

VILLAGE OF FOX POINT
VILLAGE BOARD PUBLIC HEARING AND MEETING
DECEMBER 8, 2015

A meeting of the Fox Point Village Board was held on December 8, 2015 in Schwemer Hall, 7200 N. Santa Monica Blvd., beginning at 7:00 p.m. President West commented there is a quorum; all trustees are present. Without objection roll call is suspended.

Members of the Village Board present included:

Village President Michael A. West
Trustee Eric Fonstad
Trustee Douglas H. Frazer
Trustee Terry McGauran
Trustee Marty Tirado
Trustee Liz Sumner
Trustee Christine Symchych

Also present were Village Manager Scott Botcher, Assistant Village Manager Mike Pedersen, Director of Public Works Scott Brandmeier, Village Attorney Eric Larson and Village Clerk/Treasurer Kelly Meyer

Notice of the meeting was provided to the North Shore Now and to all others as required by State open meetings laws and posted on the official bulletin boards.

Persons Desiring To Be Heard

Louise Petering, 7229 N Santa Monica

Ms. Petering noted concerns on the potential discontinuation of the adult swims at the Village of Fox Point Pool, asking it continue with at least a one hour swim and dissatisfaction of village minutes' non-reflection of elected officials' essence of concerns and thoughts on agenda items.

Hearing no other matters, President West closed public comment.

Consent Agenda

President West opened public comment on consent agenda items; hearing none, Public comment was closed on consent agenda items.

- b. Approve the Minutes of the November 23, 2015 Special Village Board Budget Public Hearing Meeting, as presented.
- c. Adopt the Resolution approving the 2016 North Shore Fire Department fees for service schedule per the Village Manager's memo dated November 19, 2015.
- d. Accept the proposal of Wachtel Tree Science in the amount of \$35,000 for the 2016 Forestry Services and authorize the Village President and Village Clerk to sign the contract per the Director of Public Works' memorandum dated November 24, 2015.
- e. Accept the proposal of Wachtel Tree Science in an amount not to exceed \$15,000 for the administration of the 2016 Emerald Ash Borer initiative and authorize the Village President and Village Clerk to sign the contract per the Director of Public Works' memorandum dated November 24, 2015.
- f. Accept the proposal of Kapur & Associates in an amount not to exceed \$9,736 for the design of the 2016 sanitary sewer and manhole rehabilitation project as well as two alternate bid items related to the lining of two separate storm sewers and authorize the Village President and Village Clerk to sign the contract per the Director of Public Works' memorandum dated November 24, 2015.
- g. Appoint Election Inspectors for the term of January 1, 2016 through December 31, 2017 per the Village Clerk's memo dated November 18, 2015.

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- h. Approve Amended "Class A" Retail Liquor License for The Fresh Market, Inc., d/b/a, The Fresh Market/Jenn Meech – agent / 8705 N Port Washington Road, to include the new officer President and CEO Richard A. Anicetti per Village Clerk/Treasurer's Memorandum dated November 20, 2015.
- i. Adopt Ordinance to Repeal and Recreate sections 116-2 and 116-4 of the Village of Fox Point Village Code related to Publication and Posting of Official Public Notices.
- j. Approve the Village's January 1, 2016 insurance renewals as recommended by the Village's Insurance Consultant, T.E. Brennan and the Withdrawal from the Local Government Property Insurance Fund per the Assistant Village Manager's Memorandum dated December 1, 2015.
- k. Approve Payment of the Bills in the amount of \$207,405.88 for the period November 1, 2015 through November 30, 2015 per the report submitted by the Village Manager.
- l. Approve proposed Fox Point-Bayside-Glendale-River Hills Amendment to Joint Library Agreement, as attached.

Trustee Fonstad requested removal of Item 3a, November 10, 2015 Village Board minutes from the consent agenda.

On motion of Trustee McGauran, seconded by Trustee Sumner, and carried unanimously, the Board approved the amended Consent Agenda.

Minutes of the November 10, 2015 Village Board Meeting-Item 3a

Trustee Fonstad asked that a grammatical change on page 4, line 2 from the word "copy" to the word "couple" be made to the Minutes of November 10, 2015. President West noted without objection minutes are to be amended to reflect "couple".

Trustee Frazer noted the November 10, 2015 Village Board minutes correctly reflect his absence at the meeting, due to his absence.

On motion of Trustee Fonstad, seconded by Trustee McGauran and carried unanimously, Village Board approved the minutes of the November 10, 2015 Village Board meeting, as amended.

Telecommunications Tower, 7200 North Santa Monica Boulevard, Proposed License Agreement and Related Easements

Village Attorney Eric Larson gave background on how the Village of Fox Point and PI Telecom Infrastructure T, LLC, arrived at this point, the legal framework, legal consequences of the agreement whether entered or not entered and terms of the agreement, including the easements and financial revenue estimates.

Village Attorney Eric Larson clarified the highpoints of the agreement, including the term, payments plus escalator, amounts paid by the co-locators, compliance with laws and emissions standards, installation terms, aesthetic requirements, landscaping, modifications, default terms, obligation of co-locators, insurance terms, indemnification, interference, security for removal, and removal of facilities and easements.

Director of Public Works Scott Brandmeier commented on the electrical and optic cabling that would be brought in by Santa Monica Boulevard and clarified the proposed pool location ingress and egress for the tower's access.

Derek McGrew, PI Telecom Infrastructure T, LLC, Representative, 103 Wilshire Court, Noblesville, Indiana

Mr. McGrew gave a brief presentation. The presentation included Fox Point photos taken with a depiction of a telecommunications tower, similar to the proposal in fall; various angles of the visual pictorials were shown.

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President West opened public comment.

Lynn Epstein 7109 N Longacre Road

Mrs. Epstein noted her absolute opposition to the tower. Mrs. Epstein's concerns are how this came about, notification to property owners, inability of residents to voice concerns on aesthetics, technology, the height of the tower in Fox Point, particular points of the license agreement and lack of information to village residents.

Village Attorney Eric Larson commented on proper notice, timing and distance was given. Attorney Larson noted more notice was given then required and mailed notice was given, but not required, as well as additional notice.

Steve Epstein, 7109 N Longacre Road

Mr. Epstein submitted for record a copy of a petition with signatures opposing the Telecommunications Tower. He commented on the residences he visited within 500 feet on Longacre and Lombardi and his concerns that not one of them knew of the Telecommunications Tower. Other concerns were the change in the character of the village, visibility of the tower, modifications in regard to the tower, impact on the community, village's due diligence on notifying residents, snow plowing the area, no expert appraiser or expert on technologist consulted, no legal second opinion and the potential noise issue.

Village Attorney Larson commented on all points on technical aspects and ordinances in regard to the lease, including the village's proper notice to residents.

Louis Petering 7229 N Santa Monica Boulevard

Ms. Petering noted her submission of her letter and photo in regard to the proposed cell tower at Village DPW and swimming pool parking lot into record, as well as the illustration from Brad Wentlandt of a Small Cell tower.

Ms. Petering read her letter as attached on her concerns regarding the minimal revenue for the cell tower, the intrusiveness, the negative legacy for the village, the character of the village, visibility of the tower, easement from Santa Monica Boulevard, lack of railroad information, potential medical issues, potential depreciation in property values, concerns of in-state versus out-of-state (Florida) court hearings if necessary, lack of a voice for the people and usurping of local zoning.

Village Attorney Larson addressed and clarified the technical points.

Steve Epstein, 7109 N Longacre Road

Mr. Epstein had an additional comment on the concern of lighting and noise.

President West, hearing no other comments, closed the public comment.

On motion of Trustee Sumner, seconded by Trustee Tirado the Village Board postponed indefinitely the License Agreement with PI Telecom Infrastructure T, LLC, for the construction and operation of a telecommunications tower and related facilities on Village Property and related Easements. Debate ensued.

Motion failed 2-5, (Nay - Trustee Fonstad, Trustee Frazer, Trustee McGauran, Trustee Symchych and President West).

On motion of Trustee Fonstad, seconded by Trustee Frazer the Village Board approved the draft PI Telecom Infrastructure T, LLC, for the construction and operation of a telecommunications tower and related facilities on Village Property and related easements as set forth in the agenda and authorize the Village President and Village Clerk to sign. Discussion followed.

Motion passed 5-2, (Nay-Trustee Sumner and Trustee Tirado).

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Village Attorney Eric Larson noted typically the Village would want to get the documents back with PI Telecom Infrastructure signatures and then the Village of Fox Point will sign.

Future Agenda Items - None

Announcements

Village President Michael A. West: Apologized to Ms. Singer for interrupting her.

Trustee Eric Fonstad: Noted he had the honor of representing the Village Board at Sergeant Amy Resnick's retirement; he commented it was well attended and had a grand time.

Trustee Terry McGauran: Commended Village Manager Botcher on the fine job he did leading the 2016 budget process.

Village Manager Scott Botcher: Passed out documents on the history of rate increase history by utility. He noted his appreciation for the work put into the agreement by Mr. Brandmeier and Village Attorney Eric Larson. Mr. Botcher commented on past fees being placed in ordinances, including the NSFD fees passed tonight. Going forward, he would prefer to do this by resolution on an annual bases, for ease, saving costs and saving time.

President West commented the cell tower was acted on, therefore, 6b will not be discussed tonight. Convening of closed session will be in regard to 6a only.

Closed Session

On motion of Trustee Sumner, seconded by Trustee Fonstad with all members voting aye, 7-0, the Board convened into Closed Session at 9:26 p.m., Pursuant to State Statutes Section 19.85(1)(g), 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 related to Denial of 2 Village of Fox Point charge backs by the State of Wisconsin Department of Revenue. Participating in this closed session will be the Village Board, Village Attorney, Village Manager, and Village Clerk/Treasurer.

Reconvene and Possible Action on Closed Session Items

On motion of Trustee Sumner, seconded by Trustee Symchych, and carried unanimously, to reconvene to open session at 9:36 p.m.

On motion of President West, Seconded by Trustee McGauran, and carried unanimously to direct the Village Attorney to commence an action to challenge the Department of Revenue's denial of the Village's request to charge back taxes in two matters, identified as DOR Case Numbers 15-1140 and 15-01137, as provided by the Department of Revenue letters dated November 13, 2015.

Adjourn

On motion of Trustee Frazer, seconded by Trustee Tirado, and carried unanimously, the Village Board adjourned at 9:37 p.m.

Respectfully submitted,

Kelly A. Meyer, WCMC
Village Clerk/Treasurer