

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING AND PUBLIC HEARING MINUTES
DECEMBER 8, 2020**

A meeting and public hearing Fox Point Village Board was held virtually via telephonic and video conferencing on Tuesday, December 8, 2020 in Schwemer Hall, 7200 N. Santa Monica Boulevard. President Frazer called the meeting to order at 7:02 p.m. and asked the Village Clerk-Treasurer to take roll call. Roll Call of the Village Board present included:

Village President Douglas H. Frazer
Trustee Eric Fonstad
Trustee Christine Symchych
Trustee Liz Sumner
Trustee Marty Tirado
Trustee Greg Ollman
Trustee Bill Kravit-(Joined Zoom at 7:16 pm)

Also, present were Village Attorney Eric Larson, Village Manager Scott Botcher, Assistant Village Manager Michael Pedersen, Building Inspector Michael Rakow, 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 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 and clarified the rules.

Marilyn Franklin, 7870 N Regent Road

Ms. Franklin noted her concerns regarding the future of the North Shore Library and encouraged the Village Board to take part in initiating or take part in discussions with the remaining three communities.

Elizabeth Aelion, 210 W Bergen Court

Ms. Aelion remarked on concerns regarding the village 2021 budget with regard to the absence of the Lake Drive project allocation in the budget on pre-construction costs of \$624,000, and the budget item for village plowing of private roads.

Ms. Aelion is in support of taking the initiative for the future North Shore Library.

Ms. Aelion is suggesting the Board allow public comment during an agenda item, as well as at the beginning of the meeting.

Sheila Glynn-Criqui, 8065 N Mohawk Road

Ms. Glynn-Criqui commented on the proposed Conditional Use Permit related to the Spring North Corps Development at the corner of Port Washington Road and Bradley Road. She is vehemently opposed having a 24-hour gas station and convenience store.

Village Attorney Eric Larson made clarifications with regard to persons desiring to be heard relative to the public hearing on the proposed Conditional Use Permit Application submitted by Spring North Corp., d/b/a, Pantry 41 at 8000 North Port Washington Road. At and following the public hearing, the Village Board will be basing its decision similar to how a judge would base his/her decision on the evidence at trial. Just as a judge would not consider evidence outside of the trial, the Village Board should not receive evidence outside of the public hearing (part of the trial) either; the Board should wait for that trial to happen; the trial will include the public hearing. The comments made at the public hearing are evidence and should be presented at that time.

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Without objection, President Frazer stated the Village Board will not hear any other comments for those persons desiring to be heard, related to the public hearing on the proposed Conditional Use Permit Application submitted by Spring North Corp., d/b/a Pantry 41 at 8000 N. Port Washington Road. Persons desiring to be heard on this item are invited back to be heard during the scheduled public hearing.

Trustee Kravit joined the Village Board Zoom meeting at 7:16 p.m.

Without objection and hearing no other remarks, President Frazer closed the public comment period.

Committee Reports – Plan Commission

President Frazer commented neither Trustee Fonstad nor he participated in the Plan Commission meeting on December 7, 2020 regarding the review of the proposed Conditional Use Permit Application Spring North Corp., d/b/a Pantry 41 at 8000 N. Port Washington Road for reasons consistent with the Village Attorney's recommendations; therefore, Village Attorney Larson will report on this agenda item.

Attorney Larson reported the Plan Commission tabled this item and requested some additional plans at their meeting in January. The Plan Commission offered no recommendation to the Village Board and will take it up again on January 4, 2021 at 5:45 p.m.

Village Manager Scott Botcher clarified the specific items or clarifications that were requested by the Plan Commission from the applicant: parking and parking places, the opening hour request (24/7), additional detail on a lighting plan, and detail on liquor sales (kind and quantity).

Attorney Larson commented he has recommended that Village Board members do not participate in this matter until it comes before the Board. Mr. Larson cautioned the Village Board not to participate, even as an observer, to preserve its ability to act in an unbiased manner based on the facts presented and for the reasons already described.

Public Hearing: Conditional Use Permit for Spring North Corporation, d/b/a, Pantry 41, 8000 North Port Washington Road, Fox Point

Modified motion by Trustee Fonstad, seconded by President Frazer and carried by roll call vote (7-0) to postpone the public hearing to the Village Board's next meeting on January 12, 2021, with the modification of the meeting time of 7:00 p.m., and via the medium of Zoom.

Consent Agenda

- a. Approve the minutes of the November 2, 2020 and November 23, 2020 Village Board meetings.
- b. Accept the proposal of Wachtel Tree Science in an amount not to exceed \$42,000 for the 2021 Forestry Services and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated December 1, 2020.
- c. Accept the proposal of Wachtel Tree Science in an amount not to exceed \$15,000 for administration of the 2021 Emerald Ash Borer initiative and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated December 1, 2020.

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- d. Accept the proposal of Kapur & Associates in an amount not to exceed \$13,771 for design of the lining of sanitary sewer mains and storm sewers at various locations in the Village and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated December 1, 2020.
- e. Accept the proposal of Kapur & Associates in an amount not to exceed \$14,941 for design of the spot repair and replacement of sanitary sewer mains and storm sewers at various locations in the Village and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated December 1, 2020.
- f. Accept the proposal of Kapur & Associates in an amount not to exceed \$14,932 for the televising of approximately 15,000 linear feet of sanitary sewers and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated December 1, 2020.
- g. Accept the proposal of Ruekert Mielke in an amount not to exceed \$35,740 for GIS services and data/site maintenance and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated December 1, 2020.
- h. Accept the proposal of MSA Professional Services, Inc. in an amount not to exceed \$15,000 to provide a review and analysis of the sinkholes that have formed around the Milwaukee Metropolitan Sewerage District's (MMSD's) MIS manholes and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated December 1, 2020.
- i. Adopt Resolution to designate International Migratory Bird Day to be on May 8, 2021 in the Village of Fox Point.
- j. Accept the proposal of Marek Landscaping in an amount not to exceed \$16,652 for maintenance activities along Indian Creek and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated December 1, 2020.
- k. Accept the proposal of Marek Landscaping in an amount not to exceed \$5,998 for Emerald Ash Borer related maintenance activities along the Indian Creek woods and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated December 1, 2020.
- l. Approve payment of the bills in the amount of \$307,554.25 for the period November 1, 2020 through November 30, 2020 per the report submitted by the Village Manager.

Trustee Sumner requested the removal of consent agenda items h, i, and j.

Motion made by President Frazer, seconded by Trustee Ollman, and carried by roll call vote (7-0), the Village Board approved the consent agenda, absent consent agenda items h, i, and j.

Comprehensive Plan Special Committee Report

The Village Board received and discussed a report from Assistant Village Manager Michael Pedersen regarding the Comprehensive Plan Special Committee.

Assistant Village Manager Michael Pedersen reported the Special Committee had not met since the last Village Board meeting. Therefore, there is no update since that meeting. The

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special committee will meet Friday, December 11, 2020 at 8 a.m. A new comprehensive plan draft should be available on December 9, 2020.

Proposal of MSA Professional Services, Inc. in an amount not to exceed \$15,000 to provide a review and analysis of the sinkholes [Item H]

Motion made by Trustee Fonstad, seconded by President Frazer, the Village Board accepts the proposal of MSA Professional Services, Inc. in an amount not to exceed \$15,000 to provide a review and analysis of the sinkholes that have formed around the Milwaukee Metropolitan Sewerage District's (MMSD's) MIS manholes and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated December 1, 2020 and as outlined on the Village Board agenda.

Village Board discussion ensued.

President Frazer called the question.

Motion passed, 5-2 (Opposed: Trustee Ollman, and Trustee Sumner)

Resolution to designate International Migratory Bird Day to be on May 8, 2021 in the Village of Fox Point [Item I]

Motion made by Trustee Sumner, seconded by Trustee Fonstad, and carried by roll call vote (7-0) to Adopt Resolution to designate International Migratory Bird Day to be on May 8, 2021 in the Village of Fox Point, with the grammatical change from "health bird" to "healthy bird".

Proposal of Marek Landscaping in an amount not to exceed \$16,652 for maintenance activities along Indian Creek [Item J]

Motion made by President Frazer, seconded by Trustee Kravit, and carried by roll call vote (7-0) to postpone the proposal of Marek Landscaping in an amount not to exceed \$16,652 for maintenance activities along Indian Creek until the next Village Board meeting on January 12, 2021 with directions to staff to come back with information regarding the product safety of the herbicides that Marek Landscaping proposes to use.

Resolution Awarding the Sale of \$1,004,000 General Obligation Refunding Bond, Series 2021

Village Manager Scott Botcher gave a brief overview and introduced Robert W. Baird & Company Director Justin Fischer to give his presentation. Mr. Fischer gave a brief synopsis of the Sale General Obligation Refunding Bond, Series 2021.

Amended motion made by President Frazer, seconded by Trustee Fonstad, and carried by roll call vote (7-0), the Board adopted the new amended Resolution Awarding the Sale amended amount of \$1,006,000 General Obligation Refunding Bond, Series 2021, as emailed to the Board members on December 7, 2020 and considered on December 8, 2020.

Report on status of North Shore Library by President Frazer

President Frazer gave a brief public report regarding the status of the North Shore Library.

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Consideration of Ordinance to Repeal and Re-create Section 756-44 of the Village of Fox Point Village Code Concerning Construction of Decks

Motion made by President Frazer, seconded by Eric Fonstad, and carried by roll call vote (7-0), the Board adopted an Ordinance to Repeal and Re-create Section 756-44 of the Village of Fox Point Village Code Concerning Construction of Decks, as set forth on pages 83 through 89 of the agenda packets.

Consideration of Conditional Use Permit for Spring North Corporation, d/b/a, Pantry 41, 8000 North Port Washington Road, Fox Point

By unanimous consent and without objection, there was no action taken on agenda item 7d.

Consideration and possible action on the proposed two-party agreement with Kapur and Associates for the design of non-participatory items along North Lake Drive in the Village of Fox Point

Motion made by Trustee Fonstad, seconded by President Frazer, the Board will take no action on agenda item 7e tonight and the Board requests the Director of Public Works to come forward in January with a revised agreement, reflecting a narrower scope, that will identify necessary costs for project-related initial work ("first steps") to be considered at the January 12, 2021 Village Board meeting.

A brief discussion regarding the costs of the project followed.

President Frazer called the question.

Motion carried by roll call vote (7-0).

Future Agenda Items – None.

Closed Session

Motion made by President Frazer, seconded by Trustee Kravit, and carried by roll call vote (7-0) to move into closed session at 8:51 p.m., pursuant to Wisconsin Statutes Section 19.85(1)(e) to Deliberate or negotiate the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session: Specifically, to review and discuss the 1985 Joint Library Agreement entered into by Glendale, Fox Point, River Hills and Bayside and issues and opportunities arising from Glendale's notice of withdrawal. (Participating in the closed session will be the Village Board, Village Manager, Assistant Village Manager, Village Clerk, and Village Attorney.)

President Frazer asked to pause the continuation of the meeting. The closed session resumed at 8:54 p.m.

Reconvene into Open Session

Motion made by Trustee Fonstad, seconded by Trustee Ollman, and carried by roll call vote (7-0), to reconvene into open session at 9:45 p.m. (Opposed-Trustee Kravit)

President Frazer stated the Village Board took no action on item 9a.

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Announcements

Trustee Tirado announced the 2020 Fall General Election Presidential recount total cost to the Village of Fox Point was \$2,231.30. The Village expects to get reimbursed for this cost.

Adjourn

Motion made by President Frazer, seconded by Trustee Tirado, and carried by roll call vote (7-0); the Village Board adjourned the Village Board meeting at 9:48 p.m.

Respectfully submitted,



*Kelly A. Meyer, CMC/WCMC
Village Clerk Treasurer*