

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING
TUESDAY, OCTOBER 10, 2017**

A meeting of the Fox Point Village Board was held on Tuesday, October 10, 2017 in Conference Room, 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. The Village Board present included:

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

Absent-Trustee Christine Symchych

Also present were Village Manager Scott Botcher, Assistant Village Manager Michael Pedersen, Public Works Director Scott Brandmeier, 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

Shirani Matugama, 8307 N. Greenvale Road

Ms. Matugama objected to any development of the 8311 North Greenvale Road substandard and non-conforming lot. Ms. Matugama's concerns are the lot will negatively impact the health, safety and well-being of members of the community, as well as cause property damage and depreciate the surrounding property values. Ms. Matugama requests that the village not permit any development and resolve the situation swiftly **[Exhibit 1-submitted letters and 4 photos]**.

Jim Marks, 8310 North Poplar Drive

Mr. Marks' property abuts the vacant lot at 8311 North Greenvale Road. His concern was potential development on the lot located at 8311 North Greenvale Road. Development would impact the outlying lots by narrowing the water flow. Mr. Marks asked the Village Board to consider all of the effects and keep the residents informed.

Donald Polacheck, 8326 North Poplar Drive

Mr. Polacheck's concerns were the natural water flow he observed for 63 years from his home on Poplar Drive; water flow normally runs through the vacant lot at 8311 North Greenvale Road. He commented that it would be a mistake to change the water flow pattern with development.

Myra Van Uxem, 8325 North Greenvale Road

Ms. Van Uxem has lived at 8325 North Greenvale Road for 43 years this fall. She noted her concern was for any new property lot owner who has purchased the lot at 8311 North Greenvale Road being unaware of the lot's history. Ms. Van Uxem stated she is opposed to any development on this property.

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Without objection, President Frazer suspended the rules to permit Director of Public Works Scott Brandmeier to clarify and give a brief update on the North Greenvale Road lot.

Hearing no other comments, public comment was closed by President Frazer.

Committee Reports – Plan Commission

President Frazer gave a brief report regarding the Plan Commission's review and recommendation of Certified Survey Map which includes a proposed land combination of two parcels submitted by applicants Elizabeth and David Sadoff, located at 7855 North Club Circle. President Frazer noted standard conditions were established and accepted by the applicant.

President Frazer also gave a brief report concerning the Plan Commission's consideration and recommendation of the Conditional Use Permit for Elvia's Arte, 333 W. Brown Deer Road, Suite N to open an art gallery.

Applicant Elvia's Arte Elvia Savage, 6953 North Barnett Lane was present to provide information and answer questions.

Hearing no public comment, President Frazer closed public comment and moved to the Consent Agenda.

Consent Agenda

- a. Approve the minutes of the September 12, 2017 Village Board meeting.
- b. Approve the minutes of the October 4, 2017 Special Village Board meeting.
- c. Adopt the Preliminary Resolution Declaring Intent to Levy Special Assessment Under Municipal Police Power Pursuant to Sec. 66.0703, Stats. for sanitary sewer lateral improvements made in Sanitary Sewer Basin Nos. 2, 6 and 8.
- d. Accept Change Order No. 1 from Wachtel Tree Science in the amount of \$5,000 for additional general forestry activities and authorize the Village President and Village Clerk/Treasurer to sign the change order per the Director of Public Works' memorandum dated October 4, 2017.
- e. Accept Change Order No. 1 from Wachtel Tree Science in the amount of \$6,000 for additional Emerald Ash Borer (EAB) Initiative activities and authorize the Village President and Village Clerk/Treasurer to sign the change order per the Director of Public Works' memorandum dated October 4, 2017.
- f. Accept the quote of Voss' Treemendous Tree Service in an amount not to exceed \$35,000 for the removal of the ash trees and treatment of stumps in the Village in accordance with the EAB Initiative Tree Removal Program and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Village Forester's memorandum dated October 3, 2017.

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- g. Grant a Conditional Use Permit to Elvia's Arte, 333 W Brown Deer Road (Audubon Court Shopping Center) Suite N and authorize the Village President and Village Clerk/Treasurer to sign the Conditional Use Order.
- h. Approve the Land Combination and Certified Survey Map submitted by applicant Elizabeth and David Sadoff for the property located at 7855 North Club Circle, upon all terms and conditions recommended by the Village Plan Commission.
- i. Discussion and action regarding Resolution of Commendation and Appreciation for former Fox Point Audit Committee member Terry D. Rindt.
- j. Discussion and action regarding Resolution of Commendation and Appreciation for former Fox Point Board of Appeals Chairman Jonathan Margolies.
- k. Discussion and action regarding Resolution of Commendation and Appreciation for former Fox Point Board of Appeals member Robert Schley.
- l. Discussion and action regarding Resolution of Commendation and Appreciation for former Fox Point Building Board member Gerald Hussin.
- m. Discussion and action regarding Resolution of Commendation and Appreciation for former Fox Point Ethics Board member Mark Ratke.
- n. Discussion and action regarding Resolution of Commendation and Appreciation for former Fox Point Water/Sewer Utility Committee member John Mayer.
- o. Discussion and action regarding Resolution of Commendation and Appreciation for former Fox Point Water/Sewer Utility Committee Saeed Karshenas.
- p. Discussion and action regarding Resolution of Commendation and Appreciation for former Fox Point Water/Sewer Utility Committee member John Delwiche.
- q. Confirm President Frazer's appointment of Bruce Weiss, M.D. to fill vacancy of Bill Warner as the village representative to the North Shore Health Department.
- r. Approve Payment of the Bills in the amount of \$804,684.82 for the period September 1, 2017 through September 30, 2017 per the report submitted by the Village Manager.

Trustee Fonstad requested agenda item 4g be removed from the consent agenda. Trustee Sumner requested agenda item 4d be withdrawn from the consent agenda.

On motion of President Frazer, seconded by Trustee Fonstad and carried unanimously, the Village Board approved the consent agenda, as noticed and as amended with the removal of items 4d and 4g.

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Accept Change Order No. 1 from Wachtel Tree Science in the amount of \$5,000 for additional general forestry activities (4d)

On motion of Trustee Sumner, seconded by Trustee Ollman, and carried unanimously, the Village Board accepted Change No. 1 from Wachtel Tree Science in the amount of \$5,000 for additional general forestry activities and authorized the Village President and Village Clerk/Treasurer to sign the change order per Director of Public Works' memorandum dated October 4, 2017.

Grant a Conditional Use Permit to Elvia's Arte, 333 W Brown Deer Road (Audubon Court Shopping Center) Suite N (4g)

On motion of Trustee Fonstad, seconded by President Frazer, and carried unanimously, the Village Board grant the Conditional Use Permit to Elvia's Arte 333 W Brown Deer Road with the Conditional Use Order amended to state, upon prior approval, any modifications to the days and hours be submitted to the Village Manager for approval.

Resolution of Condolence and Appreciation of Former Trustee Bill Warner

President Frazer and Village Trustees offered their condolences and said a few words in commemoration of former Trustee Bill Warner who passed away on September 15, 2017.

On motion of President Frazer, seconded by Trustee Fonstad, and carried unanimously, the Village Board adopted the Resolution of Condolence and Appreciation of Former Trustee Bill Warner.

Future Agenda Items

On motion of Trustee Sumner, seconded by President Frazer, and carried unanimously, the Village Board on an upcoming agenda will revisit, discuss and possibly act on potential Fox Point Village Board compensation.

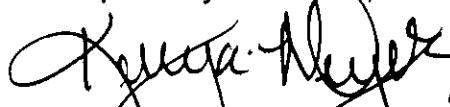
Announcements

Village Manager Scott Botcher announced the Fox Point Village Board compensation can be discussed at the upcoming 2018 Village Budget Workshop meeting.

Adjourn

On motion of President Frazer, seconded by Trustee Kravit and carried unanimously, the Village Board adjourned the Village Board meeting at 7:36 p.m.

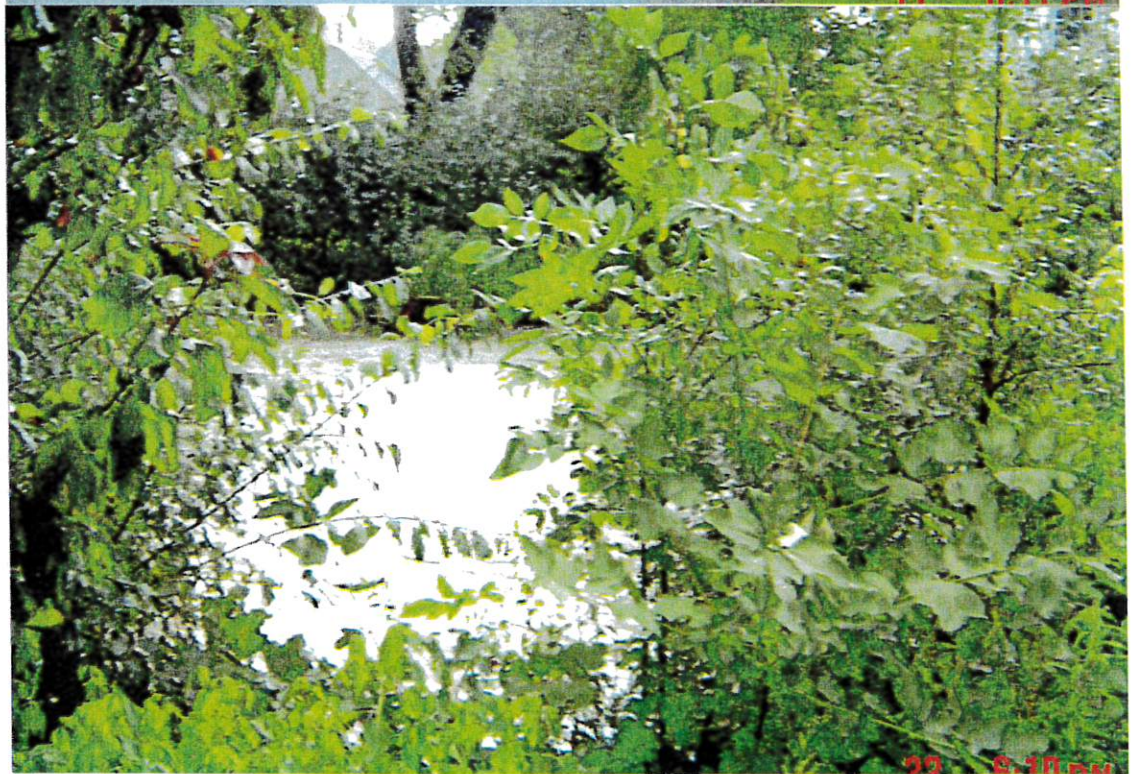
Respectfully submitted,



Kelly A. Meyer
Village Clerk/Treasurer

EXHIBIT #1





8307 North Greenvale Road
Fox Point, WI 53217

October 6, 2017

Mr. Scott Brandmeier
Director of Public Works and Village Engineer
Village of Fox Point
7200 North Santa Monica Drive
Fox Point, WI 53217

Dear Mr. Brandmeier:

We received your letter dated September 18, 2017 addressed to the property owners within 500 feet of the 8311 North Greenvale Road (which may also have as its address 8321 North Greenvale) lot, regarding the fill order to construct a structure on the property.

As you know, our home is adjacent to that property. We strongly object to a structure being built on the subject lot. As you may recall, we met with you on February 25, 2016 and discussed our concerns. Our letter dated February 25, 2016 is attached for your immediate reference. As stated in that letter, to remove two existing homes and build another one (where none of the calculations used in the construction of the detention pond in 2003), will only negatively affect our health, safety and wellbeing along with other affected neighbors. It will also depreciate the value of our home, having lived in it for over 33 years.

The engineering firm hired by the Village when the pond was constructed in 2003, states:

"The recent storm water improvements, as built, will *just* prevent storm water from entering the homes at 8303 and 8307 N. Greenvale during the design storm event. This means any minor modification in storm water conveyance capacity generates an increase in the water surface elevation. This may allow storm water to reach and potentially enter these homes."

For some reason, even if the proposed grading plan submitted may meet the Village code for that particular lot, we request the Village to hire an outside engineering firm to provide a comprehensive study to look at **storm water management in the broader area** so that the Village can assure us that we and the surrounding neighbors will not be negatively impacted by the proposed development.

The lot in question has been for decades, a natural drainage course for storm water runoff. The detention pond currently stores and holds storm water in the surrounding area as well as water channeled from EAST OF LAKE DRIVE, which the residents were not aware of during the construction of the detention pond. The Village Code Chapter 272 addresses for Solid Fill and Grades. It states, a **"fill permit may be denied if it is determined that the fill presents an unnecessary or unreasonable risk of**

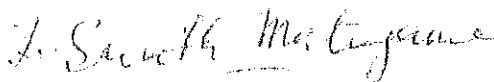
harm, particularly as to drainage and storm water runoff to other properties in the area." We definitely feel that our home will be negatively impacted due to conditions of unnecessary and unreasonable risk of harm, as stated in the Village Code.

The storm drain which traverses the subject lot, overflows when we have significant ponding runoff during major rain events (not 100 year storm events!). Therefore, the changes that would include removing vegetation, excavation, filling and grading will have a definite negative affect on us as the subject lot is *minimally* below our house. This would also affect the surrounding residents.

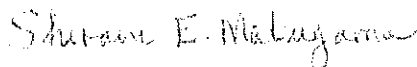
We respectfully request that you take into consideration all of our stated concerns over many years and take whatever steps to protect not only our wellbeing, but that of our neighbors as well, who have lived in their homes for many years and paid taxes, in the hopes that the Village will protect us, thereby not developing the subject lot.

Thank you.

Sincerely,



Sumith Matugama



Shirani Matugama

P.S. Enclosed are photos taken in 2008 during a rain event where the pond overflowed and the subject lot when it was up for sale.

8307 North Greenvale Road
Fox Point, WI 53217

February 25, 2016

Mr. Scott Brandmeier
Director of Public Works and Village Engineer
Village of Fox Point
7200 North Santa Monica Drive
Fox Point, WI 53217

Dear Mr. Brandmeier:

Thank you for meeting with us this morning, to discuss a grave and serious matter to us concerning the development of the vacant property adjoining our home at 8307 North Greenvale Road, Fox Point.

We have lived in our home in the Village of Fox Point for over 33 years. Over the years, we have experienced several situations relating to water issues at the intersection of Greenvale/Spooner Roads. These situations have inundated many homes filling their basements with water and in some cases sewerage. According to the best of our knowledge, the most severe water event occurred in 1997. After meeting with many residents and village officials, a Storm Water Task Force was created to study the problem, and a storm water detention pond was constructed and completed in 2003 to reduce and possibly eliminate the potential for inundation of the surrounding area. To accomplish this, the village removed two existing homes. None of the calculations used in the construction of the detention pond took into consideration a home being built on it to include the grading of that vacant lot. To remove two existing homes and build another in the same area does not make a sound decision to us or to the neighborhood. Thirty neighbors signed a letter dated October 2, 2015 by Michael Burton to the Village objecting to a house being built on the vacant lot. (See attached list of the 30 neighbors who signed the letter).

Even though the word "flooding" has been used in communications over the years, it is actually "ponding" that occurs each time, causing drainage issues surrounding the vacant lot. As you are aware, the detention pond currently stores and holds storm water in the surrounding area as well as water channeled from east of Lake Drive. This water is then channeled to the storm drain diagonally across the vacant lot into the Santa Monica Drainage Ditch. The vacant lot is part of the drainage area whenever ponding occurs and goes under water when the detention pond and the storm drain in the vacant property overflows. (See photos taken in 2008 after the detention pond was constructed).

While we appreciate the Village constructing the detention pond, which has helped the neighborhood, it does fall short of keeping the vacant lot from being inundated with water. This happens way less than during a 100-year rainfall. When this happens, it is a frightening experience for us and the surrounding neighbors. We, including our neighbors consider the lot as a natural drainage course.

While we have no issues with a non-conforming lot being deemed "buildable" by the Village attorneys, especially if it's on dry land and not having drainage issues, we and our neighbors consider the lot in question to be a natural drainage course which should definitely not be built on.

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The construction of a house on this lot, which is minimally below our home will raise the grade which will cause a situation of displacing water and directing it to our property and to some of our other neighbors during a storm event when ponding occurs. This will not only negatively affect our health, safety and well being, but also that of the other affected neighbors. It will also cause the value of our home, having lived in it for over 33 years and having repaired and made many updates, to be adversely affected, causing us severe hardship.

The scenario of a house being built has been addressed by Earth Tech, the engineering firm hired by the Village, designed the detention pond and other remediation features. A letter dated January 30, 2004 addressed to the former Village Manager from Earth Tech states:

"The recent storm water improvements, as built, will just prevent storm water from entering the homes at 8303 and 8307 N. Greenvale during the design storm event. This means any minor modification in storm water conveyance capacity generates an increase in the water surface elevation. This may allow storm water to reach and potentially enter these homes"

We therefore, respectfully request that you not approve the construction of a house on this lot and resolve this situation so that we and our immediate neighbors will not be severely impacted.

Thank you.

Sincerely,

D. Sumith Matugama

Shirani E. Matugama