

Village of Lombard

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



Meeting Agenda

Thursday, February 4, 2010

7:30 PM

Revised March 3, 2011

Village Hall Board Room

Village Board of Trustees

Village President: William J. Mueller

Village Clerk: Brigitte O'Brien

Trustees: Greg Gron, District One; Keith Giagnorio, District Two;

Zachary Wilson, District Three; Peter Breen, District Four;

Laura Fitzpatrick, District Five; and Bill Ware, District Six

I. Call to Order and Pledge of Allegiance

II. Roll Call

III. Public Hearings

[100033](#)

BOT 10-01: 1214 S. School Street
A Public Hearing regarding a proposed Annexation Agreement for the property located at 1214 S. School Street.
(UNINCORPORATED/DISTRICT #6)

Attachments: [BOTPublicNotice.doc](#)
[Annex York Fire.doc](#)
[ANNEXYORKTWNShp.doc](#)

IV. Public Participation

[100004](#)

Medal of Character Excellence Award
1. Presentation of the Medal of Character Excellence Award to Jackson Middle School's 7th & 8th Grade Girls Basketball Teams.
2. Presentation of the Medal of Character Excellence Award to Olivia Domin.

Attachments: [100004.pdf](#)

The second nomination submitted to the committee for the Medal of Character Excellence award was to recognize the 7th & 8th grade girls basketball teams from Jackson Middle School. They were nominated by Teri Wood, School District 45 PR person. The girls basketball teams hosted a fundraiser to benefit the Kay Yow WBCA Cancer Fund.

After reading the nomination form, the committee noted that one young lady in particular seemed to do more in the organization of the fundraiser and was noted as setting a good example for other youth. The committee recommended to award two Medals, one to Olivia Domin, the young lady cited in the nomination as well as one to the 7th & 8th grade basketball teams at Jackson.

[100037](#)

Presentation - Excellence in Cardiac Care Award

Attachments: [heartpinmemo.DOC](#)
[heartPins2010.doc](#)

[100051](#)

Proclamation - Boy Scouts of America 100 Year Anniversary

Attachments: [procboyscouts100yranniv2010.doc](#)

V. Approval of Minutes

VI. Committee Reports

Community Relations Committee - Trustee Laura Fitzpatrick, Chairperson

Economic/Community Development Committee Trustee Bill Ware, Chairperson

Environmental Concerns Committee - Trustee Dana Moreau, Chairperson

Finance Committee - Trustee Zachary Wilson, Chairperson

Public Works Committee - Trustee Greg Gron, Chairperson

Transportation & Safety Committee - Trustee Dick Tross, Chairperson

Board of Local Improvements - Trustee Richard J. Tross, President

Community Promotion & Tourism - President William J. Mueller, Chairperson

Lombard Historical Commission - Clerk Brigitte O'Brien

**US Census Complete Count Ad Hoc Committee-Trustee Laura Fitzpatrick,
Chairperson**

VII. Village Manager/Village Board Comments

VIII Consent Agenda

.

Payroll/Accounts Payable

- A. [100025](#) Approval of Village Payroll
For the period ending January 16, 2010 in the amount of \$809,670.14.
- B. [100026](#) Approval of Accounts Payable
For the period ending January 22, 2010 in the amount of \$610,740.85.
- C. [100050](#) Approval of Accounts Payable
For the period ending January 29, 2010 in the amount of \$760,192.84.

Ordinances on First Reading (Waiver of First Requested)

- D. [100019](#) PC 10-01: 555 E. Butterfield Road
Requests the following actions on the property located within the 555 E. Butterfield Road O (Office) Planned Development:
 - 1. Approval of a conditional use for a university (non-boarding); and
The following requests were approved by the Plan Commission and require no action)
 - 2. Site Plan Approval for minor changes to an approved planned

development with the following deviations:

a. Pursuant to Section 155.502(C), a deviation from Section 153.503(B)(12)(a) of the Sign Ordinance to increase the maximum allowable area of a wall sign from one hundred (100) square feet to two hundred four (204) square feet;

b. Pursuant to Section 155.502(C), a deviation from Section 153.503(B)(12)(b) of the Sign Ordinance to increase the maximum number of allowable wall signs from two (2) to three (3). (DISTRICT #3)

Attachments: [apoletter.doc](#)

[Cover Sheet.doc](#)

[DAH referral memo.doc](#)

[PUBLIC NOTICE 10-01 revised.doc](#)

[Referral Letter 10-01.doc](#)

[REPORT 10-01.doc](#)

[Ordinance 6435.pdf](#)

[100019.pdf](#)

R. Michael Shehorn, 18 S. Stough Street, Hinsdale, IL, presented the petition. Mr. Shehorn stated that Olivet Nazarene University (ONU) is both an undergraduate and graduate and continuing education school. They look forward to being a new entrant into the Lombard marketplace.

He stated he would like to give some background on ONU. ONU was founded 1907 in Danville, IL. In 1939 the university premises burned and relocated to Bourbonnais where they are today. Currently, ONU's enrollment is approximately 4,500 students. They offer 100 undergraduate programs and 12 graduate programs. Their graduate school primarily offers concentrations in nursing, business and education. The graduate school has had a regional center in Rolling Meadows since 2004. They have 150 other sites throughout central and northern Illinois. The regional site has 3 classrooms with about the same square footage being proposed at 555 E. Butterfield Road. That site accommodates 99 students; this site is expected to accommodate roughly 86 students.

Mr. Shehorn stated that ONU has prospered nicely from student enrollment growth with this trend continuing. ONU would like to have a regional facility in place along the I-88 corridor. They researched other locations but Lombard offered the best location. There are the two issues due to the request. First is the conditional use for a university. Second is a Site Plan Approval with deviations for wall sign size and the number of wall signs.

Mr. Shehorn stated that the conditional use is a request to establish a university and commented that there is not much that can be said about this, we are what we are. Hopefully, there will be room for us in that respect. Regarding the size of the sign, our name is what it is, a large name. In order to reduce the size some, we did remove our logo from the sign. The lettering is 3' high, and the sign is 204' square feet. The current lettering which is on the existing COMAR sign is 3'4" in height. So, our lettering is smaller but wider. It is worth noting the reference in the staff report to an analysis in Street Graphics and the Law. It sounds like the analysis is predicated on that publication which indicates that our proposed signage is appropriately sized.

Mr. Shehorn stated that ONU is aware that there were conditions proposed by the staff. He has conveyed to staff the university's policy to fully comply with rules and regulations that might be imposed upon us. They would comply with any conditional approvals from the Plan Commission or the Board of Trustees. He stated that they hope to add value to the community and give back as well. In closing, he stated that he wished to recognize the hard work of staff on behalf of the university. He stated they were very thorough and very protective of the Village interests. They were also very protective of ONU. He stated he would be happy to answer any questions.

Chairperson Ryan asked if anyone was present to speak in favor or against the petition. No one spoke in favor or against.

Chairperson Ryan then requested the staff report.

Stuart Moynihan, Associate Planner, presented the staff report. The petitioner, Olivet Nazarene University (ONU), is proposing to occupy approximately six thousand (6,000) square feet on the third floor of the building located at 555 E. Butterfield Road. The building is currently occupied by offices and a financial institution, TCF Bank. ONU will construct classrooms and offices as well as other student and faculty areas within the space. The subject property is zoned OPD - Office District Planned Development which lists colleges or universities (non-boarding) as conditional uses.

As part of this request, the petitioner also proposes to install a two hundred and four (204) square foot wall sign on the south elevation which will be visible from I-88. Wall signs in the O-Office District are limited to a maximum of one hundred (100) square feet. As two TCF Bank wall signs are currently installed on the building, the proposed sign would make a total of three (3) wall signs. The Sign Ordinance limits a parcel to one wall sign per street frontage. As 555 E. Butterfield Road fronts on two streets, two wall signs are permitted.

In order to address the zoning issues with their proposal, ONU has requested a conditional use for a university (non-boarding) along with companion deviations to increase the maximum allowable size of a wall sign and the number of permitted wall signs.

The zoning history on the subject property includes a 2009 Plan Commission case, PC 09-22. The property owner proposed to replace a freestanding sign with a new sign in the same location. As the sign did not meet the Sign Ordinance requirements for the size and height of a freestanding sign, associated deviations were required. A planned development was established as part of this request. Staff determined that with the exemption of the deviations for the freestanding sign all other non-conforming situations on the subject property would remain non-conforming, without additional zoning relief.

The petitioner has submitted a narrative describing their proposed use. The facility will house Olivet Nazarene University's School of Graduate and Continuing Studies. This program focuses on the continuing education of adult students.

ONU proposes to conduct classes Monday through Thursday beginning at 6 p.m. with the possibility of occasional Saturday classes. The property owner has indicated that the office uses in the building are normally closed before 6 p.m. TCF Bank's website shows business hours of 8 a.m. to 7 p.m. Monday

through Friday and 8 a.m. to 4 p.m. on Saturday.

The petitioner has stated that at maximum capacity the university will accommodate eighty-eight (88) students and three (3) faculty members for evening classes. They have also represented that up to eight (8) staff members could be present before 6 p.m. ONU does have another facility in Rolling Meadows, Illinois which serves a similar function to the proposed use. The petitioner states that this facility experiences a maximum of fifty-six percent (56%) occupancy at any one time. If circumstances are similar at 555 E. Butterfield Road, a maximum of fifty-one (51) individuals would be present at any one time.

The subject property is currently non-conforming with regard to parking. The site has one hundred and three (103) parking spaces where one hundred and eighteen (118) are required. The required number of parking spaces will be unchanged by this proposal. Therefore, a parking variation is not required because the proposed new use will not be increasing the degree of nonconformity.

While the petitioner's approximations indicate that they expect no more than fifty-one (51) individuals at the university at any one time, it is possible that as many as ninety-one (91) individuals could be present at maximum occupancy. While staff recognizes that this is an unlikely scenario, staff does expect that each student will drive their own vehicles to the subject property.

The petitioner has indicated that nearly all of the parking demand caused by the university will occur after 6 p.m. on weekdays. They state that the office uses within the building are closed by this time and that the bank closes by 7 p.m. Staff has visited the site on two occasions between 6 p.m. and 6:30 p.m. Both times fewer than ten (10) cars were parked on the property. It is staff's opinion that there is unlikely to be a conflict due to the university's parking demand as long as these circumstances continue and the students arrive after 6 p.m. As such, staff recommends that a condition be added that restricts classes before 6 p.m. Monday through Friday.

The petitioner is proposing to install a two hundred and four (204) square foot wall sign on the south elevation of the building. This sign is intended to advertise to I-88. In order to accommodate this sign, an existing COMAR sign will be removed from the south elevation of the building. The existing COMAR sign is approximately sixty-two (62) square feet in area. The Sign Ordinance limits wall signs in the O-Office District to a maximum of one hundred (100) square feet. Therefore, the petitioner is requesting a deviation to increase the maximum allowable size of a wall sign.

In addition to the COMAR wall sign, two TCF Bank wall signs are currently installed on the building. One of these is on the east elevation, the other on the west. The proposed sign would make a total of three (3) wall signs. The Sign Ordinance limits parcels in the O-Office District to one wall sign per street frontage. As 555 E. Butterfield Road fronts on two streets, two wall signs are permitted. Therefore, the petitioner is requesting a deviation to increase the maximum allowable number of wall signs.

As a planned development was established on the subject property, Section 155.504(C) of the Zoning Ordinance (Minor Changes with Deviations to the Sign Ordinance) allows that the requested signage relief can be approved through Site Plan Approval.

It is staff's opinion that the request to display a third wall sign on the south elevation of the building will not be damaging to the quality of the planned development or harmful to any adjacent properties. As the sign will be directed at I-88, it is unlikely to affect the Butterfield Road corridor in any way.

The proposed size of the ONU wall sign is more than double the maximum size permitted by the Sign Ordinance. The petitioner has expressed that the request is due to the large size of the university's name, "Olivet Nazarene University." The petitioner also states that the two hundred and four (204) square foot size is necessary for the size to be visible from I-88. Staff has consulted Street Graphics and the Law, Revised Edition 1988. This book provides analysis on the appropriate signage size for advertising to vehicles at certain speeds and distances. The book explains that in order to respond to a graphic while traveling at 55 mph the driver will need to be able to see it from one thousand fifty-six feet (1056') away. This corresponds to a sign which is two hundred (200) square feet in area. Therefore, the analysis provided in Street Graphics and the Law would indicate that the proposed wall sign is an appropriate size.

The petitioner has expressed some concern about the future redevelopment of the property to south, 2801-2821 S. Fairfield Avenue, being developed with a large building that would block views of the proposed sign. The petitioner would like to have the option of moving the sign to the north elevation facing Butterfield Road should this occur. Staff recommends that any changes to the location of the proposed sign proceed through the Site Plan Approval process.

The Comprehensive Plan recommends office uses at this location. The primary use of this building will remain offices and a financial institution. It is staff's opinion that the proposed use is a compatible use. If the comments and conditions noted in this report are incorporated into the petitioner's final plans, this development will meet the recommendations of the Comprehensive Plan. The site is surrounded by other office uses, a restaurant to the east, and commercial uses to the north. The university is unlikely to negatively impact surrounding land uses.

Staff is recommending approval of this petition subject to conditions. Staff notes that the approval of the petition will require two motions, one for the conditional use and one for Site Plan Approval.

Chairperson Ryan then opened the meeting for comments among the Commissioners.

Commissioner Sweetser said that it was nice to have this petition to consider. She asked staff if there had been enough conversation with Mr. Danos, the property owner, to ensure that the existing code violations on the property will be rectified by the mid 2010 opening date. Chris Stilling answered yes. The property is scheduled for reinspection at the beginning of next week.

Commissioner Olbrysh stated that the university would be a welcome addition. They did select an excellent location. He stated that he had a question for staff. He asked if, with exception of the third floor, the rest of the building is fully occupied.

Mr. Moynihan stated that he believes the rest of the building is not fully occupied.

Commissioner Olbrysh stated that he had visited the site during business hours and counted 47 empty parking spaces. If classes begin after 6 p.m., there should not be an issue.

Mr. Stilling stated that a permit has been submitted for a new tenant build-out. There is vacancy in the building but the property owner is working hard to fill it.

Village Attorney Wagner stated that there should be 2 separate motions and votes - one for the conditional use and one for the site plan approval.

Other Ordinances on First Reading

- E. [100032](#) Liquor License Amendment - RockinBurger, 1000 N. Rohlwing Road
(Tabled February 18, 2010)
Amending Title 11, Chapter 112 of the Alcoholic Liquor Code reflecting
an increase in the Class A/B-II liquor license category granting a liquor
license to SBBL, LLC. (DISTRICT #1)
- Attachments:** [Ordinance 6460.pdf](#)
 [100032.pdf](#)

Ordinances on Second ReadingF. [090794](#)**Residential Energy Code**

Approving text amendments to the Lombard Building Code Title 15, Chapter 150 of the Code of Lombard. (DISTRICTS - ALL)

Attachments: [DAH referral letter Res Energy Code Amendments.doc](#)

[cover sheet.doc](#)

[Energy Code Highlights.pdf](#)

[Ordinance 6436.pdf](#)

[090794.pdf](#)

The Committee discussed the recently adopted regulations to the state Energy Efficient Commercial Building Act (Public Act 09-0778). The regulations amend the previously adopted Energy Commercial Building Act and establish energy code provisions for residential buildings, in addition to structures previously regulated through the code. Municipalities are obligated to enforce the provisions set forth within the Act and municipalities cannot establish regulations that are more restrictive or less restrictive than those provisions set forth in the Act, unless those provisions were established prior to the new state regulations.

Staff undertook a review of the provisions set forth within the Act and offered the attached summation for BOBA discussion purposes at their December 16, 2009 meeting. Staff reviewed these applications with BOBA and discussed how these mandates would be administered in the Village. Key elements are:

- 1. Builders will be mandated to undertake broad energy saving evaluations as part of new residential construction and residential addition activities. Staff also noted how such activities will be undertaken to meet the state mandate while providing reasonableness to the development community.*
- 2. Inspection staff will also be required to undertake reviews of new residential construction projects or additions to ensure that the Act's provisions are being met. Staff will be examining this issue further to determine whether this will necessitate a separate inspection or whether this item can be reviewed concurrent with other inspection activities.*
- 3. New windows will need to meet energy requirements. A broad interpretation of the state mandate would necessitate the Village to regulate and inspect all new windows or window replacements for compliance with the energy code provisions.*
- 4. The state's Capital Development Board has been tasked to adopt the Act's provisions and establish the applicability provisions. Staff anticipates that this activity will be completed in early 2010 in order to meet the Act's mandate. However, staff and BOBA are recommending that Village Code reflect the Act's provisions by reference in order to provide the development community with a comprehensive listing of all pertinent regulations pertaining to new construction.*
- 5. BOBA raised concerns about the additional costs associated with the new regulations. While one source (The Midwest Energy Efficiency Alliance) estimates that the new regulations would save homeowners \$267-\$667 annually*

on energy costs, this cannot be confirmed. BOBA discussed this issue and noted there would be additional costs associated with the new construction. Staff notes that the cost benefits associated with energy conservation or payback period for the mandates cannot be readily made. It was noted at the BOBA meeting that the new requirements may increase the construction cost of a new residence by 7 to 10 percent.

6. From a code amendment standpoint, the text amendment to Section 150 of the Village Code would be adopting the latest edition of the International Energy Conservation Code.

G. [090796](#)

PC 09-30: Text Amendments to the Lombard Zoning Ordinance

The Village of Lombard requests text amendments to Section 155.421 of the Lombard Zoning Ordinance amending the performance standards within the I Limited Industrial District. (DISTRICTS ALL)

Attachments: [Cover Sheet.doc](#)
[DAH referral memo.doc](#)
[PUBLIC NOTICE 09-30.doc](#)
[ReferralLetter doc.doc](#)
[Report 09-30.doc](#)
[Ordinance 6437.pdf](#)
[090796.pdf](#)

Christopher Stilling, Assistant Director of Community Development, presented the petition. He stated that the Village of Lombard is proposing text amendments to Section 155.421 of the Lombard Zoning Ordinance amending the performance standards within the I Limited Industrial District. These amendments are intended to address conflicts between the Zoning Ordinance and Fire Department requirements and to remove references within the Zoning Ordinance which are incorrect or out of date. The Department of Community Development and the Fire Department have conducted a review of the I Limited Industrial District performance standards to ensure the proper application and enforcement of these codes.

There were no inter-departmental comments other than that of the Lombard Fire Department Bureau of Fire Inspections who suggested eliminating the current language in "Section D" in its entirety and revising the language to make a single reference for Fire and Explosion Hazard Limitations to the International Fire Code, current edition.

Section 155.421(D) of the Lombard Zoning Ordinance provides fire and explosion hazard regulations which are separate and independent of the adopted International Fire Code and other established Village codes. These circumstances present the possibility that there may be conflicts between these separate sets of regulations. Following a review of Section 155.421(D), the Department of Community Development and Fire Department share the opinion that the Fire and Explosion Hazard Limitations should be amended and the new Section 155.421(D) should direct the reader to reference the adopted International Fire Code and other applicable Village ordinances.

The Fire Department has stated that the adopted Fire Code covers the Fire and Explosion Hazard Limitations listed in Section 155.421(D). By amending this section of the Industrial Performance Standards, the Village can reduce

potential conflicts between the Zoning Ordinance, International Fire Code, International Building Code, and other Village Ordinances. As proposed, the new requirements will be updated each time a new version of the applicable codes are adopted, without having to process a text amendment.

For any change to the Zoning Ordinance, the standards for text amendments must be affirmed. Reciting the standards for text amendments as well as staff's responses to each, he noted that staff has addressed the required standards and recommends that the Plan Commission approve the changes as proposed.

Chairperson Ryan then opened the meeting for public comment. No one spoke for or against the petition.

Chairperson Ryan opened the meeting for comments from the Plan Commission.

Commissioner Sweetser referenced the staff report, specifically, the fourth text amendment standard. She indicated that she heard staff use the word "current" instead of "permissive" and commented that if that is the case then there is potentially, but probably not, a situation where we would have to be more conservative. She asked if permissive is the actual case or if that was changed because it would not make a difference. Mr. Stilling responded that the intent was to make the codes more current.

- H. [100013](#) Organizational Lawn Cutting Program
Amending Title 9, Chapter 92 of the Lombard Code with regard to Health and Sanitation Regulations for the purpose of establishing an Organizational Lawn Cutting Program. (DISTRICTS - ALL)

Attachments: [Cover Sheet.doc](#)
[DAH memo organization lawn cutting.doc](#)
[Letter of Understanding.doc](#)
[Ordinance 6438.pdf](#)
[100013.pdf](#)

Resolutions

- I. [090802](#) FY 2010 Asphalt Patching and Paving Change Order No. 2
Authorizing a decrease to the contract with R.W. Dunteman Company in the amount of \$38,272.98. (DISTRICTS - ALL)

Attachments: [R 59-10.pdf](#)
[Change Order 2 Dunteman.pdf](#)
[090802.pdf](#)

Dratnol: final balancing change order for the FY 2010 Asphalt Patching and Paving contract with R. W. Dunteman and is a decrease of \$38,272.98 based on final quantities.

- J. [090812](#) South Booster Station, Final Balancing Change Order No. 3
Reflecting a time extension of 74 days and a decrease of \$5,799.43 to the contract with Genco Industries, Inc. (DISTRICT #6)

Attachments: [090812.pdf](#)
[R 60-10.pdf](#)
[Change Order 3 Genco.pdf](#)

Dratnol: final balancing change order for the South Booster Station. Reflects a time extension in the amount of 74 days and a decrease in the amount of \$5,799.43 to the contract with Genco Industries, Inc. A time extension was needed after the project was underway due to change in the requirements for the doors for the mechanical room. He also stated that one motor failed while being tested. Time and cost was on the contractor and included liquidated damages. Also final quantities were included in the change order. Kaforski: questioned why the door requirement was not picked up immediately. Dratnol: the building inspector required the change. Kaforski: why did the inspector require this change? Dratnol: stated the inspector missed this and it is required. Kaforski: commented regarding the cost of sod and top soil. Dratnol: this project was pretty much closed out. Goldsmith: will be completed the first or second week in February.

- K. [100035](#) 207-223 E. Roosevelt Road (V-land)
Accepting public watermain and fire hydrants at 207-223 E. Roosevelt Road and known as the V-land project. (DISTRICT #6)
Attachments: [cover-BOT.doc](#)
[Memo - PES to VM.doc](#)
[R 61-10.pdf](#)
[100035.pdf](#)
- L. [100036](#) 400-500 E. St. Charles Road (Oakview Estates)
Accepting public watermain and fire hydrants for the property located at 400-500 E. St. Charles Road and known as Oakview Estates. (DISTRICT #4)
Attachments: [cover-BOT.doc](#)
[Memo - PES to VM.doc](#)
[R 62-10.pdf](#)
[100036.pdf](#)
- M. [100053](#) Northern Illinois Municipal Electric Cooperative (NIMEC)
Authorizing the Northern Illinois Municipal Electric Cooperative (NIMEC) to serve as the broker for the Village with regard to obtaining bids from electricity providers and authorizing the Village Manager to approve a contract with the lowest cost electricity provider. (DISTRICT #6)
Attachments: [R 63-10.pdf](#)
[100053.pdf](#)

Other Matters

- N. [100016](#) New Vehicle Purchase, Ford Explorer
Request for a waiver of bids and award of a contract to Currie Motors in the amount of \$21,822 and approving an ordinance authorizing the sale of Village unit FA1. Staff is requesting a waiver of first. Public Act

85-1295 does not apply.

Attachments: [100016.pdf](#)
[Ordinance 6439.pdf](#)

- O. [100020](#) 2009 Comprehensive Annual Financial Report, Management Letter and Recommendations
Motion to accept and file with the Village Clerk the 2009 Comprehensive Annual Financial Report, Management Letter and Recommendations regarding the Management Letter Comments.

Attachments: [Management Letter.pdf](#)

Village Auditor Ron Amen of the accounting firm Lauterbach & Amen presented the FYE 2009 CAFR and Accounting Manager Anne Fairbairn reviewed the Management Letter comments. Mr. Amen wanted to thank the Village staff for their cooperation in conducting the audit and development of the CAFR. Discussion followed regarding the implementation of GASB 43/45, regarding post employment benefits other than pension plans. Mr. Amen noted that there are two components of GASB 45 - implicit and explicit - with the total liability amounting to \$4.8 million as of May 31, 2009. The implicit side carries \$1.8 million (38%) of the liability and is comprised of retirees on the Village's group health insurance plans. The explicit side accounts for the remainder of the total liability, \$2.9 million, and is comprised of the five retirees whose health insurance as well as their families' health insurance is paid by the Village in accordance with PSEBA. Additional discussion followed.

IX. Items for Separate Action

Ordinances on First Reading (Waiver of First Requested)

Other Ordinances on First Reading

- A. [100034](#) BOT 10-01: 1214 S. School Street
1. Ordinance Authorizing the Execution of an Annexation Agreement (2/3 of Corporate Authorities Vote required)
2. Ordinance Annexing Certain Territory to the Village of Lombard. (UNINCORPORATED/DISTRICT #6)

Attachments: [DAH referral memo.doc](#)
[CoverSheet.doc](#)
[Annexation Agreement School Street Prop..pdf](#)
[Notice of Annexation sent to York Center.pdf](#)
[Notice of Annexation sent to York Township.pdf](#)
[Ordinance 6440.pdf](#)
[Ordinance 6441.pdf](#)
[100034.pdf](#)
[100020.pdf](#)

Ordinances on Second Reading

B. [090649](#)

Video Gaming Ordinance

Ordinance banning video gaming in the Village of Lombard.

Attachments: [videogamingmemo122809toth.doc](#)[Ordinance 6442.pdf](#)[090649.pdf](#)[090649.pdf](#)[090649.pdf](#)[Video Gaming.pdf](#)

Village Manager Hulseberg requested Assistant to the Village Manager Mike Toth to give an overview of this proposed ordinance.

Assistant to the Village Manager Mike Toth indicated that the Illinois Gaming Board did not have a start date for the official rules. He noted that video gaming machines are allowed, but that machines are prohibited from paying off in currency in certain locations. He noted that several communities had banned video gaming machines including Elmhurst, Naperville, Wheaton and DuPage County. Several municipalities such as Addison and Buffalo Grove are not taking action until the Illinois Gaming Board establishes for rules. He stated the Gaming Board was meeting the next day and hopefully the Village would receive some additional information.

Village Attorney Tom Bayer indicated that currently video poker machines do not pay out in cash, but in points. This could be changed. Currently the Village does not allow any video gaming machines to pay off in cash.

Trustee Wilson questioned if video gaming machines could still be installed.

Attorney Bayer stated the machines can be installed, but can not pay off in cash.

Trustee Wilson felt that legalized gambling might be a good revenue source for the Village. He reported that eventually the rules will be established in Illinois and throughout the nation. He felt that people gamble voluntarily and that revenue could be derived for the Village from gambling. He stated he is not completely for or against video gambling. He stated there had not been sufficient input from the community. He felt banning gambling outright was a knee-jerk reaction without sufficient information and facts. He stated he was not opposed to a temporary ban and that after a certain period, the ban could be lifted. He felt the Village needed to have their ordinances in place so that once the Illinois Gaming Board made a decision, the Village would be ready. He stated that gambling was like off-track betting and playing the lottery. He noted that \$31 million was generated in gambling and there was a lot of revenue to be made for the Village from gambling. He stated he was a gambler.

Trustee Tross indicated the ordinance was premature and that video gambling was already prohibited in the Village. He reported that 5% of the revenue generated would go to the Village. He felt the rules would not be established for 12-18 months. He spoke about passing a capital improvements bill for \$31 million and not having the money. He felt gambling was a choice and the Village should not turn down a funding source. He stated DuPage County was the strongest Republican county in the State of Illinois and the county should not turn down a revenue source that feeds money to the State, County and municipalities. He stated the Village is looking for new revenue sources that do not add any additional tax on the residents and that video gaming was a choice just as taxes on alcohol and cigarettes are choices. He talked about liquor license holding establishments being assisted by allowing them to have video gaming machines. He noted that the Mayor reminds residents to shop and dine in Lombard and this would help the businesses.

Trustee Gron felt those municipalities adopting a video gambling ban were

making a statement to the State of Illinois. He felt there must be a better way to generate revenue. He felt this was an easy way for the State to generate money and felt the State would be increasing the state income tax anyway.

Trustee Moreau felt that Naperville had done a survey and that is why they passed the ordinance. She felt that gaming did not match the idea of a family-friendly community. She stated that video gambling was very addictive just like crack cocaine. She questioned as to how much money the Village was really looking at from this.

Trustee Fitzpatrick felt there was not enough information to make a decision. She asked about the cost to the community. She suggested a public hearing. She also questioned the expense, crime and quality of life in the Village. She felt a temporary ban was OK, but wanted the residents to contact their trustees with their opinions.

President Mueller questioned the income generated.

Director of Finance Tim Sexton indicated \$10,000 - 11,000 per establishment.

President Mueller noted there were 54 establishments in the Village.

Trustee Fitzpatrick questioned if it was worth the cash coming in.

Trustee Ware stated he was not necessarily opposed to video gaming, but felt he wanted more information from the residents. He wanted to look at all aspects including revenue. He felt a temporary ban for a shorter period of time was good.

Trustee Wilson felt that residents should be allowed to make their own decisions just like purchasing a lottery ticket. He stated he was not opposed to gambling. He felt people should have a place they can go and gamble if they want to do so. He felt the majority of residents already gamble on the Internet. He stated the Village does not ban alcohol, because there are people who are alcoholics and the Village does not ban food, because there are people who eat at restaurants. He did not feel the Village should ban gambling.

Trustee Tross stated there was limited information available to the Board, but that video gaming machines are already illegal in the State of Illinois. He noted it was illegal for machines to pay off in cash, so he questioned why the Village Board was looking at passing an ordinance that says they are illegal. He noted if there are establishments allowing pay-offs in cash, that was illegal. He felt the Village should wait and see what the Illinois Gaming Board decides before passing any ordinance. He also felt that those establishments affected by this, should be allowed to have a say.

President Mueller stated he did not disagree with the comments he had heard. He reported that at the recent Illinois Municipal League Conference, there was a vendor selling these machines which prompted this action. He felt this did not offer the quality of life for the residents in the Village that he wanted. He felt the majority of residents do not gamble and the he had already received several calls from residents and business owners. He felt the Board needed additional information. He stated he wanted to protect the community until further information was received from the State. He felt there should be a review in one year. He stated he did not think this could be stopped in Springfield. He felt just because the Village would receive funds, this was not something that would enhance the community. He further indicated that this did not mean the Village was banning them, but felt while the Village was waiting for additional information, that a ban was needed. He indicated the vendor could come to Lombard and sell machines to businesses here.

Trustee Wilson questioned what the Mayor wanted to protect the community from.

President Mueller spoke about the quality of life in Lombard.

Trustee Wilson stated residents purchase lottery tickets and go to Las Vegas to gamble.

President Mueller felt that allowing video gambling was not going to make

Lombard a better place to live. He said he would rather hear of great things like the Park District receiving an award and not how someone's husband or wife lost their paycheck by playing video gambling games. He stated they can gamble in other communities.

Trustee Wilson did not think that slot machines and video gaming machines would change the quality of life in Lombard.

Trustee Tross stated we are talking dollars. He suggested tabling this item and stated the press would pick up on this and the trustees would receive more input from residents and businesses who are affected. He stated the machines are already illegal and did not feel the Village had to do anything until the State advised to move forward.

Trustee Fitzpatrick felt this should be referred to the committees and that the Village should have an on-line survey for residents.

Trustee Wilson asked that this be referred to the Finance Committee.

Trustee Tross requested this be referred to each of the committees.

President Mueller felt the Village needed to stay on top of this matter. He stated the trustees were elected by the residents to represent them and make decisions. He did not want this to turn into a referendum. He stated if the Village Board did not want to make a decision tonight, this item could be brought back after input was received. He stated it was the Village Board's responsibility to protect the residents and the community and he did not want the Board to do nothing and then later ask how it happened.

Trustee Ware suggested having a timeframe to get back to the Board with input.

Trustee Moreau indicated that surveys included in the packet showed residents were opposed to this.

Trustee Tross moved that the item be removed from the agenda and placed on the first agenda in January 2010 and that every chairperson have the item placed on their respective agendas for review and discussion. He felt that even the Public Works Committee and Environmental Concerns Committee be asked to review this so that it was getting out to the public. He felt the debate was meaningless as video gaming was illegal.

Trustee Gron felt with the ordinance in place the Board would be preserving the quality of life in the community. He stated on a recent visit to Colorado, a 13-year old girl was begging her mother to stop playing the video gaming machines as they had no money and no food and she was hungry.

Mr. Heniff summarized the staff memo stating that staff presented an update to the Board with regards to the recently approved Video Gaming Act, which legalizes video gaming in certain liquor establishments, truck stops and fraternal/veterans clubs throughout the state. The Village Board tabled this item until their January 7, 2010 meeting in order to solicit the thoughts and recommendations of each of the Village Committees. Mr. Heniff explained that the Economic and Community Development Committee (ECDC) is asked to review the attached memorandum and provide a recommendation as to its level of support for video gaming. Comments and recommendations received from the ECDC will be combined with comments from other committees and commissions and will be forwarded to the Village Board for their consideration.

Mr. Irion stated that he does not necessarily support video gaming but suggested that before any decision is made; he would like to make sure that Lombard businesses have the same competitive advantage as surrounding communities that may support it.

Mr. Grant wanted to revenue projections before making a final decision. Mr. Giagnorio agreed with Mr. Grant.

Ms. Gannon suggested that the Village should move forward with caution.

A motion was made by Mr. McNicholas to recommend that the Village Board proceed with investigating the details of video gaming. The motion was seconded by Mr. Irion and was unanimously approved by the members present. Trustee Fitzpatrick explained that there is a lot of infrastructure shot and that many county or state owned streets are deteriorating and are in bad shape. Governor Pat Quinn said that in order to fund a plan to get the streets in shape, the funding is going to come from video gaming. These video poker machines will be in bars.

Quinn said to fund capital roads with gambling-many of the DuPage County communities have said "no" to gambling. Potential funding is one half million dollars-if the Village licenses all that it can. Each machine would be a payback of 5% or about \$10,000, with the state getting 25%. Now there is a problem where the state is going to have to create a video gaming entity to oversee this. Licensing is not finalized. Rules are not finalized yet either. Trustee Fitzpatrick emphasized to the committee that saying "no" says no to the funding that would be received.

For a business to have video gaming, it must possess a valid liquor license and cannot be within 100 feet of a school or place of worship. The Village could impose their own fees on these as well with the establishment of an ordinance. Communities such as Wheaton, Naperville and others have already said "no" to these video games.

The Village Board is taking two months to run this through the Village committees to see what their opinions are and each committee is to send its recommendation to the Board.

What is the downside? Addiction and other factors that are unknown.

The Board of Trustees tabled this item to get the feelings of the various boards and commissions.

Pam Bedard asked if the amount of money would be enough to lower property taxes and Trustee Fitzpatrick indicated no. Governor Quinn has rather held the streets hostage over these funds. However, President Mueller indicated that in the past we have not received what we have thought we would from the State. Stuart Moynihan, Associate Planner, introduced a memorandum regarding the possibility of video gaming in the Village of Lombard. A vote is requested from the ZBA indicating their level of support for video gaming.

Chairperson DeFalco asked if the state rules for this law had been established.

Mr. Moynihan stated that the rules are not clear.

Mr. Young stated that the law does not currently provide the final rules for video gaming.

Chairperson DeFalco stated that the ZBA could table the issue until the rules are established or take an immediate vote.

Mr. Bedard that the Village Board is looking for a vote at this time in order to gauge the temperature of the committees.

Mr. Young stated the some communities are waiting on the final rules. He

would not be in favor of shooting video gaming down immediately.

Chairperson DeFalco stated that gambling has been used as a fundraising mechanism in the past if you consider the Taste of Lombard and the Jaycees using bingo and pull-tabs. He stated that some gambling is not a major concern as long as it is recreational and not harmful. Until the rules are setup by the state, it is unclear what the Village would be getting. The Village should consider it until then.

Mr. Young stated that the downturn in the economy should be looked at in terms of what this could do for local businesses. It would provide some additional attraction. The Board could pass a resolution to wait to see the final rules.

Mr. Tap stated that this could be a revenue stream for both the Village and local businesses. It could be useful if well regulated.

Mrs. Newman stated that they could reject it now and come back to it later.

Mr. Bedard stated that the gaming would probably require an annual license.

Mr. Young stated that the memo indicates that the ZBA could vote to prohibit gaming now until the rules have been promulgated.

Chairperson DeFalco stated that gaming could be allowed to operate under the existing rules. There are three choices: ban it, allow it, or wait for the rules. Village Manager Hulseberg requested Assistant to the Village Manager Mike Toth give a presentation and update to the Village Board regarding video gaming.

Assistant to the Village Manager Toth stated this item had been tabled at the October 15 Village Board meeting. He reviewed the information in the memo that had been distributed to the Village Board. He noted that the Village had sought input from the various boards, committees and commissions of the Village as well as residents through the on-line survey. He reported there was little support for or against video gaming. He noted that the on-line survey showed that 43% indicated they felt video gaming should be allowed in the Village and 52% supported banning video gaming. The recommendations from the various Village committees showed four committees supporting banning video gaming (Community Relations; Community Promotion & Tourism; Board of Fire and Police Commissioners; and Historical Commission); three committees supporting allowing video gaming (Zoning Board of Appeals; Board of Building Appeals; and Transportation & Safety); all of the remaining committees wanted additional information before making a recommendation. Trustee Fitzpatrick expressed appreciation to the Village Board, staff, committee members and residents for their input. She noted the Village Board had just held a budget session and that the Village was looking at revenue sources. She reported the Village Board was having to look at services and cuts to programs and possible increased fees. She stated she is not for or against video gaming. She felt people enjoy gambling as a means of entertainment. She also noted that people can abuse things including gambling, alcohol, drugs or anything else, but that was a person's choice.

she felt the majority of residents did not want to see video gambling in Lombard and even if they supported video gambling, they did not want it allowed in the Village. Based on this, she indicated she was making a motion to have staff draft an ordinance banning video gambling in the Village of Lombard. Trustee Wilson stated he agreed with Trustee Fitzpatrick, but after the budget workshop of the other evening and the discussion about increasing fees and

cutting services, he felt the Village Board should look at video gambling as a possible revenue source. He requested an amendment to the motion to ban video gambling until the rules are written. He felt the Village should be able to look at this again after the rules are established.

Trustee Tross stated he agreed with Trustee Fitzpatrick and with Trustee Wilson. He noted there was no consensus from the committees. He stressed his concern with banning something that is already illegal in the Village. He stated video gambling is not allowed in the Village of Lombard. He felt the Village would not take on licensing of video gambling until the rules were established. He stated the Village will not enforce this, that the State will enforce. He spoke about possible revenue to the Village. He spoke of the budget workshop and suggestions regarding decreases taxi services for seniors and raising vehicle sticker fees and felt this may be a way to not have to decrease services and increase fees. He stated he did not want a video machine in a bar until he saw how this would weave into the Village. He again stressed banning something that was already illegal. He stated he could not support the ban.

Trustee Gron stated he felt the Board was on the same page and was looking at this as a formality. He noted that in the last 8-9 years, 285,000 jobs had been lost in Illinois; unemployment was over 10% and in actuality was probably more in the 17-19% range. He stated Illinois has lost residents due to births, deaths and moving out of the state. He reported that Illinois has the second lowest credit rating and that there is only one state with a lower credit rating. He stated he would rather see ideas to bring people back to Illinois and bring jobs back. He stated he would not support as this was taking money out of the pockets of residents.

Trustee Ware stated Trustee Fitzpatrick's comments were good. He thanked the Village Board and staff for input. He stated he agreed with Trustee Tross. He stated he would oppose the ban and did not think the Village should get involved in this at this time.

Trustee Fitzpatrick asked Attorney Bayer for clarification.

Attorney Bayer stated the Statute currently allows raffles, bingo and casino licenses. He stated video gaming would be legal unless the community banned it, but there is no timetable at this point. He stated there was a recent push in Springfield during the Veto Session, but the Sunset Law did not pass. The Statute as written allows video gambling unless banned.

President Mueller reminded the Board of vendors at the Illinois Municipal Conference ready to come to Lombard and place video gambling machines. He felt the action taken by the Village Board will grant the Village control over video gambling. He spoke about the budget meeting and dollars and cents and did not feel it was right for the Village to allow something just because of dollars and cents. He stated communities that have gambling have seen reduced revenues. He felt there were no guarantees on revenue. He stated residents and business owners he spoke with were against video gambling. He reported he had calls from the owner of a bar and the owner of a bar/restaurant and both were against video gambling. He felt that whatever action the Village would take can be re-addressed at a later time. He urged the Village board to protect the residents of the community and questioned what video gambling would contribute to Lombard. He did not feel that it contributed to the quality of life in the Village.

Trustee Moreau felt the revenue was not sustainable. She questioned the benefit and how it will be regulated to make certain that a 14-year-old was not able to access video gambling machines. She spoke about people overspending. She referred to this as a slippery slope. She spoke about neighboring communities offering video gambling and the demand may not be there. She questioned additional police supervision.

Trustee Tross questioned Attorney Bayer with regard to the Village's options.

Attorney Bayer stated machines are illegal unless licensed by the State of Illinois so a machine in the Village would need to be licensed. Machines would not be allowed to pay out. He stated there are emergency rules, but there are many holes in the policy. No licenses have been given out.

Trustee Tross stated video gambling is illegal and until the Village receives the final regulations and policies from the State, he did not think the Village needed to act. He felt there were bigger things in Springfield to help the economy.

President Mueller felt this was not a revenue source that was guaranteed.

Trustee Wilson indicated he could support the ban until the State establishes the final rules. He stated the seniors may take a hit with the budget. He felt it was still a revenue source pitted against cuts.

President Mueller stated anything the State can give, the State can also take away.

Trustee Moreau felt cuts would still need to be made and this would not directly affect seniors.

President Mueller noted there was a motion on the table and that Trustee Wilson had requested an amendment.

Trustee Fitzpatrick stated the Village Board can revisit this issue after the State establishes the rules. She did not feel the Village should be a guinea pig and felt other communities could test the waters. She stated she did not want to amend the motion, but to leave it as it was.

President Mueller stated the motion was to direct staff to prepare an ordinance banning video gaming in the Village.

Trustee Tross requested this not be placed on the Consent Agenda.

Village Manager Hulseberg stated this item had been discussed by the Village Board at a workshop and at the last Village Board meeting. He indicated a request had been made to list this under Items for Separate Action. The ordinance has been reviewed by legal counsel.

Trustee Fitzpatrick indicated she had no further comments and wanted to proceed.

Trustee Tross questioned if after the State established the rules and regulations for video gaming, if the Village would receive a copy. He noted he thought at the last meeting that the Village Board had decided to make the ban temporary. He felt it would be cumbersome to overturn the ordinance.

Attorney Tom Bayer stated the ban would be permanent, but that it could be changed. He stated the State will have the rules on-line and that they would not automatically send a copy of the rules to the Village especially if the Village voted to ban video gaming. Attorney Bayer stated he will obtain a copy of the rules once established by the State and e-mail them to the Village Manager.

Trustee Ware questioned how the Village Board would go about changing the rules if they wanted to in the future. He asked if anyone of the board members could request the item be reconsidered.

President Mueller indicated a board member could contact staff and request this be added to an agenda.

Trustee Fitzpatrick stated she did not want a temporary ban and that the motion stands as is.

Resolutions

Other Matters

X. Agenda Items for Discussion

XI. Executive Session

XII. Reconvene

XIII Adjournment

.