

MINUTES OF THE REGULAR MEETING OF THE LAW AND ORDINANCES COMMITTEE OF THE VILLAGE OF WILLOWBROOK HELD ON TUESDAY, OCTOBER 1, 2019 AT 6:00PM AT THE WILLOWBROOK POLICE DEPARTMENT, 7760 QUINCY STREET, VILLAGE OF WILLOWBROOK, DUPAGE COUNTY, ILLINOIS.

1. CALL TO ORDER

Trustee Kelly called the meeting to order at 6:00 pm.

2. ROLL CALL

Those present at roll call were Trustee Kelly, Trustee Davi, Assistant Administrator Mertens, Village Attorney Bastian, and Building Official Giuntoli. Also present was Trustee Neal.

3. APPROVAL OF MINUTES

Minutes – Regular Meeting September 3, 2019

Trustee Davi made a motion to approve the minutes from the September 3, 2019 Committee meeting, seconded by Trustee Kelly. All in favor.

MOTION CARRIED

4. UPDATES

a) People v. Sterigenics Case Status:

Attorney Bastian advised that the consent decree was entered by the court. Sterigenics must deposit \$300,000 within 30 days for environmental projects as part of the consent order. Sterigenics announced, on September 30, 2019, that it will not seek reopening their Quincy Street or Midway Drive facilities. Sterigenics stated that they were not able to negotiate a lease extension on the Quincy Street location. Based on this issue and the regulatory landscape in Illinois, Sterigenics will also not pursue reopening of its second location on Midway Drive. Sterigenics did not apply for an IEPA permit application for the Midway Drive facility.

Trustee Davi asked if the closing altered the deposit requirement? Attorney Bastian stated the Court has retained jurisdiction to enforce the consent decree. Trustee Davi requested Attorney Bastian explain the consent decree further. Attorney Bastian stated the consent decree provided that Sterigenics must deposit \$300,000 for an environmental project within 30 days of entry of the order, which was entered on September 6, 2019. The deposit was not contingent upon Sterigenics reopening. Trustee Davi asked if the environmental project was defined? Attorney Bastian stated

that is was not defined. He thought that the DuPage County State's Attorney General office or the IEPA would have final authority for the projects, but may seek input from the Village.

b) Village Notifications of IEPA Reports in Conjunction with the Matt Haller Act Requirements:

Attorney Bastian advised that the notifications of IEPA reports in conjunction with the Matt Haller Act in relation to Sterigenics is now moot in light of Sterigenics decision to not reopen. Attorney Bastian noted that the Matt Haller Act, among other things, bans the use of ethylene oxide within ten miles of a school, essentially removing Willowbrook from future ethylene oxide sterilization facilities.

c) Alarm Notification of Hazardous Chemicals:

Attorney Bastian advised that we are working to incorporate this matter into an ordinance but additional research is required prior to proceeding with a draft ordinance.

d) Good Governance Suggestions:

i. Require a permit for the Transfer on Village Roads of Tier II Chemicals:

Attorney Bastian advised that he doubted the Village could require a special permit to transfer hazardous chemicals on village roads. These permits are controlled mostly by federal law and would only apply if a vehicle entered a local roadway. Notification of this to all trucking companies would be a concern. The Village would not know who or what is being transported and it would be very challenging to confirm. IDOT has the overall jurisdiction over the truck transportation industry. Transport vehicles are out of our jurisdiction with the exception of weight limits on local roads.

ii. Retail Occupation Tax on Tier II Chemicals:

Attorney Bastian advised that we cannot apply a retail occupation tax on Tier II chemicals. That concept is a sales tax and it is not sold in the Village. If we were to tax the M1 district it would require a text amendment. The amount would have to be determined, establishing a template amount may prove problematic. Building Official Giuntoli stated that the threshold for Tier II products vary. Assistant Administrator Mertens stated that if this were to be established, we may need to go chemical by chemical to determine thresholds. Attorney Bastian stated that there are federal guidelines to determine Tier II chemicals. Trustee Kelly stated that he would like the Village to consider options to regulate companies meet Tier II reporting guidelines. The Village could consider an Ordinance that would require

companies that file Tier II reports to also be required to supply a copy of the Tier II reports to the Village for our records.

- iii. Enact zoning Restrictions for M1 to limit the storage of Tier II Extremely Hazardous Substances to 100 Lbs.

Attorney Bastian advised that an ordinance incorporating provisions of the Matt Haller act would no longer be necessary with Sterigenics not reopening. The Matt Hailer Act among other things, bans the use of ethylene oxide within ten miles of a school, essentially removing Willowbrook from future ethylene oxide sterilization facilities. Attorney Bastian stated that there are federal guidelines to determine Tier II chemicals.

- iv. Update Village Fire Codes to align with zoning restrictions and limit storage to 100 lbs.

Attorney Bastian advised that we can consider an update to reflect the storage limits if the Village finds it beneficial. Trustee Kelly asked two questions. 1) Can the Village create an ordinance, as Darien did, to ban ethylene oxide? 2) Is a ban on ethylene oxide worth it? Attorney Bastian stated he would research it; however, his initial thought is that the banning of ethylene oxide is a State concern and the Village would not have the authority to ban the use. Trustee Davi asked if we were working on an ordinance that deals with substances like ethylene oxide? Attorney Bastian stated the Village was working on this in conjunction with the Matt Haller Act, however, with the recent announcement that the Sterigenics facility was closing it became a moot point. He noted that the Matt Haller Act, among other things, bans the use of ethylene oxide within ten miles of a school, essentially removing Willowbrook from future ethylene oxide sterilization facilities.

5. DISCUSSION – Proposed Text Amendment: Consideration of a petition for text amendments to amend Sections 9-6B-1, 9-6C-1 and 9-6D-1 of Title 9 – Zoning Title of the Village of the Willowbrook Municipal Code to add “Video Gaming Cafe” as a new permitted use in the B-2, B-3 and B-4 Zoning Districts; to amend Section 9-2-2 of Title 9 – Zoning Title of the Village of the Willowbrook Municipal Code to add “Video Gaming Café” as a new definition and to amend the current definition of “Restaurant”; and to add a new use category in Sections 9-6A-2, 9-6B-2, 9-6C-2 and 9-6D-2 of Title 9 – Zoning Title of the Village of the Willowbrook Municipal Code. **(Recommend Referral to Plan Commission for its Consideration)**

Assistant Administrator Mertens reported that the Village has received interest in video gaming uses. Our current Village code is silent on the use type and our current restaurant definition is not specific enough for a proper interpretation. The proposed Text Amendment is to consider amending the definition for restaurants, creating a definition for video gaming cafes and the consideration of adding video gaming cafes as a permitted use in the B-2, B-3 and B-4 Zoning Districts.

Additionally, the Text Amendment would consider adding the category of “Similar and Compatible Uses” in the commercial districts. This amendment would provide the Village flexibility in interpreting uses within the commercial districts that are not specifically listed. This amendment would reduce the number of future individualized text amendment requests for new and unique uses that develop over time within the market. The Committee discussed whether or not to require the “similar and compatible uses” as a “permitted use or a special use”. The consensus of the Committee was to recommend both permitted-similar and compatible uses as well as special use-similar and compatible uses for the commercial districts.

Assistant Administrator Mertens reported that the Village will be considering amendments to the video gaming ordinance to standardize on definitions for restaurants, video gaming cafes and adjust licensing fees. In conjunction with the video gaming ordinance amendment, the Village will also consider amending the liquor license ordinance. This amendment would create two new liquor license classifications, one for restaurants with video gaming and the second for video gaming cafes. The fees for these two new liquor licenses would also be modified.

Trustee Davi motion to refer the proposed text amendment to the Plan Commission, seconded Trustee Kelly. All in favor.

MOTION CARRIED

6. DISCUSSION – Definition of Cannabis in Village Code Title 5 – Police Regulation – Section 5-3-20 and 5-2-23 as it relates to the Federal Agriculture Improvement Act of 2018 and the Cannabis Regulation and Tax Act **(Recommend to Village Board on October 14, 2019)**

Assistant Administrator Mertens advised that the current Village Code has conflicts in its definitions of CBD, with and without THC concentrations, define what will be allowable in reference to cannabis, and what is drug paraphernalia as of January 1, 2020. The Cannabis Control Act will require the Village to amend our codes to be in compliance with the new state standards. Attorney Bastian noted that the Village will need to review definitions as well as the new possession requirements. It shall be unlawful for any person to possess cannabis in a greater amount than 30 grams. Now, under the Criminal Code, 30 grams to 100 grams is still a Class A misdemeanor. However, there is nothing that prohibits a village from making 30 to 100 grams a Village ordinance violation. Additionally, possession of cannabis in any amount by a person under the age of 21 years is a violation because the new Recreational Cannabis Act for which approved for age 21. The Village will also need to review our Drug Paraphernalia Ordinance to make sure it is in compliance with the new State law that goes into effect on January 1, 2020.

Motion was made by Trustee Davi to have staff review the proposed code modifications and bring back to the committee in December for a formal recommendation to the Village Board, seconded by Trustee Kelly. All in favor.

MOTION CARRIED

7. COMMITTEE REPORTS:

Building Official Giuntoli informed the Committee that Lassik Deli has closed.

8. VISITOR'S BUSINESS:

Trustee Neal requested clarification about current Video Gaming and Liquor License fees, as it relates to Business license renewal. Assistant Administrator Mertens clarified the proposed timing and fee recommendation that will be considered by the Village Board on November 25, 2019.

9. ADJOURNMENT

Trustee Davi made motion to adjourn, seconded by Trustee Kelly. All in favor. The meeting adjourned at 7:00 pm.

PRESENTED, READ and APPROVED

_____, 2019

CHAIRMAN

Minutes transcribed by Building and Zoning Secretary
Lisa J Shemroske