

MINUTES  
VILLAGE OF ELBURN BOARD OF TRUSTEES  
SEPTEMBER 16, 2019

Board Members Present: President Jeff Walter, Trustees: Ken Anderson, Sue Filek, Bill Grabarek, Chris Mond, Patricia Schuberg, Matt Wilson

Board Members Absent:

Staff Members Present: Village Administrator John Nevenhoven; Finance Director Doug Elder, Village Attorney Bill Thomas, Police Chief Nick Sikora; Building Commissioner Tom Brennan; Public Works Supt Phil VanBogaert; Village Engineer Colleen Jaltuch

Others Present: Residents LeRoy Herra, Chris Schuberg, Marcia Little, Gerry Rink, Julie Potter; Carolyn Anderson; Elburn Herald Reporter Susan O'Neill

1. Call to Order – Village President Jeff Walter called the meeting to order at 6:45 p.m.
2. Pledge of Allegiance – Trustee Mond led the assembly in the Pledge of Allegiance.
3. Roll Call – A roll call ensued.
4. Public Comment, Awards & Presentations – Mayor Walter reminded members of the public of guidelines to follow when giving public comment.

Carolyn Anderson, 43W725 Old Midlothian – Inquired if the Board received information from Sugar Grove regarding a boundary agreement and if there has been any contact from Crown. Mayor Walter stated the boundary agreement is still on hold and there has been no communication from Crown.

Marcia Little, 208 Babcock – Expressed concern about a marijuana dispensary in Elburn. This is not what Elburn should be famous for. Little said she has worked with people who abused marijuana and it is a difficult drug. Does not feel Elburn should be part of the problem.

Gerry Rink, 302 W Pierce – Understands the use of medical marijuana. Marijuana is a mind altering drug and does not feel recreational use is a good idea—we need a country of people on their game, not complacent. Rink said she hates to see Elburn as a small town who encourages the use of pot.

Mary Hansen, Elburn – Has a mixed opinion about the recreational cannabis dispensary. Strong opinion about the fact that Elburn is a family oriented small community. Realize the world is changing but even though marijuana at a dispensary will be controlled, not convinced it will still stay out of the hands of the under aged. Does not think it should be downtown but perhaps would be OK in an industrial area. Feels this will be a draw from other communities and will not be the people of Elburn shopping there. Even though revenue will be high, what else will it cost Elburn? Does not believe this is the draw we want in the community. Hanson said Naperville just voted down dispensaries because of the large number of residents in opposition.

Julie Potter, Elburn – Stated she is against the dispensary. Her family moved to Elburn three years ago with three children—including a son who has an addiction problem and a child in elementary school. This is a family-oriented community and does not know how the Village Board can consider having it in town. She is a very concerned citizen of Elburn.

5. Omnibus Agenda (Omnibus Vote) – All items listed with an asterisk (\*) are considered to be routine by the Village Board or were recommended unanimously by the Committee of the Whole and will be enacted by one motion. There will be no separate discussion on these items unless a Board Member or citizen so requests in which event the item will be removed from the Omnibus (Consent) Agenda and considered in its normal sequence on the Agenda.

\*Minutes

*\*Village Board*

*September 3, 2019*

A motion was made by Trustee Schuberg and seconded by Trustee Wilson to approve the Omnibus Agenda. A roll call vote ensued. Ayes: Anderson, Filek, Grabarek, Mondy, Schuberg, Wilson. Nays: None. Motion carried.

6. Mayor
- a. Elburn Lions Club 90<sup>th</sup> Anniversary Proclamation – Mayor Walter read aloud the proclamation.
  - b. A card was received from DuKane ABATE advising of their annual motorcycle run scheduled for Sunday, October 13, and kicks off in Elburn.
  - c. Mayor Walter attended the Planning Commission meeting earlier this month. Mayor Walter circulated a drawing of a concept plan by Lennar for development of property north of Prairie Valley North.
  - d. Congratulations to the American Legion for their second annual .1K run. It was a successful event with 220 registrations. Looking forward to an even better event next year.
7. Village Attorney – Attorney Thomas gave an update on the Anderson Road Extension property rights. He has been communicating with the Blackberry Creek HOA attorney and let them know where the Village stands regarding monuments. The HOA Board met and they have requested a meeting with Village Administrator Nevenhoven. No content for the meeting was given.

Attorney Thomas said he was asked about signage/advertising at the Planning Commission Meeting in relation to a marijuana dispensary. Thomas provided a list of restrictions from the cannabis legislation including no use of a marijuana leaf on signage or packaging.

8. Village Clerk – No report
9. Administration
- a. Discuss and Approve Ordinance 2019-18 Amending the Zoning Code to Allow a Cannabis Dispensary – Village Admin Nevenhoven advised this was reviewed at a Public Hearing by the Planning Commission on September 4. They recommended approval as a Special Use in the B1, B2 and CM zoning districts with the following restrictions: 1) on-site consumption of cannabis is prohibited; 2) a cannabis dispensary shall not be located within 150 feet from any licensed day care or school, as measured from the primary, public entrance of the facility; 3) hours of operation are limited to 6:00 a.m. to 9:00 p.m., seven days a week; 4) the total number of cannabis dispensaries at any one time within the Village shall not exceed one cannabis dispensary license for each 10,000 population or fraction thereof; 5) the petitioner shall file an affidavit with the Village affirming compliance with all other requirements of the act. A motion to approve Ordinance 2019-18 Amending the Zoning Code to Allow a Cannabis dispensary was made by Trustee Wilson and seconded by Trustee Schuberg. The following discussion ensued.

Legislation includes a 1,000 foot advertising restriction from "sensitive areas" (schools, residential, etc.) but does not contain distance restrictions between a facility and "sensitive areas." However, the new law allows local units of government to place reasonable distance restrictions. Advertising restrictions encompasses onsite and offsite advertising. Trustee Filek stated years from now, cannabis use may be as accepted as alcohol but is still a federal offense. It is difficult to explain right from wrong to a child when we make something legal on the local level yet it is illegal on the federal level. Filek applauded residents who came forward to share their feelings because she wants to act based on what the community wants.

Trustee Anderson inquired and it was confirmed that every potential dispensary will be required, under the special use provision, to go through a public hearing before receiving approval. However, just like liquor licenses, Anderson asked if the Village could make an exception and add another dispensary license if another wanted to come to town? Mayor Walter said yes it is possible but not certain.

Trustee Grabarek stated he has no problem with a recreational marijuana dispensary and use of marijuana by adults. Dispensaries will allow purchase in a store vs. on a street corner. If approved, the Village will get an extra 3% revenue above sales tax and generate substantial revenue. In doing internet research, Grabarek questions if there is research on the demographics of recreational use in the states that allow it. Pricing seems to vary widely and Grabarek questions if revenue generated will be as high as anticipated. Grabarek referenced a report available for purchase and made a motion that the Board table this matter to allow purchase and review of the report. The report will help to determine if a dispensary will create real revenue or not. Grabarek's motion died for lack of a second. Grabarek stated he will vote nay on this ordinance because he wants more research info.

Trustee Anderson said he does not agree with a dispensary in B1 or B2 zoning and feels it should be in CM district. Anderson does not want the dispensary on Main Street in Elburn.

It was noted the Village Planning Commission recommended approval (with requirements) on a 5 to 1 vote (one Commissioner was absent).

Trustee Grabarek shared age demographics in relation to recreational marijuana use and again stated although in favor of a dispensary, he would like more information to determine if one will produce meaningful revenue and where it should be located. Grabarek continued we most likely will not bring back the bricks and mortar-type downtown we used to have. It is the Village Board's responsibility to ensure the safety, health and welfare of residents and would like to see a clearer picture before voting. Mayor Walter said numerous studies supporting both arguments (in favor and against) are available.

Attorney Thomas recommended the Board make a decision either way so someone inquiring about establishing a business will know what the municipality's intentions are. Thomas was asked to confirm if municipalities must take action by the first of January. Thomas will research. It was asked if the Board can pass Ordinance 2019-19 (Amending Ch. 890 Municipal Retailers Occupations Tax – Cannabis Sales Tax) without taking action on Ordinance 2019-18. Nevenhoven said yes.

Trustee Schuberg stated she has no concerns with dispensaries and feels they are very controlled. However, it is disconcerting with all of the changes (trailer amendments) that are occurring—what will the legislation look like in final form? Regarding conditions recommended by the Village Planning Commission, Schuberg said she would like a greater distance from sensitive areas and feels hours of operation should be more in line with typical business retail hours. Schuberg is happy with one dispensary per 10K population.

There was discussion of the benefits of a dispensary. Although there is research on the addictive quality of marijuana, there are also benefits (medical marijuana, etc.). Typical characteristics of marijuana users (more mellow, careful drivers, etc.) vs. drinkers was also discussed. There currently is no testing mechanism to determine if someone is under the influence of marijuana. Unlike a bar, onsite consumption of marijuana at a dispensary in Elburn will not be allowed.

Mayor Walter said the Board can change the Planning Commission's recommendations but will require a 3/5 vote to pass. Trustee Grabarek suggested the motion on the table be withdrawn to allow review of the report he referenced previously and obtain a clearer understanding of the effect a dispensary might have on Elburn's culture. Mayor Walter said whether Elburn has a dispensary in town or not, residents will be impacted because it will be legal in the State of Illinois on January 1, 2020. If the Board fails this ordinance, Walter does not want to diminish Elburn's options of allowing it sometime in the future. The Village Board has to make a decision within 60

days of Planning Commission action. Nevenhoven stated this was discussed at a Metro West meeting recently. North Aurora made a presentation and said most dispensaries do between \$8M and \$15M/year in sales. If Elburn were to get a dispensary and sell \$8M, it will be \$400K in sales tax; if \$15M, it would \$750K in revenue. As far as police impact, North Aurora has had no incidents and St. Charles had only one (with their medical dispensaries).

Trustee Filek asked how you please everyone. She believes the downtown area can come back and be great again and discussed cross shopping. Will a dispensary discourage other businesses from locating downtown? Trustee Schuberg said we can't predict the impact any business will have on Elburn and believes signage requirements will tone it down (most dispensary advertising will be on social media).

Mayor Walter said after getting beyond their moral feelings, the Planning Commission accepted B1, B2 and CM zonings for dispensaries. Mayor Walter said there has been some interest expressed for a dispensary in the downtown B1 zoned area.

There was consensus from the Board to change the required distance from schools and daycare facilities to 200' vs. 150'. The Board also felt hours of operation was too early and there was consensus to change the hours to 8am to 9pm, seven days a week.

When asked, Mayor Walter said the Village has not received any feedback from the Chamber.

A roll call vote ensued. Ayes: Filek, Mond, Schuberg, Wilson, Walter. Nays: Anderson, Grabarek. Motion carried.

- b. Discuss and Approve Ordinance 2019-19 Amending Ch. 890 Municipal Retailers Occupations Tax – Cannabis Sales Tax – Nevenhoven stated if approved by the Board and sent to the Illinois Department of Revenue by October 1, it will go into effect January 1, 2020. It is set at the maximum rate of 3% in addition to the 2% currently for a total of 5%. A motion to approve Ordinance 2019-19 was made by Schuberg and seconded by Grabarek. A roll call vote ensued. Ayes: Anderson, Filek, Grabarek, Mond, Schuberg, Wilson. Nays: None. Motion carried.
- c. Regarding an update on vehicle charging station research, Nevenhoven has gathered some information but has not been able to find out what to charge for the cost of electricity. Different organizations have charging stations (NIU, Delnor/Northwestern Hospital, Fox Valley Park District, etc.) and Trustee Grabarek knows someone who has a station at their residence and the cost is approximately \$3 per charge. Trustee Anderson suggested contacting Jessica Mino, Kane County's Energy and Sustainability Coordinator, who has calculated the charge based on kilowatt hour.
- d. An update on Lot 150 in Elburn Station was provided. Nevenhoven said Shodeen will be at the October 7 Village Board Meeting and added there is more than enough open space in Elburn Station to compensate for exclusion of this lot.

#### 10. Building and Zoning

- a. Building Commissioner Brennan reported the first single-family residence permit has been issued in Elburn Station Unit 1 (east side of Anderson Road). PINs have been issued and KDOT is in agreement. Fire Marshal Schopp signed off on E Station Blvd as being accessible by fire equipment but not yet on Westhaven.

#### 11. Finance Department

- a. Discuss the Treasurer's Report for the Period Ending August 31, 2019 – Finance Director Elder presented the report. August is the 4<sup>th</sup> month (33%) of the fiscal year.
- b. Discuss the Revenue and Expenditure Report for the Period Ending August 31, 2019 – Elder reported the budget needs to be amended and will be presented to the Board in October. Budget planning for the 2021 fiscal year is scheduled to kick off soon. The Finance Department is working on the annual tax levy which is due to be filed by the last Tuesday in December. We have not yet seen revenue from the non-home rule sales tax increase which went into effect on July 1.

12. Police Department – No report

13. Public Works Department

- a. Public Works Supt VanBogaert advised the First Street parking lot should re-open this week. Some odds and ends still need to be finished up. The parking lot will continue to fall under the standard 72 hour parking rule. No box trucks will be allowed in the lot and the Village will continue to deposit excess snow at the south end of the lot during the winter season.
- b. Some exploratory excavating needs to occur before commencing repair work to see why the sidewalk at the south entrance of the Mobil Station is collapsing.
- c. The pre-construction meeting for the 2019 Streets Program will occur this week with Builders Asphalt.
- d. The street lights on South Street will not be energized until a building is built in the South Street development (most likely next spring). The Board asked if Frasz could help with getting the lights turned on sooner; and to keep the weeds cut. Staff will inquire.
- e. The new street light at Johnson and Keslinger is up and will be energized when Leyden Electric has availability.

14. Bills

- a. Approve the Bills List – A motion was made by Trustee Grabarek and seconded by Trustee Filek to approve the bills for Monday, September 16, 2019 for \$81,553.91. A roll call vote ensued. Ayes: Anderson, Filek, Grabarek, Mond, Schuberg, Wilson. Nays: None. Motion carried.

15. Other Business – None

16. Adjourn - Trustee Mond motioned to adjourn the meeting at 8:49 p.m. with Trustee Wilson seconding the motion. The motion passed by a unanimous voice vote.

Respectfully Submitted,



Diane McQuilkin  
Village Clerk