

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING AND PUBLIC HEARING MINUTES
TUESDAY, JULY 11, 2017**

A meeting of the Fox Point Village Board was held on Tuesday, July 11, 2017 in Schwemer Hall, 7200 N. Santa Monica Boulevard. President Frazer called the meeting to order at 7:00 p.m. President Frazer asked the Village Clerk to take roll call; roll Call of the Village Board present included:

Village President Douglas H. Frazer
Trustee Eric Fonstad
Trustee Christine Symchych
Trustee Marty Tirado
Trustee Liz Sumner
Trustee Bill Kravit
Trustee Greg Ollman

President Frazer stated the Board has a quorum. Trustee Sumner arrived at 7:01 p.m. Trustee Kravit arrived at 7:03 p.m.

Also present are Village Attorney Eric Larson, Village Manager Scott Botcher, Assistant Village Manager Michael Pedersen, Public Works Director Scott Brandmeier, Police Chief Chris Freedy, Administrative Intern Mohammad Easa and Village Clerk 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 board at 7200 N Santa Monica Boulevard, as well as the village website at www.villageoffoxpoint.com, as per 2015 Wisconsin Act 79 and as described in Village Ordinance Chapter 116-2, 116-2(C).

Persons desiring to be heard

President Frazer opened Persons Desiring to be heard.

Erika Siegel, 7433 North Beach Court

Mrs. Siegel read her letter in opposition of the 2 donated trees planted on Beach Drive. Concerns were obscuring the view of the lake on Beach Court, devaluation of her property, village staff acting without the best interest of the residents, procedures for donations, and Village Clerk records request response letter with unjustifiable limitations. Mrs. Siegel asked the village consider removing the trees and the donation item be used towards trees in other village green space or the money returned. She asked for a review of policies and procedures of donations to the village and asked that the Village Board become involved with the matter. Mrs. Siegel noted a copy will be sent to all of the board members.

Jeff Siegel, 7433 North Beach Court

Present, but declined.

Scott Mullins, 7463 North Beach Court

Present, but declined.

Laura Mullins, 7463 North Beach Court

Mrs. Mullins read her letter dated July 11, 2017 representing both her husband and herself, in opposition of planting the 2 trees located to the east on Beach Court and any new trees or shrubs being planted along this public strip of land. This letter was provided and

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written to Scott Brandmeier and sent to village staff, Tree Commissioners and the Village Board, as attached to the minutes **[Exhibit 1]**. Mrs. Mullins concerns were the following: their home purchase due to the Lake Michigan view, property value's direct relation to the Lake Michigan view, happiness and enjoyment from viewing the lake daily. Mrs. Mullins quoted 745-10(f) (4), on the Residential Character of Beach Court neighborhood and 745-10(a), on adverse effects in regards to enjoyment. Mrs. Mullins asked the village to remove the 2 new trees from the public land/Beach Court neighborhood and do not permit any other trees to be planted in this public land strip. Mrs. Mullins indicated the Mullins' concern with review of the donation procedures, protocols and transparency.

Andrew Mullins, 7463 N Beach Court

Mr. Andrew Mullins, son of Scott and Laura Mullins, read his letter in memory of former Village Trustee/Village President Evan Schwemer. A copy of a photo (a plan for the Schwemer subdivision, which is now the Beach Court neighborhood with 8 homes) from Mr. Steve Tenley who lives at 7307 North Beach Court (former home of Evan Schwemer) has been provided. Mr. Mullins' concerns were the preservation of the original plan of Michigan Lake Views with all 8 parcels and homes strategically designed for the views in the Beach Court neighborhood. He asked the Village Board to remove the 2 recently planted trees placed in the public area.

Jeanne Safro, 7473 North Beach Drive (Not Present)

Mr. Andrew Mullins also read Jeanne Safro's, 7473 North Beach Drive letter (as attached to the July 12, 2017 Village Board minutes **[Exhibit 2]**) dated July 5, 2017 to the Village of Fox Point in regard to her opposition of the two recently donated and planted trees. Ms. Safro's concerns were obscuring, impeding and affecting the Lake Michigan views from her home.

Mary Kaufmann, 7443 North Beach Court (Not Present)

Mr. Andrew Mullins lastly read Ms. Kaufmann's letter (as attached to the minutes **[Exhibit 3]**), dated July 11, 2017 of opposition to the recently planted trees impeding the views of Lake Michigan. Her concerns were some of the following: process for donations and impeding the view of Lake Michigan.

Hearing no other comments, President Frazer closed public comment period.

Committee Reports

Plan Commission Report

President Frazer gave a brief report of the Plan Commission's review and consideration of the Conditional Use Permit for Bryson Reid Forever Classic, 333 W. Brown Deer Road at Audubon Court Shopping Center.

There were no questions or comments; therefore, hearing no comment, President Frazer closed comment period.

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Public Hearing for 2018 Community Development Block Grant (CDBG) program project list with Public Input

Village Manager Scott Botcher gave a brief report on the CDBG Program project list.

On motion by Trustee Kravit, seconded by Trustee Summer, and carried unanimously to open the public hearing at 7:26 p.m.

Hearing no public comments, President Frazer closed public comment period at 7:26 p.m.

On motion by Trustee Sumner, seconded by Trustee Ollman and carried unanimously to close public hearing at 7:26 p.m.

On motion by Trustee Fonstad, seconded by Trustee Kravit, and carried unanimously to authorize the Director of Public Works to submit the appropriate application and materials to Milwaukee County for the 2018 Community Development Block (CDBG) program project list for reimbursement of the lease expenses for the LX Club for the 2018 fiscal year for the minimum amount of \$6,000.

Consent Agenda

- a. Approve the Minutes of the June 13, 2017 Village Board Meeting and Public Hearing [removed from Consent Agenda].
- b. Grant a Conditional Use Permit to Bryson Reid Forever Classic, 333 W Brown Deer Road (Audubon Court Shopping Center) and authorize the Village President and Village Clerk/Treasurer to sign the Conditional Use Order.
- c. Accept the proposal of Mid-state Equipment in the amount of \$14,737.00 for one (1) each SCAG Model#STTII-61V-31 Commercial Mower and attachment.
- d. Accept the proposal of Proven Power, Inc., in the amount of \$26,406.12 for one (1) each John Deere Model # X758 Utility Tractor and attachments.
- e. Accept the bid of Compass Minerals in the amount of \$58.59 per ton for sodium chloride per the Director of Public Works' memorandum dated July 6, 2017.
- f. Accept the proposal of Munson, Inc. in the amount of \$13,978 for the removal and repaving of two failed pavement areas on Quarles Place and authorize the Village Manager to sign the proposal per the Director of Public Works' memorandum dated July 6, 2017.
- g. Adopt Notice of Public Records Accessibility to be prominently displayed and made available to the public for inspection and copying at the Village of Fox Point for guidance per the Village Clerk memorandum dated, June 29, 2017.

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- h. Approve Payment of the Bills in the amount of \$378,367.94 for the period June 1, 2017 through June 31, 2017 per the report submitted by the Village Manager.

Trustee Fonstad requested item 5a be removed from the consent agenda.

On motion of Trustee Ollman, seconded by Trustee Sumner, and carried unanimously, the Village Board approved the consent agenda, as amended.

Village Board Room Improvements

Village Manager Scott Botcher gave background on the Village Board Room Improvements.

Village Board discussed the Village Board Room Improvements.

Bob Cory, 7740 North Santa Monica Blvd.

Mr. Cory noted his opposition to improvements to the Village Board room.

Jim LaCharite, 8049 North Santa Monica Blvd.

Mr. LaCharite agreed to Mr. Cory's opposition.

Administrative Intern Mohammad Easa introduced himself, gave a brief report on the Village Board Room Improvements, and answered questions.

Elizabeth Aelion, 210 W Bergen Court

Ms. Aelion commented on her opposition to the village board room improvements.

Bob Cory, 7740 North Santa Monica Blvd

Mr. Cory stated the Board should move forward and make progress with other important village business and discontinue discussion on the village board room improvements.

Laura Mullins, 7463 North Beach Court

Mrs. Mullins commented she was in support of new chairs.

Erika Siegel, 7433 North Beach Court

Mrs. Siegel noted her supported capital improvements and maintain the growth.

*Motion **[Main Motion]** of Trustee Tirado, to authorize village staff to spend up to a maximum of \$31,000 for village hall board room improvements. Seconded by Trustee Sumner.*

Attorney Larson clarified his interpretation of the motion **[Main Motion]** to be and for the record, to delegate the authority to make the decisions to the village manager, in lieu of village staff. Mover Trustee Tirado did clarify that was his intent.

*President Frazer restated the Trustee Tirado's motion **[Main Motion]** for clarification to authorize the Village Manager to spend up to a maximum of \$31,000 for the village hall board room improvements.*

Village Manager Scott Botcher asked the Village Board for more direction and clarity.

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A straw poll by show of hands was taken in favor of spending money on village board room improvements, 5-2, majority.

Motion to Amend [Amend #1] of Trustee Symchych, to the original motion [Main Motion] to include option number 1 on the chairs and otherwise following the recommendations in the memo dated July 3, 2017. Trustee Sumner seconded.

Trustee Symchych clarified the motion to amend **[Amend #1]** to include specificity to option 1 on the chairs and otherwise accepting the recommendations included in the memo for both the AV and the walls.

Motion to Amend [Amend #2] of Trustee Kravit to take the basic elements of the amendment separately, giving the Village Manager more clear direction, deciding separately on the chairs, the walls and the audio visual. Trustee Ollman seconded.

Discussion on the Kravit motion to amend **[Amend #2]** followed.

Vote was taken on the Kravit motion to amend [Amend #2], and the motion failed, 2-4 (Opposed-Trustee Sumner, Trustee Symchych, Trustee Tirado, and President Frazer), 1 abstained (Trustee Fonstad)

Vote was taken on the Symchych motion to amend [Amend #1]. Motion passed 4-2 (Opposed-Trustee Ollman and Trustee Kravit), with 1 abstaining (Trustee Fonstad).

Amended motion [Main Motion as amended by Amendment #1], to authorize the Village Manager to spend up to a maximum of \$31,000 for Village Hall improvements, to include option number 1 on the chairs and otherwise following the recommendations in the memo dated July 3, 2017, passed, 4-2 (abstaining-Trustee Fonstad).

Minutes of the June 13, 2017 Village Board Meeting and Public Hearing Consent Agenda (5a)

On motion of Trustee Fonstad to approve the Village Board minutes of June 13, 2017 with the amendments as marked in the recent handout tonight.

On motion of Trustee Symchych that the Village Board minutes of June 13, 2017 be presented at the August Village Board meeting, in a document typed out, with tracked changes and ample time for review and discussion. Trustee Kravit seconded. Motion carried.

Resolution Awarding the Sale of \$1,250,000 General Obligation Promissory Notes, Series 2017

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An updated resolution awarding the sale of \$1,200,000 General Obligation Promissory Notes Series 2017 and a packet of information from the sale this morning was distributed prior to the meeting. Moody's assigned AA1 rating to the Village of Fox Point, the second highest rating that Moody's assigns.

Robert W. Baird & Company, Managing Director and Financial Advisor for Fox Point, Brad Viegut was introduced to give a presentation on the final pricing summary that was held this morning with very good results; the low bid was less than two percent (1.96% from UMB Bank).

On motion of Trustee Fonstad, seconded by Trustee Ollman, and carried unanimously, the Village Board adopted the Resolution awarding the sale of \$1,200,000 General Obligation Promissory Notes, Series 2017 as set forth in the materials distributed in front of us.

Resolution Appointing Associated Trust Company, National Association as Paying Agent for Certain Obligations Issued by the Village of Fox Point, Wisconsin

Village Manager Scott Botcher and Robert W. Baird & Company Brad Viegut gave a brief background.

On motion of Trustee Fonstad, seconded by Trustee Symchych, and carried unanimously, the Village Board adopted the Resolution appointing Associated Trust Company, National Association as paying agent for certain obligations issued by the Village of Fox Point, Wisconsin, as set forth in the resolution distributed in the agenda packet.

North Shore Library Building Program Report and Presentation

North Shore Library Board President Kurt Glaisner (Village of River Hills Village Trustee) and North Shore Library Director Ms. Susan Draeger-Anderson gave report on the North Shore Library Building Program – a potential feasibility study, the current condition and the goals to remodel and modernize the Library to give quality services to the North Shore Library patrons.

Elizabeth Aelion, 210 W Bergen Ct

Ms. Aelion noted her disappointment in the current condition of the North Shore Library and commented the library shows the communities' values.

President Frazer recognized Former Trustee Beverly Bell, who is also presently on the North Shore Library Board representing Village of Fox Point, for her hard work.

No action was taken.

League of Wisconsin Municipalities Mutual Insurance Presentation

The League of Wisconsin Municipalities Mutual Insurance Chief Executive Officer Mr. Dennis Tweedale from Madison, WI gave an insurance presentation on "In the Scope of Your

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Authority", preventing public officials' liability. A League DVD presentation was shown to the Village Board and staff present. Mr. Tweedale's presentation included plaintiff attorney fees in Federal cases, 1st Amendment Rights, Conditional Use Permits, Punitive Damages, Hire/Fire Issues and Big Box Development.

Future Agenda Items

On motion of Trustee Sumner, seconded by Trustee Ollman that the Board discusses the Village's method of handling donations. Motion passed 6-1

On motion of Trustee Kravit, seconded by Trustee Sumner to find out what the logic was for planting the 2 trees at issue opposite beach court, logic of future plantings and what role the board will have in the future with situations as this. Motion failed, 3-4.

Announcements

Village President Frazer thanked and commended Village Clerk/Treasurer Kelly Meyer for her work on the June 13, 2017 Village Board meeting minutes; Mohammad Easa and Michael Pedersen were commended for the work and presentation on the village board room improvements presentation; the Police Department and the Fire and Rescue, were commended for their participation in and for a wonderful Fourth of July Celebration. President Frazer expressed gratitude to the Trustees who were present at the Fourth of July Celebration.

Village Manager Scott Botcher commented on his two year anniversary. Mr. Botcher stated Our Utility Rate Consultant John Mayer has retired and moved to Florida; therefore, he met with a couple of potential rate consultants, including Baker Tilly. Storm water especially should have a new rate study, which may come in August to identify the party who will do the rate work. Capital Plan will be in August. Mr. Botcher noted the salt bid approved tonight was about a dollar and a half less a ton than it was in December.

Adjourn

On motion of Trustee Kravit, seconded by Trustee Sumner and carried unanimously, the Village Board adjourned the Village Board meeting at 9:50 p.m.

Respectfully submitted,


Kelly A. Meyer
Village Clerk/Treasurer

Laura and Scott Mullins
7463 North Beach Court
Fox Point, WI 53217
414-405-1805

July 11, 2017

Scott Brandmeier
Director of Public Works
Village of Fox Point
7200 North Santa Monica Blvd.
Fox Point, WI 53217

Dear Scott,

We are providing a written statement expressing that we are opposed to the new trees planted on the public grounds located to the east of Beach Court in Fox Point. We are also opposed to any new trees or shrubs planted along this public strip of land. The reasons for our opposition are as follows:

First we bought our property because of the view of Lake Michigan from our home. Second, our property value is directly related to the view of Lake Michigan. Finally, much happiness and enjoyment comes from seeing the lake.

We love trees ... 99% of the time. This is one example where trees are not needed to enhance the beauty of the natural environment. The public grounds starting at the south property boundary of 7415 North Beach Drive and stretching north to the northern property boundary of 7473 North Beach Drive should be free of any new tree or shrub plantings. This is in keeping with the unique residential character (see Fox Point Village Code 745.10.F.4.) of the Beach Court neighborhood consisting of eight homes. The unique character of the Beach Court neighborhood consists of eight midcentury modern architecture homes all built in the 1950s by the same builder. Each home is strategically angled on its lot to have optimal viewing of Lake Michigan. This neighborhood of eight homes is not just unique for Fox Point, but unique to the entire western shoreline of Lake Michigan. Where else can you find a court of homes at lake level with the ability to enjoy the grandeur and beauty of Lake Michigan? It is a gem that should be carefully managed by its property owners and the local government.

We encourage you to contact landscape architect and designer John Mariani, Principal at LandServe - Landscapes for Life. He is an expert in landscaping that complements architecture. He will confirm how rare the Beach Court neighborhood is and how less trees in this specific neighborhood is ideal for its yards and public shoreline. John can be reached

at 262-661-3606.

Regarding the property value, we encourage you to talk to Essam Elfasy with Shorewest Realtors. Essam is a top five realtor on Milwaukee's North Shore. He will confirm that property values in the Beach Court neighborhood are directly related to views of Lake Michigan from the homes. Essam can be reached at 414-350-4611. The two new trees negatively impact our property value.

Moving on to our overall enjoyment of the property, one ritual I (Laura) love is walking out to the shore every morning with my coffee. I have a deep soul connection to the lake, the waves, the gigantic sky, and the sunshine. This morning ritual is heaven on earth for me and it gives me great peace and tranquility at the start my day. However, since the planting of the two trees my enjoyment of this ritual has reduced significantly.

Overall, we believe the two new trees are in violation of Village Code 745-10. Reading through it, one notices it is concerned with a public "nuisance" (745-10. A.). The two new trees are a public nuisance. The trees annoy us and injure our repose of the property. Also, the two new trees have a "substantial adverse effect on the surrounding property values" (745-10. A.). 745-10.A. is also concerned with adverse effects regarding "enjoyment". Our daily enjoyment has decreased since the two trees were planted. Finally, this same 745-10 Code also relies on "sensible regulation" of the public "grounds which are predominantly used for leisure-time activities of a predominantly outdoor nature". We are counting on the local government to sensibly regulate this public strip of land by appreciating the unique neighborhood character, the unique setting, the views of Lake Michigan as a priority of the property owners, and understanding that these views of Lake Michigan are directly related to property values.

Please remove the two new trees from the public strip of land in front of the Beach Court neighborhood and do not allow new trees or shrubs to be planted on the strip.

Another reason our opposition to the two new trees is the continuing dispute we are having with our neighbor directly to the east at 7471 North Beach Court. We want you to know it all started out with a heart to help an older woman that lived alone. We were trying to be neighborly and kind. We've made several attempts to make amends. We want peace and harmony. However, she has planted more than 21 new trees since May 19, 2017. These trees are intentionally blocking our view of Lake Michigan. We are deeply distressed with the situation. When you confirmed at our June 21, 2017 meeting that this neighbor was the anonymous donor of the two public trees, it just compounded our sadness and trauma. Our hearts are broken and given this very depressing situation we are asking the Village to use its common sense, courtesy, and understanding of the complete story in its decision to remove the trees. I (Laura) shared with you how this is our dream home. We have worked for 25 years and have made significant sacrifices to be able to afford our Fox Point home.

These recent tree events are beginning to erode our dreams. We are counting on you to help our neighborhood be at its very best.

Next, we must also share that we found the process of working with the Village government thus far, from seeing the tree stakes in the ground on April 26, 2017 and immediately communicating our opposition to the trees, to where we are today, very disappointing. We felt that the process was not transparent or democratic. Two leaders saying, "The Village can do whatever it wants to do", is not the government-by-the-people-for-the people kind of process we expected to encounter. Being told by Village Manager Scott Botcher that the trees were on hold until the fall and assuring us we would be kept in the communication loop, yet then waking up on June 19th and to our horror, witnessing heavy machinery planting two view blocking trees. We were distraught.

Also, it seems that proper protocol was not followed for this tree donation. I (Laura) downloaded all the Village Board meeting agendas and minutes, the weekly administrative minutes, and the Tree Commission agendas and minutes going back one year. This research certainly gives us great appreciation for all you do for Fox Point. However, after reading all these documents I did not find any mention of the tree donations. I found this surprising because small details were noted in the administrative reports and other grants were carefully noted. For example the \$8,300 grant from the Bay-Lakes Regional Planning Commission was mentioned several times in multiple group agendas, minutes, and reports. Another example is the anonymous donation made to the Fox Point Federated Garden Club for it's Little Library, bench, and garden near Bell Road. This landscaping proposal and plan was documented for the Village Board. Another point of interest I learned is that in 2015 the Tree Commission recommended that any tree, shrub, flower, or monetary donations go to the Garden Club or the Fox Point Foundation for proper handling. Unfortunately I found zero notes or documentation on the two trees donated for the public area in front of Beach Court. Not in any agendas, minutes, or reports. I was surprised. This made us question the proper procedures and protocols of the Village. I wondered if there are ethical implications because of the lack of communication with homeowners and I questioned the overall transparency of the process. Village leadership had knowledge of the neighborhood dispute since May 2017 yet still went ahead and planted the trees. We are surprised and disappointed that the Village either failed to realize or chose to ignore the fact that the two public trees are "spite trees".

We are grateful for your letter dated June 20, 2017 apologizing for the miscommunication. However, with all our oppositions to the trees listed above, the neighborhood dispute, and the lack of a democratic and transparent process, the trees must be removed. A removal date of July 18, 2017 or earlier would be greatly appreciated..

Thank you for all you do for the Village of Fox Point. Please let us know if you need any other information.

Sincerely,

Laura and Scott Mullins

cc: Scott Botcher, Village Manager
Doug Frazer, Village Board President
Eric Fronstad, Village Trustee
Christine Symchych, Village Trustee
Liz Sumner, Village Trustee
Marty, Tirado, Village Trustee
Bill Kravit, Village Trustee
Greg Ollman, Village Trustee
Louise Petering – Tree Commission
Judy Shirley - Tree Commission
Nancy Warner - Tree Commission
Karen Grube - Tree Commission

July 5, 2017

[Exhibit 2]

To The Village of Fox Point:

Please be advised that as the owner of the property at 7473 N. Beach Drive, I am opposed to any plantings that may obscure, impede, or affect the views of the lake from my home.

It has come to my attention that a neighbor "donated" the trees that were just recently planted in front of the lake. It seems incomprehensible to me that one neighbor in our neighborhood would have the ability/power to change the public landscape for all the other homeowners that see the same view. It is only common sense that people who buy property with lake views do so because of the lake view, not because of trees.

If this would be allowed to happen, what would stop the same person, or another, from "donating" scores of trees to be planted where they want them? What would be next? Big bushes? Evergreens? Where is the line drawn? That area does not need beautification...it is already stunning.

I respectfully ask the Village to remove the "donated" trees that were recently planted. Obviously, the person who suggested that they be planted in front of the lake does not care about their view. However, I do, as do many of the other homeowners.

Thank you for your consideration in resolving this troubling precedent.

Very sincerely,


Jeanne Safro
7473 N. Beach Drive
Fox Point
262-893-8673

Kelly Meyer

From: Laura Mullins <lauramullins718@gmail.com>
Sent: Tuesday, July 11, 2017 4:10 PM
To: Kelly Meyer
Subject: Fwd: Trees Planting

Follow Up Flag: Follow up
Flag Status: Completed

Hello again - Please forward this as well to the same twelve:

Scott Botcher, Village Manager

Doug Frazer, Village Board President

Eric Fronstad, Village Trustee

Christine Symchych, Village Trustee

Liz Sumner, Village Trustee

Marty, Tirado, Village Trustee

Bill Kravit, Village Trustee

Greg Ollman, Village Trustee

Louise Petering – Tree Commission

Judy Shirley - Tree Commission

Nancy Warner - Tree Commission

Karen Grube - Tree Commission

Begin forwarded message:

From: Mary Kaufmann <mkaufmann@studioray.com>
Subject: Trees Planting
Date: July 11, 2017 at 4:05:31 PM CDT
To: "lauramullins718@gmail.com" <lauramullins718@gmail.com>

To The Village Of Fox Point Board

We live at 7443 N Beach Court and writing in regards to the tree planting impeding views.

We purchased this property for the lake view and find it very disappointing for the village to take it upon themselves to plant the trees in the midst of a known controversy. We are strongly opposed to the trees. The Village employees knew most of the residences were opposed to the planting of the trees as well and went ahead and planted without regard to our concerns.

The Village employees are paid from our taxes and the Board is elected to represent us. Why was a process not in place for discuss and debate? What is the procedure of taking anonymous donation – do you accept anything? This is quite concerning as there needs to be a process in place to evaluate these donation as to ensure they are in according to the culture of Fox Point - not one resident. If a democratic process took place and all voice were heard we could

understand the results. Unfortunately a few people took it in their own hands to disregard the people most effected.

All the best,

Mary Kaufmann
mkaufmann@studioray.com
414-232-3324