



## VILLAGE OF FOX LAKE VILLAGE BOARD MEETING MINUTES

STATE OF ILLINOIS,        }  
Lake and McHenry Counties,    } SS.

### Village of Fox Lake

At the regular Board Meeting, held in said Village and County in the State of Illinois at 6:30 p.m. on July 25, 2023 and held via in person and via Zoom conference, the meeting was called to order by Mayor Schmit. The following official business was transacted:

#### 1. Call to Order

##### Roll Call

Present Mayor Schmit, Village Attorney Jeff Nutschig, Trustees: Stochl, Marr, Konwent, Jensen, and Vander Weit and Clerk Runnion

Absent: Trustee Driscoll

Staff also in attendance: Jessica Chernich, Dusty Hosna, Kealan Noonan, Ryan Kelly (*via Zoom*), Amy Whitis, Dawn DeServi

#### 2. Approval of Minutes

##### A. Village Board Meeting Minutes for July 11, 2023

*Trustee Konwent made a **motion** to approve the Village Board Meeting Minutes for July 11, 2023, as amended, seconded by Trustee Marr. All were in favor. **Motion carried.***

#### 3. Approval of the Warrant

##### A. Approval of the Warrant – July 25, 2023

*Questions regarding the high expenditure for the police pension retiree payment – item will be looked into further. Board recommended approving as written so that payment would be made.*

Trustee Konwent made a ***motion*** to approve the Expenditures/Warrants/Transfers for July 11, 2023 in the amount of \$13,461,833.78, seconded by Trustee Jensen.

*A roll call vote was taken as follows:*

|                              |        |
|------------------------------|--------|
| Trustee Jensen               | Aye    |
| Trustee Stochl               | Aye    |
| Trustee Konwent              | Aye    |
| Trustee Marr                 | Aye    |
| Trustee Driscoll             | Absent |
| Trustee Vander Weit          | Aye    |
| <b><i>Motion carried</i></b> |        |

**4. Special Business (Appointments, Swearing In Ceremonies, Proclamations)**

*There is none.*

**5. Village President's Report**

*The Mayor thanked and expressed appreciation to Kealan Noonan for his work as the Public Works Director.*

*Dusty Hosna and the Mayor had a discussion with Fox Lake Retail LLC (Cannabis Dispensary) regarding incentives. Projected revenue is \$18 million after two years, plan to open in October; anticipating 30 full time employees and 10 part time employees. The Mayor asked for a pro-forma to develop the RDA. Mayor will check to see if the 3% tax is restricted, and confirm the additional 1% sales tax.*

**6. Village Administrator's Report**

*There is none.*

**7. Village Attorney Report**

*There is none.*

**8. Village Treasurer's Report**

*There is none.*

**9. Preliminary Audience Comments (on Agenda Items Only)**

*There were none.*

**10. Motion to Recess to Committee of the Whole Meeting**

*Trustee Konwent made a ***motion*** to recess to the Committee of the Whole, seconded by Trustee Jensen. All were in favor. ***Motion carried****

**A. Strategic Planning Team Reports**

*There were no questions. The Mayor shared that the Lakefront Park will be open for fishing and for the Mayors Fish Fry and the Fishing Derby and Cardboard Boat Race the weekend of August 11<sup>th</sup>-12<sup>th</sup>.*

**11. New Business**

**A. Resolution 2023-R-49: A Resolution Approving Work Order NO. FXL037-WO75 with Trotter & Associates, Inc. for Design Assistance for Permitting and Construction Services for the Lakefront Park Project**

*This item is to approve the work order with Trotter and Associates for design assistance for permitting and construction services for the Lakefront Park Project. Trotter and Associates will provide oversight of the project not to exceed \$98,000.*

**B. Resolution 2023-R-50: A Resolution Authorizing an Agreement with the Illinois Department of Transportation for Maintenance of Transitional Lighting and Financial Responsibility of Traffic Signals at the Intersection of IL Route 59 and Grand Ave/Washington**

*This item is to authorize the agreement with the Illinois Department of Transportation for maintenance of transitional lighting and financial responsibility of the traffic signals at the intersection of Route 59 and Washington Street. For the Route 59 lights, the village will have full maintenance responsibility and the Route 59/Washington St traffic lights will have shared cost of maintenance. These intersections need the lights for safety; the cost of the maintenance is not known.*

**C. Resolution 2023-R-51: A Resolution Approving the Quote from Andritz to Provide Parts and Technical Assistance to Upgrade the Centrifuge Control Equipment at the Northwest Regional Water Reclamation Facility**

*This item is to approve the quote from Andritz to provide parts and technical assistance to upgrade the Centrifuge Control Equipment at the Northwest Regional Water Reclamation Facility. This is a proprietary item so the only source available at a cost of \$34,989 and request is to waive bids.*

**D. Resolution 2023-R-52: A Resolution Authorizing the Mayor of the Village of Fox Lake to Sign and Thereby accept the Proposal from Trotter and Associates, Inc. for Engineering Services Related to the Nutrient Assessment Reduction Plan at the Northwest Regional Water Reclamation Facility**

*This item is to authorize the mayor to sign and thereby accept the proposal from Trotter and Associates Inc. for engineering services related to the Nutrient Assessment Reduction Plan at the Northwest Regional Water Reclamation Facility. This is EPA mandated to obtain a discharge permit. The cost is \$216,000 and it must be completed in 2024.*

**E. Ordinance 2023-29: An Ordinance Amending the Cannabis Dispensary Proximity Ordinance**

*This item is to amend the cannabis dispensary proximity ordinance 9-1-5-15 B 5, altering the measurement to reflect lot line measurement from the business building to the park (lot line) .*

**F. A Motion to Approve the Raffle License Application from the National Athletic Club for a 50/50 Raffle & Jersey Raffle Every Sunday and One Day Raffle on Saturday, August 19, 2023 and Waive the Bond Requirement**

*This item is to approve the raffle license application from the National Athletic Club for a 50/50 raffle and jersey raffle every Sunday and a one day raffle on Saturday, August 19, 2023,*

*and waive the bond requirement. The National Athletic Club uses funds raised for maintenance and supports Grant High School Athletics such as Fishing and Lacrosse.*

**G. A Motion to Accept the Planning and Zoning Commission's Recommendation to Deny the Petition of Michael Bernstein for a Special Use Permit to Operate a Short-term Housing Rental at 202 E Grand Avenue and Have the Attorney Prepare the Necessary Papers**

*This item is to accept the Planning and Zoning Commission's Recommendation to deny the petition of Michael Bernstein for a special use permit to operate a short-term housing rental at 202 E Grand Avenue and have the attorney prepare the necessary papers*

**H. Motion to Accept the Planning and Zoning Commission's Recommendation to Approve the Petition of Nathan and Sarah Groenendal for a Special Use Permit to Operate a Short-term Housing Rental at 6 N Lake Avenue and Have the Attorney Prepare the Necessary Papers**

*This item is to accept the Planning and Zoning Commission's recommendation to approve the petition of Nathan and Sarah Groenendal for a special use permit to operate a short-term housing rental at 6 N Lake Avenue and have the attorney prepare the necessary papers*

**I. Motion to accept the Planning and Zoning Commission's Recommendation to Approve the Petition of 1937 Properties, LLC request for a Special Use Permit to Operate a Cannabis Dispensary at 31 Towne Centre Lane and Have the Attorney Prepare the Necessary Papers**

*This item is to accept the Planning and Zoning Commission's recommendation to approve the petition of 1937 Properties, LLC request for a special use Permit to operate a cannabis dispensary at 31 Towne Centre Lane and have the attorney prepare the necessary papers*

**12. Old Business**

*There was none.*

**13. Motion to Adjourn from Committee of the Whole and Reconvene Village Board Meeting**

*Trustee Konwent made a **motion** to adjourn from Committee of the Whole and reconvene Village Board Meeting, seconded by Trustee Jensen. All were in favor. **Motion carried.***

**14. Motion to Waive Formal Bidding Procedure and Authorize the Mayor to Sign and Accept the Quote from Andritz to Provide Parts and Technical Assistance to Upgrade the Centrifuge Control Equipment at the Northwest Regional Water Reclamation Facility**

*Trustee Vander Weit made a motion to waive formal bidding procedure and authorize the mayor to sign and accept the quote from Andritz to provide parts and technical assistance to upgrade the Centrifuge Control Equipment at the Northwest Regional Water Reclamation Facility, seconded by Trustee Konwent.*

*A roll call vote was taken as follows:*

|                            |               |
|----------------------------|---------------|
| <i>Trustee Jensen</i>      | <i>Aye</i>    |
| <i>Trustee Stochl</i>      | <i>Aye</i>    |
| <i>Trustee Konwent</i>     | <i>Aye</i>    |
| <i>Trustee Marr</i>        | <i>Aye</i>    |
| <i>Trustee Driscoll</i>    | <i>Absent</i> |
| <i>Trustee Vander Weit</i> | <i>Aye</i>    |

***Motion carried***

**15. Items to be Removed from Consent Agenda**

*The Mayor removed item C-2 from the Consent Agenda and Trustee Stochl requested removal of items C-2 and C-3.*

**16. Consent Agenda**

All items listed on the Consent Agenda are considered to be routine by the Village Board and will be enacted by one motion. There will be no separate discussion of these items unless a Trustee so requests, in which event the item will be removed from the general order of business and considered under the Approval of Exceptions

**A. Resolutions**

1. Resolution 2023-R-49: A Resolution Approving Work Order NO. FXL037-WO75 with Trotter & Associates, Inc. for Design Assistance for Permitting and Construction Services for the Lakefront Park Project
2. Resolution 2023-R-50: A Resolution Authorizing an Agreement with the Illinois Department of Transportation for Maintenance of Transitional Lighting and Financial Responsibility of Traffic Signals at the Intersection of IL Route 59 and Grand Ave/Washington St.
3. Resolution 2023-R-51: A Resolution Approving the quote from Andritz to Provide Parks and Technical Assistance to Upgrade the Centrifuge Control Equipment at the Northwest Regional Water Reclamation Facility
4. Resolution 2023-R-52: A Resolution Authorizing the Mayor of the Village of Fox Lake to Sign and Thereby accept the Proposal from Trotter and Associates, Inc for Engineering Services Related to the Nutrient Assessment Reduction Plan at the Northwest Regional Water Reclamation Facility

**B. Ordinances**

1. Ordinance 2023-29: An Ordinance Amending the Cannabis Dispensary Proximity

**C. Motions**

1. Motion to Approve the Raffle License Application from the National Athletic Club for a 50/50 Raffle & Jersey Raffle Every Sunday and One Day Raffle on Saturday, August 19, 2023 and Waive the Bond Requirement

2. ***Removed from Consent Agenda*** - Motion to Accept the Planning and Zoning Commission's Recommendation to Approve the Petition of Michael Bernstein for a Special Use Permit to Operate a Short-term Housing Rental at 202 E Grand Avenue and Have the Attorney Prepare the Necessary Papers
3. ***Removed from Consent Agenda*** - Motion to Accept the Planning and Zoning Commission's Recommendation to Approve the Petition of Nathan and Sarah Groenendal for a Special Use Permit to Operate a Short-term Housing Rental at 6 N Lake Avenue and Have the Attorney Prepare the Necessary Papers
4. Motion to accept the Planning and Zoning Commission's Recommendation to Approve the Petition of 1937 Properties, LLC request for a Special Use Permit to Operate a Cannabis Dispensary at 31 Towne Centre Lane and Have the Attorney Prepare the Necessary Papers

*Trustee Jensen made a **motion** to move that items, Resolutions A 1, 2, 3, 4, Ordinances B 1 and Motions C 1 and 4 be established as the Consent Agenda for this meeting by unanimous vote, seconded by Trustee Konwent.*

*A roll call vote was taken as follows:*

|                            |               |
|----------------------------|---------------|
| <i>Trustee Jensen</i>      | <i>Aye</i>    |
| <i>Trustee Stochl</i>      | <i>Aye</i>    |
| <i>Trustee Konwent</i>     | <i>Aye</i>    |
| <i>Trustee Marr</i>        | <i>Aye</i>    |
| <i>Trustee Driscoll</i>    | <i>Absent</i> |
| <i>Trustee Vander Weit</i> | <i>Aye</i>    |

***Motion carried***

*Trustee Konwent made a **motion** that the consent agenda as established by the prior motion be passed, seconded by Trustee Jensen.*

*A roll call vote was taken as follows:*

|                            |               |
|----------------------------|---------------|
| <i>Trustee Jensen</i>      | <i>Aye</i>    |
| <i>Trustee Stochl</i>      | <i>Aye</i>    |
| <i>Trustee Konwent</i>     | <i>Aye</i>    |
| <i>Trustee Marr</i>        | <i>Aye</i>    |
| <i>Trustee Driscoll</i>    | <i>Absent</i> |
| <i>Trustee Vander Weit</i> | <i>Aye</i>    |

***Motion carried***

## 17. **Approval of Exceptions**

*There was discussion around the issue of density of short term rentals, and quantifiable reasons for denial or acceptance of special use permits.*

Item C-2, a Motion to Accept the Planning and Zoning Commission's Recommendation to Approve the Petition of Michael Bernstein for a Special Use Permit to Operate a Short-term Housing Rental at 202 E Grand Avenue and Have the Attorney Prepare the Necessary Papers

Trustee Konwent made a ***motion*** to accept the Planning and Zoning Commission's Recommendation to Deny the Petition of Michael Bernstein for a Special Use Permit to Operate a Short-Term Housing Rental at 202 E. Grand Avenue and Have the Attorney Prepare the Necessary Papers, seconded by Trustee Vander Weit.

Prior to the vote, the board recommended this item be returned to the Planning and Zoning Commission for clarification.

*A roll call vote was taken as follows:*

|                              |         |
|------------------------------|---------|
| Trustee Jensen               | Aye     |
| Trustee Stochl               | Abstain |
| Trustee Konwent              | Aye     |
| Trustee Marr                 | Abstain |
| Trustee Driscoll             | Absent  |
| Trustee Vander Weit          | Aye     |
| <b><i>Motion carried</i></b> |         |

With the prior motion carried and the special use being denied, the board was in agreement it be sent back to the Planning and Zoning Commission for clarification.

Item C-3, Motion to Accept the Planning and Zoning Commission's Recommendation to Approve the Petition of Nathan and Sarah Groenendal for a Special Use Permit to Operate a Short-term Housing Rental at 6 N Lake Avenue and Have the Attorney Prepare the Necessary Papers

Trustee Jensen made a ***motion*** to accept the Planning and Zoning Commission's Recommendation to Approve the Petition of Nathan and Sarah Groenendal for a Special Use Permit to Operate a Short-Term Housing Rental at 6 N. Lake Avenue and Have the Attorney Prepare the Necessary Papers, seconded by Trustee Marr.

*A roll call vote was taken as follows:*

|                     |         |
|---------------------|---------|
| Trustee Jensen      | Aye     |
| Trustee Stochl      | Abstain |
| Trustee Konwent     | Abstain |
| Trustee Marr        | Aye     |
| Trustee Driscoll    | Absent  |
| Trustee Vander Weit | Abstain |

|              |     |
|--------------|-----|
| Mayor Schmit | Aye |
|--------------|-----|

Attorney Nutschnig stated that the motion does not carry.

The board with further discussion recommends this item be returned to the Planning and Zoning Commission for clarification.

***\*\* Note, after the board meeting this motion was further clarified via email from the Mayor (see attached), and as voted this motion did carry, directing the attorney to draft the necessary ordinance for this special use permit.***

**18. Motion to Approve the Corrected Warrant for Today, July 25, 2023.**

*Attorney Nutschnig recommended the warrant of July 25, 2023, previously approved, be corrected to reflect the correct amount.*

*Trustee Marr made a **motion** to approve the Corrected Expenditures/Warrants/Transfers due to scrivener's error for July 25, 2023 in the amount of \$1,397,638.34, seconded by Trustee Vander Weit.*

*A roll call vote was taken as follows:*

|                            |               |
|----------------------------|---------------|
| <i>Trustee Jensen</i>      | <i>Aye</i>    |
| <i>Trustee Stochl</i>      | <i>Aye</i>    |
| <i>Trustee Konwent</i>     | <i>Aye</i>    |
| <i>Trustee Marr</i>        | <i>Aye</i>    |
| <i>Trustee Driscoll</i>    | <i>Absent</i> |
| <i>Trustee Vander Weit</i> | <i>Aye</i>    |

***Motion carried***

**19. For the Good of the Order**

*There was none.*

**20. Audience Comments**

*Kealan Noonan expressed his thanks to the Mayor and the Trustees for their support and shared accomplishments.*

*Nathan and Sarah Groenendal expressed their frustrations and disappointment with the process to obtain a Short Term Rental Special Use Permit indicating they feel they have followed all the rules and procedures and have already gone back to Planning and Zoning and obtained their recommendation to accept their application.*

**21. Reconvened Hearing Regarding the Special Use Permit for the Property Located at 100 S. Route 12, Fox Lake, Illinois.**

*Mayor Schmit opened the hearing.*

**22. Public Comment Regarding the Special Use Permit for the Property Located at 100 S. Route 12, Fox Lake, Illinois.**

*Mayor asked for audience comment and there were none.*

*The Special Use Hearing will be continued to September 26<sup>th</sup> at 6:30pm. The 13th Supplemental Findings shall remain in effect until that time.*

*Mayor closed the special use revocation hearing.*



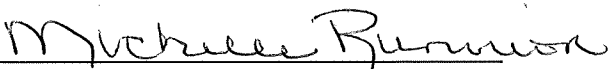
**23. Executive Session**

*Trustee Konwent made a **motion** to retire into executive session at 7:24pm for Personnel Matters 5 ILCS 120 2 (C)(1) and Land Acquisition 5 ILCS 120 2 (C)(5) and to include Mayor Donny Schmit, Village Attorney Jeff Nutschnig, and Assistant Village Administrator Jessica Chernich, seconded by Trustee Marr. All were in favor. **Motion carried.***

**21. Adjournment (Made in Executive Session)**

*Trustee Stochl made a **motion** in executive session, to adjourn the meeting at 7:51pm, seconded by Trustee Konwent. All were in favor. **Motion carried.***

**Meeting was adjourned at 7:51 P.M.**

  
\_\_\_\_\_  
Michelle Runnion, Clerk

**From:** [Donny Schmit](#)  
**To:** [All Department Heads](#)  
**Cc:** [Howard Teege](#); [Ashley Magline](#); [Mary Locher](#); [Brigitte Weber](#); [Patty Russell](#)  
**Subject:** Abstention votes  
**Date:** Thursday, July 27, 2023 5:01:48 PM  
**Attachments:** [Abstention votes.docx](#)

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Clarification on abstain votes.

Have a great week.

Donny

To: Village Board  
CC: Village Staff  
From: Mayor Donny Schmit  
Date: July 27, 2023,  
RE: 6 North Lake Special Use Vote:

The vote Tuesday night for the special use permit at 6 North Lake was:

2 – For

3 - Abstain

Then attorney Jeff told me to vote and I voted for.

The majority of the votes were for granting the special use, so the motion passed. The abstention votes do not count as votes towards the passage or denial of the motion. The vote for the ordinance will be taken at the next meeting.

This is email mostly informational for the future.

If you choose to abstain from voting, your vote does not count towards a majority. For example, if one person vote's yes and five people abstain, the majority vote is yes, and the motion passes. As stated below, only a majority of those actually voting is required for passage.

I should not have voted, as I only vote in the case of a tie or if a super majority is needed, but it didn't make a difference anyway. Here is a link to a Supreme Court Case involving Fox Lake and the mayors' voting protocol: <https://casetext.com/case/prosser-v-village-of-fox-lake>

Below are our Village Code and some excerpts from Roberts' Rules of Order:

Per our Village code, 1-6-5, order of business; procedure, section 9: our meetings are governed by the latest edition of Robert's Rules of Order: The latest edition of "Robert's Rules of Order" shall govern where no other specific rule adopted by the Board is applicable. (Ord. 2006-37, 11-14-2006)

From Robert's Rules of Order (RRO) "A majority vote is normally required to adopt a motion or to elect to office. \* It is defined as *more than half* of the votes cast by persons entitled to vote, excluding blanks or abstentions, at a regularly or properly called meeting.

There may be fewer votes cast than the number of members present, since some may choose not to vote – resulting in "abstentions." Only a majority of those actually voting is required."

"Where there is more in the affirmative than in the negative without the chair's vote, the motion is adopted."

RIGHT OF ABSTENTION. Although it is the duty of every member who has an opinion on a question to express it by his vote, he can abstain, since he cannot be compelled to vote.

ABSTAINING FROM VOTING ON A QUESTION OF DIRECT PERSONAL INTEREST. No member should vote in which he has a direct personal or pecuniary interest not common to other members of the organization.

Thank you all for all you do for the Village.

Have a great week.

Donny