

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING
TUESDAY, NOVEMBER 14, 2017**

A meeting of the Fox Point Village Board was held on Tuesday, November 14, 2017 in Schwemmer 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. The Village Board present included:

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

Also present were Village Attorney Eric Larson, Village Manager Scott Botcher, Police Chief Chris Freedy, Assistant Village Manager Michael Pedersen, Public Works Director Scott Brandmeier, Accountant/Finance Manager Mary Carthell, 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

Edith Pump, 124 West Bradley Rd

Ms. Pump's expressed concern about the overgrowth of buckthorn on neighboring property to the east and now the neighbor to the west. The neighbor to the east has an extremely large buckthorn tree.

Marcia Taxman, 1015 East Churchill Lane

Ms. Taxman stated her support in the establishment of an environmental committee for the Village of Fox Point. Ms. Taxman encouraged the Village Board to establish the environmental committee.

Andrew Elmer, 101 East Bradley Road

Mr. Elmer stated his concern for excessive speeding near his home on Bradley Road and the child safety issues this causes. Mr. Elmer requested the Village Board consider either speed bumps or speed display signage to slow traffic.

Terry Rindt, 8316 North Indian Creek Parkway

Mr. Rindt stated his opposition to providing a stipend/compensation for the Village Board of Trustees.

Gary Hollander, 6807 North Lake Drive

Dr. Hollander stated the communications from the contractor hired to do the recent water main work on North Lake Drive left a lot to be desired, including the two month delay. He

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acknowledged the village staff was informative, responsive, and helpful throughout the water main work.

Dr. Hollander also acknowledged the work put into the Pool Committee report; there were many excellent considerations. The largest challenge to advancing any decision regarding the municipal pool is not in the study and cannot be addressed by the Pool Committee. Therefore a better and more updated comprehensive plan for the village is necessary and would help determine where a pool fits into the community.

Dr. Hollander addressed concerns with the Developer's Agreement for the former Dunwood School Property in regard to the senior care facility, specifically the developer's stated intention to place a for-profit facility thereby discouraging the identification of a suitable nonprofit facility.

Karen Schapiro, 6405 North Berkeley Boulevard

Ms. Schapiro stated her support for the formation of a Fox Point committee on the environment and asked the Village Board to consider creating such a committee.

Keith Lindenbaum, 1401 East Goodrich Court

Mr. Lindenbaum stated his support of a citizen committee on the environment as this will only increase the beauty of Fox Point.

Mr. Lindenbaum stated his support for a stipend for Village Board Trustees and President as they are asked to work on the residents' behalf.

Gisela Chelimsky, 7950 North Lake Drive

Dr. Chelimsky supports the creation of a Fox Point environmental committee. Dr. Chelimsky asked for the Village Board's support for such a committee.

Lucy Saunders, 8700 North Point Drive

Ms. Saunders' concern was the excessive speed of vehicles passing by her property. She suggested the necessity for additional speed monitoring and signage.

Ms. Saunders also noted her support for a committee on the environment.

Jane Klein, 7231 North Barnett Lane

Ms. Klein left prior to 7:25 p.m. and was unable to address the board. [Ms. Klein's written comments are attached as Exhibit A].

Mindy Price, 7032 North Lombardy Road

Ms. Price noted her support of a citizen environment committee. The committee could potentially incorporate education, prevention and engage citizens.

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

Committee Reports – Plan Commission

Trustee Fonstad gave a brief report regarding the Plan Commission's review and recommendation of the Conditional Use Permit for J.K. Lee Black Belt Academy, 6838 North Santa Monica Boulevard for interior renovation only. The hours of operation were discussed with the applicant and the applicant agreed he was comfortable with the hours; he did not see the need to extend or change the hours. The Plan Commission recommended that the attached Application for a Conditional Use Permit and the Conditional Use Order be approved.

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Hearing no public comment, President Frazer closed public comment.

Committee Reports – Pool Advisory Committee

The village board packet included Public Works Director Mr. Scott Brandmeier's and Assistant Director Mr. Bill Wojtanowski's report and presentation in connection with Fox Point pool related structural considerations.

Trustee Tirado gave a report in regard to the Pool Advisory Committee. Trustee Tirado noted the next step in the calendar year of 2018 would be hiring a consultant.

Public Works Director Mr. Scott Brandmeier gave a PowerPoint Presentation on the structural considerations concerning the pool.

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

Consent Agenda

- a. Approve the minutes of the October 10, 2017 Village Board meeting.
- b. Approve the minutes of the October 25, 2017 Village Board Budget Workshop.
- c. Appoint Election Inspectors for the two-year term of January 1, 2018 through December 31, 2019 per the Village Clerk's memo dated November 2, 2017.
- d. Grant a Conditional Use Permit to J.K. Lee Black Belt Academy, 6838 North Santa Monica Boulevard and authorize the Village President and Village Clerk/Treasurer to sign the Conditional Use Order.
- e. Adopt the Ordinance to Repeal and Re-create portions of Section 670-2 of the Village of Fox Point village code concerning loud and unnecessary noise.
- f. Accept the proposal of Kapur & Associates for the 2017 Sanitary Sewer Lateral Televising in the amount of \$25,000 and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated November 8, 2017.
- g. Accept Amendment 1 from Stormwater Solutions Engineering, LLC in the amount of \$6,967 for additional design activities related to the Goodrich Lane Ravine and Regenerative Stormwater Conveyance Project and authorize the Village President and Village Clerk/Treasurer to sign the amendment per the Director of Public Works' memorandum dated November 8, 2017.
- h. Adopt the Final Resolution to Levy Special Assessment Under Municipal Police Power Pursuant to Sec. 66.0703, Stats. for sanitary sewer lateral improvements made in sanitary sewer basin numbers 2, 6 and 8.
- i. Accept the proposal of JMB & Associates, LLC of Menomonee Falls in the amount of \$7,780.00 for replacement of the existing Gas Detection System in the vehicle storage

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garage and authorize the Village Manager to execute the purchase order per the Assistant Director of Public Work's memo dated November 7, 2017.

- j. Approve the certified Survey map which divides and combines certain lands at 217 West Dunwood Road, known as the Dunwood redevelopment site, as recommended by the Village Plan Commission, subject to the conditions described in the Village Attorney's memorandum dated June 29, 2017.
- k. Approve Payment of the Bills in the amount of \$590,915.81 for the period October 1, 2017 through October 31, 2017 per the report submitted by the Village Manager.

Trustee Fonstad and Trustee Ollman requested agenda item 4e be removed from the consent agenda. Trustee Sumner requested agenda item 4g be withdrawn from the consent agenda. President Frazer requested agenda item 4a be removed from the consent agenda.

On motion of President Tirado, seconded by Trustee Symchych, and carried unanimously, the Village Board approved the consent agenda, as noticed and as amended with the removal of agenda items 4a, 4e, and 4g.

Minutes of the October 10, 2017 Village Board meeting (Item 4a)

President Frazer requested a correction to the heading from Special Village Board Meeting Minutes to Village Board Meeting Minutes. The Village Board gave unanimous consent to the correction to the minutes.

On motion of Trustee Fonstad, seconded by Trustee Symchych, and carried unanimously, the Village Board approved the minutes of the October 10, 2017 Village Board meeting as corrected.

Ordinance to Repeal and Re-create Portions of Section 670-2 of the Village of Fox Point Village Code (Item 4e)

At page 60 of the Village Board packet, Trustee Fonstad commented on §670-2(B)(4), Discharge of Exhausts and asked for clarification whether *any stationary internal combustion engine* would include automobile engines. Trustee Fondstad expressed interest in amending the language to add the term "motor vehicle."

Village Attorney Eric Larson described the reason for the revision to the ordinance. Larson suggested the language as written in the draft ordinance was objective by reasonable person standards.

On motion by Trustee Fonstad, seconded by President Frazer, to add after the words, any stationary internal combustion engine, motor vehicle.

Village Attorney Eric Larson stated the Village only has limited authority to modify the State Motor Vehicle laws; therefore that is the only hesitation and may require some work to quickly research whether that constitutes a modification to the state motor vehicle standard. The Village of Fox Point already has adopted the State standards in the village code. Attorney Larson noted he would quickly research the question.

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President Frazer asked for public comment.

Sandy Hurley, 7334 North Longacre Road

Ms. Hurley is opposed to the consideration of the pool being moved directly across from her yard on Longacre Road due to noise and noting the current location is not disruptive to the community.

Elizabeth Aelion, 210 West Bergen Court

Ms. Aelion inquired whether this noise ordinance also applies to dogs and animals left outside to bark, etc. without any restrictions.

Village Attorney Eric Larson commented on the proposed addition to the ordinance language. Larson read from WI state stats, §349.03, which refers to Chapters 341 to 348 and Chapter 350, and states that the Chapters shall be uniform in operation throughout the state. No local authority may enact or enforce any traffic regulation unless such regulation is not contrary to or inconsistent with Chapter 341 to 348 and Chapter 350. Therefore, the village is preempted in this area. Larson referred specifically to Wis. Stat. Section 347.39 (relating to mufflers).

Trustee Fonstad withdrew the prior motion to add motor vehicle to the ordinance language.

President Frazer concurred with the withdrawal of the motion.

On motion of Trustee Fonstad, seconded by Trustee Ollman, to adopt the Ordinance to Repeal and Re-create portions of Section 670-2 of the Village of Fox Point village code concerning loud and unnecessary noise.

A brief discussion took place.

President Frazer called the question. Motion carried unanimously.

Amendment 1 from Stormwater Solutions Engineering, LLC in the amount of \$6,967 for additional design activities related to the Goodrich Lane Ravine and Regenerative Stormwater Conveyance Project (Item 4g)

On motion of President Frazer, seconded by Trustee Fonstad, and carried unanimously, the Village Board Accept Amendment 1 from Stormwater Solutions Engineering, LLC in the amount of \$6,967 for additional design activities related to the Goodrich Lane Ravine and Regenerative Stormwater Conveyance Project and authorize the Village President and Village Clerk/Treasurer to sign the amendment per the Director of Public Works' memorandum dated November 8, 2017, with revisions to the president's signature line.

Weed Ordinance – Village “no grow” List

President Frazer asked for public comment; hearing none, President Frazer closed public comment.

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On motion of Trustee Fonstad, seconded by President Frazer, to adopt "An Ordinance to Repeal and Re-Create Section 670-28 of the Village of Fox Point Village Code Related to Adoption of Statutory Authority for Weeds, Including Local Regulation of Garlic Mustard and Common Buckthorn," version B, as shown at pages 103-104 of the Board packet, subject to Village Staff placing the ordinance into final form.

President Frazer called the question. Motion passed, 5-2 (Opposed-Trustee Tirado, Trustee Ollman).

Scheduling a Special Meeting for December 2017

On motion of President Frazer, seconded by Trustee Ollman, to convene a Special Village Board meeting to conduct regular business on December 5, 2017 at 7:00 p.m.

Motion passed, 5-2 (Opposed-Trustee Symchych, Trustee Sumner).

Potential Village of Fox Point Village Board Compensation

*On motion of Trustee Tirado, seconded by Trustee Sumner, the Village Board compensate Village Board Trustees \$200 a month and the Village President \$300 a month on a staggered basis beginning May 1, 2018, May 1, 2019 and May 1, 2020 for those members whose terms begin and end in 2018, 2019 and 2020 respectively. *Motion failed, 5-2 (Opposed-Trustee Symchych, Trustee Fonstad). *The question required a $\frac{3}{4}$ vote to carry.*

Developer's Agreement for the Former Dunwood School Property

Mandel Group, LLC Vice President of Development Mr. Ian Martin and Development Coordinator Ms. Emily Cialdini were present for any inquiries.

Larry Cohn, 200 West Dunwood Road

Mr. Cohn commented on his opposition to the Village Board's approval of the Developer's Agreement tonight and asked the Board to take time to review it first. Mr. Cohn noted several concerns within the agreement.

Village Attorney Eric Larson stated the following modifications will be made to the Developer's Agreement:

1. A date in the preamble should be November 14, 2017; it had an August date.
2. The term *required traffic improvements* on page 3 should be defined only once.
3. There is language on page 12 of the Agreement that is not a complete sentence and will be corrected by adding the appropriate verb.

On motion of Trustee Fonstad, seconded by President Frazer, the Village Board approved the Developer's Agreement for the Former Dunwood School Property, as presented along with such final technical revisions as are agreed upon by the Village Manager and Village Attorney, and further, to

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authorize the Village Manager to approve and attach the final form of all the exhibits and schedule references, and to authorize the Village President and Village Clerk/Treasurer to execute the same on behalf of the village.

On motion of Trustee Kravit to permit Mr. Larry Cohn to provide his additional comments and objections in regard to the Development Agreement.

Trustee Fondstad suggested Trustee Kravit's motion might be out of order as there was currently a motion for approval of the Developer's Agreement on the floor. President Frazer allowed further public comment on the pending motion.

Elizabeth Aelion, 210 West Bergen Court

Ms. Aelion noted her support in permitting Mr. Cohn to comment with his additional valid points on the Development Agreement.

Without objection, Mr. Cohn was called forward to provide his additional objections to the Developer's Agreement.

Larry Cohn, 200 West Dunwood Road

Mr. Cohn commented on additional concerns and objections to the Developer's Agreement.

President Frazer called the question; the motion made by Trustee Fonstad for the approval of the Developer's Agreement carried unanimously.

Staff Update Regarding 8321 North Greenvale Road

President Frazer specified the rules on the presentation being made to the Village Board, noting this is an update only with no discussion and that concerned individuals could meet with the Public Works Director at another time following the Village Board meeting.

Public Works Director Scott Brandmeier gave a status report in regard to the permit application for a proposed home at 8321 North Greenvale Road. Mr. Brandmeier noted that the property owner must demonstrate compliance with village code Sections 285 and 756.

Future Agenda Items

Trustee Kravit moved to put on a future agenda the creation of an environmental committee. President Frazer seconded. Motion passed 6-1 (Nay-Trustee Ollman).

Trustee Sumner moved to put on a future agenda the question of adding speed signage on Bradley Road and Regent Roads. Trustee Ollman seconded. Motion passed 6-1 (Nay-Trustee Fonstad).

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Announcements

Village President Frazer noted the law firm of Dewitt, Ross & Stevens has donated a set of Wisconsin Revised State Statutes to the Village of Fox Point. President Frazer thanked the Board of Review members for their service, which was very time consuming with two very long evenings of cases. He also congratulated staff on the presentation on the 2018 budget, acknowledging all the preparation time.

Trustee Ollman commended the Fox Point Police Department, other police departments, and the citizens involved for the excellent job on the North Shore Bank robbery. Mr. Ollman noted there were no injuries in connection with the robbery.

Village Manager Scott Botcher reported on the status of video streaming village board meetings. There are still some considerations on whether the video streaming should be live or play-back and the length of time to obtain the recordings. He requested the Trustees send an individual e-mail with comments or advisement on preference.

Village Manager Botcher noted a Cub Scout troop will be coming to spend a day with him.

Village Manager Botcher commented that the North Shore Fire Department contacted the Village. Under state law, there is the ability to enact an excess levy to fund a joint fire department. In the past, the fire department attorney has advised the department that authorization was passed once in 2006 and that is all the fire department needed to do. Unfortunately, the state came down two days ago and stated the fire department should pass the authorization annually. Therefore, the department is asking all the participants to pass a resolution to authorize the excess levy. The joint fire department costs for Fox Point have declined over the past two years so Fox Point does not currently need to use this tool. However, other member municipalities do and all member municipalities have to agree to authorize the use of an excess levy so those who desire to use the excess levy can do so.

Adjourn

On motion of Trustee Ollman, seconded by Trustee Sumner, and carried unanimously, the Village Board adjourned the Village Board meeting at 10:11 p.m.