

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

SPECIAL JOINT MEETING of the VILLAGE BOARD OF TRUSTEES and the  
CDA BOARD

**Friday, March 12, 2010**

President Arvid Petersen called the special joint meeting of the Village Board and CDA to order at 5:30 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

**CDA members present:** Roll call vote: President Petersen, Cindy Wilson, Bob Chanson, Gail Hibbard, Jeff Fisk (arrived at 5:33 pm), Skip Bliss (arrived at 5:39 pm)

**CDA member absent:** Chairman William Turner

**Trustees present:** Roll call vote: President Petersen, Micki O'Connell, George Spadoni, Tom McGreevy

**Trustees absent:** William Turner, Pat Kenny, Diane Lewis

**Also present:** Administrator/Treasurer Kelly Hayden, David Lindelow, Village Clerk Dennis Martin, Village Attorney Dale Thorpe

**CDA Chairman Pro-Tem**

Commissioner Wilson/President Petersen 2<sup>nd</sup> made a MOTION to elect Commissioner Chanson the chairman pro-tem for the meeting, and the MOTION carried without negative vote.

**Joint Session Business**

**Abbey Resort Spa Letter of Credit/First Mortgage Proposal**

Thorpe stated that the Village received a proposal from Abbey Provident Venture, LLC to substitute the letter of credit on file with the Village for TIF contributions with a first mortgage on the Abbey Resort's employee parking lot property. Thorpe stated that he had concerns consider the proposal that night because of a lack of due diligence. Thorpe stated that he spoke with Cary Kerger earlier in the day, and Kerger indicated the proposal is an urgent cash flow matter for the Abbey. Thorpe stated that Kerger indicated the Abbey would like to close on the mortgage proposal on Monday, March 15, 2010 at Walworth State Bank. Abbey General Manager David Lindelow stated that Park National Bank is still claiming that the \$525,000 Irrevocable Stand-By Letter of Credit issued April 15, 2008 is no longer valid. Thorpe stated that he has not investigated the verbal claims made by Park National and the Village has not received anything in writing from Park National, the FDIC or U.S. Bank. It was previously reported that U.S. Bank bought out Park National Bank after it was taken over by the FDIC. Thorpe stated that a First Mortgage is also the same as holding a letter of credit. Thorpe stated that if the Abbey were to default, it would be much more cumbersome for the Village to collect on the mortgage if the Abbey defaults on the TIF loan agreement. Chanson stated that the Village should be able to accept the First Mortgage and retain the letter of credit. Thorpe stated that the Abbey offer is for the Village to surrender the letter of credit in exchange for the First Mortgage. Thorpe stated that he is concerned that the Village has not received anything in writing with regard to the Park National claim that the \$525,000 Irrevocable Stand-By Letter of Credit issued April 15, 2008 did not transfer to U.S. Bank. McGreevy stated that Park National Bank, the FDIC or U.S. Bank should have had to contact the Village in writing to legally notify the Village if the letter of credit is no longer valid. Lindelow stated that the resort management also has taken the position that the letter of credit is still valid because it was issued as a "secured" letter of credit. McGreevy stated that if the resort and the Village have not received any legal documentation regarding the letter of credit, the mortgage exchange proposal should not even be considered. McGreevy stated that the FDIC should be contacted and something should be received in writing before the Village takes any action on the letter of credit. Wilson stated that Thorpe reviewed the letter of credit when it was issued and if it was valid at that time, it still should be valid now. Thorpe stated that the verbal statements that have been received by the Abbey do not mean anything. Chanson stated that the

Abbey should pursue a clarification on the letter of credit. O'Connell stated that the Village should have something in writing prior to considering the proposal to surrender the letter of credit. Lindelow stated that the resort management has been working on the letter of credit and mortgage proposal for months; however, all the details did not come together until that day. Thorpe stated that no closing documents have been circulated so it is highly unlikely that a closing could be held on Monday. Thorpe stated that although loan commitment documents have been drafted, that is not enough to have a closing on Monday. Following discussion, the Village Board and CDA members were in consensus that there was not enough documentation presented for them to consider the proposal at the meeting. Bliss stated that the Village should retain the letter of credit and if appropriate, take the first position on the parking lot mortgage as well while legal counsel sufficiently analyzes the unanswered issues of the situation. Thorpe suggested adjourning the meeting to Monday, March 15, 2010 at 5:30 pm in case the legal issues can be worked out and the proposal considered on Monday. If the issues are not worked out, the meeting will be cancelled.

Commissioner Bliss/Commissioner Wilson 2<sup>nd</sup> made a MOTION to adjourn the CDA meeting to Monday, March 15, 2010 at 5:30 pm; to direct village staff to seek clarification on the unresolved legal issues with regard to the Abbey Provident Venture, LLC proposal to substitute the \$525,000 Irrevocable Stand-By Letter of Credit issued April 15, 2008 by Park National Bank with a First Mortgage on the Abbey Resort employee parking lot; and to cancel the March 15, 2010 meeting if the issues are not resolved prior to the meeting. The MOTION carried without negative vote.

Trustee McGreevy/Trustee O'Connell 2<sup>nd</sup> made a MOTION TO adjourn the Village Board meeting to Monday, March 15, 2010 at 5:30 pm; to direct village staff to seek clarification on the unresolved legal issues with regard to the Abbey Provident Venture, LLC proposal to substitute the \$525,000 Irrevocable Stand-By Letter of Credit issued April 15, 2008 by Park National Bank with a First Mortgage on the Abbey Resort employee parking lot; and to cancel the March 15, 2010 meeting if the issues are not resolved prior to the meeting. The MOTION carried without negative vote.

#### **Adjournment**

Commissioner Fisk/Commissioner Hibbard 2<sup>nd</sup> made a MOTION to adjourn at 6:10 pm, and the MOTION carried without negative vote.

Trustee Spadoni/Trustee McGreevy 2<sup>nd</sup> made a MOTION to adjourn at 6:10 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 and CDA, the official minutes will be kept on file at the Village Hall.

APPROVED: 4/5/2010 – Village Board; 4/7/2010 – CDA