

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
December 9, 2025**

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, December 9, 2025 in Schwemer Hall, 7200 N. Santa Monica Boulevard. Village Trustee Ollman 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 Liz Aelion
Trustee Barry
Trustee Freedman – not seated for roll call, present at 7:03 pm
Trustee Miller
Trustee Greg Ollman – not seated for roll call, present at 7:03 pm
Trustee Jennie Stoltz

Also, present were Village Attorney Eric Larson, Interim Village Manager Mitch Reynolds, Public Works Director Scott Brandmeier, Assistant Village Manager Kevin Ausman, and Deputy Clerk Teri Repins

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

Luke Wagner, Wisconsin Professional Police Association, 802 Edgewater Dr, West Bend; Expressed need for fair wages and better parental leave.

Andrew Hanover, 101 E Bradley Rd, Fox Point; Voiced support for Police Department and fair compensation and leave package. Also expressed support to allow zoning for Acronym tap room.

Hearing no other comments, President Symchych closed public comment.

COMMITTEE REPORTS

a. Plan Commission

1. Acquisitions LLC – Conditional Use
2. WCL Construction – Conditional Use
3. Destin’s Childcare and Learning Academy LLC – F Institutional District
4. John Degroote, Brewery/Taproom Concept – Port Washington Overlay

b. Centennial Committee

PUBLIC HEARING

a. Public Hearing on a Resolution to Identify a Single Polling Location

The Village Board will hold a Public Hearing on a resolution to combine the two existing polling locations into one; to be located at Longacre Pavilion.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
December 9, 2025**

Motion by President Symchych, seconded by Trustee Freedman, and carried by roll call vote (7-0), to open the public hearing at 7:17 p.m., a resolution to combine the two existing polling locations into one; to be located at Longacre Pavilion.

Public Comment

Sandy Grady, 8425 N Indian Creek Pkwy, Fox Point. Expressed concerns in combining all wards to Longacre due to parking, room size and privacy for voters.

Mark Grady, 8425 N Indian Creek Pkwy, Fox Point. Voiced concern for combining all wards to one location at Longacre, appreciates Central Count and favors a unified polling place, but concern for size of Longacre for large elections. Offered idea of looking at other locations with large spaces like churches and synagogues.

Jesse Carlton, 7442 N Mohawk Rd, Fox Point. Concerned for all wards to be at Longacre due to tight space. Appreciative for Central Count. Thanked the Village Board for listening.

Mary Beth Mills, 1811 E Dean Rd, Fox Point (via zoom). Voiced Concerns of combining all wards at Longacre and hopes other options can be identified. Mentioned constraints on parking at Longacre.

Motion by President Symchych, seconded by Trustee Miller, and carried by roll call vote (7-0), to close the public hearing at 7:27 p.m., regarding a resolution to combine the two existing polling locations into one; to be located at Longacre Pavilion.

b. Public Hearing on the Conditional Use Permit Application for Acquisitions LLC

The Village Board will hold a Public Hearing on the conditional use permit application for Acquisitions LLC, to allow a retail consignment shop at the Riverpoint Shopping Center, 8643 N Port Washington Rd., as required per Village Code Section 745-18.

Motion by President Symchych, seconded by Trustee Miller, and carried by roll call vote (7-0), to open the public hearing at 7:28 p.m., regarding a conditional use permit application for Acquisitions LLC, to allow a retail consignment shop at the Riverpoint Shopping Center, 8643 N Port Washington Rd., as required per Village Code Section 745-18.

Public Comment

There were no public comments.

Motion by President Symchych, seconded by Trustee Miller, and carried by roll call vote (7-0), to close the public hearing at 7:28 p.m., regarding a conditional use permit application for Acquisitions LLC, to allow a retail consignment shop at the Riverpoint Shopping Center, 8643 N Port Washington Rd., as required per Village Code Section 745-18.

c. Public Hearing on the Conditional Use Permit Application for WCL Construction

The Village Board will hold a Public Hearing on the conditional use permit application for WCL Construction, to allow a trade office and indoor storage sub-tenant space on the

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

December 9, 2025

property occupied by Billy Goat Roofing, 8035 N Port Washington Rd., as required per Village Code Section 745-18.

Motion by President Symchych, seconded by Trustee Miller, and carried by roll call vote (7-0), to open the public hearing at 7:29 p.m., regarding a conditional use permit application for WCL Construction, to allow a trade office and indoor storage sub-tenant space on the property occupied by Billy Goat Roofing, 8035 N Port Washington Rd., as required per Village Code Section 745-18.

Public Comment

There were no public comments.

Motion by President Symchych, seconded by Trustee Ollman, and carried by roll call vote (7-0), to close the public hearing at 7:29 p.m., regarding a conditional use permit application for WCL Construction, to allow a trade office and indoor storage sub-tenant space on the property occupied by Billy Goat Roofing, 8035 N Port Washington Rd., as required per Village Code Section 745-18.

d. Public Hearing on the F Institutional District Use Application for Destin's Childcare and Learning Academy LLC

The Village Board will hold a Public Hearing on the F Institutional District use application for Destin's Childcare and Learning Academy LLC, to allow a daycare center on the property owned by Congregation Sinai, 8223 N Port Washington Rd., as required per Village Code Section 745-20.

Motion by President Symchych, seconded by Trustee Miller, and carried by roll call vote (7-0), to open the public hearing at 7:30 p.m., regarding a conditional use permit application for Destin's Childcare and Learning Academy LLC, to allow a daycare center on the property owned by Congregation Sinai, 8223 N Port Washington Rd., as required per Village Code Section 745-20.

Public Comment

There were no public comments.

Motion by President Symchych, seconded by Trustee Miller, and carried by roll call vote (7-0), to close the public hearing at 7:30 p.m., regarding a conditional use permit application for Destin's Childcare and Learning Academy LLC, to allow a daycare center on the property owned by Congregation Sinai, 8223 N Port Washington Rd., as required per Village Code Section 745-20.

e. Public Hearing on an Ordinance to rezone property located at 8000 N Port Washington Rd to add the Port Washington Overlay (PWO) Zoning District Designation

The Village Board will hold a Public Hearing regarding a proposed ordinance to rezone the property located at 8000 N Port Washington Rd to add a Port Washington Overlay District designation per the application by John Degroote, to establish a brewery/taproom as required per Village Code Section 745-22.5.

Motion by President Symchych, seconded by Trustee Miller, and carried by roll call vote (7-0), to open the public hearing at 7:29 p.m., regarding a proposed ordinance to

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

December 9, 2025

rezone the property located at 8000 N Port Washington Rd to add a Port Washington Overlay District designation per the application by John Degroote, to establish a brewery/taproom as required per Village Code Section 745-22.5.

Public Comment

Presentation by John DeGroote

Alex Paskowski, 7308 N Crossway, Fox Point. Expressed support for beer garden, creates sense of community, raise property values

Melanie Gray, 417 W Willow Terr, Fox Point. Questioned success of beer garden when several have failed in local communities

Charlie Hoffman, 8176 N Seneca Rd, Fox Point. Said he grew up in Fox Point and recently returned and purchased a home. feels beer garden will be great for community, create connections and improve property values.

Cheane Sartler, 8320 N Whitney Rd, Fox Point. Full support for beer garden and says all of her neighbors feel the same.

Linda Cross, 409 W Willow Terr, Fox Point. Excited for place to walk to and gather but concerned about parking and loud music

Nora Meissner, 7674 N Seneca, Fox Point. Voiced concerns for brewing smells, loud music, and for children and safety on Bradley Road.

Aaron Bubb, 6440 N Santa Monica Blvd, Fox Point. Supports beer garden and the family friendly idea

J Andrew Carrillo, 8055 N Mohawk Rd, Fox Point. Wonderful idea, but consider noise, drunk drivers

Brooks Burton, 8020 N Mohawk Rd, Fox Point. Concerned about drunk driving, noise, parking

Cody McDonald, 6924 Yates Rd, Fox Point. Strong support for beer garden. Has left other villages due to lack of options of things to do

Danielle Santori, 7641 N Regent Rd, Fox Point. Expressed significant concern for safety walking streets due to traffic complications and people under the influence of alcohol, noise and traffic. Asked the Village Board to consider the view point of the residents who live near the project.

Mark Jaffe, 7955 N Regent Rd, Fox Point. Strong support for beer garden. Identified as a someone who has recently moved to Fox Point and says the beer garden will lead more families to want to live in Fox Point.

Jesse Carlton, 7442 N Mohawk Rd, Fox Point. Supports the beer garden concept as a community gathering place and says it will be good for the village

John Harkey, 1107 E Lilac Ln, Fox Point. Full support for a gathering place. Decision will positively impact the community and create more vibrancy.

Andrew Trotter, 7551 N Mohawk Rd, Fox Point. Expressed full support but asked Village Board to consider concerns voiced earlier.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
December 9, 2025**

Nora DeGroot, 6439 N Santa Monica Blvd, Fox Point. Identified as John DeGroots wife and said she was there to speak as a character witness. Talked about John DeGroots love for community and building relationships.

Beth Gregg, 7414 N Boyd Way, Fox Point. Supports the beer garden. A good investment for the corner of Bradley and Port Washington and believes it will make it more appealing.

Mark Grady, 8425 N Indian Creek Pkwy, Fox Point. Said he speaks for older generation and supports proposal. Concern of increased traffic. Believes Mr. DeGroote can resolve parking if an issue, noise can be adjusted. Feels the purpose of the zoning proposal is to do what is best for the village.

Terry Worth, 8048 N Santa Monica Blvd, Fox Point. Has lived in the Village for 36 years and fully supports beer garden. It will bring community together.

Amy Barth, 7875 N Boyd Way, Fox Point. Consider noise and maybe limit to 2-3 night per week otherwise warns of angry neighbors. Expressed overall support.

Motion by President Symchych, seconded by Trustee Freedman, and carried by roll call vote (7-0), to close the public hearing at 8:17 p.m., regarding a proposed ordinance to rezone the property located at 8000 N Port Washington Rd to add a Port Washington Overlay District designation per the application by John Degroote, to establish a brewery/taproom as required per Village Code Section 745-22.5

CONSENT AGENDA

- a. Approved the minutes of the November 11, 2025 Village Board meeting.
- b. Approved the minutes of the November 18, 2025 Special Village Board meeting
- c. Approved payment of the bills in the amount of \$418,291.05 for the period of November 1, 2025 through November 30, 2025 per the report submitted by the Village Manager.
- d. Appoint Election Inspectors for the two-year term of January 1, 2026 through December 31, 2027, per the Deputy Clerk's memorandum updated December 1, 2025.
- e. Accept the proposal of Wachtel Tree Science in an amount not to exceed \$55,000 for the 2026 Forestry Services and authorize the Village President and Village Clerk/Treasurer to sign the contract per the Director of Public Works' memorandum dated December 3, 2025.

Motion by President Symchych, seconded by Trustee Miller, and carried by roll call vote (7-0), to approve the consent agenda, items a-e.

UNFINISHED BUSINESS

a. Village Manager Recruitment Update and Discussion

Board members will discuss and may take action on the recruitment process for Village Manager and provide input on various parameters related to qualifications, experience, and compensation.

Unanimous Consent for IPA post notice for position opening and begin actively recruiting for Village Manager.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
December 9, 2025**

NEW BUSINESS

a. Consideration of an ordinance to amend Chapter 63 of the Village of Fox Point Municipal Code

The Village Board will consider and may act on amendments to Chapter 63 of the Fox Point Municipal Code.

Motion by Symchych, seconded by Barry and carried by roll call vote (7-0), to adopt the ordinance to amend Chapter 63 of the Village of Fox Point Municipal Code.

b. Consideration of a Resolution to Identify a Single Polling Location

The Village Board will discuss and may consider a resolution to combine the two existing polling locations into one; to be located at Longacre Pavilion.

Motion by President Symchych, seconded by Trustee Freedman and carried by roll call vote (7-0), to postpone action on the resolution until the next Regular Village Board meeting on 1/13/2026.

c. Consideration of Conditional Use Permit Application for Acquisitions LLC

The Village Board will consider and may take action on the conditional use permit application for Acquisitions LLC, to allow a retail consignment shop at the Riverpoint Shopping Center, 8643 N Port Washington Rd., as required per Village Code Section 745-18.

Motion by Symchych seconded by Miller and carried by roll call vote (7-0), to the conditional use permit application for Acquisitions LLC, to allow a retail consignment shop at the Riverpoint Shopping Center, 8643 N Port Washington Rd.

d. Consideration of Conditional Use Permit Application for WCL Construction

The Village Board will consider and may take action on the conditional use permit application for WCL Construction, to allow a trade office and indoor storage sub-tenant space on the property occupied by Billy Goat Roofing, 8035 N Port Washington Rd., as required per Village Code Section 745-18.

Motion by Symchych, seconded by Miller, and carried by roll call vote (7-0), to approve the conditional use permit application for WCL Construction, to allow a trade office and indoor storage sub-tenant space on the property occupied by Billy Goat Roofing, 8035 N Port Washington Rd

e. Consideration of F Institutional District Use Application for Destin's Childcare and Learning Academy LLC

The Village Board will consider and may take action on the F Institutional District use application for Destin's Childcare and Learning Academy LLC, to allow a daycare center on the property owned by Congregation Sinai, 8223 N Port Washington Rd., as required per Village Code Section 745-20.

Motion by Symchych, seconded by Miller and carried by roll call vote (7-0), to approve the F Institutional District use application for Destin's Childcare and Learning Academy

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
December 9, 2025**

LLC, to allow a daycare center on the property owned by Congregation Sinai, 8223 N Port Washington Rd. Incorporate Plan Commission's findings and include hours of operation from 6 AM to 6 PM.

f. Consideration of an Ordinance to rezone property located at 8000 N Port Washington Rd to add the Port Washington Overlay (PWO) District Designation

The Village Board will consider and may take action to adopt an ordinance to rezone the property located at 8000 N Port Washington Rd to add a Port Washington Overlay District designation, per the application of John Degroote, to establish a brewery/taproom per Village Code Section 745-22.5.

Motion by Freedman, seconded by Miller and carried by roll call vote (7-0), to adopt an ordinance to rezone the property located at 8000 N Port Washington Rd to add a Port Washington Overlay District designation with the additional restriction that outdoor music will be prohibited after 10 PM.

FUTURE AGENDA ITEMS – None

President Symchych requested unanimous consent to go into Closed Session after Announcements. No objections uttered.

CLOSED SESSION [IF NECESSARY]

Motion made by President Symchych, seconded by Trustee Ollman, to convene into closed session at 9:36 p.m., pursuant to Wisconsin Statute Section 19.85(1)(g), to confer with legal counsel for the government who is rendering oral or written advice concerning strategy to be adopted by the governing body with respect to litigation in which the body is involved; more specifically regarding the Milwaukee County Circuit Court case entitled "The Town Club v. Village of Fox Point". Along with the Village Board, the Interim Village Manager, Deputy Clerk, Village Attorney and the Assistant Village Manager will join the closed session.

President Symchych announced her recusal and departed.

Trustee Ollman	Aye
Trustee Aelion	Aye
Trustee Stoltz	Aye
Trustee Freedman	Aye
Trustee Miller	Aye
Trustee Barry	Aye
President Symchych	Aye

RECONVENE INTO OPEN SESSION

Motion made by Trustee Stoltz, seconded by Trustee Aelion and carried by roll call vote (6-0) to reconvene into open session at 9:48 p.m.

Motion made by Trustee Stoltz, seconded by Trustee Freedman and carried by roll call vote (6-0) to grant the Conditional Use Order for Pickleball Courts at the Town club as presented at the meeting of November 11, 2025, except the dates shown in paragraph 4 shown on page 14 shall be May 1 through September 30, and subject to the Town Club accepting the conditional use order in writing and signing a full and final settlement agreement and release of all claims.

**VILLAGE OF FOX POINT
VILLAGE BOARD MEETING MINUTES
December 9, 2025**

ANNOUNCEMENTS

President Symchych announced praise for the Centennial Committee and the work they are doing for the Centennial celebrations. Issues with sales tax collections related to Department of Revenue and the City and County of Milwaukee sales taxes continue. That issue is a focus of the Intergovernmental Cooperation Council. Meeting of North Shore Fire Department board with no new, notable developments.

Trustee Ollman announced - None

Trustee Aelion announced - None

Trustee Stoltz announced - None

Trustee Freedman announced - None

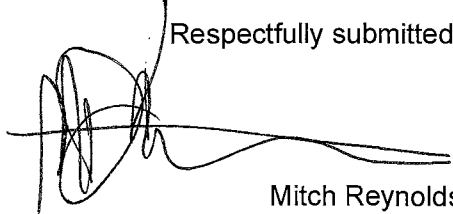
Trustee Miller announced - None

Trustee Barry announce- None

Interim Manager Reynolds announced temperatures are cold enough to begin flooding ice rink for skating season. If everything goes as planned, rink will open on 12/17... Recognition for the Department of Public Works staff who spent the weekend after Thanksgiving collecting leaves and then quickly pivoting to plowing snow and then were called in the very next weekend for another snow event... The leaf clean-up process will continue with excavating equipment to remove leaves from snow. The Beach Drive project is close to completion with final work coming in the spring... Welcome to new police officer Justin Bryant who has just returned from the Police Academy and begins street training with officers immediately.

ADJOURNMENT

Motion made by Trustee Ollman, seconded by Trustee Miller, and carried by roll call vote (6-0) to adjourn the Village Board meeting at 9:50 p.m.

Respectfully submitted,

Mitch Reynolds
Interim Village Manager

Published and posted January 15, 2026

CONDITIONAL USE ORDER

Document Number

Document Title

Village of Fox Point
7200 N. Santa Monica Boulevard
Fox Point, WI 53217

CONDITIONAL USE ORDER: GRANT
Pickleball Courts

April 9, 2024

Petitioner: The Town Club

FINDINGS OF FACT¹

1. On or about November 20, 2023, the Petitioner submitted an application for a conditional use permit to the Plan Commission to construct eight (8) pickleball courts on the property pursuant to Section 745-20 of the Village Code, and after the Village advised Petitioner to submit a request, pursuant to Section 745-10 of the Village Code.
2. Pursuant to Sections 745-10(F) and 745-20(B)(1) of the Village of Fox Point Zoning Code, the Petitioner's application included all required materials, and the filing fee required by Chapter 63 of the Village of Fox Point Code was paid at the time of filing the application.
3. At its December 4, 2023 meeting, the Plan Commission studied the Petitioner's application, and considered the four standards in Section 745-20(B)(2) of the Village of Fox Point Zoning Code, which are as follows:
 - (a) Appropriate in the location proposed;
 - (b) Compatible with the neighborhood;
 - (c) Not detrimental to the property values of surrounding property; and
 - (d) In keeping with the residential character and quality of the Village.
4. Based on information presented at the December 4, 2023 meeting of the Plan Commission, the Plan Commission found that the standards of Section 745-20(B)(2) of the Village of Fox Point Zoning Code have been met, and pursuant to Section 745-20(B)(7) of the Village of Fox Point Zoning Code, recommended the Village Board conditionally approve the conditional use permit with an amendment to the language of the conditional use order

Recording Area

Name and Return Address:

Eric J. Larson
Municipal Law & Litigation
Group, S.C.
730 N. Grand Avenue
Waukesha, WI 53186

Tax Identification Number:

¹ To the extent that findings of fact shown herein represent conclusions of law, these shall be deemed to be conclusions of law. To the extent that conclusions of law shown herein represent findings of fact, these shall be deemed to be findings of fact. The heading under which the statements are made shall not be controlling.

adding that the continued use of tennis be allowed; and that the addition of sound reduction screens (“sound screens”) be used to reduce the sound by 50% when at full capacity.

5. Pursuant to Section 745-20(B)(4), the Village Board scheduled a public hearing on the Petitioner’s application.
6. Upon publication of the required “Notice of Public Hearing” and mailing of said “Notice of Public Hearing” to all parties-in-interest as required by Section 745-20(B)(5) of the Village of Fox Point Zoning Code, & Wisconsin Statutes Sections 61.35 & 62.23(7)(de), the Village Board held a public hearing on January 9, 2024, as required by Section 745-20(B)(6) of the Village of Fox Point Zoning Code.
7. The purpose of the scheduled Public Hearing was to consider said application.
8. Residents Amy Barth and Kevin King provided letters in opposition to the proposed use that were incorporated into the record. Ms. Barth’s letters included videos from her property which highlighted the amount of noise coming from The Town Club’s current property, as well as articles from the New York Times and NPR which discuss the noise problems resulting from pickleball. These videos and articles were included as part of the record. The New York Times article states that pickleball whacks from 100 feet away can reach 70 dBA, that the high pitch of the hard paddle striking a plastic ball and the erratic rhythm of the smacks contribute to the annoyance of the sound, and that new paddles and balls designed to dampen noise have had marginal uptake among players.
9. Several residents spoke at the Public Hearing, with some expressing support and others expressing concerns about the proposed use.
 - (a) Amy Barth, 7815 N. Boyd Way, spoke in opposition of the application at the public hearing due to the noise caused by pickleball, and the frequency and duration of the noise.
 - (b) Kevin King, 7805 N. Boyd Way spoke in opposition due to the frequent noise that he said would result from the pickleball courts.
 - (c) Brian Hartnett, 7801 N. Boyd Way spoke in opposition due to the noise, and the disruption that he said will be caused by the lights at the court.
 - (d) Paula Rivet, 7957 N. Fairchild Rd., spoke in opposition due to the noise caused by the courts, asserting that the frequency of noise is similar to garbage trucks. Ms. Rivet also raised concerns of the proposed hours the courts will be open.
 - (e) Stephen Spadafora, 7731 N. Club Circle, spoke in support of the proposed use, stating that pickleball is a growing sport and this will provide further courts in the Village.
 - (f) Sara Koehn, 7901 N. Santa Monica Blvd., spoke in support of the proposed use, noting that the courts will provide a social hub, will attract growing families, and the proposed sound screen shows the Petitioner is mindful of their surroundings.

- (g) Andrew Roberts, 413 E. Appletree Rd., spoke in support of the proposed use.
- (h) William Stalle, 7342 N. Longacre Rd., spoke in support of the proposed use, stating that it provides a place for community members to gather and play sports.
- (i) Vice President Peter Klug, Representative of The Town Club, 7950 N. Santa Monica Blvd., spoke in support of the proposed use. He noted that the Petitioner will keep the exact same footprint, and with the sound screens, the sound will be reduced to an acceptable level, and that there will be no lights, so pickleball will only be a daytime activity.
- (j) Peter Coffey, 6618 N. Barnett Ln., spoke in support of the proposed use, noting that similar uses around the Village, such as the Fox Point Municipal Pool, are louder than this proposed use.

10. The Village Board closed the public hearing and discussed the matter.

11. On or about February 27, 2024, the Village Board met to deliberate, after which by motion duly adopted, the Village Board re-opened the public hearing to allow receipt of additional testimony and evidence. On or about March 12, 2024, the Village Board referred the Petitioner's proposed use to the Plan Commission for consideration of the outdoor recreational facility and use per Section 745-10(F)(1) of the Village Code. The Plan Commission considered the matter at their meeting of April 1, 2024, and recommended in favor of the application, provided that a review of the use after one year be conducted with a determination made at that time whether the use meets the standards in the ordinances, or if further noise mitigating measures are necessary. Upon all due notice, the Village Board conducted a continued public hearing of the matter on April 9, 2024 to consider the Plan Commission's recommendation made pursuant to Section 745-20 of the Village Code.

12. The Village Board received numerous letters and written documents, which were included in the Board packet and have been received and form a part of the record, including:

- (a) In Paragraph 3.b. of an April 9, 2024 email from Kim Brier, 7723 N. Boyd Way addressed to the Village Board members, she noted:

"According to professor Sakar or (sic) George Washington University who studies PB strikes says: it is Not equivalent to tennis, it has a higher noise impact with in excess of 70 decibles (sic)@ 00 ft away. In most communities with a noise ordinance enforced, the norm is 55 db before considered a nuisance."

- (b) In Exhibit F of an April 1, 2024 email from Amy Barth, 7815 N. Boyd Way addressed to the Village Board members, she describes an ordinance adopted by the Centennial City Council on September 19, 2023 which, among other things, lists the following:

"Permanent Outdoor Courts can create no more than 47 decibels at the nearest residential property line"

In the same email, Exhibit A included a chart that lists approximate decibel levels for various sounds, and lists pickleball at 70 dBA and city sounds at 55 dBA.

- (c) In the fifth paragraph of a February 11, 2024 email from David Miller addressed to Village Board members, he states:

“If Petitioner is to be granted a permit, a maximum allowable decibel level for a windscreen, as determined by an independent, qualified engineer, should be specified as a Condition in the Order to eliminate the ambiguity of this condition. Fifty decibels is the level for normal conversation, and should be considered as the maximum allowable decibel level, since this is what neighbors in residential areas are typically exposed to.”

- (d) A June 30, 2023 New York Times Article “Shattered Nerves, Sleepless Nights: Pickleball Noise Is Driving Everyone Nuts” states:

“For answers, many have turned to Bob Unitich, 77, retired engineer and avid pickleball player, who became one of the foremost authorities on muffling the game after starting a consulting firm called Pickleball Sound Mitigation. Unetich said that pickleball whacks from 100 feet away could reach 70 dBA (a measure of decibels), similar to some vacuum cleaners, while everyday background noise outside typically tops off at a “somewhat annoying 55.”

- (e) Exhibit 5 of a March 20, 2024 letter from The Town Club’s Attorney, Chris Jaekels, included a link to a document that stated the following on page 8:

“Readings were recorded with the meter at 50 feet from the point of impact. In the first case, the reading was even taken through the sound curtain next to a nearby home at a point 42 feet from the sound curtain. The paddle was 8 feet inside the court for a total of 50 feet. The second set of readings was recorded inside the court at a distance of 50 feet from the point of impact. With no sound curtain, readings ranged from 64.2 to 71.8 decibels for an average of 68 decibels. Through the Acoustifence sound curtain, the meter readings were between 54.7 - 59.2 decibels for an average reading of 56.7 decibels. The report concluded that an 11.3 decibel reduction in sound was achieved. This represents more than a 50 percent reduction in sound as perceived by the human ear by nearby homeowners.”

These levels were recorded based upon a single player hitting a single ball, one at a time.

- (f) In an article entitled “Pickleball Sound 103 – Mitigating Pickleball Sound – Is Pickleball Compatible with Residential Environments?” presented at Noise-Con 2023, the article made the following recommendations regarding recommended noise ordinances:

“A recommended noise limit for pickleball has been established based on an average LAFmax from several measurements and the background sound level. When the background sound level is below 47 dBA, the limit is an average of 50 LAFmax. The average LAFmax comes from 4 individual LAFmax measurements of 60 seconds each. When the background sound level is above 47 dBA, the limit is LAFmax = background sound + 3 dB. This variable limit accounts for the presence of high background sound. This limit has been successfully used to quantify sound from pickleball, to evaluate the risk of pickleball noise complaints, to perform site studies for pickleball courts, and to evaluate the effectiveness of pickleball sound mitigation strategies.”

Further, the same article made the following recommendations for estimates in the distance from courts to avoid complaints:

“Table 1 – Estimates of the minimum distance in feet from courts to avoid pickleball complaints (1)

Background sound (dBA)	45 dBA	50 dBA	55 dBA	60 dBA
Distance (ft)– no mitigation	977	687	377	202
Distance (ft)– 10 dB mitigation	292	202	103	48
Distance (ft)– 20 dB mitigation	77	48	17	1

(1) The distances in Table 1 are based on standard sound attenuation with distance. Variations in sound attenuation with distance occur due to wind direction and speed and to atmospheric refraction. The temperature profile above the ground can bend the sound waves upward or downward (6). This can result in increases or decreases in these minimum distances.”

13. Several residents spoke at the Public Hearing on April 9, 2024, with some expressing support and others expressing concerns about the proposed use.
 - (a) Chris Jaekels spoke in favor of the application, as the legal counsel for the Town Club. He said the former tennis courts were used since 1973, and have been used as pickleball courts for 3 years. He noted that the Plan Commission recommended in favor of the proposed use twice. The Town Club has done everything that they have been asked to do. The Town Club has provided a thorough record. The Village itself has run its own pickleball courts, at Longacre and Indian Creek, and has received no complaints. He argued that it appears to be a double standard because the Town Club has been asked to do more than the Village itself has done. The 4 standards of the F-District ordinance, Section 745-20(B)(2) of the Village Code have been met. In addition, the standards in the outdoor recreational ordinance, Section 745-10 of the

Village Code have been met. The Plan Commission found the standards of both ordinances have been met. The Town Club has agreed to add sound attenuating devices. They are also willing to accept a 1-year review of the Conditional Use Order. The Town Club has filed written materials to support their position. Further, a submittal from a resident, which was not drawn to scale, and not appropriate to focus only on the opinion of those who reside within 500 feet was not persuasive. The submittal is not appropriate for this facility that has a long history in this location in the Village. Ultimately, The Town Club requests that the permit be granted with these conditions that have been agreed upon.

- (b) Roy Wagner testified that he is a member of the Town Club, and spoke in favor of the application. Recreational outlets are important in the Village. The Club is located on the East Side of Santa Monica. He noted that it's not really residential, it's mixed use. This has been an appropriate place for non-residential uses for years. Outdoor recreation has been done on this location for 70 years. This is where the Village wants these activities. The Club has used this location for tennis, and for the past 3 years has used it for pickleball. Based upon the Village's standards: pickleball is not a nuisance. The Village itself conducts this activity, so it cannot be a nuisance. He is not aware of any appraiser who has said that there will be reduced property values.
- (c) Brian Hartnet testified that he has been a resident for 25 years. Two of the Village's ordinances are applicable to this use. Village Code Section 579-2(A)(3): keeping an animal which, by frequent howling, whining, yelping, barking, meowing, or otherwise in the area which causes serious annoyance or disturbance to the area. Another Village Code Section, 670-2: Loud and unnecessary noise. Tennis and pickleball are different, it's a harder noise. This is a year-round sport. The balls in the winter may be louder. He does not want to prevent this entirely, but he wants a guarantee that he can sit on his patio and not be disturbed by this activity.
- (d) Jim Gray testified that he has lived in the Village for 30 years. He has not heard a goal for a sound pressure level. Can't quantify it. The Village needs to create a quantifiable goal.
- (e) Steve Check. One of the people at Plan Commission said the pickleball was used only 3 to 5 hours per week. This is the first club in the North Shore that is adding pickleball in a residential neighborhood. Brian Hartnet's house is 80 feet from the pickleball court, based on Google Maps. The Fox Point courts are 200 feet from residences. If 8 courts are added, they could have 32 people that could be playing. He would not like that in a backyard. Go look at how close this is to Brian Hartnet's house. This would mitigate the enjoyment of their house. None of the Town Club members are close neighbors.
- (f) Mike Widdle testified in opposition. The trains and tracks that are also close to these residences are not relevant. Tennis and pickleball are not comparable in terms of sound. To say that they previously played on these courts is not relevant to the leagues, classes, and 8 courts proposed. The exhibits for the proposal fail to address the details of the operation. The 50% reduction is not a meaningful measurement by itself. The more relevant measurement is the decibel level. Pickleball because of its

high pitch is likely more of an annoyance. Should use a dBA standard that would apply to this activity.

- (g) Scott Allerton testified, saying he has been a resident for 18 years. He lives 4 houses west of the swimming pool. When purchased it, they were aware of the pool. He speaks in favor of the application. The courts are used from 8 a.m. to dusk, with a lot of activity on the courts. Pickleball is an evolving sport. Another consideration is that the technology is evolving to reduce the noise levels.
- (h) Debra Widdle testified in opposition. She lives right across the street, and can see the pickleball courts. She does a lot of gardening in the yard. How will she be able to garden with all of the noise? The current use is not all the time, it is not all day, it is not tournaments. There will be constant traffic, constant people, and noise. There will be additional noise from audience members. The constant dawn to dusk is a problem. She noted she was also offended by only sending notices to people directly to the front and to the side. Where was the Village using as the point of where to notify? The hours of use need to be restricted. They need the noise barrier to be constructed. Why not put it on the North side?
- (i) Kim Brier testified. The game has increased 233% in popularity. That increase in popularity explains the lack of complaints. This use would disrupt the neighborhood. Sound barriers can help. For noise, 55 decibels is a nuisance. Houses should not be within 900 feet. There is a negative impact on property values. Eight courts, 32 people playing, all day – it will have adverse impact. She wants peace and quiet. No plans to include sound engineering firm.
- (j) Kevin King testified in opposition. His yard is within 100 feet, and the fact of the railroad tracks in between does not do anything. The train is twice a day, pickleball is much more frequent.
- (k) Amy Barth testified in opposition. Pickleball more than 100 feet, require 1 or more sound barriers. Those within 500 feet are the ones affected. The proposal is for thirteen hours a day, which is not realistic. Sound study was found not compatible, even right next to a freeway. The nets need to block line of sight, and cannot do that to second story residences. People have a right to use their property. Object to the characterization of the enjoyment of property not being measurable. Recently have started complaining. People have been bringing their own speakers. Should do a sound study before they are built.
- (l) Bill Ford testified in support of the proposal. The Village has to look at everything. There are 173 Town Club members. Town Club is a benefit to the Village and the community. The Town Club is also an employer for youth in the area. The Town Club tries to be a good neighbor. The Town Club will just be doing what it has done for the past 3 years. The facts do not support the idea that this will be a nuisance.
- (m) Aaron Ginser testified in opposition. He is an emergency medicine worker. When thinking of a community sport as noisy as this, that will affect happiness, need to

take that into account. Knowing some of the people here, the fact that they have not made complaints, is more of a reflection of the people than it is of the noise.

- (n) John Hughes spoke in opposition. Pickleball is not a racket sport. The Town Club is cherry picking the data. No notification was put out 3 years ago. Even today, did not notify people within 100 feet. Believe the number should be 1,000 feet. The Town Club is not generating revenues in amounts to offset the lost property values. You have to get decibel levels. Pickleball is a nuisance. Common sense says it will reduce property values.
- (o) Tammy Vincent spoke in support of the Town Club proposal. She chose to live in Fox Point because she loves the neighborhood feel. She loves the neighborhood and the sounds of a neighborhood. Outdoor recreation is part of being in a neighborhood.
- (p) Adam First spoke in support of the proposal. He moved to Fox Point in 2019, and joined Town Club in 2023. The resurfacing project is a safety issue, to make the courts safe to use. Pickleball is a lifetime sport, that is multi-generational. He supports the proposal, especially for the older members, who may not be able to use a tennis court due to its size. The hours of 8 a.m. to dusk does sound daunting, but the members will not actually use them for all of those times.
- (q) Peter Coffee spoke in favor of the application. Previously heard about complaints, but in fact no complaints had been made. There is noise in the Village – Harley Davidsons, snow blowers, leaf blowers, all make noise. The job of the Village Board is to decide whether the standards are met. There are courts in multiple locations, with no complaints. There cannot be two standards, one for the Town Club, another for the Village.
- (r) Kaitlin Torres spoke in favor of the application. This is a community. She moved back to the Village knowing that she wanted a suburb environment. Activity outdoors is a good thing. She loves the noise of the recreation. Community is where suburbs come in, and the Town Club is part of the community. The staff keep it up, and make sure the members are being respectful. One hundred percent support it. Town Club has been here, and will be here.
- (s) Steve Spadafora spoke in favor of the application. He lives about 3 blocks from the Town Club. His whole family of 5 are avid pickleball players. He is concerned about the double standard being applied to the Town Club. He said he loves to hear the sounds of summer. Noise can't be the issue, otherwise it would not exist at the other two Village locations. These courts were put in, in 1972. The kids tennis program has kids from 9 to 3 all summer. The Town Club is good for the Village. In the last 3 years, abutting property value increased 33%.
- (t) Jeane Hartnet spoke in opposition. She has lived in the closest home to these courts for 24 years. The courts would be 80 feet from their back yard. Jeane provided quotes from reports in other States. Sound experts recommend the courts be at least 550 feet from residential property. She said pickleball can lead to numerous physical

and mental health impacts. She is retired and on a fixed income. She can't afford to take a loss of value on her home. She said that the Town Club is stealing from them.

- (u) Ann Saxie testified in opposition. She lives directly across from the Town Club. She believes the Club is noisy all the time. In the past the Town Club was quiet at night. People are there before 8 a.m., and until 1:00 a.m. She has called the police at times in the past. Over the years, the Town Club believes it is privileged, and does not have to adhere to the standards that the rest of the Village does. The noise will not stop just because the sun goes down. They will clog Santa Monica, which is a problem for emergency vehicles.
- (v) Joanne Ginster testified in opposition. She has lived behind the Town Club, for the past 20 years. She has an 87 year old neighbor, and is opposed, not to the Town Club but to pickleball. She will be about 150 feet from it. Tennis doesn't bother her. But the devaluation of the properties is a big deal. Even a noise barrier there will not stop the noise. Pickleball courts are the wrong way to go for this community.
- (w) Evan Bretsman spoke in opposition. He said he agrees with Amy Barth's submittal materials. Experts say the courts should be more than 550 feet from homes. His house is 310 feet from the pickleball courts. It's not just the decibel levels, it's the sharpness of the noise. Pickleball is louder. The loud Town Club people have no regard for the neighbors. He is concerned about disruption of sleep of young girls. They can't build a noise barrier. He does not have a summer house to go to, to escape the noise. Pickleball generates noise pollution. The Board should draw a line, and not let noise pollution diminish the property value of the neighbors.
- (x) Hillary McCabe, resident since 2013, spoke in favor of the application. Pickleball creates noise, but champion the good neighbor that the Town Club is. They are taking the feedback into consideration. Recognize the noise, but also the health benefits. The Town Club is good for the Village.
- (y) Nick Ansay testified to say that the noise is annoying. The screaming can be too much. That should be mitigated.
- (z) Attorney Jaekels clarified that there are currently 6 courts, and only play during daylight hours, 5 months per year.

14. Trustee Fonstad noted that a representative of The Town Club stated at the Plan Commission meeting that The Town Club has used the tennis courts in question for pickleball for the last two or three years and had received no complaints or issues regarding noise. As part of the proposed use, the Town Club intends to maintain the Arbor Vitae, and it intends to install sound screens to further decrease potential sound from the proposed use.

15. The Village of Fox Point is a primarily a residential community. The mission of the Village of Fox Point is to protect and enhance the quality of life of its residents by providing cost-effective, efficient, and innovative services, preserving and maintaining

Village neighborhoods and public amenities, fostering community pride and spirit, and encouraging active citizen participation.

16. The location of the proposed pickleball courts is adjacent to residential neighborhoods. The noise caused from pickleball will create disruptions, diminish these residents' ability to enjoy their property, and lower the overall quality of life of these neighborhoods unless effective measures are taken to reduce the volume and duration of noise from pickleball.
17. The Plan Commission's finding, based on information presented at its December 4, 2023 meeting, that the standards were met is not binding of the Board. The Board must make its own determination as to whether the standards are met.
18. The Village Board finds that with the conditions set forth in this order, and if the Petitioner, at the Petitioner's sole cost and expense, engages a sound engineer to conduct a study and make recommendations to reduce pickleball noise to a decibel level of 50 - 55 decibels (50 - 55 dB), measured at the property line of any residential property, and with the implementation of the sound engineer's recommendations, limits the hours of operation, requires compliance with all other Village Ordinances, including the Village Noise Ordinance and Village Recreational Facilities Ordinance, the proposed use is appropriate in the location proposed, it is compatible with the neighborhood, it is not detrimental to surrounding property values, and is in keeping with the residential character and quality of the Village because these conditions will effectively eliminate any potential deleterious effects, and the proposed use will provide further recreational activities in the Village.
19. Given that pickleball is an entirely new activity in the Village, should the Village find it necessary to regulate pickleball in the future, those regulations will apply to pickleball courts in the Village including at The Town Club.
20. Ultimately, upon consideration of all of the information provided at the public hearing, the Village Board finds that the Petitioner has shown by substantial evidence that all standards of the Village of Fox Point Zoning Ordinance would be met if effective steps are taken to mitigate pickleball noise, and substantial evidence to the contrary has not been provided.

CONCLUSIONS OF LAW²

1. Section 745-20(B)(2)(a) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use permit: Whether the proposed use is appropriate in the location proposed. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has met this standard, provided the conditions noted below are met. The Petitioner owns a recreational club that includes swimming pools, tennis courts, and paddle ball courts. The construction and use of pickleball courts is consistent with the other uses on the property, and is appropriate in the location proposed, provided the conditions noted below are met.

² See footnote 1.

2. Section 745-20(B)(2)(b) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use permit: Whether the proposed use is compatible with the neighborhood. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has met this standard, provided the conditions noted below are met. The Petitioner owns a recreational club that includes swimming pools, tennis courts, and paddle ball courts. The construction and use of pickleball courts is consistent with the other uses on the property, and is compatible with the surrounding neighborhood, provided the conditions noted below are met. The Petitioner will maintain the Arbor Vitae and install sound screens along the East, South and West sides of the pickleball courts to decrease any potential sound from the property to no more than 50dB. Further, with the exception of emergencies, no sound amplification equipment will be used on the pickleball courts, and the Petitioner's hours for use will be limited to specific hours noted in the conditions below.
3. Section 745-20(B)(2)(c) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use permit: That the proposed use is not detrimental to the property values of surrounding property. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has met this standard, provided the conditions noted below are met. The Petitioner's use will not be detrimental to the property values of surrounding properties because any deleterious effects will be minimized by the Arbor Vitae, and the sound screens which will reduce the noise to no more than 50dB, the prohibited use of sound amplification equipment, and the limited hours the pickleball courts can be used, provided the conditions noted below are met.
4. Section 745-20(B)(2)(d) of the Village of Fox Point Zoning Code states the following standard the Village Board must consider in determining whether to grant a conditional use permit: That the proposed use is consistent in keeping with the residential character and quality of the Village. Upon the substantial evidence presented and the foregoing Findings of Fact, the Village Board concludes that the Petitioner has met this standard, provided the conditions noted below are met. The Petitioner's pickleball courts will provide further recreational activities to its property and residents of the Village. Recreational activities such as tennis, paddle ball, and pickleball are consistent with keeping the residential character and quality of the Village, as these activities increase the desirability of the Village and are ultimately a benefit to the quality of the Village, provided the conditions noted below are met.
5. Wisconsin Statutes Section 62.23(7)(de)2.b., states, in part: "The applicant must demonstrate that the application and all requirements and conditions established by the [village] relating to the conditional use are or shall be satisfied, both of which must be supported by substantial evidence." The Village Board finds that the Petitioner made the required demonstration in support of the application.
6. In 2006 the Village and the Petitioner entered into an agreement which allowed certain uses on what was then the parcel adjacent and to the south of the Subject Property. That agreement is unchanged and remains in effect. This current petition is being addressed by conditional use permit rather than agreement because of 2017 Wisconsin Act 67 which

broadly defined conditional uses and imposed procedural and substantive limitations on local authority, which apply to this petition and have been followed in this matter.

7. This application has also been considered under Section 745-10 of the Village of Fox Point Village Code, concerning outdoor recreational areas and facilities. The Village Board makes the following conclusions in this regard:
 - a. The game court is not located closer than 100 feet to an adjoining property line of a property in a residence district.
 - b. Section 745-10(A)(1) of the Village Code states: "No such use shall be permitted in any case where it shall create a nuisance, a hazard, or otherwise result in a substantial adverse effect on the surrounding property values or on the enjoyment of such property, or be in any other way detrimental to the general public welfare. Every reasonable effort shall be made to prevent such effect through control of lighting, attractive design and maintenance of structures, use of planting screens or attractive fences, careful placement on the site, and sensible regulation of use." The Village Board finds that substantial evidence has been presented to demonstrate compliance with this standard, and insufficient substantial evidence has been presented to the contrary, subject to ongoing compliance with the conditions stated herein.
 - c. Section 745-10(F)(4) of the Village Code states: "In acting on a request ... the Plan Commission shall ... also consider whether or not the proposed use is compatible with the area, is in keeping with the unique residential character of the community, and would result in substantial adverse effect upon surrounding properties." The Village Board also must apply this standard per Section 745-10(F)(5)(a) of the Village Code. The Plan Commission considered this at their meeting of April 1, 2024 and recommended that the Village Board find these standards to be met, provided that a review of the use after one year be conducted with a determination made at that time whether the use meets the standards in the ordinances, or if further noise mitigating measures are necessary. The Village Board finds that substantial evidence has been presented to demonstrate compliance with this standard, and insufficient substantial evidence has been presented to the contrary, subject to compliance with the conditions stated herein.

THEREFORE, IT IS ORDERED AS FOLLOWS:

CONDITIONS

Commencing on the date hereof, a Conditional Use Order for the Subject Property is hereby granted, and the outdoor recreational facility use for pickleball is approved. The Conditional Use granted applies only to the use of the Subject Property as described below and shall continue in existence only so long as the conditional use is operated in compliance with these conditions. The Conditional Use is subject to initial and continued compliance with each and every one of the following conditions, restrictions and limitations.

1. The Conditional Use approval is (including Site Plan/Plan of Operation (SPPO) approval) limited to the Petitioner for the property located at 7950 North Santa Monica Boulevard, Fox Point, Wisconsin 53217 for the following uses: construction and creation of pickleball courts, in accordance with plans, documents, and specifications presented to the Village of Fox Point on January 9, 2024, which must comply with the Village Recreational Facilities Ordinance.
2. The Conditional Use approval is subject to the hours of operation for pickleball activities being restricted to: 10:00 a.m. to 6:00 p.m. Monday, Wednesday and Thursday; 10:00 a.m. to 8:00 p.m. Tuesday and Friday; and 9:00 a.m. to 4:00 p.m. Saturday and Sunday.
3. The Conditional Use approval shall not be in full force and effect until such time as the Petitioner satisfies the following conditions precedent:
 - a. Sound Engineer Study. The Petitioner shall engage a sound engineer to conduct a pickleball sound study and make recommendations to reduce the noise from pickleball to no more than 55dB as measured at any residential property line, with a target of further reducing the noise to 50 dB as measured at any residential property line. The Petitioner shall submit the study and recommendations to the Village Manager. The Village retains the right to complete its own sound study at its own expense.
 - b. Landscape Plan. The Petitioner shall submit to the Village of Fox Point Village Manager a landscape plan including sound screening surrounding all of the pickleball courts designed to reduce the sound from the pickleball courts as defined above, which incorporates the recommendations of the sound engineer. The plan shall depict the location of Arbor Vitae, or equivalent as approved by the Village Manager, which are required to be located along all west and south outer boundaries of the pickle ball courts to the extent practicable, and the east outer boundary to the extent allowed consistent with the existing railroad and utility rights of way, to screen the fence from the surrounding neighbors, along with a maintenance plan ensuring that screening vegetation continues in such locations for the duration of this conditional use permit.
 - c. Sound Screens. The Petitioner's plan must also include details of the proposed sound screens, which are subject to Village Manager's approval, and are required to be installed and maintained for the duration of the conditional use permit to decrease sound coming from the property. The sound screens shall be depicted on the landscape plan. Should the sound screens become damaged or deteriorated they shall be replaced to ensure they remain as visually appealing and as effective as new for the duration of the conditional use permit, reasonable wear and tear excepted.
4. The pickleball courts shall only be used from May 1 through September 30 of each year.
5. The Petitioner shall not install or use outdoor lights on the pickleball courts.

6. With the exception of emergencies (such as storm warnings), there will be no sound amplification system used on or near the pickleball courts.
7. The Petitioner shall inform the Village of any complaints Petitioner receives regarding pickleball from surrounding neighbors or other Village of Fox Point residents in Petitioner's compliance report (See paragraph 16).
8. This approval is granted for the express conditions stated herein. Changes or alterations including, but not limited to, a change in use, premises, lands, or ownership of the property in question shall require a new Site Plan/Plan of Operation permit with all the zoning procedures at the time being followed. The allowed uses of the property must at no time be hazardous, harmful, obnoxious, offensive, or a nuisance by reasons of appearance, sound, dust, smoke, odor, or other similar factors. Any use not specifically listed, as permitted, shall be considered to be prohibited, except as may be otherwise specified herein.
9. The Petitioner shall keep the exterior condition of the premises in a neat and orderly condition at all times so the premises will not detract from neighboring premises. There shall be no outside storage of junk, debris, or other refuse materials within the property and all such materials shall be disposed of promptly and properly.
10. The Petitioner shall allow Village of Fox Point representatives to inspect the premises upon reasonable notice for the purposes of determining compliance with this approval.
11. The Petitioner shall obtain all required permits from the Village of Fox Point prior to commencing the pickle ball court construction work.
12. This conditional use permit is subject to the Petitioner acknowledging receipt of this Conditional Use Order and agreeing to comply with all conditions imposed in writing, prior to the conditional use permit being effective.
13. The Petitioner and/or Property Owner shall, on demand, reimburse the Village of Fox Point for all costs and expenses of any type incurred by the Village of Fox Point in connection with the review and approval of this application, including, but not limited to, the cost of professional services incurred by the Village of Fox Point for the review and preparation of required documents, attendance at meetings or other related professional services as well as to enforce the conditions in this approval due to a violation of these conditions. Additionally, any unpaid bills owed to the Village of Fox Point by the Subject Property Owner and/or Agent, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees or forfeitures owed to the Village of Fox Point must be paid on demand and prior to issuance of any permits and shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of the billing by the Village of Fox Point, pursuant to Section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to Village of Fox Point, including possible cause for termination of the pickleball conditional use approval.

14. Uses previously approved for the Subject Property may continue. The Agreement and Plan of Operation dated November 30, 2006 between the Village and the Petitioner remains in effect and is unchanged by this Conditional Use Order.
15. The Petitioner shall be subject to review of the terms of this Conditional Use Order by the Village Board on the anniversary of the date the Conditional Use Order is granted. The Village Board may add additional pickleball sound attenuation measures in the event the decibel levels have been substantially and continuously exceeded by the Petitioner. The Village Board may also add other reasonable conditions and restrictions on pickleball as necessary to ensure compliance with the standards of the ordinances and the terms and conditions of this Conditional Use Order. The Petitioner shall file a compliance report and petition for the one-year review at least 30-days prior to the annual review date. The Petitioner will be notified of the date of the review by the Village at least 60-days prior to the review date. Pursuant to this review and any Village Board action, no public hearing shall be required unless the Village Board, in its sole discretion, determines that a substantial change will be made which will adversely impact the surrounding properties. The Village Board may, from time to time, request a meeting with the Town Club to review the implementation of the Club's pickleball sound study and pickleball sound management practices.
16. Other Conditions.
 - a. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Milwaukee, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Village of Fox Point ordinance or other law.
 - b. This pickleball Conditional Use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Village of Fox Point Plan Commission as being in compliance with all pertinent ordinances.
 - c. Should the permitted pickleball Conditional Use be abandoned in any manner, or discontinued in use for eighteen (18) months, or continued other than in strict conformity with the conditions of the original approval, or should the Petitioner be delinquent in payment of any monies due and owing to Village, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the Conditional Use may be terminated by action of the Village of Fox Point Plan Commission, pursuant to the enforcement provisions of this Conditional Use Order.

- d. Any change, addition, modification, alteration and/or amendment of any aspect of this pickleball Conditional Use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands or owners, other than as specifically authorized herein, shall require a permit amendment or restated permit as set forth below and all procedures in place at the time must be followed.
- e. Unless this Conditional Use Permit expressly states otherwise, plans that are specifically required by this Conditional Use Order may be amended upon the prior approval of the Village of Fox Point Plan Commission if the Village of Fox Point Plan Commission finds the plan amendment to be minor and consistent with the Conditional Use Permit. Any change in any plan that the Village of Fox Point Plan Commission feels, in its sole discretion, to be substantial, shall require a restated permit for pickleball, and all procedures in place at the time must be followed.
- f. Should any paragraph or phrase of this Conditional Use Permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the Conditional Use and the remainder shall continue in full force and effect.
- g. If any aspect of this pickleball Conditional Use Permit or any aspect of any plan contemplated and approved under this Conditional Use is in conflict with any other aspect of the Conditional Use or any aspect of any plan of the pickleball Conditional Use, the more restrictive provision shall be controlling as determined by the Village of Fox Point Plan Commission.

The Petitioner provided substantial evidence of meeting or agreeing to meet these conditions. There was insufficient substantial evidence from opponents to the contrary.

Petitioner hereby acknowledges the conditions imposed by the Conditional Use Order and agrees to comply with all such conditions.

[signatures on following pages]

Dated this 17th day of December, 2025.

THE TOWN CLUB

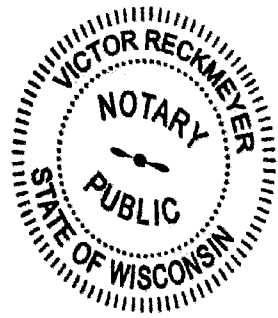
Peter T King
(signature)

Peter T King, President
(print name and title)

STATE OF WISCONSIN)
) ss.
COUNTY OF MILWAUKEE)

Personally came before me on this 17th day of December, 2025, the above-named, Peter T. King, executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, STATE OF WI
Print Name: Victor Reckmeyer
My Commission Expires: Permenent



Dated this 22 day of December, 2025

VILLAGE OF FOX POINT

Christine Symchych
Christine Symchych, Village President

Attest:

Teri Repins
Teri Repins, Deputy Village Clerk

STATE OF WISCONSIN)
) ss
COUNTY OF MILWAUKEE)

Personally came before me on this this 22 day of December, 2025, the above-named, Christine Symchych, Village President and Teri Repins, Deputy Village Clerk, executed the foregoing instrument and acknowledged the same

NOTARY PUBLIC, STATE OF WI
Print Name: TERI REPINS
My Commission Expires: 11-18-29

This instrument was drafted by
Attorney Eric J. Larson
Municipal Law & Litigation Group, S.C.
730 N. Grand Avenue
Waukesha, WI 53186



**FULL AND FINAL SETTLEMENT AGREEMENT
AND RELEASE OF ALL CLAIMS ("AGREEMENT")**

THE TOWN CLUB ("Releasing Party"), in exchange for the approval and execution of the Conditional Use Order attached hereto and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby fully and forever release and discharge the VILLAGE OF FOX POINT, including any of its current and former employees, officers, successors, agents, assigns, insurers, reinsurers, and elected officials (collectively, "Released Parties"), from any and all claims, demands, and causes of action, whether known or unknown, that were or could have been asserted in two consolidated lawsuits in Milwaukee County Circuit Court, Case Nos. 24CV4721 and 24CV6078 wherein the Town Club challenged the lawfulness of the conditions for the operation of pickleball courts, including but not limited to the conditions on decibel limits, at the facility located at 7950 North Santa Monica (hereafter, "Claims"). The Claims are more fully set forth in "Complaint in Certiorari" filed in Case No. 24CV4721 and in the Decision of the Circuit Court dated July 11, 2025 affirming some of the conditions but finding the decibel limit warranted further hearings and review by the court.

The Releasing Party agrees to the following:

1. This Agreement fully and forever releases, waives, dismisses, surrenders, and discharges the Released Parties from any and all causes of action, complaints, demands, liabilities, grievances, rights of action, and damages of any kind, whether in law or equity, known or unknown, anticipated or unanticipated, asserted or that could have been asserted, arising out of, based upon, or in any way connected with the Releasing Party's Claims against the Released Parties.

The release provided under this Agreement is intended to be construed broadly and includes, without limitation, any and all claims under state, federal, or administrative law, including civil rights claims under 42 U.S.C. §1983; equitable claims of any kind; and any claims for damages, whether compensatory, punitive, or otherwise. This release includes, but is not limited to, claims for pain and suffering, lost wages, benefits, interest, liquidated damages, penalties, costs, disbursements, attorney's fees, statutory damage awards, statutory indemnification, or any other form of recovery, whether past or future, arising out of or related to the Releasing Party's Claims.

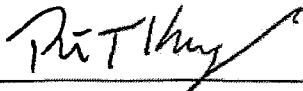
2. This Agreement by the Releasing Party is made for the benefit of and is binding upon its heirs, successors, and assigns. Through this Agreement, any and all liability of subsidiaries, parent corporations, insurers, predecessors, successors, officers, directors, agents, and employees of the Released Parties is fully released and discharged. Furthermore, this release extends to any other persons or entities that may have liability, whether known or unknown, regardless of whether their identity or involvement in the events underlying the Releasing Party's Claims is currently known or discoverable.

3. It is expressly understood and agreed that this settlement represents a full and final compromise of any and all disputed Claims. This Agreement shall not be construed as an admission of liability or wrongdoing by the Released Parties, who expressly deny any such liability. The Released Parties further deny the existence of any basis for claims of attorney's fees, costs, punitive damages, or any other damages arising from the allegations in this matter.
4. The Releasing Party acknowledges that this settlement and release contains the entire Agreement between the parties and represents that no portion of the Claims have been assigned to anyone else and that no other person or entity have any legal right to pursue these Claims or share in the proceeds of this settlement.
5. The Releasing Party agrees to execute, concurrently with this Agreement, a Stipulation for Dismissal of the aforementioned consolidated cases, so that those consolidated cases shall be dismissed with prejudice, on the merits, and without further costs or fees, including attorneys fees, to any party.
6. Releasing Party, with full knowledge and understanding of the contents of this Agreement, voluntarily enters into this settlement without reliance on any statement or representation made by the Released Parties, their representatives, or anyone retained by them. The Releasing Party acknowledges that he has had sufficient time and opportunity to review the terms of this Agreement and to consult with an attorney of his choice.
7. The provisions of this Agreement constitute binding contractual terms and are not merely recitals. Any questions or disputes concerning this settlement shall be governed and determined in accordance with the terms of this Agreement and the laws of the State of Wisconsin.

I HAVE READ AND FULLY UNDERSTAND THE TERMS OF THIS AGREEMENT, WHICH CONSISTS OF FOUR PAGES, INCLUDING THE SIGNATURE PAGE AND THE CONSENT OF ATTORNEYS.

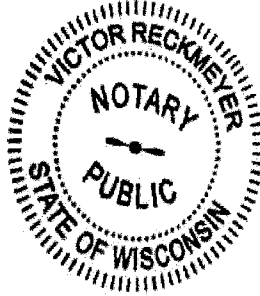
I ACKNOWLEDGE THAT THIS AGREEMENT REPRESENTS A COMPLETE AND FINAL COMPROMISE AND SETTLEMENT OF ALL CLAIMS, FOR WHICH I HAVE BEEN FULLY COMPENSATED IN ACCORDANCE WITH ITS TERMS AND CONDITIONS.

Dated this 17 day of ^{December} ~~November~~, 2025.


By: Peter T Klug
Its: President

Subscribed and sworn to before me,
this 17th ^{December} day of ~~November~~, 2025.

Victor Reckmeyer
Notary Public, State of Wisconsin
My Commission: Permanent



CONSENT OF ATTORNEYS

I, as one of the attorneys for the Town Club, have reviewed with my client the terms of this Full and Final Settlement Agreement and Release of All Claims and consent to this settlement and release.

Dated this 18th ^{December} day of ~~November~~, 2025.

FOX, O'NEILL & SHANNON, S.C.

A handwritten signature in black ink, appearing to read "Matthew W. O'Neill".

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Milwaukee, WI 53202

(414) 273-3939

mwoneill@foslaw.com

Attorneys for The Town Club