

**VILLAGE OF FONTANA ON GENEVA LAKE
WALWORTH COUNTY, WISCONSIN**

(Official Minutes)

MONTHLY MEETING of the VILLAGE BOARD OF TRUSTEES

Monday, November 2, 2009

President Petersen called the monthly meeting of the Village Board to order at 6:11 pm in the Village Hall, 175 Valley View Drive, Fontana, Wisconsin.

Trustees present: Roll call vote: McGreevy, Lewis, Turner, O'Connell, President Petersen

Trustees absent: Kenny, Spadoni

Also present: Bob Chanson, Jim and Megan Feeney, Albert Haeger, Administrator/Treasurer Kelly Hayden, Rob Ireland, Alex Koldeway, Library Director Nancy Krei, Lou Loenneke, Village Clerk Dennis Martin, Joseph McHugh, Wolfgang Nitsch, Building Inspector Ron Nyman, Sharon O'Brien, Village Attorney Dale Thorpe, Cindy Wilson, Public Works Director Craig Workman

Visitors Heard

A letter from Robert Stewart with regard to a Notice of Violation that Stewart Excavating received was presented to President Petersen. Copies will be distributed to the Village Board members.

Announcements

1. Read and Romp Program at the Fontana Public Library – **Thursdays, November 5, 12 & 19, 2009, 10:30 am**
2. Gift Tag/Calendar Workshop at the Library – **Saturday, November 7, 2009, 10:00 am**
3. Comprehensive Master Plan Public Hearing – **Monday, November 9, 2009, 5:00 pm**
4. Complete Count Census Committee Meeting – **Thursday, November 12, 2009, 3:30 pm**
5. Park Commission Seeding Event at Duck Pond Recreation Area – **Saturday, November 14, 2009, 10:00 am**
6. Protection Committee Meeting – **Monday, November 16, 2009, 4:00 pm**
7. 2010 Budget Public Hearing – **Monday, November 16, 2009, 5:00 pm**
8. Gift Tag/Calendar Workshop at the Library – **Tuesday, November 17, 2009, 6:00 pm**
9. Library Board Meeting – **Wednesday, November 18, 2009, 10:00 am**
10. Plan Commission Staff Meeting – **Wednesday, November 18, 2009, 1:00 pm**
11. Park Commission Meeting – **Wednesday, November 18, 2009, 6:00 pm**
12. Finance Committee Meeting – **Tuesday, November 24, 2009, 5:00 pm**
13. Village Hall & Library⁷ Closed for Thanksgiving Holiday – **Thursday and Friday, November 26 & 27, 2009**
14. Plan Commission Monthly Meeting – **Monday, November 30, 2009, 5:30 pm**

Approval of Minutes

Trustee O'Connell/Trustee Turner 2nd made a MOTION to approve the minutes for the meetings held October 5 and 19, 2009 as presented, and the MOTION carried without negative vote.

Village Treasurer's Report

The treasurer's report for September 2009 was presented.

Trustee O'Connell/Trustee McGreevy 2nd made a MOTION to accept the Treasurer's Report for September 2009 and to place it on file for the audit, and the MOTION carried without negative vote.

Approval of Village and Utility Payables

Trustee O'Connell/Trustee McGreevy 2nd made a MOTION to approve the Village and Utility Payables as distributed and as presented at the meeting, and the MOTION carried without negative vote.

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

VOF/VOW IGA to Share Police & DPW Equipment – Tabled 9/8/09 and 10/5/09

Thorpe stated that the proposed IGA has been modified, but there are still some definitions that

have to be added to the document. Workman stated that the two main pieces of equipment that are shared are the Village of Fontana's chipper and the Village of Walworth's street sweeper. Workman stated that he would like to take the final document to the Public Works Committee for a recommendation and then bring it back to the Village Board for consideration.

President Petersen/Trustee O'Connell 2nd made a MOTION to table the item, and the MOTION carried without negative vote.

Letter of Credit Reduction Recommendation for Cliffs of Fontana

Hayden stated that the village engineer recommended approval of the Par Development, Inc. request to have its Letter of Credit for the Cliffs of Fontana development from \$103,848 down to \$43,750. The recommendation from the village engineer states that \$43,750 is a sufficient amount to cover the remaining site work yet to be completed by Par Development.

Trustee Turner/Trustee O'Connell 2nd made a MOTION to approve the reduction in the Par Development, Inc. Letter of Credit for the Cliffs of Fontana development from \$103,848 down to \$43,750 as recommended, and the MOTION carried without negative vote.

Land Sale Offer – Poggensee Nohegan Way Property

The Village Board members discussed the viability of the parcel in the ongoing stormwater management planning and directed staff to consult with Ruekert-Mielke to determine if the property would be of use for a stormwater management project. Workman stated that there are two lots (SIHF 00023 and SIHF 00024) for sale at the property, which is located in the Indian Hills Subdivision at 777 Geneva Lane. The Realtor, Connie Poggensee, contacted the Village to determine if the Village Board may want to purchase the property. Workman stated that Ruekert-Mielke engineers already looked at the lot but he did not recall the determination. Workman stated that the lots are located in one of the Indian Hills hot spots.

Trustee Turner/Trustee O'Connell 2nd made a MOTION to table the item and direct the proposal to the Public Works for a recommendation. The MOTION carried without negative vote.

Storm Water Management Plan, Feasibility Study & Ordinance

Hayden stated that the Storm Water Management Plan and Storm Water Utility Feasibility Study were distributed to the Village Board members for their review. Hayden stated that an ordinance will have to be drafted and adopted by the Village Board to ratify a Storm Water Utility District. Hayden stated that a sample ordinance and rate structures are included in the study. Turner stated that issue of how the Village will deal with churches and Fontana Elementary School and the establishment of a credit structure needs to be determined. Turner stated that because of state levy limits, the Village also may have trouble in future years being able to continue with its initial decision to fund storm water management capital projects through General Fund borrowing. Turner stated that if capital project borrowing and debt service expenses are added to the annual operation and maintenance budget and funded through a storm water utility district, the churches and school could be getting very expensive quarterly bills. Turner stated that the Village has to determine the best method to avoid having the churches and school get large storm water utility bills. Thorpe stated that whatever credit system that the Village may institute has to be available for all property owners to pursue. Hayden stated that another meeting could be scheduled for the Village Board to consider the rate structure and credit options. The Village Board directed staff to meet with Ruekert-Mielke to develop possible credit structures and to present the information at a future meeting.

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

CDA – Trustee Turner

Fontana/Walworth Joint Pedestrian Path Project Pay Request No. 3

Turner stated that the \$80,579 Pay Request No. 3 submitted by Mann Brothers, Inc. for the Fontana/Walworth Joint Pedestrian Path Project contract was reviewed by the village engineer and the CDA approved a motion to recommend approval.

Trustee O'Connell/Trustee McGreevy 2nd made a MOTION to approve the \$80,579 Pay Request No. 3 submitted by Mann Brothers, Inc. for the Fontana/Walworth Joint Pedestrian Path Project contract as recommended, and the MOTION carried without negative vote.

Fontana Boulevard Lighting and Landscaping Contract Pay Request No. 1

Turner stated that the \$210,901 Pay Request No. 1 submitted by PTS Landscaping, Inc. for the Fontana Boulevard Lighting and Landscaping contract was reviewed by the village engineer and the CDA approved a motion to recommend approval.

Trustee Turner/Trustee McGreevy 2nd made a MOTION to approve the \$210,901 Pay Request No. 1 submitted by PTS Landscaping, Inc. for the Fontana Boulevard Lighting and Landscaping contract as recommended, and the MOTION carried without negative vote.

Third Avenue Project Contract Closeout Change Order No. 4 & Final Pay Request No. 13

Turner stated that the Third Avenue Project contract closeout change order calling for a \$139,295 decrease in the total contract, and the final pay request No. 13 totaling \$2,499 submitted by Mann Brothers, Inc. were reviewed by the village engineer and the CDA approved a motion to recommend approval. Workman stated that by directly purchasing the street lights for the project, the Village saved \$30,000 to \$40,000 on the project cost.

Trustee Turner/Trustee McGreevy 2nd made a MOTION to approve the Third Avenue Project contract closeout change order calling for a \$139,295 decrease in the total contract, and the final pay request No. 13 totaling \$2,499 submitted by Mann Brothers, Inc. as recommended, and the MOTION carried without negative vote.

Kinzie Avenue Project Contract Closeout Change Order No. 3 & Final Pay Request No. 8

Turner stated that the Kinzie Avenue Project contract Change Order No. 3 calling for a \$50,140 decrease, and Final Pay Request No. 8 totaling \$2,500 submitted by Odling Construction for the Kinzie Avenue Project contract were reviewed by the village engineer and the CDA approved a motion to recommend approval.

Trustee Turner/Trustee O’Connell 2nd made a MOTION to approve the Kinzie Avenue Project contract Change Order No. 3 calling for a \$50,140 decrease, and Final Pay Request No. 8 totaling \$2,500 submitted by Odling Construction as recommended, and the MOTION carried without negative vote.

Bid Recommendation for Shabbona Path Project

Turner stated that the CDA reviewed the bids and approved a motion to recommend Village Board approval of the low bid submitted by Willkomm Excavating & Grading, and to authorize a contract not to exceed \$87,468. Turner stated that the contract is for the stormwater management portion of the project and the CDA has a total \$180,000 in the project budget. Turner stated that Cindy Wilson is meeting with local Boy Scouts and contractors to develop a construction plan for the path portion of the project.

Trustee Turner/Trustee McGreevy 2nd made a MOTION to approve the contract not to exceed \$87,468 with Willkomm Excavating & Grading for the stormwater management portion of the Shabbona Path Project as recommended, and the MOTION carried without negative vote.

Abbey Driveway Project Construction Updated Cost Estimate – Tabled 9/8/09 & 10/5/09

Turner stated that Workman solicited more bids and the project cost was reduced \$2,150, so the CDA decided to authorize the additional funding in excess of the initially approved \$1,500 to resolve the traffic safety issue.

Trustee Turner/Trustee O’Connell 2nd made a MOTION to approve the proposal as submitted by Sheldon Landscape for an amount not to exceed \$2,150 to complete the crosswalk paving project on Highway 67 at the Abbey Resort property back driveway as recommended, and the MOTION carried without negative vote.

Approval of Small Black Cyclone Fence Along Lake Street Alley/Little Foot Playground

Turner stated that the CDA approved the allocation of \$3,000 for a new black cyclone fence to be erected behind the arborvitae bushes along the Lake Street alley and Little Foot Playground as a safety measure. A \$3,000 proposal was submitted by Lemke Fence of Jefferson to supply and install 160 linear feet of 4-foot-high black power-coated fence.

Trustee Turner/Trustee McGreevy 2nd made a MOTION to approve the \$3,000 proposal submitted by Lemke Fence of Jefferson as recommended, and the MOTION carried without negative vote.

Pottawatomi and Van Slyke Creeks Stream Restoration Project Second Phase Approval

Turner stated that the CDA Board viewed a presentation on the current conditions of Pottawatomi and Van Slyke Creeks and potential restoration projects to address water quality and fish habitat concerns. Turner stated that the next phase of the project will cost between \$5,000 and \$10,000 and tasks to be included are for the project engineers to meet with Village staff and representatives of the DNR, Big Foot Country Club and the Abbey properties to review the Phase I Report Study; to prioritize the 19 projects in the Phase I Report Study; to prepare cost estimates for each of the 19 projects; to assist the Village in discussions with Big Foot Country Club regarding project cost-sharing agreement; and to present the results to the CDA at its monthly meeting in December. Trustee Turner/Trustee McGreevy 2nd made a MOTION to approve the next phase of the Pottawatomi and Van Slyke Creeks Stream Rehabilitation Project for a cost not to exceed \$10,000 as proposed by Ruekert-Mielke, and the MOTION carried without negative vote.

Plan Commission – Trustee Spadoni

Condominium Plat and Declarations filed for Mill Street Professional Building, LLC

President Petersen stated that the Plan Commission reviewed the proposal and approved a motion to recommend Village Board approval of the proposed Condominium Plat and Condominium Declarations as filed by Brian Pollard for the Mill Street Professional Building, LLC with the conditions that the plat modifications delineated by Ruekert-Mielke are made; that the Village attorney review the condominium declarations; that the Village attorney draft the appropriate legal document acknowledging the encroachments; and that all cost recovery is paid in full prior to plat execution and recording.

Trustee Turner/Trustee O’Connell 2nd made a MOTION to approve the Condominium Plat and Condominium Declarations as filed by Brian Pollard for the Mill Street Professional Building, LLC with the conditions that the plat modifications delineated by Ruekert-Mielke are made; that the Village attorney review the condominium declarations; that the Village attorney draft the appropriate legal document acknowledging the encroachments; and that all cost recovery is paid in full prior to plat execution and recording. The MOTION carried without negative vote.

F/W WPCC – President Petersen

Invoices Submitted by Strand for Plant Improvement Project

President Petersen stated that the two invoices submitted by Strand Associates for engineering design and bidding services for the plant improvement project were reviewed by the Fontana/Walworth Water Pollution Control Commission Board and approval is recommended. Petersen stated that the Village’s portion of the two invoices totals \$43,176.

President Petersen/Trustee O’Connell 2nd made a MOTION to approve payment of \$43,176 to Strand Associates for the Village’s portion of the two invoices submitted for engineering design services and bidding for the plant improvement project as recommended, and the MOTION carried without negative vote.

Protection Committee – President Petersen

Approval of New Fire Department Officers

The Police and Fire Commission met and voted to recommend approval of the new officers recently voted into office by the Fire Department membership.

Trustee Turner/President Petersen 2nd made a MOTION to approve the appointment of Fire Department Officers Wolfgang Nitsch, chief; Tom Westphal and Jon Kemmett, assistant chiefs; Tom Radtke, Scott Petersen, Kyle Ketterhagen and Beth Shodeen, captains; and Beth Shodeen, secretary/treasurer. The MOTION carried without negative vote.

Public Works – Trustee McGreevy

Sauganash Drive Pay Request No. 1

Workman stated that the \$188,948 Pay Request No. 1 submitted by Mann Brothers, Inc. for the Sauganash Drive Road Reconstruction Project contract was reviewed by the village engineering and approval is recommended.

Trustee McGreevy/Trustee Turner 2nd made a MOTION to approve the \$188,948 Pay Request No. 1 submitted by Mann Brothers, Inc. for the Sauganash Drive Road Reconstruction Project contract as recommended, and the MOTION carried without negative vote.

Road Excavation Ordinance – Tabled 9/8/09 & 10/5/09

Workman stated that the review of the proposed ordinance has not yet been completed.

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

General Construction Updates

Workman stated that he had nothing further to report that was not already discussed.

Lakefront and Harbor – Trustee O’Connell

2010 Fees for Moorings, Parking, Launch & Beach

O’Connell stated that the Lakefront and Harbor Committee approved motions at its last meeting to recommend that there be no increases to the 2010 fees; however, according to the direction of the Finance Committee and Village Board, the published 2010 proposed budget calls for increased revenue for the mooring lease and parking fees. Following discussion, the Village Board members were in consensus that the lease rates for moorings should be increased by 4 percent, the commercial launch rate should be increased by 4 percent, and the hourly parking rate should be increased from 50 cents to \$1 an hour. Resolutions ratifying the increased rates will be presented at the December 7, 2009 Village Board meeting. The Village Board members also were in consensus that the fee for the “F” parking stickers for Fontana residents and property owners should not be increased this year, and that the residential launch fees should remain the same as last year.

Trustee O’Connell/Trustee Turner 2nd made a MOTION to approve Resolution 11-02-09-01 increasing the 2010 lease rates for ramps, buoys and pier slips by 4 percent, and the MOTION carried without negative vote.

Trustee O’Connell/Trustee Turner 2nd made a MOTION to approve Resolution 11-02-09-02 increasing the Commercial Launch Rate by 4 percent, and to approve the Lakefront and Harbor Committee recommendation that if a commercial launch operator is caught not using the honor box when the launch is not manned during the season, the company is no longer eligible for the commercial rate. The MOTION carried without negative vote.

Trustee Turner/Trustee McGreevy 2nd made a MOTION to approve increasing the cost for parking at metered stalls from 50 cents to \$1 an hour, and the MOTION carried without negative vote.

2010 Water Safety Patrol Contract

O’Connell stated that the Lakefront and Harbor Committee reviewed the proposed contract for lifeguard services and approval is recommended.

Trustee O’Connell/Trustee McGreevy 2nd made a MOTION to approve the \$37,056 contract with the Geneva Lake Water Safety Patrol for 2010 lifeguard services as recommended, and the MOTION carried without negative vote.

Finance Committee – Trustee Kenny

2010 Budget Public Hearing November 16, 2009

Hayden stated that the 2010 preliminary budget has been published and the public hearing has been scheduled for Monday, November 16, 2009 beginning at 5:00 pm.

IGA with Walworth Township for Fire Protection Services – Update

Hayden stated that she talked to Town of Walworth Supervisor Larry Austin and he indicated that the Town is pursuing a paid on premises department with the Village of Walworth. Hayden stated that Austin indicated that the Town Board members are no longer sure if they want to pursue the IGA with Fontana, so the Village Board directed Martin to remove the item from the agenda.

2010 Over-Time Issues

President Petersen stated that the unpredictability of snow will make it very difficult for the Public Works Department to limit overtime hours, as will the ongoing leaf collection services. Workman stated that as directed by the Public Works Committee, he has discussed shifting hours and regular shifts with some of the crew members to avoid having to schedule overtime for the leaf collection. Workman stated that Mark Radtke recently agreed to switch one of his weekday shifts for a Saturday in order to operate the leaf truck. Petersen stated that the DPW crew is short one man already and

some flexibility may be needed with the overtime edict in order to get all the leaves picked up before winter. Turner encouraged staff to continue to use creativity to provide time-off credit during the regular working days in lieu of overtime hours. Hayden stated that she is confident that the staff can continue to meet the demands for services and find scheduling solutions to avoid overtime hours.

Park Commission – Trustee Lewis

Tree Enhancement Program Recommendation

The Park Commission recommended approval of a Tree Enhancement Program developed by Assistant Zoning Administrator Bridget McCarthy. Rebate and incentive funds will be allocated from the Park Commission Tree Reforestation Fund. Hayden stated that the money in the Tree Reforestation Fund is derived from Tree Permit fines and it has a current balance of about \$10,000. Trustee McGreevy/Trustee Turner 2nd made a MOTION to approve the establishment of the Tree Enhancement Program as recommended, and the MOTION carried without negative vote.

Eagle Scout Project Approval

Lewis stated that local Boy Scout Karl Nelson is seeking authorization to erect and maintain wood duck nesting boxes in the Duck Pond Recreation Area and the Hildebrand Nature Conservancy. The Park Commission recommended approval for Nelson to erect three or four nesting boxes in both areas as an Eagle Scout project.

Trustee Turner/Trustee McGreevy 2nd made a MOTION to approve the proposal submitted by Boy Scout Karl Nelson to erect and maintain wood duck nesting boxes in the Duck Pond Recreation Area and the Hildebrand Nature Conservancy as recommended, and the MOTION carried without negative vote.

Reid Park Gazebo Situation – Update

Lewis stated that the gazebo has been razed, but the foundation is still intact. Workman stated that the foundation is in good enough shape that a new gazebo could be constructed on top of it. Turner stated that the CDA architects are also looking at the site to make sure the lakefront building proposal is coordinated with the site, and Hayden and the Park Commission are currently soliciting donations for the reconstruction project.

Announcement for Board of Trustees to Consider Going Into Closed Session

Trustee Turner/Trustee O’Connell 2nd made a MOTION at 7:15 pm for the Village Board to go into closed session 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 potential litigation regarding a snow plow, and the roll call vote followed:

Lewis – Yes

Turner – Yes

O’Connell – Yes

President Petersen – Yes

McGreevy – Yes

The MOTION carried on a 5-0 vote.

Adjournment of Closed Session

Trustee McGreevy/Trustee Turner 2nd made a MOTION to adjourn the closed session of the Village Board at 7:34 pm, and the MOTION carried without negative vote.

Adjournment

Trustee Turner/Trustee McGreevy 2nd made a MOTION to adjourn the Village Board meeting at 7:34 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: 12/7/09