



VILLAGE OF FOX LAKE SPECIAL MEETING MINUTES

STATE OF ILLINOIS, }
Lake and McHenry Counties, } ss.
Village of Fox Lake

At the Special Meeting, held in said Village and County in the State of Illinois at 6:30 p.m. on September 19th, 2019 meeting was called to order by Mayor Schmit. The following official business was transacted:

1. Call to Order

Roll Call

Present Mayor Schmit; Trustees: Jensen, Konwent, Marr and Moore.

Staff also in attendance: Anne Marrin, Laura Linehan, Jimmy Lee, Jr., Phillip Love and Donovan Day.

2. Cannabis Regulation and Tax Discussion

Attorney Jim Ferolo of Klien, Thorpe and Jenkins spoke about the Cannabis Regulation and Tax Act. The State of Illinois will be the 11th state to allow cannabis sales. It's the first state to legalize it through a legislative initiated law, where other states are legalized through a referendum. It is a multi-million dollar industry. Jim then went into some background:

- 2013 – IL passed medical marijuana pilot program.
 - This allowed for purchase and growth of medical marijuana.
 - 56 dispensaries and 20 cultivation centers statewide.
 - Municipalities can't prohibit medical marijuana centers but each municipality can create reasonable zoning laws.
 - There are distance restrictions with medical marijuana that aren't present within recreational marijuana laws.
 - When the medical marijuana pilot program began, there couldn't be dispensaries or cultivations centers within 2,500 feet of a per-school or elementary school or day care.
 - Recreational marijuana laws don't have these requirements; however, local municipalities can set distance requirements to sensitive locations (schools, parks and churches).
- Amendments to Medical Marijuana Act since 2013:
 - Removed the distance restrictions.
 - No longer considered a pilot program.
 - More qualifying medical conditions have been added.

- If there are conflicts between medical and recreational marijuana legislation, should one arise, the recreational regulations are to be followed.
- Recreational Marijuana Overview:
 - Law was signed on June 25, 2019 and will go into effect on January 1, 2020.
 - Allows for private marijuana use and possession for persons 21 years of age and older.
 - Municipalities cannot prohibit use of marijuana but can opt out of marijuana sales.
 - Opting out option deadline is December 31, 2019.
 - Medical marijuana regulations will remain intact.
 - Medical marijuana patient, under the new law, are allowed to grow plants in a private residence, up to five plants. Plants cannot be grown for recreational purposes.

Trustee Marr asked if recreational marijuana is still illegal by Federal standards. Yes, it is still illegal by Federal standards. 11 states and Washington DC have approved the law so far.

- Types of Recreational Marijuana Businesses (All licensed by the IL Department of Agriculture):
 - Craft Grower – Maximum space of 40,000 Sq.Ft.
 - Cultivation Center – Maximum space of 210,000 Sq.Ft.
 - Infusers (i.e. Gummy Bears).
 - Processers.
 - Dispensing.
 - Transporter.

Trustee Marr asked if Dispensaries will have smoking rooms with trained staff, similar to a bartender in a bar. The law does not require cannabis cafes and they are not licensed by the state. They can be licensed by local governments but there cannot be smoke rooms inside a dispensary.

- Smoking marijuana will not be allowed in bars, since it will still be considered against smoking laws. However, smoking lounges in separate buildings, bypass smoking laws.

Trustee Marr asked if there are regulations on open air smoking and ventilation. There are no regulations yet and there will be more info coming out in the future.

- What the Village can do:
 - Dispensary hours of operation can be set between 6am – 10pm.
 - Village can prohibit locations of dispensaries in residential areas.
 - Limit the number of dispensaries.
 - No dispensary can be within 1,500 feet of a pre-existing dispensary.
 - Smoking cafes and lounges are at the discretion of the Village.
 - Set civil penalties for violations.
- Advertising Rules:
 - No signs or advertising within 1,000 feet of schools, hospitals or game arcades for those under 21 years of age.
 - No displays of cannabis, marijuana leaves/buds.
 - No advertisements that appeal to minors.
 - Cannot come across as a healthy product.

Mayor Schmit asked if a dispensary was called "Joes Marijuana, would that be against the law. Yes, that would not be allowed. It can be called "Joes".

- Additional Rules and Regulations:
 - Dispensaries cannot deliver or have a drive-thru.
 - Must have video surveillance equipment and it must be state-verified.

- *Products must be packed and labeled with dispensary name, the content and the amount of THC.*
- *Age checks will be done by electronic readers to verify identification.*
- *Cannot smoke in a public place, outdoors, in-home child care or a health care facility.*
- *Cannot operate a motor vehicle.*
- *No vending machines containing cannabis products.*
- *Must be 21 years of age or older to possess a maximum of 30 grams marijuana flour, 500 milliliters of THC infused product or 5 grams cannabis in concentrated form. Non-residents of Illinois can possess up to half of these amounts.*

Trustee Moore asked how an officer can tell if someone is under the influence of marijuana while driving. Trustee Jensen also asked if there is a legal limit, similar to DUIs. Police Chief Lee said that they currently look for signs in appearance and behaviors. The legal limit is currently zero. Currently, there are tests for urine and hair. These tests need to be done at a hospital which can increase costs. The plan is to have a specialized Drug Recognition Officer who can recognize those under the influence. Training this specialized officer takes six months.

Trustee Moore asked how long it takes for marijuana to be out of one's system. Chief Lee said that everyone is different, similar to alcohol tolerance, but if it's still in the urine then it'll still be in the blood. There is new testing being developed and courts will determine if it's a valid test.

Mayor Schmit said that the most reliable test is a saliva test, which is currently in use in Michigan. However, these tests are expensive.

- *Marijuana will not be allowed on school grounds or in a school bus.*
- *Fake IDs are punishable and the penalty will be considered a Class A Misdemeanor.*
- *Automatic expungement of all minor violations (possession of fewer than 30 grams of cannabis) and not in association with an arrest and conviction.*
- *Home Grown Marijuana Limitations:*
 - *Registered Medical Marijuana patients 21 years of age and older can grow plants if they own the property or get approval from the property owner.*
 - *Cannabis seed purchase can only be made by the medical marijuana patient.*
 - *Plants cannot be in public view from street or sidewalk.*
 - *Five plant limit.*
 - *Licenses are pricey: cultivators permit up to \$100K, cultivator's license fee up to \$500K, dispensary permits up to \$30K and dispensary license fee up to \$100K.*
 - *State Police will conduct background checks on all facets of process.*
- *Tax Revenue*
 - *State Tax: Products that are less than 35% THC – 10% tax, infused edibles – 20% and THC in higher concentrations – 25%.*
 - *8% of State Tax will go to the Local Government Fund to be distributed for crime prevention.*
 - *Local municipalities can tax up to 3% on the purchase price. This is on top of the local sales tax.*
 - *The tax ordinances need to be in by June 1st to collect taxes by September of next year.*
 - *Many towns are passing the 3% tax ordinance to go into effect by January 1st. The reason for this is that once the ordinance is passed, there is a 3-month window needed before towns can start collecting taxes. The earliest a dispensary can start selling in Fox Lake is May 1, 2020.*
- *Workplace Impact*
 - *Unlawful to terminate employee if a lawful product is used outside of work, on non-work hours / non-call hours.*

- *Can adopt a drug test policy.*
- *Determining if an employee is under the influence will be difficult but the Act will give guidance such as looking for employees who damage property or equipment, negligence or impacts to speech.*
- *Have to afford the employee a reasonable opportunity for a drug test.*
- *Marijuana Act Open Issues and Concerns:*
 - *Public Health.*
 - *Quality control and dosage risks.*
 - *Abuse addiction and the impact on social services.*
 - *Impaired driving.*
 - *Liability insurance costs.*
 - *Impairment testing.*
 - *Workers compensation impacts.*
 - *Law enforcement.*
- *Next Steps for Fox Lake:*
 - *Policies updated and implemented.*
 - *Zoning and business licenses.*
 - *Sales Tax Ordinance.*
 - *Amendments to include law enforcement provisions.*
 - *Employee manual updates.*
 - *Labor contracts with unions.*

3. Board Member Discussion

Trustee Konwent asked if the 3% tax is on the purchase price only? Yes, the 3% tax will be on the purchase price of marijuana products.

Mayor asked if a dispensary is in the BDD District, can the Village only tax certain items and can items be taxed at all. Yes, 1% will go to the BDD, 1% municipal tax, and 3% marijuana tax. Together with the local tax of 7.5%, the total tax amount will be 12.5% for products purchased in the Business Development District.

4. Audience Comments

- *Unfair that the state gets the lion share.*
 - *That is the way the laws are written right now.*
- *Is this meeting part of the legal process?*
 - *No, this is a workshop to give guidance to the Planning and Zoning Board.*
- *Are there E-Cig or Vaping rules?*
 - *They have eliminated purchases for those under the age of 21. State law is coming soon.*
- *Can the tax revenue go to the schools?*
 - *Revenue from the state level will go back to crime prevention and education. The Mayor will make additional comments on this topic during his commentary portion of the meeting.*
- *One audience member said he lived in California a decade ago. HE compared alcohol to marijuana by saying that marijuana use is tamer, there wasn't much fighting and aggressive behavior. There is an understood consideration of no open air smoking and the people tend to be more respectful.*
 - *Mayor Schmit did not want the conversation to turn into a comparison of alcohol to marijuana. He added that some THC content is so high, that people can go into psychotic episodes.*

5. **Board Direction to Staff Regarding Cannabis Regulation**

The Board agreed to tax marijuana the maximum 3%. None were opposed.

The Board does not want to opt out.

The 3% tax ordinance will be presented at the Village Board Meeting next Tuesday.

Mayors Comments:

- *Wants to lock in funds so they are delegated to specific areas. One example is: 1/3 to public safety, 1/3 to street improvement, 1/3 to the General Fund.*
- *The number of licenses each town can have is three. Will probably administer two; one in the north and one in the south.*

Anne Marrin said that medical dispensaries will be the first to get recreational licenses.

- *Mayors from surrounding towns all want licenses to sell marijuana.*
- *If Fox Lake opts out, that won't stop residents from purchasing marijuana and bringing it back to town, so the Village might as well derive revenue from it.*

Trustee Jensen asked what area in town is most easy to monitor and control. Chief Lee said the Route 12 corridor is best. If a dispensary is up north, that is a 15 minute drive if police are called. Donovan said it is important to keep sales tax driven businesses downtown.

- *Mayor Schmit is not opposed to having a cultivation center but he understands there is an odor that accompanies those facilities.*
- *Planning and Zoning Board can look into areas that can be acceptable for a cultivation center.*

Trustee Marr added that he was recently in Milwaukee and went on a Lakefront Brewery Tour. Going forward 10-15 years, will there be tours given of the cultivation center that was built in a currently open area "in the sticks" that has become residential over time.

Donovan commented on keeping a certain distance from parks and what is considered a park? The Board said there are so many parks throughout town that may be difficult to set such restrictions. Mayor said to keep churches and schools as sensitive areas.

Trustee Moore asked if Finance has any recommendations about where tax revenues should go? Is there any type of emergency fund if there is flooding?

Anne Marrin said that the Village really needs to start looking at local roads.

Mayor Schmit said the road study ranked Fox Lake Roads from 1 to 10 (10 is considered the best). 53% of Fox Lake roads are between 1 and 3. Several are gravel roads.

6. **Adjournment**

Trustee Marr made a motion adjourn the meeting at 7:52 p.m., seconded by Trustee Jensen. All were in favor. Motion Carried.

Meeting was adjourned at 7:52P.M.



Amy Driscoll, Village Clerk