

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
APRIL 9, 2024**

A meeting and public hearing of the Fox Point Village Board was held by a combination of in-person and virtual attendance via telephonic and video conferencing on Tuesday, April 9, 2024 in Schwemer Hall, 7200 N. Santa Monica Boulevard. Village President Symchych called the meeting to order at 7:00 p.m. and asked the Village Clerk Treasurer to take roll call. Roll Call of the Village Board present included:

Village President Christine Symchych
Trustee Eric Fonstad
Trustee Liz Sumner
Trustee Greg Ollman
Trustee Catie Anderson - Absent
Trustee Liz Aelion
Trustee Jennie Stoltz (7:01 pm)

Also, present were Village Attorney Eric Larson, Village Manager Scott Botcher, Public Works Director Scott Brandmeier, Village Clerk Treasurer Sara Bruckman, and Assistant Village Manager Kevin Ausman

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

Hearing no other comments, President Symchych closed public comment.

COMMITTEE REPORTS – Plan Commission

The Plan Commission meeting was April 1, 2024, all members were present except for President Symchych, Trustee Fonstad chaired the meeting in her absence. The Plan Commission considered the Town Club's application under section 754-10; Outdoor Recreational Areas and Facilities. This is a different section of the code than was considered at the December 12, 2023 meeting; section 745-20; F-Institutional District Zoning. The standards to be applied to the two code sections are similar. If it was determined that the pickleball courts are closer than 100 feet to an adjoining property line of a property in a residential district, a separate process and a separate public hearing would apply. Trustee Fonstad noted he reviewed the important events leading up to the meeting including the November 20 submission by the Town Club to use the site for pickleball, December 4 Plan Commission meeting where the application was considered under section 745-20; F-Institutional District Zoning and recommended that the Village Board find that the standards in the ordinance would be met if the Town Club installed noise dampening screens designed to reduce the pickleball noise by 50%.

On January 9, 2024 the Village Board held a public hearing on the application and the Village Board directed the Village Attorney to draft two conditional use orders for review; one to approve the application and one to deny the application. On February 13, the Village Board held a Special Village Board meeting to receive legal advice on the application during a closed session but the closed session was not held because the motion to enter into close session failed on a three-to-three vote. At the February 13

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES**

APRIL 9, 2024

regular Village Board meeting, the Village Board tabled action on the application to receive legal advice at the Special Village Board meeting to be held February 27, 2024.

At the March 12, 2024 regular Village Board meeting, the Village Board set April 9, 2024 for the public hearing to be reopened and April 1, 2024 for the Plan Commission to consider the application under section 745-10; Outdoor Recreational Areas and Facilities. Trustee Fonstad noted to the Plan Commission members did not have the benefit of legal advice which the Village Attorney had provided to the Village Board. He also noted the Plan Commission members may not have read the Village Board packet, they were not sent copies of the citizen comments, the Village Attorney's draft conditional use orders or comments made at the January 9, 2024 Public Hearing. Voluminous materials were distributed 3 days prior to the April 1, 2024 Plan Commission meeting.

Trustee Fonstad noted at the April 1, 2024 the Plan Commission meeting that the Commission members would not have any evidence from April 9 public hearing. Trustee Fonstad outlined options the Plan Commission had on how to proceed including hearing from the applicant, and considering whether to recommend to the Village Board that they make the findings in section 745-10, in which case there would be no public comment or to refer the matter back to the Village Board with only the recommendations that the Village Board hold a public hearing and consider the application in light of the public hearing. The third option was to take more time to consider the materials. The fourth option was to defer action until after a joint public hearing of the Plan Commission and Village Board was held. The members of the Plan Commission discussed these options and decided to hear from the applicant and decide whether they were comfortable making a recommendation. The Commission discussed the 100-ft standard in the ordinance and decided to proceed on the assumption that the proposed courts would not violate that provision. In particular, the properties located south are not zoned residential and the residential properties to the west appear to be more than 100-ft from the courts and the residential properties to the east appear not be adjoining.

The applicant presented evidence to the Plan Commission, members of the Plan Commission asked questions and the applicant responded. There was extensive discussion on the potential effect on property values, difficulty of applying the substantial adverse effect on the enjoyment of property standards, existence of Village pickleball courts, the lack of documented complaints, the number of Village residents who are members of the Town Club, the noise mitigating measures in the draft conditional use order, the extent of the use of courts by pickleball over the last three years, the nature of the extent of the sound dampening screening proposed by the applicant, possible sound studies, hours of operation and whether the courts will be used year-round.

A motion was made that the Plan Commission recommend the Village Board grant approval and find the application meets standards of section 745-10. The motion was discussed and several amendments were proposed. The Plan Commission discussion included the inability to determine whether the sound mitigation actions that the Town Club takes will be enough until they actually take those steps. The Plan Commission amended the original motion to provide a review of use after one year with a determination to be made at that time whether the use meets the standards in the

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
APRIL 9, 2024**

ordinance or further noise mitigating measures are necessary, the motion passed with a five-to-one vote.

The Plan Commission also reviewed the land combination at 7111 N Barnett Lane and recommend the Village Board approve and accept the preliminary certified map as the final.

President Symchych recused herself and turned over deliberations to Trustee Fonstad. Trustee Fonstad took over Chair Pro Tem.

PUBLIC HEARING

The Village Board will hold a continuation of a public hearing which commenced on January 9, 2024 to receive additional comments and input regarding a proposed Conditional Use Permit and outdoor recreational use for The Town Club, 7950 N Santa Monica Boulevard., Fox Point, for Pickle Ball; matches with members, lessons with racket sports professionals, club leagues, and social mixers, as required per Wis. Stats. Section 62.23(7) (de) (3) and Wis. Stats. 61.35, and Sections 745-20 and 745-10 of the Village of Fox Point Zoning Code.

Attorney Chris Jaekels, 8040 E Ravine Lane, Bayside. The Town Club submitted for a permit to repave the former tennis courts from 1973 that have been used as pickleball courts for almost four years and were asked to apply for a conditional use permit under the F-Intuition District. There has been a public hearing, multiple meetings, given substantial evidence in support of the application, and the Plan Commission agreed twice the Town Club should be granted the Conditional Use permit. Attorney Jaekels noted the Town Club has done everything they have been asked to do, including returning and requesting a permit under Village code 745-10. Attorney Jaekels noted the Village is operating two sets of pickleball courts and there have been no complaints at Longacre or Indian Creek Pkwy. He noted the Town Club has been asked to jump through hoops when the Village is not following its own ordinance while the Town Club has provided a thorough record. He explained the findings have been made noting a letter that was shared with the Village Board April 4, 2024 including the four factors of the F-Institutional District that had to be considered; appropriate in the location proposed, compatible with the neighborhood, not detrimental to the property values of the surrounding property and in keeping with the residential character and quality of the Village. When the Town Club was asked to consider code section 745-10 that the proposal be compatible with the area, keeping up with the residential character of the community, that is does not have an adverse effect on surrounding properties, and is not a nuisance or hazard and not detrimental to the general public welfare. He explained the Plan Commission added requirements, which the Town Club agreed too; including sound mitigation technique to eliminate the sound by 50%, limited hours from 8:00 a.m. to dusk, no sound amplifying devices, the whole matter would be revisited in 1 year. He reiterated that there have been no complaints on pickleball in the Village for three years.

Motion by Trustee Sumner, seconded by Trustee Stoltz, and carried by roll call vote (5-0), to open the public hearing at 7:32 p.m., regarding a proposed Conditional Use Permit and outdoor recreational use for The Town Club, 7950 N Santa Monica Boulevard., Fox Point, for Pickle Ball; matches with members, lessons with racket sports professionals, club leagues, and social mixers, as required per Wis. Stats. Section 62.23(7) (de) (3) and Wis. Stats. 61.35, and Sections 745-20 and 745-10 of the Village of Fox Point Zoning Code.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
APRIL 9, 2024**

Public Comment

Roy Wagner, 6831 N Barnett Lane, noted he has been a member of the Town Club for over 30 years. Spoke in favor of pickleball at the Town Club and Town Club continuing as a recreation outlet in Village. He noted that the mixed use of dwellings on Santa Monica Boulevard. He would like the Town Club to allowed to continue to utilize for outdoor sports activities which comes with some level of noise.

Brian Hartnett, 7801 N Boyd Way, is opposed and noted he has been a resident there for 25 years and when he moved in there were six tennis courts covered by foliage. He noted Village ordinance 579-2, eight pickleball courts similar to constantly howling, barking, or meowing animals which is against the law. Noted tennis and pickleball are not similar sports. Pickleball can be played year-round, special balls designed for playing in winter. Would like a reasonable guarantee the sound will be muted to enjoy his property.

Jim Gray, 910 E Hyde Way, noted did not hear as a goal for a SPLA sound pressure. Needs a quantifiable goal.

Steven Check, 914 E Hyde Way, is opposed and explained this is the first club in the North Shore area that will have eight pickleball courts in a residential neighborhood. Noted that Brian Hartnett's house is 80 feet per Google maps. 32 people playing at one time is too noisy. Town Club has not provided evidence that it is not going to be a hazard or nuisance so neighbors can enjoy properties.

Mike Whittle, 7721 N Santa Monica Boulevard note he is opposed and does not believe trains are a relevant noise. Tennis and pickleball are not similar. Felt standards have not been proven. 50% reduction is not a meaningful measurement, and there should be a decibel level set.

Scott Alderton, 7937 N Fairchild Road, is in favor and a resident for 18 years. Four houses away from the swimming pool, and noted he considered proximity when the home was purchased. It has not been a nuisance. Member of Town Club and has played pickleball on those courts. Spoke in favor of adding additional courts. Paddles and balls are evolving to reduce the noise levels.

Debra Whittle, 7721 N Santa Monica Boulevard., is opposed and across the street one house away, an active gardener, and believes it will be difficult to garden with the noise. The noise will increase with tournaments. Constant dawn to dusk noise. She would like to see hours restricted somehow and a noise barrier is needed. Remarked if the Town Club has considered converting north courts by the swimming pool.

Kim Brier, 7723 N Boyd Way, is opposed and noted a question why no complaints, but pickleball has increased in popularity. Lot of disruption to a peaceful and quiet neighborhood, courts have not been used to full capacity in past. Noted studies on noise issue and pickleball issues in other communities and adverse effect on property values. Noted she has lived there for 24 years.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES**

APRIL 9, 2024

Kevin King, 7805 N Boyd Way, is opposed and has both pickleball and tennis courts by his yard. Train only makes noise once or twice for 90 seconds.

Trustee Sumner was excused at 8:00 p.m.

Amy Barth, 7815 N Boyd Way, is opposed noting the Town Club proposal is not appropriate or compatible. Would like one or more sound mitigation techniques and a sound study before the courts are built. She noted sound studies in other states. There is a lack of formal complaints because residents put up with it until now. She noted someone brought their own microphone and boombox broadcasting own pickleball match at the Town Club.

Bill Ford, 1550 E Goodrich Lane, is in favor. The Village should examine everything and 173 members of Fox Point for the Town Club and should be taken in consideration. The improvement is a benefit to the community and place of employment for kids in the area. Club is an asset to the community. Will not be nuisance if implement mitigation measures.

Aaron Ginster, 804 E Hyde Way, is opposed but the Village Board needs to decide what's best for the community. When thinking of a community sport as noisy as pickleball the board needs to take what's best into account. Many people do not think this will be better for the community.

John Hughes, 7705 N Boyd Way, is opposed noting pickleball is not a racquet sport. Town Club did not notify people within 100 ft. Believes that the value of the homes within 600 feet accumulates property evaluation of \$30 million and those values may drop by 5-10%. A 50% sound reduction is not much, decibel levels need to be taken into consideration. Pickleball noise is a nuisance, property values will be affected.

Tami Vincent, 8118 N Poplar Drive, is in favor, noting they chose to live in Fox Point because of the neighborhood feel, had the police called several times on her own children playing in the yard. Loves the noise of the neighborhood. Supports the Town Club proposal.

Adam Fuerst, 8017 N Links Way, is in favor and supports the resurfacing of the courts for safety. Pickleball is a lifetime sport, allows all ages to play an equalizer sport together. Noted it adds to community involvement.

Peter Coffey, 6818 Barnett Lane, is in favor and he views this as putting new asphalt on courts that have been played on in the Village for years. There have been no complaints until this was brought up in February. Noted there is noise due to many other things in the Village.

Kaitlin Torres, 7460 N Lombardy Road, is in favor noting they are a young family that moved into Fox Point in 2013. Supported Fox Point and JCC Pool. The Town Club is being respectful and is a strong business in the community.

Stephen Spadafora, 7731 N Club Circle, spoke in favor, noting there is a double standard with the hoops that the Town Club has to go through versus the Village.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES**

APRIL 9, 2024

Loves the noise of summer. Noise can't be the issue if pickleball was put in the Village parks. He noted the children tennis program at the Town Club with 600 kids, with 30 kids per court from 9:00 a.m. to 3:00 p.m., not a single complaint about noise. The Town Club is good to the Village. He noted one Property abutting the Town Club and the home value jumped by 33%. Open to business to help mitigate taxes.

Jean Hartnett, 7801 N Boyd Way, is opposed noting they are the closet home to proposed pickleball courts; 80 feet from her backyard. She quoted from some Phoenix resident with courts near their yards. Noted health issues caused by pickleball. Can not afford to take a loss on our home, Town Club is physically stealing from us and neighbors.

Anne Sachse, 7801 N Santa Monica Boulevard, is opposed explaining she is directly across the street and the Town Club is noisy 24 hours a day, they act like they have every right to be as loud as they want. Lived since 1996, the Town Club was respectful and quiet at night. People are now there before 8:00 am to 2:00 am. Has called the police, current manager chastised the police because a neighbor called. Town Club thinks it is privileged with the board, does not need to adhere to the same rules as the rest of the residents. Noted she can't leave windows open in the summer.

Joanne Ginster, 7735 N Boyd Way, is opposed and has lived behind the Town Club for over 20 years. Love the Town Club but does not want to have the constant noise and devaluation of properties. She noted this will cause discord not needed in the community.

Evan Bretzmann, 7808 N Boyd Way, is opposed noting the April 2 letter from Amy Barth. Courts should be located more than 500 feet from residences; his house is 310 feet from courts. This is high impact noise besides being able to hear conversation and music, and will disrupt his family's sleep. Noted this is human generated noise pollution.

Hillary McCabe, 7901 N Santa Monica Boulevard, is in favor noting she lives 123 feet from Town Club, noting that the Town Club is a good neighbor. She recognizes the noise, the incredible popularity, and that the sport is a community builder with health benefits. Appreciates the Town Club takes to active and engage in community and supports the permits.

Nick Ansay 7800 N Regent Road, is opposed noting the noise issue, suggested the Town Club could have conversations with members to be more respectful. Screaming during pickleball matches is annoying and can be too much.

All written submissions emails, letters, added to the written record of this public hearing

Attorney Jaekels noted there are currently six courts and the approval would bring the Town Club up to eight.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES**

APRIL 9, 2024

Motion by Trustee Aelion, seconded by Trustee Ollman, and carried by roll call vote (4-0), to close the public hearing at 8:43 p.m., regarding a proposed Conditional Use Permit and outdoor recreational use for The Town Club, 7950 N Santa Monica Boulevard., Fox Point, for Pickle Ball; matches with members, lessons with racket sports professionals, club leagues, and social mixers, as required per Wis. Stats. Section 62.23(7) (de) (3) and Wis. Stats. 61.35, and Sections 745-20 and 745-10 of the Village of Fox Point Zoning Code.

President Symchych resumed chairing of the meeting

CONSENT AGENDA

- a. Approve the minutes of the March 12, 2024 Village Board meeting.
- b. Accept the bid of Advance Construction, Inc. in the amount of \$263,675 for the 2024 Nokomis Court Watermain Replacement and Road Resurfacing Project and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated April 2, 2024.
- c. Accept the proposal of Kapur & Associates in the amount of \$48,450 for inspection services associated with the 2024 Nokomis Court Watermain Replacement and Road Resurfacing Project and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated April 2, 2024.
- d. Accept the proposal of M&M Tree Care LLC in an amount not to exceed \$32,000 for the 2024 Emerald Ash Borer Treatment Project and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Village Forester's memorandum dated March 28, 2024.
- e. Approve the quote of Badger Chevrolet in the amount of \$41,556.50 for the purchase of a new 2024 Chevrolet Silverado 1500 double cab work truck to replace Truck #22 and authorize the Village Manager to sign the purchase order on behalf of the Village.
- f. Approve the 2024 Private Property Infiltration and Inflow Work Plan between the Milwaukee Metropolitan Sewerage District (MMSD) and the Village of Fox Point for the rehabilitation of three private property laterals at 7515, 7521 and 7535 North Beach Drive and authorize the Director of Public Works to execute the agreement with MMSD per the Director of Public Work's memorandum dated April 2, 2024
- g. Approve the Land Combination Certified Survey Map for 7111 North Barnett Lane
- h. Adopt the proclamation establishing Friday, April 26, 2024 as Arbor Day in the Village of Fox Point and urge all citizens to support the efforts to protect our trees and woodlands and to support our Village's urban forestry program.
- i. Approve a purchase order with Thermo Scientific for a TruNarc Portable Narcotics Analyzer in the amount of \$32,702.27.
- j. Approve payment of the bills in the amount of \$707,739.06 for the period March 1, 2024 through March 31, 2024 per the report submitted by the Village Manager.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
APRIL 9, 2024**

Trustee Ollman requested the removal of consent agenda item E; President Symchych requested the withdrawal of consent agenda item f.

Motion by President Symchych, seconded by Trustee Fonstad, and carried by roll call vote (5-0), to approve the consent agenda, absent consent agenda items E, and F.

There was unanimous consent to move to take up New Business. The Village Board moved to New Business.

Unfinished Business

Consideration and possible action regarding a proposed Conditional Use Permit and outdoor recreational use for The Town Club, 7950 N Santa Monica Boulevard., Fox Point, for Pickleball; matches with members, lessons with racket sports professionals, club leagues, and social mixers.

The Village Board unanimously agreed to take up the rest of the agenda and move into closed session before deliberation of the matter.

NEW BUSINESS

Consent Agenda Item e, Approve purchase of 2024 Chevrolet Silverado to replace Truck #22.

Motion by Trustee Fonstad, seconded by President Symchych, and carried by roll call vote (4-1), to Approve the quote of Badger Chevrolet in the amount of \$41,556.50 for the purchase of a new 2024 Chevrolet Silverado 1500 double cab work truck to replace Truck #22 and authorize the Village Manager to sign the purchase order on behalf of the Village.

Consent Agenda Item f, 2024 Private Property Infiltration and Inflow Work Plan between the Milwaukee Metropolitan Sewerage District and the Village of Fox Point.

Motion by President Symchych, seconded by Trustee Fonstad, and carried by roll call vote (5-0), to approve the 2024 Private Property Infiltration and Inflow Work Plan between the Milwaukee Metropolitan Sewerage District (MMSD) and the Village of Fox Point for the rehabilitation of three private property laterals at 7515, 7521 and 7535 North Beach Drive and authorize the Director of Public Works to execute the agreement with MMSD per the Director of Public Work's memorandum dated April 2, 2024 not to exceed \$35,280.00

The Board moved to Unfinished Business

President Symchych recused herself and turned over deliberations to Trustee Fonstad. Trustee Fonstad took over Chair Pro Tem.

FUTURE AGENDA ITEMS – None

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
APRIL 9, 2024**

ANNOUNCEMENTS

President Symchych announced the Village Board is losing two trustees and good friends, Trustee Anderson and Trustee Sumner and thanked new Trustees. ICC met yesterday and discussed security measures with the RNC in July.

Trustee Fonstad announced he congratulated new candidates and shared his appreciation for Trustee Sumner and Trustee Anderson. April 18 is Arbor Day and May 4 there is a Tree planting workshop.

Trustee Sumner - Absent

Trustee Ollman - no announcements

Trustee Anderson - Absent

Trustee Aelion - no announcements

Trustee Stoltz announced the Dementia Committee met March 1 at Azura to help educate and provide dementia services to the community.

Manager Botcher announced the Open House.

President Symchych recused herself and turned over deliberations to Trustee Fonstad. Trustee Fonstad took over Chair Pro Tem

CLOSED SESSION

Motion made by Trustee Ollman, seconded by Trustee Stoltz, to convene into closed session regarding agenda item 6a, at 9:13 p.m., Pursuant to State Statutes Sections:19.85(1)(a) and/or (g), for deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body, and for conferring 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; more specifically, concerning the application of the Town Club for conditional use and outdoor recreational facility approval to construct and operate pickleball courts, which was the subject of a public hearing held by the Village Board on January 9, 2024 and April 9, 2024.

Trustee Fonstad	Aye
Trustee Sumner	Absent
Trustee Ollman	Aye
Trustee Anderson	Absent
Trustee Aelion	Aye
Trustee Stoltz	Aye
President Symchych	Recused

Carried by roll call vote (4-0).

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
APRIL 9, 2024**

RECONVENE INTO OPEN SESSION

Motion made by Trustee Ollman, seconded by Trustee Aelion and carried by roll call vote (4-0), to reconvene into open session at 10:06 p.m.

Motion by Fonstad, seconded by Ollman, and carried by roll call vote (4-0), to table the consideration of the proposed Conditional Use Permit and outdoor recreational use for the Town Club, for Pickleball until the May 14 Village Board meeting and direct staff to proceed as discussed in the closed session.

ADJOURNMENT

Motion made by Trustee Ollman, second by Trustee Aelion, and carried by roll call vote (4-0) to adjourn the Village Board meeting at 10:08 p.m.

Respectfully submitted,

Sara A. Bruckman, CMC/WCMC
Village Clerk Treasurer

Published and Posted
Wednesday, September 11, 2024
10:15 a.m. SB