

Village of Lombard

*Village Hall
255 East Wilson Ave.
Lombard, IL 60148
villageoflombard.org*



Minutes

Thursday, January 24, 2019

7:00 PM

Board Room

Special Meeting Board of Trustees

*Village President Keith Giagnorio,
Village Clerk Sharon Kuderna,
Trustee Dan Whittington, Trustee Mike Fugiel,
Trustee Reid Foltyniewicz, Trustee Bill Johnston,
Trustee Robyn Pike and Trustee Bill Ware*

I Call to Order

The Special Meeting of the President and Board of Trustees of the Village of Lombard held on Thursday, January 24, 2019 in the Board Room of the Lombard Village Hall was called to order by Village President Keith Giagnorio at 7:02 p.m.

II Pledge of Allegiance

Chief of Police Roy Newton led the Pledge of Allegiance.

III Roll Call

Present 8 - Keith Giagnorio, Sharon Kuderna, Dan Whittington, Mike Fugiel, Reid Foltyniewicz, Bill Johnston, Robyn Pike, and Bill Ware

Staff Present:
Village Manager Scott Niehaus
Director of Finance Tim Sexton
Director of Community Development Bill Heniff
Chief of Police Roy Newton
Fire Chief Richard Sander
Assistant Village Manager Nicole Aranas
Communications Coordinator Avis Meade
Executive Coordinator Carol Bauer

IV Public Participation

V Agenda

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Video Gaming

Review of recommendations from Village Standing Committees in regard to video gaming, discussion in regard to video gaming within the corporate limits of the Village of Lombard, and possible direction in regard to the next steps, if any, relative to video gaming within the corporate limits of the Village of Lombard.

Village Manager Scott Niehaus provided the following overview:
Transparency & Communication: at the August 16th Village Board meeting business owners requested the Village Board reconsider the current ban on video gaming; at the September 20th Village Board meeting, the Board requested video gaming be reviewed by four Standing Committees (Finance & Administration, Public Safety &

Transportation, Community Relations and Economic & Community Development; a link was added to the Village website dedicated to the topic of video gaming including agendas, minutes, powerpoints, FAQ's, video clips, and press releases; a dedicated e-mail address was also developed videogaming@villageoflombard.org; statistics were provided relative to communications efforts including E-Pride newsletter, featured story on Village website, video gaming webpage, social media postings, Lombardian coverage including coverage of each Standing Committee's recommendation; letters and e-mails to the Village Board included three (3) in support and eighteen (18) opposed; signed petition including one-hundred-sixty-two (162) in support of video gaming; on-line petition with seventy-four (74) in support and two-hundred-forty-six (246) opposed; as well as update on comments made at the Standing Committee meetings.

Committee Recommendations: Finance & Administration voted 7 to 0 in favor; Public Safety & Transportation voted 9 to 0 in favor; Community Relations voted 6 to 1 in favor; ECDC voted 4 to 2 in favor.

Video Gaming in IL: Illinois Video Gaming Act was approved in 2000 authorizing up to five (5) gaming terminals in retail locations, truck stops and fraternal establishments.

Video Gaming in Lombard: local ban established in 2010 (Ordinance 6442); hearings and public comments taken on video gaming in 2014 with majority of comments in opposition; Village Board voted in 2014 to uphold the video gaming ban.

Why Discuss this Issue Again? What is Different Now?: businesses are requesting gaming ban be lifted; video gaming has been widely implemented since 2009 and has been instituted in neighboring communities; more data and information available now from other communities on their experiences, finances and impacts.

Where is Video Gaming Allowed: 986 Illinois governing bodies have approved gaming; 16 municipalities in DuPage County permit video gaming and 16 in DuPage County ban video gaming.

State Restrictions on Video Gaming: business type - alcohol sold for consumption on premises, truck stops, and fraternal establishments; location may not be within one-hundred (100) feet of a school or church; no more than five (5) machines at any one premise; area in establishment restricted to 21+, within employee view of area, no one under 21 may be at a terminal; hours only open during regular business hours; maximum wager for any single hand is \$2; payout by tickets only and maximum cash award for any single hand is \$500.

Video Gaming Fund Distribution: net gaming revenues (less payouts to winners) are taxed at 30% rate (25% to IL and 5% to municipality; remaining 70% revenue is divided between business establishment and terminal operators (35% each).

Anticipated Revenues for Lombard: revenue to Lombard would ultimately

depend on how many businesses choose to adopt gaming and how many machines they each elect; average revenue for DuPage County municipalities where gaming is allowed (\$97,958 in 2015; \$130,962 in 2016; \$159,458 in 2017 and \$183,013 trailing 12 months of September 2017 to August 2018).

Estimated Local Revenues: estimated number of terminals in Lombard (40-50); average revenue per terminal in DuPage County (\$3,293); estimated Village revenue (\$131,720 to \$164,640).

Policy Issues/Possible Conditions: State of Illinois sets forth minimum standards and regulations for video gaming; local municipalities may opt to enact additional regulatory restrictions pertaining to local applicants and license holders; policy issues and possible conditions for Board consideration have been identified for further discussion.

Gaming Revenue Limitations: limiting the percentage of income received from video gaming to a certain percentage of the overall gross income of the restaurant; businesses would be subject to an annual audit to verify compliance with this section; this type of limitation ensures that establishments do not rely on video gaming as their primary source of revenue (ensures gaming is an accessory use to primary food and beverage sales).

License Waiting Periods: waiting period for licensees (operation for one year prior to application for license); limitation ensures that licensed businesses are established entities capable of operations without reliance on video gaming; waiting period applicable to the business entity and not individual licensees.

Good Standing: licensee for any Class "V" liquor license must be in good standing with the Village.

Security & Public Safety Requirements: licenses to install and operate video camera surveillance capturing clear recordings retained for a minimum time period (e.g. 30 days) and subject to inspection by the Police Department upon request; licensed establishment shall be equipped with a direct-connect burglar alarm system to centralized dispatch to protect against unpermitted entry to the establishment.

Promotional Signage Restrictions: it shall be unlawful to advertise video gaming via a sign visible from any street, alley or public right-of-way within the Village (includes external facing interior or window signage); regulations protect character of business districts and discourage promotion of video gaming to general public; while several municipalities have adopted this type of restriction upon signage, it may be subject to legal challenge.

Liquor License Classifications: Village has 79 total liquor license holders across 25 different liquor license classes (65 on-premise consumption licenses/14 packaged goods only); video gaming would require creation of a new Class "V" liquor license to permit both on-premise alcohol consumption and video gaming.

Possible Class "V" permitted classes include A/B-II, A/B-III, A/B-IV, D, I, M, N1, S, XX and Z.

Possible Prohibited Classes include A/B-I, C, E, GGG, JJ, K, L-1/L-2, O, P, R, TI/TII, TIII, U, V, VV, and X.

Action/Direction Being Sought Today: review information and committee recommendations; review policy issues; opportunity for additional public comment; direction or recommendation regarding this matter related to policy matters and/or next steps; no final action.

Next steps: additional public comment; Board discussion; direction/recommendations; continued commitment to transparency and communications on this matter.

Trustee Foltyniewicz questioned the number of establishments that might opt to allow video gaming if the ban was lifted. Response: 35 establishments of the 79 liquor license holders could opt to allow video gaming; corporate offices may not allow local establishments to have video gaming; locally-owned businesses would most likely be the businesses that would opt to have video gaming.

Trustee Johnston asked about the number of terminals in DuPage County. Response: as of August 2018 it appears that there were 722 terminals; policy issues would still need to be established; revenue from gaming would be limited and could not be the primary source of revenue for any establishment; policy would be set by the Village Board and would be sent to the Finance & Administration Committee for review before the Village Board made any final decisions on policy; Mount Prospect has a 30% limit on revenue from video gaming; the Village Board would give staff direction on policy; the policy would be enforceable through Lombard's liquor code and any establishments that would want to have video gaming would be subject to following the policy and the liquor code; liquor license holders eligible for video gaming would not have to apply to have video gaming if they did not choose to offer it; new establishments would be required to wait twelve (12) months before being allowed to have video gaming on their premises.

President Giagnorio inquired about a new business being opened, but the owner already has a liquor license and if that owner would need to wait twelve (12) months. Response: that would be a policy decision.

Trustee Johnston inquired about the sale of a business allowing video gaming and if the new owner would need to wait for twelve months; how would inspections be handled; what about businesses like Enchanted Castle. Response: video gaming inspections would be included along with other Village-required inspections; only certain liquor license classes would be allowed to have video gaming and other establishments (such as Enchanted Castle) would not be included in those liquor license holders that would be allowed to have video gaming on the premises.

Village Manager Niehaus reminded all that no final action relative to video gaming would be taken tonight and this workshop was to allow the

Village Board to review recommendations of Standing Committee, allow residents and businesses to speak and to provide some direction to staff.

Trustee Johnston inquired about hours of operation. Response: video gaming would only be allowed during regular hours of operation that the business is open; State does not mandate hours.

President Giagnorio reminded everyone of the three minute time limit for speaking during Public Participation.

1. Marymae Meyer spoke opposing video gaming and noted that she had attended all four of the Standing Committee meetings where video gaming was reviewed. She asked if the Village Board members had received inquiries directly from residents. Response: e-mails were funneled to Carol Bauer for response and monitoring.

2. Liam Quirke, representing Punky's Pub being in business in Lombard for nearly 46 years, read a letter urging the Village Board to lift the ban on video gaming and allow the businesses to decide if they want to offer video gaming to its customers.

3. David Arnold spoke about Lombard being pro-business; was in support of the Village Board allowing businesses to have the choice of offering video gaming; stated that he himself would not play the video gaming machines; felt residents are going to other towns to play video gaming machines; spoke of the loss of revenue to Lombard; noted competitive business and businesses having a rough time; asked the Board to support business owners and give them a choice to have video gaming machines.

4. Larry Bock stated he has lived in Lombard for 59 years; speaking on behalf of the Moose and the 2,400 lodges across 50 states; spoke of video gaming generating revenue; felt it was foolish not to embrace video gaming as a revenue stream not only to the Village, but to organizations like the Moose who raise money to help children and adults with disabilities; felt the added income would help the Moose provide greater support to the children and adults that they assist; and the Village will not know unless they give the businesses an opportunity to have video gaming.

5. Cary Weisgram noted she was a new resident; was opposed to video gaming; spoke of an article in the Sun Times relative to video gaming; spoke about risk factors, problem gambling, domestic abuse; urged the Village to do a study on video gaming and hire an actuary.

6. Mary Cation, a thirty-year resident and member of the Finance & Administration Committee stated she as a member voted to approve video gaming as the committee was asked to review video gaming as far as the financial aspect; she personally is opposed to video gaming; feels it negatively impacts potential new residents from moving to Lombard and negatively impacts property values.

7. Gary Cation, a thirty-year resident and member of the Public Safety &

Transportation Committee, voted based on review by the committee to review safety issues; felt video gaming had ramifications; did not want to see Lombard be like Forest Park.

8. Lynne Magnavite opposed video gaming and felt for the small amount of income to the Village, it was not worth the image of the Village to be changed by allowing video gaming; felt video gaming restrictions would not change perception based on allowing video gaming; she is proud to be a Lombardian.

9. Maryann O'Neill spoke on behalf of O'Neill's; resident since 1971 with four children and 9 grandchildren; business owner has given back to the community by supporting baseball teams and hosting fundraisers; spoke of investing in Lombard with business and home and paying all the fees and licenses in operating a business; felt video gaming was more than 5% to the Village, also impacts Places for Eating Tax; losing business to other communities; requested the Village Board support the businesses and help keep them operational; spoke of businesses hurting and this a way to help maintain their businesses; the businesses are asking for help.

10. Theresa Brzyzinski, representing O'Neill's, spoke supporting video gaming and allowing the businesses to decide if they want to offer video gaming to its patrons; spoke of working locally as well as for LTC; spoke of patrons going to other towns that offer video gaming; Lombard businesses and Village losing money; other towns offer video gaming; competition on the Lombard businesses.

11. Vicky Topalidis spoke in support of video gaming and that you can gamble on your phone; businesses are competing and need to be able to offer incentives for residents to patronize local businesses and not go to other towns that offer video gaming; video gaming is a source of entertainment; asked the Village Board to allow businesses the opportunity to have video gaming.

12. Brendon Fitzharris, owner of bars in other communities and would look to open a bar in Lombard if video gaming was allowed; bars thriving with video gaming because patrons want to go where video gaming is offered; bars with video gaming can charge less for drinks and food and make up the profit on the video gaming; bar business is hard; compared liquor sales in bar with video gaming compared to a bar without video gaming.

13. Tami Urish stated she has been a resident since 1994 and opposes video gaming.

14. Chris Golden, long-time resident, spoke opposing video gaming; drains the pockets of those people who become addicts; felt businesses needed better management and/or marketing if they are losing business.

15. Dana Moreau, 21-year resident and business owner, spoke against video gaming; spoke of the top 11 concerns and the reasons she is opposed to video gaming; spoke of adding the video gaming question to

a referendum allowing the residents to vote on the matter.

16. Christian Hess, 49-year resident, questioned what is the Village's brand, what do we stand for; what are our values; this is not about right or wrong; do not judge people or activities; feels anything needs to be filtered through values; video gaming was not in values he grew up with; 16 communities in DuPage County have video gaming and 16 do not have; who does the Village aspire to; does the Village want to aspire to be a community like Oakbrook Terrace or be more like Wheaton or Glen Ellyn; 5% of revenue to Village is not that much money; what is good for a handful of businesses or for the residents.

17. Brian Gorski stated he loves Lombard; shops local to support businesses in town; values the small business and wants to help keep the small businesses in Lombard; does not support video gaming; spoke of tiered school system.

President Giagnorio noted that there will be no final action taken on video gaming at this time, there is no physical ordinance and no specific direction on policy and/or restrictions.

Trustee Whittington questioned the process for a referendum.

Response: not enough time for a non-binding referendum to be placed on April 2019 election; resolution requesting a referendum must be passed seventy-nine (79) days prior to the election; March 2020 would be the soonest election that a referendum could be scheduled.

Trustee Foltyniewicz asked how many businesses the Village has lost due to the ban on video gaming.

Director of Community Development Bill Heniff indicated he was not aware of any businesses that closed or moved due to not being able to have video gaming.

Trustee Ware asked if a referendum would really give a feel of the community with regard to video gaming when only 10-12% of the voters come out to vote in a regular election with 43,000+ residents.

Trustee Foltyniewicz felt the 10% who come out to vote voted for the Village Board and elected the Trustees to represent them.

Trustee Fugiel noted that the primary election turnout was 33.08%, but for Park District or School District elections the percentage drops to about 10.84%; questioned wording on the ballot and referenced the most recent referendum relative to the Library.

President Giagnorio questioned where does the Village Board draw the line on what goes to a referendum and what should be decided by the Village Board on behalf of the residents.

Trustee Johnston noted that only 20 people spoke opposing video gaming and 7 spoke supporting video gaming and he did not feel that was a large enough percentage to provide true input to the Village Board; felt more residents might vote if video gaming was placed on the ballot; he felt placing video gaming on the ballot would give clearer representation of feelings of the residents; he stated he was doing the

job the residents asked him to do; spoke of transparency; felt a referendum would allow people to express their opinions.

Trustee Pike noted the Village Board not only represents the residents, but also represents the businesses; business owners came to the Village asking the Village Board to review allowing video gaming; spoke of looking at the whole picture.

Trustee Johnston noted that both business owners and residents need to speak and business owners who do not reside in the Village and cannot vote can have employees vote who live in Lombard.

Trustee Ware stated that 10 residents spoke, not 20; Village Board relies heavily on committees and committee input; committees were asked to look at the pros and cons of video gaming based on their specific committee and all four supported video gaming; no safety concerns with allowing video gaming.

Trustee Johnston noted that the committees were assigned to review only a very specific item as it related to that committee and video gaming and not to include personal feelings relative to video gaming in their vote.

Trustee Ware stated that seven months ago, business owners attended a Village Board meeting to request the Village Board review the option of lifting the ban on video gaming in Lombard; a referendum would delay action on video gaming for over a year and a half; this is not fair to the businesses.

Trustee Foltyniewicz noted that he would like more statistics on video gaming and if towns that allow video gaming have more businesses moving in compared to towns that do not allow video gaming.

Village Manager Niehaus noted that staff will review and assemble statistics relative to this request.

Trustee Foltyniewicz stated he sympathizes with business owners.

Trustee Ware spoke of the Bull Dog Ale House moving into a vacant store in Villa Park on Roosevelt Road and will have video gaming; spoke of impact Bull Dog Ale House will have on Roosevelt Road businesses in Lombard who currently cannot offer video gaming; felt Bull Dog Ale House could have come to Lombard, but wanted a town that allows video gaming;

Trustee Foltyniewicz noted that other restaurants like Yard House have moved into Lombard even though we do not allow video gaming.

Trustee Whittington asked how many businesses would leave without video gaming.

Village Clerk Kuderna stated she felt the businesses should be given the option of having video gaming; a business can decide if they want to have video gaming or not have it, but felt the business should be allowed to have a choice; did not feel the Village should dictate that a business cannot have video gaming if the business wants it.

Trustee Foltyniewicz talked about a business and what the business owner wants to do with his/her business; stated he is not a smoker and

the government now regulates that no smoking is allowed in restaurants and bars in Illinois; he noted that video gaming can be a distraction to other patrons if it is allowed and a smaller business tries to fit video gaming into a small space.

Village Clerk Kuderna felt people should have a choice.

Trustee Ware felt the businesses should be allowed to have a choice and that the residents also have a choice whether they want to patronize a business that allows video gaming or not; people make choices every day; not in favor of a referendum; business owners came to the Village Board in July 2018 and felt the Board needed to treat the businesses fairly and equally; hurting businesses if the Village Board does not consider allowing video gaming.

President Giagnorio noted that it appeared the Village Board did not have a consensus on the direction of video gaming.

Trustee Ware felt the Village Board was listening and getting educated relative to video gaming; talked about many restrictions relative to video gaming; felt the Village Board needed to discuss further.

President Giagnorio suggested staff be directed to have an ordinance drafted relative to allowing video gaming including restrictions and an ordinance be drafted relative to placing a referendum on a ballot; that these would draft ordinances were for further discussion, and would be working documents that could be used to further review video gaming; noted he is not rushing an answer relative to video gaming; felt having draft documents would make review easier.

Village Manager Niehaus noted this will take some research and could be prepared for another workshop in early to mid-March.

President Giagnorio felt having both documents drafted would be beneficial.

Trustee Whittington spoke of new members on the Village Board in May; asked about signage. Response: content based restrictions.

President Giagnorio felt drafted documents would assist with discussion relative to video gaming; the Village Board needs to take time; asked if the Village Board concurred.

Trustee Fugiel noted that two Trustees would not be on the Board following the election and did not feel it was fair to have new Trustees review this matter.

President Giagnorio felt review of this matter would take time. It was the consensus of the Village Board to request staff draft an ordinance to allow video gaming and draft an ordinance to place a referendum relative to video gaming on an upcoming election; further review would be done.

Village Manager Niehaus noted once a date was determined for another workshop, the date would be shared and communication completed relative to video gaming.

A motion was made by Trustee Bill Ware, seconded by Trustee Mike Fugiel, that staff be directed to draft an ordinance to allow video gaming and draft an ordinance to place a referendum relative to video gaming on an upcoming election with further review of the two proposed ordinances to be done at a Village Board Workshop with a date to be determined. The motion carried by the following vote:

Aye: 6 - Dan Whittington, Mike Fugiel, Reid Foltyniewicz, Bill Johnston, Robyn Pike, and Bill Ware

VI Adjournment

A motion was made by Trustee Dan Whittington, seconded by Trustee Bill Johnston, that the Special Meeting of the President and Board of Trustees of the Village of Lombard held on Thursday, January 24, 2019 in the Board Room of the Lombard Village Hall be adjourned at 8:50 p.m. The motion carried by the following vote:

Aye: 6 - Dan Whittington, Mike Fugiel, Reid Foltyniewicz, Bill Johnston, Robyn Pike, and Bill Ware