

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

**(Official Minutes)**

MONTHLY MEETING of the VILLAGE BOARD OF TRUSTEES

**Monday, September 9, 2019**

Village President Pat Kenny 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: Trustee Petersen, President Kenny, Trustee O'Neill (arrived at 6:02 pm), Trustee Pappas, Trustee Prudden, Trustee Livingston

**Trustees Absent:** Trustee McGreevy

**Also, Present:** Skip Bliss, Suzy Brady, Maryanne Bruss, Jeff Cates, Kevin Day, Dan Jongetjes, Theresa Loomer, Joe Mesler, Debra Pierce, Bonnie Schaeffer, Chris Schultz, Doug Snyder, Stephanie Smith, Dale Thorpe, Scott Vilona

**Visitors Heard**

Maryanne Bruss, 167 3<sup>rd</sup> Avenue, stated she was presented with a new business opportunity in spring of 2019 and in order to make that happen she needed to obtain a liquor license. She stated she was under the impression there was going to be a license coming available because the current license holder did not have a location available to use the license. Bruss said that in June, Novak was given a 90-day extension for his liquor license because he still did not have a location available. She stated with the extension granted to Novak that left her needing to find a liquor license. It was determined that Delavan had a Reserve license available and in order for Bruss to get Ninkasi Pub up and running she had to purchase a liquor license from Delavan Township for \$25,000. Bruss said she would like the Village to look at what kind of precedence this is setting by extending Novak's liquor license and believes there should be some ramifications.

Skip Bliss, 644 S. Lakeshore Drive, stated he was following up with the idea of using shared services. He said he had shared a legislation newsletter with Loomer, and it was a very well written article that referred to state shared revenues and examples of shared services. Bliss stated the Village needs to be having joint board meetings with other nearby municipalities. He also stated that he feels for Bruss and everything that she has went through to get her business up and running. He stated things did not materialize the way they should have.

**Approval of Minutes**

The minutes for the meetings held on August 5, 9 and 16, 2019 were distributed.

Trustee O'Neill/Trustee Petersen 2<sup>nd</sup> made a MOTION to approve the minutes from the August 5, 9 and 16, 2019 meetings, as submitted, and the MOTION carried without negative vote.

**Village Treasurer's Report, Vendor Report, & Payroll Overtime Report**

Trustee Petersen/Trustee Prudden 2<sup>nd</sup> made a MOTION to approve the Treasurer's Report, the Vendor Report and Payroll Overtime Report, as distributed, for August, and to place them on file for the audit, and the MOTION carried without negative vote.

**Approval of Village and Utility Payables**

Trustee Petersen/Trustee O'Neill 2<sup>nd</sup> made a MOTION to approve payment of the Village and Utility payable list, and the MOTION carried without negative vote.

**General Business – President Kenny**

**2020 Garbage and Recycling Services Update**

Loomer stated she had previous conversations with Jack from Keizer's, and they are going to let the Village know by the end of the month if they will be continuing garbage service in 2020. She also had contact with Nate Austin from Johns Disposal Services and Dan Jongetjes was present to share their current situation and the information presented to Loomer in a previous meeting. Jongetjes stated the value for recyclable goods has plummeted over the past few years following limitations on

waste imports set by China. He stated the company has faced a substantial loss over the past two years and stated the amount of increase they were looking to request was 25 to 30% and Johns was seeking direction from the Village Board as how to proceed before they write the letter with rates for the coming year. Trustee Petersen suggested the idea of going to every other week recycling service versus every week. Jongetjes stated Johns could definitely provide a quote for that type of service. It would be an amendment to their current agreement with the Village and they would utilize larger containers that are on wheels. Loomer stated that another option the board could look into is letting them out of their contract and bid out the services. Dan said they have enjoyed doing business with the Village and they understand if they choose to bid out the services, as the price increase is rather large. President Kenny stated the Village hopes to have an answer for Johns Disposal in the next few weeks as to what direction they are looking into going.

### **Peter Novak Request for Extension of Liquor License**

Loomer stated Peter Novak had sent an email requesting to be added to the agenda for the Village Board meeting this month. Novak stated he wanted to bring the board up to speed on what was taking place. He stated that he is not able to move due to the fact his building at 138 Fontana Boulevard is still occupied by Munson Marine. Munson is waiting for 158 Fontana Boulevard to be completed so they can move out. His lease agreement went into effect on September 1, 2019, but until Munson moves out he cannot move in to the 138 Fontana Boulevard location. President Kenny asked if Novak could supply some assurance as far as contracts with builders or updates from Perkins on when Munson Marine will be out of the building. Novak stated that he put the drawings on hold and currently has a signed contract with the architect and he has done measurements but has not started any design work. Novak also stated he is up to date with his food and beverage license with the state. Trustee O'Neill stated part of the delays with Munson had to do with the wet spring and being able to pour and frame concrete and the power delays with Alliant. Attorney Thorpe stated he would recommend the board consider granting a one-month extension to gather more evidence and come back with real progress and set benchmarks as to what should be done. Thorpe also stated a lease is a lease and if the date on it is September 1, 2019, then Novak should be occupying that building. President Kenny recommended Novak have a conversation with Perkins and do whatever needs to be done to start using the liquor license in the next month. There was discussion that part of the 90-day extension agreement granted in June for the liquor license was that Novak must occupy a building. Thorpe suggested the board grant a one-month extension and come back with real progress such as exercising the lease and designing the space.

Trustee Petersen/Trustee Livingston 2<sup>nd</sup> made a MOTION to deny any extension of Peter Novak's liquor license.

The Roll Call Vote was as follows:

Trustee Prudden-Nay

Trustee Livingston-Aye

Trustee O'Neill-Nay

Trustee Pappas-Aye

Trustee Petersen-Aye

President Kenny-Nay

The MOTION failed due to lack of a quorum or lack of majority.

President Kenny/Trustee O'Neill 2<sup>nd</sup> made a MOTION to grant Novak a 30-day extension for the liquor license to take occupancy in the building and make substantial progress.

The Roll Call Vote was as follows:

Trustee Livingston-Nay

President Kenny-Aye

Trustee Prudden-Aye

Trustee Petersen-Nay

Trustee O'Neill-Aye

Trustee Pappas-Nay

The MOTION failed due to lack of majority. Failure of condition and license can terminate.

### **Approval of Ordinance Repealing and Recreating Municipal Code Section 6-3**

Loomer stated that nothing has ever been put in writing regarding the number of liquor licenses that

the Village of Fontana holds. The repealing and recreating of municipal code section 6-3 allows the Village to have the number of liquor licenses on record in the code. The Village of Fontana has seven regular liquor licenses and one reserve license.

Trustee Petersen/President Kenny 2nd made a MOTION to approve Ordinance 090919-01, repealing and recreating municipal code section 6-3, and the MOTION carried without negative vote.

### **Alliant Easement Request for Safety Building Property to Extend 3 Phase Electrical Service to 158 Fontana Boulevard-Tabled 08/05/19**

Attorney Thorpe handed out a new map from Alliant that provides a legal description of the easement which will come down the eastern edge of Lot 17 to Fontana Boulevard and proceed along the northern edge of Fontana Boulevard and then enter the Perkins property to give them the phase three electrical service they have requested. This legal description of the easement would replace the previous request of the phase three service running behind the safety building which had many concerns and was deemed to be unsafe. Chief Cates and Village Engineer Terry Tavera had met with Alliant figured this to be the best route for the phase three service. The impact the easement will have on the public safety building is very minimal. What this easement request is missing is documentation for the easement to run on the Abbey side of the street for the first fifteen feet on Fontana Boulevard. After much discussion the board decided that in order to keep things moving along, they would approve the first part of the easement request.

Trustee Prudden/Trustee O'Neill 2nd made a MOTION to approve the 1st part of the Alliant Easement request, for the eastern edge of Lot 17 and northern edge of Fontana Boulevard, and the MOTION carried without negative vote.

### **Belvedere Park Drainage Proposal Update and Discussion**

Engineer Doug Snyder from Baxter and Woodman and John and Debra Pierce from Belvedere Park were present to provide an update on the progression of their plans. They presented their proposal to the board in early August and have since met with Village staff twice. Snyder stated they are still following the same proposal, but since meeting with the Village Board in August, Belvedere Park has prepared a concept plan. They most recently had a wetland delineation study completed on the proposed storm water on the opposite side of N. Shore drive to verify there are no wetlands. Snyder asked the Village board to continue to move forward as their plan is to have pipe in the ground next spring, pave in the fall of next year and would like to obtain permits in October which means they need to have a developer's agreement signed by then. Thorpe asked for some clarification on the color coded engineering map that was distributed. Snyder explained the yellow lines on the map are the future easements for the public to utilize, pink is the private storm sewer lines, blue is the new water main down the center of the drive extending to the lake, orange is the new storm sewer from N. Lakeshore to the lake, green is the new sanitary which goes down the center of the driveway to provide service for homes next to it, generally they would just repair the system but the existing system was put in after the private system and the pipe is from 1911. Snyder explained they would abandon all existing private laterals and the municipal sanitary sewer that dates back to 1958. The brand-new system would go down the center of the driveway and would be deep enough so the laterals could come from each house to the public sewer. Belvedere Park would like to offer an easement area for storm water utility on the opposite side of N. Lakeshore drive, which currently has no planned improvements. This would help to reduce the peak runoff flows. Debra Pierce explained based on their calculation, the total contribution for this project is \$958,000.00 and of that the Village's portion is \$700,000.00 with the remaining being paid by Belvedere Park. There was discussion by Village Board members as to what kind of precedence they are setting for every other association around the lake. Debra Pierce explained that Belvedere Park is at the bottom or forefront of a twenty-five-acre drainage basin and was identified in 2009 by a study completed by Ruckert Mielke as one of two core problem areas. Loomer explained they most recently had a staff meeting with Belvedere Park and Village Engineer Terry Travera and Terry was in agreement of what needs to be done and recommended replacing the water and rehabbing the sewer, so it meets codes. President Kenny explained the timing of this project could not be worse with the large S. Lakeshore drive project coming up and the remainder of the discussion would be discussed in closed session.

**Car Show Parking at Reid Park during Antique Boat Show Weekend-Ed Snyder**

The Applicant communicated with Village staff he is no longer requesting parking at Reid Park during the last weekend in September.

**Operator’s License Applications Filed by Jonathan F. Puls (Abbey Resort); Nicole M. Rugan (Abbey Springs)**

There were no concerns with the background checks and the \$60 fees have been paid. Trustee Petersen/Trustee Prudden 2<sup>nd</sup> made a MOTION to approve the Operator’s License applications filed by Jonathan Puls and Nicole Rugan, the MOTION carried without negative vote.

**Approval of 2019-20 Bow Hunting Resolution**

There were no changes from the 2018-19 Resolution other than a few removals and additions to names on the list.

Trustee Petersen/Trustee Livingston 2<sup>nd</sup> made a MOTION to approve 2019-20 Bow Hunting Resolution, and the MOTION carried without negative vote.

**Approval to Obtain Additional Nuisance Tags from DNR**

Loomer stated the Village obtained ten tags last year. Country Club Estates had inquired with the DNR on obtaining Nuisance tags and the DNR asked that they partner with the Village on this. Trustee Livingston asked that Loomer check with the DNR to see if there was a way to donate the harvested deer to a charity.

Trustee Petersen/Trustee Livingston 2<sup>nd</sup> made a MOTION to approve obtaining additional Nuisance tags from the DNR, the MOTION carried without negative vote.

**Accept Resignation of Park Commissioner Gail Hibbard**

Trustee Petersen/Trustee Papas 2<sup>nd</sup> made a MOTION to accept the Resignation of Park Commissioner Gail Hibbard with regret, the MOTION carried without negative vote.

**Plan Commission- Trustee Prudden**

**Amendment to Zoning Code Article XVI.- Extraterritorial Zoning to add Bed and Breakfast as an Allowable Land Use**

The change in the ETZ Bed and Breakfast code amendment is to comply with state law and also to align more closely with the provisions in the county zoning code. The plan commission held a public hearing at the last meeting and recommended in favor of approving the ordinance amendment.

Trustee Prudden/Trustee O’Neill 2<sup>nd</sup> made a MOTION to approve the Amendment to Zoning Code Article XVI, Extraterritorial Zoning to add Bed and Breakfast as an Allowable Land Use, and the MOTION carried without negative vote.

**Amendment to Zoning Code Section 18-56(i) Article III regarding Bed and Breakfast**

With the changes made to the ETZ portion of the code, staff thought it made sense to amend the Village zoning code regarding Bed and Breakfasts at the same time to stay consistent. The plan commission held a public hearing at the last meeting and recommended in favor of approving the ordinance amendment.

Trustee Prudden/Trustee O’Neill 2<sup>nd</sup> made a MOTION to approve the Amendment to Zoning Code Section 18-56 (i) Article III, regarding Bed and Breakfast, and the MOTION carried without negative vote.

**Conditional Use Permit Application Filed by John & Ann Porter for Addition to Guest House at 425 N. Lakeshore Drive**

The Porters are seeking to remodel an existing guest house and add an entranceway to the front. The plans conform to the required setbacks but the addition of an entryway must be approved through the CUP process. The plan commission held a public hearing at the last meeting and recommended in favor of approving the CUP.

Trustee Prudden/Trustee Pappas 2<sup>nd</sup> made a MOTION to approve the Conditional Use Permit Application Filed by John & Ann Porter for Addition to Guest House at 425 N. Lakeshore Drive, and the MOTION carried without negative vote.

**Ordinance Repealing and Recreating Section 18-13 and Creating Section 18-172(8) Regarding the Use of Permeable Surface**

This item was tabled.

Trustee Petersen/Trustee Prudden 2<sup>nd</sup> made a MOTION to table the Ordinance Repealing and Recreating Section 18-13 and Creating Section 18-172(8) Regarding the Use of Permeable Surface, and the MOTION carried without negative vote.

**Finance Committee- President Kenny**

**Adopt Ordinance Establishing a 10% Administrative Fee as to Permit Issued Pursuant to Municipal Code Chapter 14**

Loomer stated this is to help offset some of the costs associated with the administration and recordkeeping of building permits.

Trustee Petersen/Trustee O'Neil 2<sup>nd</sup> a MOTION to Adopt the Ordinance Establishing a 10% Administrative Fee as to Permit Issued Pursuant to Municipal Code Chapter 14, and the MOTION carried without negative vote.

**Public Works- Trustee O'Neill**

**Payment Recommendation No. 1 for 2019 Street Resurfacing Projects-Tabled 08/05/19**

Trustee O'Neill/Trustee Prudden 2<sup>nd</sup> a MOTION to approve payment recommendation No. 1 in the amount of \$232,302.50 for 2019 Street Resurfacing Project, and the MOTION carried without negative vote.

**Recommendation on Mesita Road Drainage Basin Bid**

Kevin Day stated there were four bids submitted for the Mesita Road Drainage Basin and the lowest bid was \$139,000.00 and Village Engineer originally estimated \$75,000.00. Day indicated after recent soil tests they found large amounts of clay and the project will not work well with those soil conditions. He indicated that after talking to Village Engineer there are a few options: the bid could be rejected, it could be approved with changes, or it could be put out for rebid with S. Lakeshore drive project. He said it makes the most sense to work with Indian Hills First Edition and install a drainage pipe from the basin to allow it to drain properly.

Trustee Petersen/Trustee Livingston 2<sup>nd</sup> a MOTION to reject the bids for the Mesita Road Drainage Basin, and the MOTION carried without negative vote.

**S. Lakeshore Drive Construction Controlled Archeological Monitoring Services by UWM Cultural Resource Management Proposal**

Loomer stated the construction project along S. Lakeshore drive will be near an archeological burial site and UWM has submitted a quote for monitoring services.

Trustee Petersen/Trustee O'Neill 2<sup>nd</sup> a MOTION to approve the Proposal from UWM Cultural Resource Management in the amount of \$4,994.00, and the MOTION carried without negative vote.

**Proposed Crosswalk at Gordy's on Lake Street-Tabled 08/05/19**

Chief Cates stated he feels that part of Lake Street was just cleaned up and the average car is only traveling ten miles per hour along that stretch, so he doesn't feel there needs to be a crosswalk. He also stated that if the Village Board decides to approve a crosswalk, he would ask that it be ADA compliant to meet codes.

Trustee O'Neill/Trustee Livingston 2<sup>nd</sup> made a MOTION to deny the proposed crosswalk, and the MOTION carried without negative vote.

**Lakefront & Harbor Committee- Trustee Pappas**

**Austin Pier Service Rip-Rap Estimate**

Trustee Pappas stated this is the third phase of the rip-rap along the south part of the abbey channel and the estimate from Austin Pier Service is for \$18,000.00. This project was started four to five years ago, and it can be completed this year instead of finishing it at a later time. He was not sure of the amount that was budgeted for this project but believed it was in the area of \$8,000-\$12,000.

Trustee Pappas/Trustee Prudden 2<sup>nd</sup> a MOTION to approve the estimate from Austin Pier Service for the amount of \$18,000.00, CONTINGENT that money was budgeted for this project, and the MOTION carried without negative vote.

**Parking Fee and F Sticker Parking Rate Increase Recommendations**

Trustee Pappas stated that the lakefront and harbor committee was recommending increasing parking rates from two to three dollars. There was board discussion about raising the price for parking only on Friday, Saturday and Sunday. By raising the price above two dollars the Village of Fontana would be charging the highest rate around the lake. Pappas stated that the committee also recommended increasing the price of F sticker from \$15 to \$20. Prudden pointed out that the Village sells nearly 4,000 parking stickers and roughly 3,000 of those are not on cars in the Village of Fontana.

Trustee Pappas/Trustee Prudden 2<sup>nd</sup> a MOTION to recommend raising parking meter prices to \$3/hour on Friday, Saturday and Sundays for 2020, and the MOTION carried without negative vote.

Trustee Prudden/Trustee Pappas 2<sup>nd</sup> a MOTION to recommend raising the price of F stickers to \$20 for 2020, and the MOTION carried without negative vote.

**Park Commission – Trustee Livingston**

**Park Application Filed by Vikki Knull For Duck Pond Pavilion on Friday, September 20, 2019 From 2:00 PM to 10:00 PM For Wedding**

Trustee Petersen/President Kenny 2<sup>nd</sup> made a MOTION to approve the application filed by Vikki Knull for Duck Pond on Friday, September 20, 2019 from 2pm-10pm, and the MOTION carried without negative vote.

**Park Application Filed by Lisa Spedale For Kira Spedale Foundation For Reid Park Pavilion on Sunday, October 6, 2019 from 7:00 AM to 5:00 PM**

Trustee Pappas/Trustee Petersen 2<sup>nd</sup> made a MOTION to approve the park application filed by Lisa Spedale and refund parks fees because the foundation is 501(c)(3), and the MOTION carried without negative vote.

**Park Application Filed by SC WAVE For Duck Pond Recreation Area For Fall 2019 and Spring 2020 Soccer Practice**

Trustee Livingston stated park commission recommended denying the application due to lack of space at Duck Pond Recreation Area.

Trustee Petersen/Trustee Pappas 2<sup>nd</sup> a MOTION to deny park application filed by SC Wave for duck pond recreation area, and the MOTION carried without negative vote.

**Human Resources Committee- President Kenny**

**Introduction of Updated Employee Handbook**

Loomer stated the new employee handbook is finally here. Some areas of change she touched on were public works department benefits, vacation time policy, sick leave, department of public works work schedules and overtime, overtime policy and performance evaluations.

Trustee Prudden/Trustee Petersen 2<sup>nd</sup> made a MOTION to table the employee handbook for further review, and the MOTION carried without negative vote.

**Performance Reviews and Compensation Recommendations for Utility Dept. Employee Luke Perepell and Street Crew Employee Kevin Kohley**

These items were discussed in closed session.

Trustee Petersen/Trustee Livingston 2<sup>nd</sup> made a MOTION to increase street crew employee Kevin Kohley’s wages by 2% to \$24.61, and the MOTION carried without negative vote.

Trustee Petersen/Trustee Prudden 2<sup>nd</sup> made a MOTION to increase utility dept. employee Luke Perepell’s wages to \$29/hr, and the MOTION carried without negative vote.

**Closed Session**

Trustee Livingston/Trustee Petersen 2<sup>nd</sup> made a MOTION at 7:10 pm to go into closed session pursuant to Wis. Stats. Chapter 19.85(1)(e), “Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session,” specifically Belvedere Park Drainage

Proposal Update and Discussion and Building Inspector Contract First Amendment; and 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 Performance Reviews and Compensation Recommendations for Utility Dept. Employee Luke Perepell and Street Crew Employee Kevin Kohley; and pursuant to Wis. Stats. Chapter 19.85(1)(g), “conferring 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 Subrogation Claim Filed by West Bend Mutual re: Gail Blum.

The roll call vote was as follows:

Trustee Petersen-Aye  
President Kenny-Aye  
Trustee Livingston-Aye  
Trustee Pappas-Aye  
Trustee O’Neill-Aye  
Trustee Prudden-Aye

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

### **Open Session**

#### **First Amendment for Contract Building and Zoning Professional Services**

Trustee Petersen/Trustee Livingston 2<sup>nd</sup> made a MOTION to approve the first amendment for contract of building and zoning professional services, as presented, and the MOTION carried without negative vote.

#### **Claim filed by West Bend Mutual re: Gail Blum**

Trustee Pappas/Trustee Livingston 2<sup>nd</sup> made a MOTION to deny the claim filed by west bend mutual re: Gail Blum, and the MOTION carried without negative vote.

### **Adjournment**

Trustee Prudden/Trustee Petersen 2<sup>nd</sup> made a MOTION to adjourn at 7:35 pm, and the MOTION carried without negative vote.

Minutes prepared by: Stephanie Smith, Deputy Clerk/Treasurer

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: 10/02/19