presented, and the MOTION carried without negative vote.

Protection Committee – Trustee Bromfield

Approve Operator's Licenses for Patricia J. Yeager (Park Place, LLC), Ann Marie G. Joly (Chuck's), and Rebecca A. Peplinski, Clarissa Beth Turner and Melissa Sue Coxe (Rollette Oil)

Bromfield stated that the Protection Committee favorably reviewed all of the submitted applications for Operators Licenses.

Bromfield/O'Connell 2nd made a MOTION to approve the issuance of Operator's Licenses to Patricia J. Yeager, an employee of Park Place, LLC, Ann Marie G. Joly, an employee at Chuck's, and Rebecca A. Peplinski, Clarissa Beth Turner and Melissa Sue Coxe, Rollette Oil employees, and the MOTION carried without negative vote. Trustee Petersen abstained.

Approve Temporary Event Liquor License for Mardi Gras Fundraiser at St. Benedict Parish Hall on February 25, 2006

Bromfield stated that the fund-raising event received a favorable endorsement from the Protection Committee. The applicants plan on having people who already have Village of Fontana Operator's Licenses issued to them serve the liquor at the event.

Bromfield/Petersen 2nd made a MOTION to approve the Temporary Event Liquor License to St. Benedict Catholic Church, with the permit fee waived, and the MOTION carried without negative vote.

Outdoor Liquor Consumption for Licensed Establishments

Bromfield reported that the Protection Committee approved a motion at its last meeting that supports the proposal to approve liquor service on outdoor patios with the condition that service regulations and approval criteria are established. Turner stated that the Village is beginning to take baby-steps in addressing the request by some local business owners to receive approval for outdoor liquor service at bars and restaurants. Turner stated that the issue should next be discussed by the Plan Commission.

General Business/Administrator's Report – President Whowell/Administrator Hayden-Staggs

Determine Date for April's Regular Village Board Meeting

Hayden-Staggs stated that the initially scheduled monthly Village Board meeting for April is on the same day at the spring election – Tuesday, April 4, 2006.

O'Connell/Petersen 2nd made a MOTION to hold the monthly meeting of the Village Board in April on Monday, April 3, 2006, beginning at 6:00 pm, and the MOTION carried without negative vote.

Approve Lease for 208 Dewey Avenue

Hayden-Staggs stated that although the actual lease was not ready for action, the Village Board could act on the proposed terms to rent the residence at 208 Dewey Avenue to Fontana Librarian Nancy Krei. Proposed terms for the March 1, 2006 to March 1, 2007 lease are \$850 monthly rent, a one-month security deposit requirement, utilities to be paid \ by the tenant, the village will be responsible for yard maintenance and snow removal, no pets are allowed, and appliances to be provided by the village are a stove, a refrigerator, a dishwasher, a washer and a dryer. After the Village Board voted to approve the terms of the lease, Workman presented a letter and photographs from Street Department Lead Ron Adams, who during the last few months refurbished the residence with the assistance of Street Department employee Russ Adams. The photographs were taken before and after the renovation projects. Ron Adams also provided lists of the work he completed and of the items that were replaced in the residence.

Bromfield/Petersen 2nd made a MOTION to approve the terms of the lease for 208 Dewey Avenue for tenant Nancy Krei as presented, and the MOTION carried without negative vote.

Appointment of Patty Goff to the Protection Committee

Bromfield stated he was recommending the appointment of longtime resident Patty Goff to the Protection Committee to replace Ron Frankel, who recently resigned. Goff, a Country Club Estates residence, is the daughter of John Cole.

Bromfield/Petersen 2nd made a MOTION to approve the appointment of Patty Goff to the Protection Committee, and the MOTION carried without negative vote.

Trustee Bromfield left the meeting at 6:49 pm

Appointment of Dawn Sammons to Park Commission

Larson stated the Park Commission was recommending the appointment of Dawn Sammons to fill the open spot on the commission. Larson stated that Sammons, a resident of Country Club Estates, will serve as the commission's historian and record keeper.

Larson/O'Connell 2nd made a MOTION to approve the appointment of Dawn Sammons to the Park Commission, and the MOTION carried without negative vote.

Resignation of John Tierney from Public Works Committee

Petersen stated that John Tierney had to resign from the Public Works Committee after many years of service. Petersen stated that it was with regret and appreciation that he had to recommend the acceptance of the resignation.

Petersen/O'Connell 2nd made a MOTION to accept the resignation of John Tierney from the Public Works Committee, and the MOTION carried without negative vote.

Non-Union Employee Contract Renewal

It was determined in the closed session that more time was needed to finalize the non-union employee contracts.

Turner/Petersen 2nd made a MOTION to table the matter, and the MOTION carried without negative vote.

Payroll Resolution - 2006 Pay Adjustments

Hayden-Staggs stated that although the non-union employee contracts were not ready for consideration, the proposed Payroll Resolution features the salaries previously discussed and approved in the budget.

Petersen/Larson 2nd made a MOTION to approve Resolution 02-07-06-01 as presented, and the MOTION carried without negative vote. Trustee Pollitt abstained.

Geneva Lake West Chamber of Commerce Office Relocation and Lease

Hayden-Staggs stated that the Geneva Lake West Chamber of Commerce needs a new office space and she recommended using the current assessor's office at the Village Hall. Hayden-Staggs stated that the assessor's office is infrequently occupied, and the assessor's files can be moved to another meeting room in that part of the Village Hall. Although an actual lease was not ready for consideration, Hayden-Staggs requested that the Village Board vote on the proposal to designate the Village Hall space for use by the Chamber of Commerce. Turner asked if the Chamber of Commerce would have its own independent telephone line, and Hayden-Staggs responded yes. Turner stated that if approved, the lease should be on a year-to-year basis in case the office space eventually is needed for Village office space. Hayden-Staggs stated that the Chamber of Commerce officials would prefer a three- to five-year commitment. Petersen stated he thought the proposal was a good idea for the Village to provide support to the Chamber of Commerce; however, he also stated that a year-to-year basis for the lease would be an appropriate measure for the Village Board to approve.

Turner/Petersen 2nd made a MOTION to authorize the establishment of a one-year lease for the Geneva Lake West Chamber of Commerce to use the current assessor's office, and the MOTION carried without negative vote.

DNR Request to Trap Deer at 208 Dewey Avenue

Hayden-Staggs stated that the Wisconsin DNR requested to put up live traps in the woods around 208 Dewey Avenue in order to trap deer as part of the DNR's chronic wasting disease eradication efforts. The live box traps would be large enough for children to get caught in them, Workman

responded to questions from the Village Board members. Hayden-Staggs stated that if approved, the request could be revoked by the Village at any time. Nancy Krei asked the Village Board to turn down the request. Turner moved on to the next agenda item when none of the Village Board members made a motion to approve or deny the request.

AFLAC Plan Amendment to Include Unreimbursed Medical & Dependant Coverage

Hayden-Staggs stated that the AFLAC Plan would allow the Village to establish a Section 125 plan to put aside pre-taxed employee salary deductions to pay for medical and dependent items not covered by other insurance policies. The program would be at no cost to the Village.

Pollitt/Petersen 2nd made a MOTION to approve the AFLAC Plan Amendment as presented, and the MOTION carried without negative vote.

Public Works - Trustee Petersen

Strand Associates Agreement for Design and Construction Related Services for Reid Park Restroom and Pavilion

Workman stated that the proposed contract with Strand Associates, Inc., calls for \$20,000 for pre-construction design and engineering work, and up to an estimated \$11,000 for construction related work. The construction related work will be billed on a time and materials needed basis.

Petersen/Pollitt 2nd made a MOTION to approve the contract as submitted, with the condition a penalty clause with regard to a bill payment time period is removed, and the MOTION carried without negative vote.

Finance Committee – Trustee Pollitt

2006 Utility Budget (Tabled January 4, 2006)

Trustee Pollitt stated that although the Finance Committee has finalized the proposed the Utility Budget, the new provisions for the Tracy Group project haven't been accounted for, so the budget has to be revised.

Pollitt/Petersen 2nd made a MOTION to table the matter until the March 7, 2006 meeting, and the MOTION carried without negative vote.

GLLEA Audit Recommendation

Trustee Pollitt stated that although the Finance Committee found an auditor that would complete a first-ever audit of the agency for a reasonable price, the recent decisions by the City of Lake Geneva, the Village of Williams Bay and the Town of Linn to terminate the intergovernmental agreement that governs the Geneva Lake Law Enforcement Agency and its Board of Directors makes the audit obsolete. Pollitt stated that the audit recommendation could be indefinitely postponed.

2006 Insurance Renewal-Update Only

Hayden-Staggs stated that the Village was able to solicit bids for its annual property, liability and worker's compensation insurance policies from its former provider, Wausau Insurance, and from its current provider, the League of Wisconsin Municipalities Mutual Insurance Program. The bids will be presented to the Finance Committee for its recommendation at its meeting on Thursday, March 16, 2006.

Potential Resort Tax for Community

Trustee Pollitt stated that he wanted to receive initial feedback from the Village Board members with regard to having the Village of Fontana designated a resort area. The designation would make Fontana eligible to create a resort area sales tax. If 50 percent or more of the businesses in the municipality have a resort business code designation, the village could be eligible for the resort area designation. Pollitt asked the Village Board members if they wanted to the Finance Committee to explore the issue.

Turner/Lason 2nd made a MOTION to direct the Finance Committee to investigate the Resort Sales Tax possibility, and the MOTION carried without negative vote.

Park Commission - Trustee Larson

Approval of Lions Club's Park Request for Lobster Boil & Alternate Location Contingency Plan - Joint with Lakefront and Harbor's Recommendation

The Lions Club received Park Commission support of their typical plans and the contingency plans for their Fourth of July concession stand and for the annual Lobster Boil and Steak Fry events. The Lakefront and Harbor Committee recommended that the beach area not be used for contingency sites. Petersen stated that the Lions Club concession tent is only 20-by-30 feet, and the area they would use if necessary is the grassy area on the north edge of the beach. The Village Board was in consensus that the beach area could be used for the very popular summer events if the construction in the lakefront area is not completed on schedule.

Petersen/Larson 2nd made a MOTION to approve the plans for the Fourth of July concession stand as submitted, and the MOTION carried without negative vote. Trustee O'Connell abstained.

Turner/Petersen 2nd made a MOTION to approve the three conceptual plans for the Lobster Boil and Steak Fry as submitted, and the MOTION carried without negative vote.

Announcements

Larson announced that the Park Commission is accepting applications for the use of the Gazebo during the ongoing lakefront construction projects, and a diseased Silver Maple tree was cut down in Reid Park. The diseased tree was not cut down because of the ongoing construction projects.

Lakefront and Harbor - Trustee O'Connell

2006 Pier Repairs and New Ramp Proposals

O'Connell stated that the committee recommended an expenditure of \$2,700 to have Austin Pier Service make the ramps by the launch a uniform 12-by-16 feet each, and to install a fifth ramp. The new ramps will be mounted on legs so the footprint of the structures in the water will not be larger. The committee recommended the ramp work because three sections of the four current ramps are in bad condition and in need of repair.

O'Connell/Pollitt 2nd made a MOTION to approve the ramp proposal as presented, and the MOTION carried without negative vote.

2006 Launch Rate Increase

O'Connell stated the committee recommended raising the village launch ramp fees to accommodate the new maximum rates set by the DNR for non-residents and to increase the resident rates, but not to the maximum level.

Petersen/O'Connell 2nd made a MOTION to approve Resolution 02-07-06-02 as presented, and the MOTION carried without negative vote.

2006 Commercial Fees

O'Connell stated that the committee recommended an increase in the fee from \$500 to \$600 for the first 100 commercial launches, and an increase from \$5 to \$6 for each in or out launch after the first 100.

O'Connell/Larson 2nd made a MOTION to approve Resolution 02-07-06-03 as presented, and the MOTION carried without negative vote.

2006 Lease Renewals - No Increase in Rates

O'Connell stated that the committee recommended keeping the lease fees for the ramps, buoys and slips at the same rate as last year. After discussion, the Village Board members stated that it should be added to the lease requirements that all boats must be registered with the State of Wisconsin. Although it is a state law, the Village Board wanted the provision added as a requirement for lease renewal.

Petersen/O'Connell 2nd made a MOTION to amend the leases for the ramps, buoys and slips to make it a requirement that all boats must be registered with the State of Wisconsin, and the MOTION carried without negative vote.

F/W WPCC-Trustee Petersen

Monthly Update

Petersen stated that business is operating as usual at the wastewater treatment plant. Turner stated that he would like someone to think of a new name or acronym for the wastewater treatment facility and its governing body.

CDA – Trustee Turner

Pioneer Park Turn-Around

Because of the possible settlement deal with Robert Sandy and “FROG,” Turner stated that item should be tabled.

O’Connell/Larson 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

Lakefront Surveying RFP

Workman stated that the Village received five responses for its RFP for the lakefront surveying work. Ramaker and Associates, Inc., submitted the second lowest bid at \$18,000; however, the low bidder did not have the proper qualifications. McHugh stated that the CDA was scheduled to act on the bid at its meeting February 8, 2006.

GLC Driveway Payment

Turner stated that the CDA previously approved a deal with the Geneva Lake Conservancy to contribute funds toward the reconstruction of the sidewalk in front of their office at 398 Mill Street in exchange for an easement and design changes. The CDA will contribute \$10,000 toward the cost of the new driveway, and pay \$2,400 for sidewalk construction at the Geneva Lake Conservancy office.

GLEA – Trustee O’Connell

Monthly Update

O’Connell stated that the Geneva Lake Environmental Agency is continuing to work on a groundwater study.

Pending Items for Future Agendas

Abbey Bridge Study

Workman stated that the Public Works Committee has decided to move forward with providing specifications for a project to inject grout into the backfill area of the Abbey Bridge in an effort to help prevent the bridge from sliding out of position. The bridge will not be made any higher or lower because of the project.

Chapter 54 Ordinance Revision

The Village is waiting for pier permit requirements to be established by the DNR.

Adjournment

O’Connell/Larson 2nd made a MOTION to adjourn at 7:37 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 on file at the Village Hall.

APPROVED: 03/07/2006