

1. Email from FOX 6 to Village Manager Mark Fitzgerald

From: Polcyn, Bryan
Sent: Sunday, March 25, 2018 9:20 AM
To: Fitzgerald, Mark
Subject: Riverwalk 'updates'

Mr. Fitzgerald -

I'm a reporter with FOX 6 News and I've been working on a story that will air later this week (Thursday, March 29) regarding the Riverwalk on the Falls project. At last Monday night's meeting, Trustee David Glasgow stated that "we have been getting regular updates from Mark Fitzgerald about the delays and worker shortages."

Since then, I have interviewed Trustee Glasgow on camera. During that interview, I asked him about this comment, which other Trustees have told me is untrue. Mr. Glasgow says the "full board" received updates from you, the Village Manager during a PowerPoint presentation in January. When I pressed for when this meeting occurred and what board was meeting at the time, he said it was a "Committee of the Whole" meeting in late January. I asked Mr. Glasgow if this would be reflected on any meeting agenda and he said, as I paraphrase, "Sometimes these things come up as we are talking about other things." I asked if that would be a violating of open meetings law and he changed course. He now says it was a discussion of TID projects in general, and the discussion included an update on Riverwalk's delays.

I have searched village board archives and there is no agenda nor are there any minutes that reflect that a January meeting was held. In fact, the Riverwalk project does not appear on any Committee of the Whole agendas in 2017 or 2018.

Trustee Glasgow also indicated that the project delays were discussed during Community Development Authority meetings (which would only include two village board members, one of which is Mr. Glasgow). Once again, however, I cannot find a single CDA agenda which lists the Riverwalk project as an item for discussion.

Since Trustee Glasgow is stating that you, the village manager, has given the board "regular updates" on project delays, I am asking if you can please specify a date or dates when you delivered these updates to the village board, as well as a name of the board or committee before which the update (or updates) were given.

If Trustee Glasgow is mistaken and you did not give the village board updates on project delays, please let me know that as well.

If you have any questions, please feel free to reach out to me directly at 414-748-2190.

Thank you,

Bryan Polcyn
FOX 6 Investigators
WITI-TV Milwaukee

2. Fitzgerald's initial reply to FOX 6 News

From: Fitzgerald, Mark
Sent: Monday, March 26, 2018 8:03 AM
To: Polcyn, Bryan
Subject: [EXT] RE: Riverwalk 'updates'

EXTERNAL EMAIL

Mr. Polcyn: I believe that Trustee Glasgow is speaking of a Special Village Board Meeting held on January 29, 2018. Please go on our website under Agendas and Minutes and you will find the agenda for that evening. The Village Board convened into executive session as indicated by the agenda. I am not able to disclose more information about that meeting as provided in the Wisconsin Statutes under 19.85(1)(c). Thank you.

Mark Fitzgerald, Village Manager
Village of Menomonee Falls

3. FOX 6 follow-up questions for Fitzgerald

From: Polcyn, Bryan
Sent: Monday, March 26, 2018 9:30 AM
To: Fitzgerald, Mark
Subject: RE: [EXT] RE: Riverwalk 'updates'

Mr. Fitzgerald –

In my interview with Trustee Glasgow, he says several times that the board was getting “regular updates” from the village manager “of the delays involving the developer” of the Riverwalk project. In fact, he says those updates were coming “almost on a monthly basis.”

Did you give the village board “regular... almost monthly” updates on project delays? If so, in what memos or public meetings would I find those updates reflected, beyond the January 29 closed session you referenced earlier?

Also, it has been stated by several members of the board that you, the village manager, “missed” the project deadline of December 31, 2017. Trustee Glasgow called it an “oversight.”

Were you aware the deadline was passing (or had passed)? If not, why not?

If you were aware, why did you not inform the village board prior to the press release issued by Trustee Paul Tadda?

Thank you,
Bryan

Bryan Polcyn
FOX 6 Investigators
WITI-TV Milwaukee

4. Fitzgerald response to FOX 6 follow-up questions

From: Fitzgerald, Mark
Sent: Monday, March 26, 2018 1:58 PM
To: Polcyn, Bryan
Subject: RE: [EXT] RE: Riverwalk 'updates'

Mr. Polcyn: I cannot speak directly to the statements you attribute to either Trustee Glasgow or “several members of the board”. However, I can tell you that there was at least one executive session with the Village Board and at least one with the Community Development Authority in 2017 where this matter was discussed under the statutory open meeting exemption for confidential negotiations. I am not at liberty to disclose any additional information in accordance with Wisconsin law. Thank you.

5. FOX 6 second follow-up for Fitzgerald

From: Polcyn, Bryan

Sent: Monday, March 26, 2018 2:01 PM

To: 'Fitzgerald, Mark'

Subject: RE: [EXT] RE: Riverwalk 'updates'

Thank you. However, I don't believe you addressed these questions.

Were you aware the deadline was passing (or had passed)? If not, why not?

If you were aware, why did you not inform the village board prior to the press release issued by Trustee Paul Tadda?

Bryan Polcyn

FOX 6 Investigators

WITI-TV Milwaukee

6. FOX 6 third follow-up, for clarification (Note: All communication up to this point has been between only Bryan Polcyn and Mark Fitzgerald)

From: Polcyn, Bryan
Sent: Monday, March 26, 2018 2:09 PM
To: Fitzgerald, Mark
Subject: RE: [EXT] RE: Riverwalk 'updates'

Mr. Fitzgerald,

I should be a bit more specific. In Trustee Tadda's press release, he indicates that you told him you "forgot about" the completion obligation.

Did you, in fact, forget about the completion obligation in the development agreement?

If so, how do explain such an oversight?

If not, why was the deadline allowed to pass without a Notice of Default being sent to the developer (or some other action being taken)?

Thank you,
Bryan

Bryan Polcyn
FOX 6 Investigators
WITI-TV Milwaukee

7. Fitzgerald response to third follow-up (NOTE: This time, Fitzgerald includes the entire village board and village attorney in the list of message recipients.)

From: Fitzgerald, Mark

Sent: Monday, March 26, 2018 3:25 PM

To: Polcyn, Bryan

Cc: Helm, Joseph; Walz, Jeremy; Van Alstyne, Randall; Tadda, Paul; Lemmer, Bonnie; Kress, Katie; Glasgow, David; Morse, Mike

Subject: RE: [EXT] RE: Riverwalk 'updates'

Mr. Polcyn: I will assume you want me to respond to your 2:09 PM email and not your 2:01 PM email. Please see my responses in red below:

Mark Fitzgerald, Village Manager

Did you, in fact, forget about the completion obligation in the development agreement? **No.**

If so, how do explain such an oversight? **See answer above.**

If not, why was the deadline allowed to pass without a Notice of Default being sent to the developer (or some other action being taken)? **The Village Board, Village Attorney and I discussed this matter in executive session on Monday, March 19, 2018. Respectfully Mr. Polcyn, I am not able to comment further. Thank you.**

8. Trustee Paul Tadda responds to the answer Fitzgerald sent to FOX 6.

On Mar 26, 2018, at 6:57 PM, Tadda, Paul <TrusteeTadda@menomonee-falls.org> wrote:

Mark,

You told me twice that you forgot about the completion requirement date during our phone conversation even after I questioned the plausibility of you forgetting. I stand by my statements in my press release, which were written the same day as the conversation.

Sincerely,

Paul Tadda
Village Trustee

9. Outgoing Village President Joe Helm appears to admonish Tadda for his reply to Fitzgerald's group email, which included FOX 6 News.

On Mar 26, 2018, at 7:02 PM, Joe Helm wrote:

Paul,

This is completely inappropriate to carry on this discussion with this group; legally and otherwise.

Sent from my iPhone

Atty. Joseph H. Helm

10. FOX 6 replies to the group email. No further replies were received after this.

From: Polcyn, Bryan

Sent: Monday, March 26, 2018 8:08 PM

To: Joe Helm

Cc: Tadda, Paul Tadda; Fitzgerald, Mark Fitzgerald; Helm, Joseph; Walz, Jeremy Walz; Van Alstyne, Randall; Lemmer, Bonnie; Kress, Katie; Glasgow, David Glasgow; Morse, Mike **Subject:** Re: [EXT] RE: Riverwalk 'updates'

I believe it was the Village Manager who started the group email. I'm not sure how Trustee Tadda's recollection of a conversation with the Village Manager would be legally problematic unless it occurred during a closed session (which does not appear to be the case since the press release preceded any closed session on this matter). If you care to explain why it is a legal concern, President Helm, please feel free to reach out to me directly.

As for Mr. Fitzgerald, it seems Trustee Tadda is quite clear that you told him you "forgot" about the completion obligation. In light of his further statements here, do you care to add anything to your answers from earlier today?

Thank you,
Bryan Polcyn