

Village of Lombard

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



Minutes

Wednesday, July 31, 2019

7:00 PM

Board Room

Special Meeting Board of Trustees

*Village President Keith Giagnorio,
Village Clerk Sharon Kuderna,
Trustee Dan Whittington, Trustee Anthony Puccio,
Trustee Reid Foltyniewicz, Trustee Andrew Honig,
Trustee Dan Militello 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 Wednesday, July 31, 2019 in the Board Room of the Lombard Village Hall was called to order at 7:00 pm by Village President Keith Giagnorio.

II Pledge of Allegiance

Director of Public Works Carl Goldsmith led the Pledge of Allegiance.

III Roll Call

Present 8 - Keith Giagnorio, Sharon Kuderna, Dan Whittington, Reid Foltyniewicz, Bill Ware, Anthony Puccio, Andrew Honig, and Dan Militello

Staff Present:

Village Manager Scott Niehaus
Director of Community Development Bill Heniff
Director of Public Works Carl Goldsmith
Chief of Police Roy Newton
Fire Chief Richard Sander
Assistant Village Manager Nicole Aranas
Communications Coordinator Avis Meade
HR Director Kathy Dunne
Intern Nick Partipilo
Executive Coordinator Carol Bauer

IV Public Participation

V Agenda

[190315](#)

Recreational Cannabis

Review of the provisions of the Illinois Cannabis Regulation and Tax Act, and discussion relative to the regulation of recreational cannabis at the local level as allowed by the Act.

Village Manager Scott Niehaus conveyed that the meeting was a Special Village Board Workshop and that the meeting would be informal allowing the Village Board and anyone in attendance to speak with questions or comments. No formal action will be taken on this matter at the meeting tonight. He thanked the staff for all of their hard work in researching and

preparing information to be shared at the workshop with the Village Board, residents and visitors. He noted that recreational cannabis is a new issue to the State of Illinois as well as for the communities including the Village of Lombard. The goal was to obtain as much information as possible to share with everyone so that decisions could be made relative to the Illinois Cannabis Regulation and Tax Act and the impacts on the community. He provided an overview of a Power Point as it relates to the Illinois Cannabis Regulation and Tax Act. He noted the following would be reviewed: transparency and communication; recreational cannabis legislation, policy and zoning issues, public comment, Board discussion and direction and next steps.

Transparency and Communication: Village committed to transparency and communication; Village Board Workshop with no final action; communication efforts; dedicated website address. Communication efforts included the E-Pride Newsletter, website, and dedicated e-mail address. Social media posts on July 11, July 22, July 26 and July 29, Facebook posts (reached 14,784 people), Twitter (reached 2,626), Instagram (likes 76) and E-Pride Newsletter articles on July 11th and July 28th with a total of 17,410 reaches. The Village strived to go far beyond the basic requirements to notify residents of the workshop so that interested citizens could attend the meeting or share their comments via e-mail.

The Illinois Cannabis Regulation and Tax Act (HB 1438) signed by Governor Pritzker on June 25, 2019 authorized the lawful purchase and consumption of recreational cannabis on January 1, 2020; any resident or non-resident may consume cannabis on private property or carry it on their person; it shall remain unlawful to consume cannabis outdoors or in public spaces; recreational use of cannabis approved as of right under State law; local jurisdiction and scope is limited to regulation on recreational cannabis dispensaries.

Does the Village of Lombard wish to prohibit recreational cannabis dispensaries from locating within the corporate limits? Note that cannabis use remains permitted regardless. If no, what reasonable restrictions, if any, should be placed on the location and operations of a dispensary?

The Village will review: zoning districts for cannabis dispensary locations; conditional or permitted use; distance requirements (buffer zones from other uses); performance standards and operational regulations (hours, etc.); limits on number of dispensaries; other amendments to local ordinances.

Local communities with medical cannabis dispensaries: Naperville, Arlington Heights, Mt. Prospect, Elmwood Park, Rolling Meadows, Deerfield, Evanston, Oak Park, North Aurora, Romeoville and Addison.

Security and Public Safety Requirements: the Police Department contacted communities with existing medical cannabis dispensaries to

seek information on impact upon police services and found that minimal calls for service were reported. One public safety concern is regarding impaired driving. Impacts on demand for police services and increases to drug impaired drivers, if any, would likely occur regardless of whether recreational cannabis dispensaries are permitted locally or not.

Trustee Ware questioned results of surveying other communities that allow the sale of medical marijuana and what, if any, calls they had received relative to those facilities.

Chief of Police Roy Newton reported that communities noted no increase in calls related to medical marijuana dispensaries and that calls noted were alarm calls and were due to alarm malfunctions or weather and not related to any attempts to break into a building.

Trustee Foltyniewicz questioned use on premises.

Village Manager Scott Niehaus indicated that would be a policy question for the Village Board if they did choose to move forward with allowing the sale of recreational cannabis.

Trustee Puccio questioned how the Police would handle impaired drivers.

Chief of Police Roy Newton indicated this will be addressed whether the Village opts to allow the sale of recreational cannabis or not. He noted the increase in impaired driving violations as it relates to cannabis and that only a blood and urine test can be used to confirm cannabis in a person's blood. He noted there is no known test that can be administered on the street to determine cannabis in a person's system and blood and urine tests are used to make the determination. Blood and urine tests are conducted at a hospital. This is the same in Lombard and all communities. The Police Department will need to review traffic stops relative to impaired driving and how to address possible prosecution of impaired driving as a result of cannabis. He felt there would be many challenges in court. He also noted that the Police Department can call for a phlebotomist to come to the Police Department to do a blood draw to determine if cannabis is present in a person's system. Questions relative to who pays for the blood test were asked and resulted in individuals's insurance would be responsible for covering blood draw at a hospital. An agreement has been made that the arresting Police Department will pay in the event a phlebotomist is called through the County and that the Department will then be reimbursed through prosecution and fines. It was noted the DUI Tech Funds are used to pay for the phlebotomist and that the fees do not come out of the Village's General Fund or Police Budget.

Village Manager Scott Niehaus noted State legislation sets aside 8% of funds from cannabis sales to be distributed to Police Departments to help cover the cost of training and other expenses accrued from cannabis prosecutions.

Current zoning or medical cannabis: since 2013, medical cannabis

dispensaries are permitted as a conditional use in O - Office District; currently Lombard has no medical cannabis dispensaries; cannabis dispensaries are not permitted within 1,000 feet of a property line of any schools, day care facilities or group day care homes as well as prohibited in zoned residential areas. Recreational cannabis dispensaries may open on January 1, 2020 with a State license; should the Village opt-out of permitting this use; if not, what zoning districts are appropriate; should dispensaries be a permitted use or a conditional use. If the Village were to amend zoning to permit recreational cannabis dispensaries within the Village, a text amendment to the Zoning Ordinance would need to be approved including a public hearing before the Plan Commission. If a conditional use will be required, each petition will be reviewed; takes 60-90 days to review petitions including a Public Hearing at a Plan Commission meeting; and the petition is then forwarded to the Village Board. Key Office districts in the Village include Heron Point (North Avenue and Route 53); Woodlake Business Park; 22nd Street; Highland Avenue; Butterfield Avenue. Lombard Retail Districts include: B1 and B2 - considered neighborhood commercial with most businesses smaller in nature and serve the immediate neighborhood; B3, B4, B4A - considered community and corridor shopping districts that draw from a larger area, including areas outside of Lombard. Maps of B1, B2, B3, B4 and B4A retail districts include Roosevelt Road, East St. Charles Road, Yorktown Mall, Highland Avenue and North Avenue. Downtown District B5 (Central Business) constitutes the "downtown" core area of the Village and is intended to accommodate all retail, service and specialty shops and necessary civic services characteristic of the traditional central area; and B5A Downtown Perimeter District is intended to be a transition between the downtown and other commercial areas that accommodate all retail, service, and speciality shops and necessary civic services characteristic of the traditional central area in a pedestrian environment while also recognizing compatible automotive land uses. The Industrial District allows for businesses that are manufacturers, warehouses, offices and the like, as permitted use and allows for indoor athletic training centers (learning centers) banks, schools, medical offices, etc. with a conditional use permit and not a retail area. Industrial District includes properties north of North Avenue; western Avenue and St. Charles Road; Yorkbrook Industrial Park on Eisenhower Lane and Finley Road.

Additional zoning considerations: the law allows for cannabis smoking establishments; the Village can amend the Zoning Ordinance definition for smoking establishments to exclude cannabis; smoking establishments are allowed with a conditional use permit in the B4A District (Roosevelt Road); staff presumes that if permitted, zoning would exclude on-site use; cannabis cultivation - staff has not received any inquiries on cannabis growers and is not looking at considering any

zoning regarding cultivation operations.

Revenue and Financial Considerations: sales of cannabis will be taxed by the State; existing State and local taxes will apply; State of Illinois will distribute 8% of taxes to local jurisdictions to LGDF for local law enforcement crime prevention, training and interdiction efforts; municipalities may opt to add a special tax of up to an additional 3%.

Potential revenue: estimates assume a 2% share of local sales tax (1% regular tax and 1% non-home rule) and a 3% additional local tax.

Methodology A using the Colorado consumption rates to authorized number of Illinois dispensaries (limited to 185) the estimated revenue per location is \$669,000; Methodology B applying the IEPI estimate of statewide sales to authorized number of Illinois dispensaries, the estimated revenue per location is \$436,000; all estimates are conservative and based on initial year of operation.

Village President Keith Giagnorio noted that anyone wishing to speak should come up to the microphone and state their name. He also noted the three minute time limit; asked each person to state their point and asked all speaking to be respectful of others' opinions and comments. We are Lombardians and even if you do not live in Lombard, you are here tonight and that makes you a Lombardian.

Albert Baker noted he was a Veteran of the Marines and suffering from PTSD; noted dispensaries are well-maintained; option for those in pain if you are not able to take pain killers; revenue to the Village; supported dispensaries in the Village.

Christaden stated he fully supported dispensaries in Lombard, but was opposed to consumption on the premises; felt there would be an increase in impaired drivers, but wanted to support local business and not support the drug cartel.

Dana Moreau questioned enforcement of those smoking in front of or close to people under 21.

Village Attorney Tom Bayer noted that cannabis is not to be smoked in front of anyone under 21.

Chief of Police Roy Newton spoke of the challenges the Police Departments will face and do face already. If someone calls and reports they smell cannabis, this does not give Police the authority to go on private property to investigate. He felt there would be a lot of challenges in court. He also noted that he is the Chairman of the DuPage Chiefs of Police Legislative Committee and they will be reviewing this and he has spoken to the Chairman of the State of Illinois Chiefs of Police Legislative Committee as well. They will be looking for clarification on many aspects of medical and recreational cannabis. He noted that legislators did remove the aspect of allowing someone to be allowed to harvest up to five plants on their property.

Village Manager Scott Niehaus noted that this issue occurs even now with medical marijuana and more clarification is and will be needed. He

spoke of other means of consuming cannabis such as candy-based forms of cannabis. He noted that smoke will travel over a fence from one yard to another.

Trustee Reid Foltyniewicz stated there will also be some similarities to underage drinking parties, but with cannabis.

Lamar Richardson felt timing was critical and Village should move quickly with the January 1, 2020 date not that far away; felt the Village should be looking at attracting companies; number of licenses limited.

Trustee Andrew Honig felt having dispensaries as a permitted use would speed up the process if the Village was approached to have a dispensary in the Village limits. Spoke of the law raising the age for sale of cigarettes to 21.

Chief of Police Roy Newton spoke of the possibility of having medical and recreational cannabis within close proximity; spoke of challenges; receive a call from an apartment complex or hotel relative to the smell of marijuana in halls (hallways being public domain) and need for a search warrant to gain access to check apartment or rooms; no States Attorney's office will give a search warrant based on possible smell of marijuana; only if occupants open door, would Police be able to further investigate.

Village Manager Scott Niehaus stated there are currently 55 medical marijuana dispensary licenses in the State of Illinois; these dispensaries will have the right to have a recreational cannabis dispensary at their current location and another location; there will be 47 new licenses to be granted by May 1, 2020;

Trustee Dan Whittington asked if the Village had been approached by any applicant.

Village Manager Scott Niehaus stated that the Village had been approached and that the vendor felt there was a hole lacking dispensaries in this area of DuPage County.

Shawn Smith spoke of the smell of marijuana drifting from one property to another and that will continue to happen, as will the impaired drivers whether Lombard approves dispensaries or not.

Dana Moreau clarified her question relative to the smell of marijuana.

Trustee Dan Militello stated that he will be abstaining from any votes relative to marijuana dispensaries as he has been employed by a medical cannabis business for over two years.

Trustee Dan Whittington indicated he would like to keep the dispensaries from the downtown area where there is very limited parking.

Trustee Anthony Puccio felt the recreational cannabis dispensaries will be highly regulated; felt allowing dispensaries as a permitted use versus conditional use; felt any residents opposed would come to a meeting to voice their opinion.

Director of Community Development Bill Heniff spoke of permitted use versus conditional use.

Trustee Bill Ware felt dispensaries should be a permitted use and be treated like any other retail store.

President Keith Giagnorio stated he had never been to a medical marijuana dispensary.

Trustee Dan Militello noted everything is kept in a vault in back under lock and key; there are no products visible to the public; very high security at dispensaries.

Trustee Reid Foltyniewicz stated he had no problem allowing dispensaries in the Village, but felt all business districts are not the same and preferred conditional use versus permitted use for dispensaries.

Trustee Bill Ware felt that dispensaries should be permitted in all districts (Yorktown, Roosevelt Road, North Avenue) with the exception of the downtown.

Village Clerk Sharon Kuderna questioned not allowing dispensaries in downtown.

Village Manager Scott Niehaus noted that the company that had contacted the Village wanted to own their own property; have no neighbors; no common walls; not located in a condo building or strip center; a lot of downtown would not be a fit; lots of parking for 30,000 to 40,000 cars.

Trustee Dan Militello stated that a stand-alone downtown would most likely not be a good fit.

Director of Community Development Bill Heniff spoke of the 60-90 days for an item to go through the process for a conditional use permit.

Trustee Bill Ware stated that Villa Park already has a text amendment as well as Addison and felt the timing was important.

Trustee Reid Foltyniewicz spoke of wanting some control over where a dispensary can be located and felt the conditional use would provide that.

Trustee Andrew Honig felt companies make a lot of money; want to go where dispensaries are a permitted use; make money fast; bars are a permitted use; felt a permitted use was timely and should be the same as other retail; question relative to other towns.

Director of Community Development Bill Heniff stated most towns are at the same stage as Lombard and some are not even as far as Lombard.

Village Manager Scott Niehaus stated that Addison and Villa Park have approved dispensaries, and that Bloomingdale and Naperville have opted out; other communities are still reviewing; noted the Village Code will also have to be revised to reflect that medical cannabis can be sold at recreational facilities will also be able to sell medical marijuana.

President Giagnorio asked the Board to review the items that needed to be addressed and to have a discussion on the items as they were being reviewed:

The Village Board concurred with permitted use in the B3, B4, B4A, O and I Districts and as a conditional use in the neighborhood and downtown commercial districts (B1, B2, B5 and B5A)

The Village Board concurred with prohibiting cultivating, craft growers. The Village Board concurred on the 3% tax on sale. Adopt the tax sale ordinance as soon as possible to get it on the books.

The Village Board concurred to amend current Village Code relative to medical cannabis.

Trustee Bill Ware questioned timeframe to have ordinances prepared for Place Commission and Village Board action.

Village Manager Scott Niehaus noted there was a 15 day notice for a public hearing before the Plan Commission. Possibly go to Plan Commission by the end of August and Village Board in September.

this matter was discussed

VI Adjournment

A motion was made by Trustee Bill Ware, seconded by Trustee Dan Whittington, that the Special Meeting of the President and Board of Trustees of the Village of Lombard held on Wednesday, July 31, 2019 in the Board Room of the Lombard Village Hall be adjourned at 8:14 p.m. The motion carried by the following vote:

Aye: 6 - Dan Whittington, Reid Foltyniewicz, Bill Ware, Anthony Puccio, Andrew Honig, and Dan Militello