

**MINUTES  
CITY OF ST. CHARLES, IL  
PLANNING AND DEVELOPMENT COMMITTEE  
MONDAY, OCTOBER 14, 2019 7:00 P.M.**

**Members Present:** Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Vitek, Pietryla, Bessner, Lewis

**Members Absent:** None

**Others Present:** Mayor Rogina, Mark Koenen; City Administrator, Rita Tungare; Director of Community & Economic Development, Russell Colby; Community Development Division Manager, Ellen Johnson; City Planner, Monica Hawk; Development Engineer, Rachel Hitzemann; Planner, Ciara Miller; Econ. Dev. Planner, Mark LaChappell; Building & Code Enforcement Division Supervisor, Bob Vann; Building & Code Enforcement Manager, Chris Minick; Director of Finance, Police Chief Keegan, Attorney Nick Peppers

**1. CALL TO ORDER**

The meeting was convened by Chair Payleitner at 7:00 P.M.

**2. ROLL CALLED**

Roll was called:

Present: Stellato, Silkaitis, Payleitner, Lemke, Turner, Bancroft, Vitek, Pietryla, Bessner, Lewis

Absent: None.

**3. OMNIBUS VOTE**

- \*a. Plan Commission recommendation to approve a Zoning Map Amendment for 303 S. 3<sup>rd</sup> St.

**Aldr. Bessner made a motion to approve omnibus items \*4a on the Agenda. Seconded by Aldr. Turner. Approved unanimously by voice vote. Motion carried 9-0.**

**4. COMMUNITY & ECONOMIC DEVELOPMENT**

- b. Discussion and direction regarding Special Use Findings of Fact in Title 17 of the City Code (Zoning Ordinance).

Ms. Tungare presented the Executive Summary posted in the meeting packet.

Aldr. Silkaitis said he's confused as to how we can pass a law that goes against federal law and has the city ever done that before. Ms. Tungare stated that the city currently has a medical cannabis dispensary. Aldr. Silkaitis said but we had no choice, just like we do not with the state of Illinois right now; medical seems a specific use for a good reason.

Aldr. Lewis asked which and how many towns were researched. Ms. Tungare said (10) Bartlett, Kane County, Elgin, Geneva, Naperville, North Aurora, South Elgin, West Chicago and Wheaton; Batavia being the only community that had a similar finding referencing Federal law, which she believes is because they went in-line with ours. Special uses are governed by state statute as our other zoning applications.

**Aldr. Turner made a motion to have Plan Commission hold a public hearing the first meeting in November to file a General Amendment application to revise the Finding of Facts for Special Use concerning the federal requirement, which would then go to the first City Council meeting in December. Seconded by Aldr. Vitek.**

Ms. Tungare clarified that staff would file the application taking it before Plan Commission for a public hearing at the first meeting in November; Planning & Development committee to follow and City Council for final approval in December.

**Roll was called:**

**Ayes: Bancroft, Vitek, Pietryla, Bessner, Stellato, Lemke, Turner**

**Absent:**

**Recused:**

**Nays: Lewis, Silkaitis**

**Motion carried 7-2**

- c. Plan Commission recommendation to approve a General Amendment to Title 17 of the St. Charles Municipal Code (Zoning Ordinance) pertaining to recreational cannabis uses.

Ms. Johnson presented the Executive Summary posted in the meeting packet and showed a presentation.

Chair Payleitner asked how many of the surrounding communities have medical cannabis right now; she believes just North Aurora, and Naperville does but they passed an ordinance against it. Ms. Johnson said that information wasn't gathered. Chair Payleitner said the only towns that can get the recreational license in this first round are those that have medicinal; so only North Aurora; and even though Elburn passed an ordinance to allow sales they will not be able to get it this round.

Aldr. Turner asked if another public hearing at Plan Commission would be needed to consider the recommendation to allow recreational dispensaries in the M2-limited manufacturing dist. Ms. Johnson said yes, along with another General Amendment application.

Chair Payleitner then asked for public comment, and that speakers be concise to allow all to speak, and avoid redundancy.

Greg Pacelli-734 Fox Glen Dr.-life-long resident, raised 3 kids here, as well as grandkids and has served the community in a variety of ways over the years which gives his family a strong platform to speak out for the best interest for the city. He's opposed to recreational sale of marijuana in St. Charles; it doesn't reflect our community image, value or character, which mean the most at the end of the day, he prefers to keep company with the communities that have opted out. Kudos to Senator Don DeWitte who voted against this in Springfield, as well as to Mayor Jeff Schielke of Batavia who publicly stated he didn't want this for his city. He doesn't see a compelling reason for this or a redeeming value to the community. Studies show the benefit to cost ratio is upside down by 4-5 times; so don't be mesmerized by sales tax dollars, don't sell out, find other sources of revenue to fill that in, and as each community begins to approve this it will just decrease the potential sales tax dollars for this city anyway. He said why compound the potential problem considering all the issues facing our youth today as it relates to drug and alcohol; this will not be helpful. Its people's right to buy marijuana, and they will do that, but it doesn't have to be bought in our town. He doesn't feel the city will go dark if we approve marijuana sales but we will diminish and tarnish our character and image as pride of the fox.

Ali Amato-3005 Glen Eagles Ct.-referenced a study done by the Centennial Institute to better understand the economic and social costs of legalized marijuana; for every dollar they gained in revenue; Colorado residents were spending 4.5 dollar blanket cost to mitigate the effects of legalization. Legal retail marijuana comes with a cost to municipalities; public health, traffic and crime. 64% of Colorado municipalities have opted out of both medical and recreational-70%; to lower their costs to their municipality. The cities that sell it are seeing higher rates of crimes and the cost to their health care systems, and high school dropouts are the largest cost contributors. The greater the access, the greater the use, the greater the negative consequences and the greater the cost to the city. Legalization is coming to Illinois, but we can opt out and those cuts will be less to us. She referenced another study released last month; Legalization of Marijuana Impact volume 6-which shows an increase in traffic fatalities; do we really want to invite stoned drivers to our streets. Since legalization of recreational marijuana in Colorado use has increased by those in every age range; as well as an increase in violent crimes. If we opt out we send a message to our kids and our citizens that this isn't good for you; don't try it. She referenced the Nancy Reagan "Just say No" campaign. The following oppose marijuana use: American Medical Assoc., American Cancer Society, American Epilepsy Society, American Academy of Paediatrics, American MS Society, National Eye Institute, American Lung Assoc., etc. 1 in 6 teens who try marijuana will become addicted, and 1 in 10 in their 20's will become addicted. This is a drug that works on the same receptor system in the brain as heroin; it primes the brain to seek stronger drugs, marijuana users are more likely than non-users to use heroin and also abuse opioids; also causes mental illness such as schizophrenia, and to become more violent. Please opt out to minimize the fallout here in St. Charles.

Lynn Cavallo-1002 Fox Glen Dr.-29 year resident, but before the committee as a felony prosecutor in DuPage County and speaks to what she knows; it's pure folly to think this will be a tax benefit to the citizens of St. Charles; it will tax law enforcement, huge increase in drunk driving, our court system and ultimately will result in the requirement for drug treatment facilities. She's seen it in DuPage County and has prosecuted these cases; every person that uses cannabis does not become a heroin addict, but every sentencing hearing in 12 years she's been involved in, every heroin addict can attest to their use of cannabis. For our children and our community, do we want to be known as a location where this type of drug is accessible for individuals no matter what age they are; the studies have shown that cannabis affects the development of the brain in children and young adults up to age 25. She hears judges tell young people that he's not ordering them to stop use of cannabis, but it would be good for their future health to research what cannabis is doing to their brain; statistics are available to all, she's seen it, and its horrendous what does to young people and communities and she dreads the day to see it happen to St. Charles; the welfare of families and children are at stake.

Gary Zube-1315 Winners Cup Circle-agrees with the statistics previously read; residents for 7 years, chose to live here because of the community St. Charles is. A great Scarecrow Fest was just celebrated; he attended with his grandchildren who also live here. When he tries to think about the pros/cons of opting in he's hard pressed to come up with good reasons; he knows it's going to be legal and we have to live with that; but why do we have to sell it here. We should want to align ourselves with Wheaton, Winnetka, Highland Park; these are our values here. He asked the Committee to look into their hearts and think about this and not base thoughts and votes on 5% tax revenue; even if \$2,000,000 worth of marijuana is sold, that's only \$100,000 tax revenue to jeopardize the soul of the community, such little money, please opt out.

Brian Doyle-525 S. 13<sup>th</sup> St.-supports the Plan Commissions recommendation to opt in. He was a Plan Commissioner for 7 years and a resident for 15 years, also a parent and board president of his church. The question is not about drug use, it's about whether to ban a particular type of economic develop here in St. Charles. A few considerations for the Committee to take to heart:

- Letter to Committee dated July 25, Police Chief James Keegan testified that police are concerned about the impact of impaired driving and traffic related crashes due to pot; however, Chief Keegan also wrote that this impact will likely occur whether or not the city allows the sale of recreational cannabis.

Mr. Doyle noted that he is in support of banning consumption lounges and thanked the Committee for protecting the public welfare in that regard.

- Letter dated July 30, Fire Chief Joseph Schelstreet testified that the Fire Dept. does not anticipate an increase in ambulance calls based upon the sale of marijuana, nor do they believe that allowing marijuana sales will increase call volumes to the extent that additional resources will be necessary; despite what the Centennial Institute states regarding the increase; he noted that the Centennial Institute is a Christian think tank.

He stated that he's Unitarian Universalist and he has different ideas about what spiritual values are and he asked the Committee to take those issues off the table and base the recommendations tonight on findings of fact. The Plan Commission has submitted those facts affirming the proposal is in the public interest, as well as our first responders stating there's little or no threat to public welfare. He referenced research recently published in the Medical Journal of JAMA Pediatrics states that the legalization of recreational marijuana is associated with an 8% drop in the number of high schoolers who report using marijuana, presumably because it's more difficult for teenagers to obtain pot as the black-market dealers are replaced by licensed dispensaries who are licensed by the state that require proof of age. For these reasons he sees no compelling evidence that warrants the banning of an entire industry from doing business in the City of St. Charles; as desired by some of his neighbors. If people don't like pot, there's a free market solution; don't buy it.

As far as whether it's appropriate to pass legislation that is in conflict with federal law; as he understands there is a so called "anti-commandeering provision" enshrined in the 10<sup>th</sup> amendment; which has been upheld repeatedly by the Supreme Court-Justice Antonin Scalia-1997 –Printz v. U.S. "the Federal Government may neither issue directives requiring the states to address particular problems, nor command the states officers or those of their political subdivisions to administer or enforce a federal regulator program, such demands are fundamentally incompatible with our constitutional system of dual sovereignty". Quite simply, federal law does not compel you to vote one way or another on this question; which to him seems unconstitutional. He hopes that committee will accept and approve the Plan Commission's recommendation and pending legal counsel advice that they will move to amend the city code regarding findings of fact for special uses that relate to the compliance of federal law.

Warren Beeh-716 S. 6<sup>th</sup> St.-Physician who's practiced in the community for 37 years and he's seen the medical problems associated with marijuana; and it is a gateway drug, he's has taken care of people and has seen people's lives ruined by marijuana. In terms of law enforcement; there's enough impaired drivers out there already for many reasons; why add another problem to that. Resident since 1954 and he's watched the city grow and he doesn't want this sold in his community; it's a very significant issue and we should opt out.

Anthony Marsico-3714 Illinois Ave.-Zen Leaf St. Charles-stated that some of the previous comments are simply not true; cannabis as a gateway drug has been debunked by both the National Institute on Drug Abuse and the U.S. Attorney General; most cases related to heroin start with a prescription drug problem. Increased access equalling increased use may be true, but what hasn't been mentioned in studies is the decrease in opioid prescriptions filled; 2016-1,946 people overdosed an 82% increase from 2013. 1.9 billion opioid pills flooded Illinois from 2006-2012; cannabis is actually being known as an exit drug rather than gateway; his medical dispensary is helping patients from 18 months old to 90 years old; from epilepsy, to cancer, to MS, etc. Illinois has done a phenomenal job of learning from the mistakes of other states; operating in one of the most regulated markets in the country; all products are

tested for pesticides, fungicides, microbials and metallics. He mentioned the vaping crisis which is driven by the black market where the leading culprit is vitamin E acetate, which his cultivators and processors have committed to his products not having. St. Charles has an opportunity to control the outcome in a secured and licensed atmosphere; its coming to Illinois regardless. In regard to zoning; every municipality has the opportunity in the first round to opt in and have a recreational dispensary; you do not need to have a medical dispensary in order to allow recreational. Chair Payleitner said first round you need to be medical. Mr. Marsico said not true, current law states any current operating medical dispensary has the opportunity to operate and sell adult use cannabis, as well as the opportunity to open an additional recreational cannabis dispensary in your BLS district; which for us is Chicago land; this round, not next round. Chair Payleitner said it's next round, by the point system like everybody else. Mr. Marsico said that's not true; in his current operating location, which does not fit the zoning under the proposed amendment, he'd have the opportunity to open an additional dispensary anywhere in the Chicago land that opts in; in this round, not next round.

Mr. Marsico said we at Zen Leaf respectfully request to remain at its current location, and ask that M2 zoning be a permissible location. It's unclear from a regulatory standpoint if the retail outlet could relocate, and if and when it becomes possible, we would engage in proactive discussions with the city on appropriate location. Our track record of compliance and success demonstrated we would be a responsible license holder; a lot of people do not even know we are here because we have operated without incident. We do have experience in other states that have transitioned from medical to medical and adult use and we know how to segment our approach. We have a robust operational track record from seed to sale and have demonstrated our commitment to safety and security, and have been a part of Illinois program since day one. With upgrades and modifications, our existing location can appropriately handle adult use, medical sales, as well as satisfy the 4 spaces per 1,000 sq. ft. As far as being able see on January 1, 2020 for an economic impact; it's going to be very difficult for an additional dispensary to be operational given where we are at in this stage in the game in the zoning process; we have that opportunity to be open and operational on Jan 1. Zen Leaf St. Charles will be a source of substantial new tax revenue much in excess of some comments heard today, as well as create jobs in the community. He invited members to come by their dispensary to learn more about their operation; it's been an honor to be part of the community and they look forward to the future.

Betsy Penny-143 Hunt Club Dr.-supports earlier comments made to opt out; however she is asking committee to at least not do anything until after this bill is law; changes are being made, there's confusion about what is and isn't okay and she doesn't feel we need to get ourselves involved in that at this time, by opting in; wait until the law passes for clarification. She is not opposed to medical marijuana; she's seen the benefits, but recreational marijuana she is opposed to; it can play havoc on people's lives.

John Bixby-1239 S. 13<sup>th</sup>-asked if the city is not ready to approve this January 1, 2020 will that put the city in the position that since we do not have a regulation then by default we opted in and have non-regulated sales going on here. Chair Payleitner said correct; with no action, not acting is the same as opting in. Ms. Tungare clarified that if the Council takes no action then recreational cannabis can be sold in any location where retail merchandise can be sold. If Council opts in they have to decide where and how recreational cannabis will be allowed to be sold. If vendors or other applicants will be ready to sell is a business decision on their part but they have to go through the licensing process with the state; but the city will have taken action in deciding and putting regulations in place as to where it can be sold. Mr. Bixby agreed with those in favor of opting out and stated that he's a volunteer at the Kane County Jail and has a co-worker with a lot of experience from the Juvenile facility who has stated that if we dispense here police officers need to oversee these because as people exit these facilities they could be harmed by gang members, etc. to rob them for free cannabis. He asked if there's a possibility

of additional cost, is it reflected in the 2020 budget of St. Charles. Chair Payleitner said we haven't made a projection yet because as of now it isn't law in St. Charles. Mr. Bixby mentioned the Controlled Substance Act of 1970 claiming high potential for abuse and no acceptable medical use, despite federal prohibition; which on August 29, 2013 a new policy was adopted known as the Cole memo regarding the enforcement of federal law in the states that have legalized non-medical cannabis. This policy specifies that commercial distribution of cannabis would be generally tolerated except in violence, fire arms or where proceeds go to gang members and cartels; or when distributed to states where it's illegal. He asked if the Pride of the Fox really wants to be accomplices to those crimes.

Jenine Mehr-St. Charles-said she agrees with a lot of the previous statements in regard to cost, and that she doesn't understand the comment earlier made regarding the Centennial Institution being Christian-meaning that there is some reason that they would not be credible; because they are a highly regarded organization that has done very good, thorough studies that many use as a reference. She stated that she doesn't give much credence to the owner of Zen Leaf who previously spoke, because it's a self-interest; of course he will make a lot of money when it comes in town, and how great it's going to be; she discounts what he says. She's heard that the police chief is not for this which she feels makes a big difference; and if Batavia and Geneva say no to this it won't look good if St. Charles says yes; the tri-cities try to work together. Many people are against this, very few for it; and most have no idea this is even going on and if this is microcosm of what's going on in the town she thinks for a minimum it should be put to a vote for what the people want, not just what a few people running the town want; it's a huge decision that's very hard to go back on once its passed.

Lynn Kasey-Keim Trail-Registered Nurse-working in chemical dependency and she finds that young people don't do what they could do in life when they're addicted to marijuana; they don't get violent, but they don't develop to their full potential either; it affect their brains. Even if it's only used on the weekend there is a half-life; it's anywhere from 7 days to 2 weeks depending; making you basically under the influence all the time. She does believe in medical marijuana, but not recreational. She knows it brings in revenue and if young people want it they will get it; but why do we have to participate; it's not necessary.

Mary Pacelli-734 Fox Glen Dr.-asked why the medical marijuana can't be on the Northwestern Oncology campus; that to her make more sense, then there's security and medical staff for any repercussions; then St. Charles wouldn't have to bear the burden of doing so. We're living in a delusional world if we think this won't bring in crime and medical problems; she doesn't want to see one more kid taken out of the high school under the influence, or another pusher; getting the sniffing dogs was the best thing they did at the school to keep it off campus; the harder you make it, the better off it is for kids, and anyone who studies any kind of brain research knows that.

Edward Hartigan-3119 Francis Circle-he agrees with a lot of what's been going back and forth. He owned a business in town with about 125 employees over the 4-5 years he was open, and if people think marijuana is not in St. Charles; it's here. The bigger epidemic he saw was the opioids; he let a lot of people go because they were stoned on pills and so forth; he let almost no one go because they were high on pot. There are a number of parents here; but legalizing or not legalizing, that doesn't take away parenting; this is a cry for help from people who think that if we legalize pot somehow their kids are going to be safe; they're not, you have to be a parent and pay attention to what's going on at home; like you would with anything else- alcohol, pills, etc. He grew up in Europe and the crime there is non-existent because they decriminalize and regulate it; they're desensitized to it, they grew up with it. The problem with this country is everything is taboo; these kids are not going to be able to just go in and buy it and the black market will diminish because dealers will be shut down. He stated that he is a former pot smoker who grew out of it, and it never lead to other drugs, not for him or any of his friends.

He does have friends who did not smoke pot and those friends have had problems later in life with opioids.

**Aldr. Lewis made a motion to direct Staff, and the city attorney, to prepare an ordinance that prohibits recreational cannabis business establishments, including retail dispensaries, production facilities and on premise consumption lounges in St. Charles. Seconded by Aldr. Lemke.**

Aldr. Lewis stated that she made this motion because she wants to hear from Committee why we shouldn't opt out; we need more thoughtful reasons than just money, or because it's legal. We need to listen to our residents to determine whether this is in our public's best interest at this time; there may be a better time to have this discussion and she supports opting out to wait and see because the law is changing daily; let's revisit a discussion later.

Aldr. Bessner had questions regarding the 1,500 ft. and how many retail dispensaries are allowed; if the ordinance passes. Ms. Johnson said a total of 2 recreational facilities plus 1 existing medical; and if a medical were to incorporate retail sales that would be considered the 1 retail location on the east side; there is no way there will be more than 1 retail on the east side.

Aldr. Pietryla stated he's in favor of the Plan Commission's very conservative recommendation; it's reasonable and very restrictive and incorporates both sides of this very emotional issue; he doesn't support the earlier motion to opt out; but does support the amendment.

Aldr. Vitek said she has received many, if not more, feedback from people that are for the sale of recreational cannabis. She will be voting no on Aldr. Lewis's motion. She then read a statement regarding the role of a City Council member; to set policy, ensure financial stability and represent its constituents; which are the factors she considered in making the decision to opt in. I understand I can only speak for myself and know my colleagues have taken time to listen to residents, done their homework and researched as to how to best introduce this concept. I believe the ordinance, along with Plan Commission's recommendations, have presented to allow sale of recreational cannabis is very thoughtful, considerate of our community for both business and residents and fiscally responsible. She mentioned the joint meeting between City Council and Dist. 303 School Board where a presentation was given by Deputy Police Chief Chuck Pierce and Asst. Superintendent John Baird where it was stated that school and law enforcement in regard to issues such as vaping and cannabis can only do so much; it is up to parents, caregivers and families to educate children on these issues; on moderation on anything, on usage of anything. I'm a parent and I know my kids do not live in a bubble and voting yes does not suggest by her or anyone on this Council, she's absolutely certain that law is broken because cannabis is available. Regarding image; she's lived here for 7 years, a time where she would suggest that there were more bars in our community, and in the time she has been here video gaming has also been approved here and we did not see residents leaving due to that, nor have businesses elected not to come here due to the video gaming and alcohol induced image; and she doesn't feel 2 cannabis establishments will have a negative effect either. She ensures residents that for any unforeseen negative circumstance with enforcement or anything were to occur she would be the first to recommend pulling these licenses. There are other factors that impact image of a community; violence, quality of life, wellness opportunities, educational value and just as factors like judgemental, short sided and entitled individuals do as well; which goes for any community, not just St. Charles.

Aldr. Bancroft said it's not an economic or tax thing for him; his opinion- the criminal justice system and the medical profession have not been successful in combating it; prohibition in terms of alcohol is an abysmal failure and it's the same with marijuana; it's in our community already and this is worth trying if it can reduce the use among teenagers, as mentioned in the study by JAMA. Aldr. Lewis agrees that there is no ban, it's here and it will be decriminalized; but she wants to see how it falls out before we legalize a dispensary here. From what she understands is that the current medical dispensary

cannot sell retail and recreational as the same place and they can't move their existing medical, or they can't sell the recreational. She thinks this has all come on too fast and she respects all the testimonies heard by professionals and residents and she can't disregard them, and there's a reason so many people are showing up to these meetings. We need to pause, we can always have a discussion later and opt back in; because she can't really answer how this is good for St. Charles. Aldr. Bancroft said we failed in his opinion and what is being recommended here is the status quo; which has failed miserably. What if it really does take away the black market and make it less available for teenagers. Aldr. Lewis said what if it doesn't; then what do we do. Aldr. Bancroft said then he would second Aldr. Vitek's motion to revoke the licenses. Aldr. Lewis said we don't give them the license; the state does. Aldr. Bancroft said he'd then second the motion to change the ordinance to not allow the retail sales; but right now we've failed.

Aldr. Turner said there's studies stating its good and bad; they cancel each other out, they mean nothing to me. As far as the city's image; in 2005 he was sworn in where he heard a 1.5 hour long public hearing against the Harley Davidson dealership and how the city would be ruined and no one would move here; same with the video gaming; it will ruin families, cause bankruptcy, foreclosure, etc.; thankfully we approved both; it's all fear and none of that has happened. This is fear too, everything we have tried has failed and we if we do pass this ordinance we get some control over this which is the key and he will vote no on the motion to opt out and will then make a motion to accept opting in.

Aldr. Bancroft clarified "failure"- cannabis is in our community; its unregulated, it's all black market and neither the criminal justice system, nor the medical profession has provided the right answer to use despite herculean efforts on their part. Sometimes it takes something that's outside the box. If we take a leadership position and allow the sale here it will probably help maintain our medical facility here- which is a big benefit, but also only allows sale to those over 21 years old and all the other requirements proposed, what if it really does reduce teenage use. Chair Payleitner said the state of Illinois is hoping that as well; that's why they're legalizing it, that's not in our hands. Aldr. Bancroft said he speaks to St. Charles not Illinois and he does take a bit of umbrage that if he takes the position to try this that's he's not a family or community person; that's not true; he just really wants to try to start solving the problem, and we have not been collectively successful.

Aldr. Lemke said this not about medical, he'd like Committee to research and learn more because there is so much still up in the air. We don't have any field sobriety tests right now, but there could be, and there is no revenue benefit January 1; let's take deep breath for when we have more clarity; that why he made the 2<sup>nd</sup> on Aldr. Lewis's motion.

Aldr. Silkaitis said he's sees both sides of the issue very well; it's been a good discussion but he feels St. Charles doesn't need recreational marijuana; it will be an image problem, we don't have to have everything that's available. Money is not always a main concern, researching and waiting will not change his mind about it, we don't have to do what other towns are doing; just because we can opt in doesn't mean we have to.

Aldr. Stellato stated he will vote no on Aldr. Lewis's motion because opting in gives us the control to regulate something that has been long coming. He mentioned a personal incident where a child lost their life due to marijuana laced with fentanyl; and since then he is in favor of legalizing marijuana because we know young adults will use it no matter what. Aldr. Lewis mentioned her brother who committed suicide; we all have our personal stories of why we think one way or another, and we bring those stories into our decision making; where we then have to figure out how those things can help what we know and what we personally experience with our community.

Aldr. Bessner stated he is in favor of opting in for the economic incentive because it is a user type tax meaning those that use pay those fees and the city will broadly reap those benefits. The state of Illinois has figured out ways to enact a fee on the city to get our municipal funding back from the state that costs us \$200,000-\$300,000, so this is a way for us to make up some of the losses we've gained from the state. He likes the control aspect, but would be against it if we had no control over signage. He would vote no on Aldr. Lewis's motion; it's already here and we need to figure this out.

Chair Payleitner said she feels we need to slow down and wait until the state can clarify what a municipality is getting into by allowing retail sales; it's changing weekly. She mentioned an article in the Chicago Tribune a couple weeks ago which listed a bunch of reasons why Illinois is not ready for this, Illinois is unprepared for January 1, 2020. She mentioned another article stating there's a possible product shortage due to how fast this is all moving; she knows priority goes to medical so who knows how much recreational will even be available. Rules are changing almost daily and how can we in good conscience cast a vote to subject our city to such uncertainty, especially on such a divisive issue and she takes into consideration what the citizens say and feel. Municipalities will not even be able to collect revenues from recreational sales until September, 2020, so what's the hurry; we have plenty of time to be thoughtful in our approach. She then referenced an article from today's Tribune that states many necessary regulations are not in place and the state allowed only 180 days to lay the foundation for the recreational pot industry; contrast this with the 3 years it took for video gambling after it was legalized in Illinois, and 2 years to get medical marijuana into the hands of the sick. There's talk of a trailer bill which she contacted Springfield and asked if we would get the money before September to which they responded there are other items higher on the priority list. She, Aldr. Lewis and Aldr. Lemke attended a symposium regarding recreational marijuana and one of the sticking points is defining "reasonable" and "unreasonable" in the bill; it's too ambiguous. IML (Illinois Municipal League) and other organizations are trying to get lawmakers to clarify what that means; another one they want to do ahead of upping our funds is getting a registry for home growers, and allow medical use for under 21 at school, because right now kids with epilepsy can't take it after the law goes in January 1<sup>st</sup>; it's all just going so fast. As far as how the LGDF can be spent by local municipalities, 8% of the tax will be put aside for LGDF whether or not we opt in to cover law enforcement costs, etc.; but the language is fuzzy as to how we're allowed to spend it. As far as upping it, the department of revenue is not ready for a January 1<sup>st</sup> roll out for us to get our funding, September sounds good, and maybe April or May for negotiations; too much else on the table to even discuss that, so we are not leaving money on the table. This is our chance to deliver a message to Springfield; "you're not ready, we're not ready", but we'll come back to talk.

**Roll was called on the motion by Aldr. Lewis to direct Staff, and the city attorney, to prepare an ordinance that prohibits recreational cannabis business establishments, including retail dispensaries, production facilities and on premise consumption lounges in St. Charles. Seconded by Aldr. Lemke.**

**Roll was called:**

**Ayes:** Lewis, Silkaitis, Lewis

**Absent:**

**Recused:**

**Nays:** Bancroft, Vitek, Pietryla, Bessner, Stellato, Turner

**Motion failed** 6-3

**Aldr. Turner made a motion to allow recreational dispensaries as a special use in the BR regional business district only and shall only be located on properties that are 250+ ft. from property lines**

**of schools, day-care's and residential' s, allowing 2 recreational marijuana shops; 1 on the east side and 1 on the west side. Seconded by Aldr. Vitek.**

Chair Payleitner stated that this motion means that the current medical marijuana facility will not be able to sell out of the M2 manufacturing. Aldr. Turner said if they want to sell, it's going to be in the BR.

Mr. Marsico said it's every bit their intention to move their current location to BC or BR originally, since then IDFPR has come up with an interpretation and the statute is that a current operating medical dispensary has the ability, if all other guidelines are met, to also sell adult use cannabis. Currently the interpretation is that if we move from our current location we are no longer a current medical dispensary; that language stands with the location, not with the license. We are basically on the outside looking in regardless of what happens; if we move to the BR dist. we would lose our opportunity to sell medical cannabis; if we use that as our recreational cannabis dispensary. If we stay in the current location under St. Charles proposed ordinance we do not have the opportunity to sell adult use cannabis; we're in a difficult position under the current ordinance. Also, the proposed setbacks and taking BC out of the ordinance; in looking at the east side of the river the majority of BR is where Charlestowne Mall is; no one will be able to put a dispensary there, its owned by a national REIT that will not allow, until a safe banking act passes at a federal level, a cannabis operation to fall under their REIT; it's almost impossible to put a location on the east side. M2 where we currently would fit all the setback requirements, doesn't fit in the BR, but if M2 were allowed we hit the 250ft. and the others. Aldr. Turner said we're going out on a limb here anyways; there's plenty of room in the BR's just take another look; with everything in M1 or M2 it is really not going to fly. Aldr. Stellato said in looking at their current location; they are not near any residents, schools or day cares, they're in the manufacturing district; I like their location. Aldr. Turner said so do it but then we have to go through another public hearing. Aldr. Stellato asked why. Ms. Tungare said based on the Committee's direction a legal notice was published per state statutes for the original public hearing for the General Amendment, and that legal notice was specifically restricted to the BC and BR sections of the Zoning Ordinance. Chair Payleitner said our original direction was rushed through and as a result we eliminated the potential. Aldr. Bancroft said the complexity just introduced is a concern to him because since we started these meetings his biggest driver was to be sure we retain the medical dispensary; I don't want to do anything here that will put that at risk. Aldr. Lewis said the medical can stay there. Mr. Marsico said they can sell medical there at the current location, but not recreational, which puts us in a very difficult position from a business standpoint. It's not our preference to stay in the location we are at; we're hoping the language and interpretation gets cleared up in the trailer bill and we'd like the opportunity for M2 to be included in this ordinance; once that happens we have every intention to move to the BR or BC dist. on the main thoroughfares. Aldr. Turner said if we want to add BC to it, he doesn't have a problem. Aldr. Stellato asked if the distance from residents in cases of multi-family development on the east side is a concern; he can see the day cares and schools; Plan Commission added the residential. Aldr. Stellato suggested adding to the motion to allow the BC and waive the residential buffer if it's multi-family.

Aldr. Lemke asked why the west side isn't entirely open to take the existing business out of a tough position. Chair Payleitner added that 55 medical licensees can apply for the 1<sup>st</sup> round to start January 1, 2020; the first license is a combination medical/recreational. The extra one that they may or may not want in the BC/BR is step 2; so for now he has to stick with his medical, and to move to BC/BR he has to start over. Mr. Marsico said we do not have the opportunity to move from their current location under IDFPRs interpretation of what a current medical dispensary is; it's tied to our location. If we moved we lose the opportunity to co-operate in medical and adult use dispensing facility. Aldr. Stellato said that leaves the door open; they're in M2 now they can stay there continue to sell medical and then if the ordinance passes they could move to BC if they wanted. Mr. Marsico said unless another

dispensary comes in and fill those voids before we have the opportunity; which per the ordinance is a first come first serve basis. We want to partner with St. Charles, we have a good relationship with all and good reputation here; he understand it's his problem, and that the city has a problem as well, but we could potentially lose the opportunity here in St. Charles. But it hasn't sent him outside looking yet. Aldr. Stellato said we do it all the time, he's very comfortable with it, what if we added a stipulation on it that states you have to have 2 year medical experience for medical within our community. Mr. Marsico said then you lose the opportunity for any other business to come here. Aldr. Stellato said if we're going to go down this road, let's go down with someone we know and then we can always open it up the second round. Chair Payleitner said we're doing all of this for 1 business. Aldr. Stellato said we do this all the time; we don't address the issue until a particular use comes in front of us; which is what's happening here. If we tailor this ordinance enough for flexibility, we can solve all the issues. Chair Payleitner said or we can wait and maybe he'll have his language until after the law is rolled out; there may not be an issue.

Aldr. Lewis added that the Plan Commission took out BC because it did not enhance the image of St. Charles for the Comprehensive Plan.

**Aldr. Vitek made a motion to amend Aldr. Turner's motion to allow the recreational sale of marijuana dispensaries in the BR and BC district only located on properties that are 250ft. or more from schools, day-cares and single-family residential zoning districts from businesses that have 1 year established in the community of St. Charles, as a special use.**

**Ms. Tungare clarified that the motion is to allow recreational cannabis dispensaries as a special use in the BC and BR district, 2 dispensaries, 1 on the east side of the river, 1 on the west side of the river, with the limitation of a minimum 250ft. buffer distance from schools, day-cares and single-family residential. The first dispensary is to have 1 year of experience with running a medical dispensary in the community that's within the corporate limits of St. Charles. The second dispensary would need 1 year of medical dispensary experience anywhere in Illinois. Aldr. Vitek agreed.**

Mayor Rogina confirmed that all of the above is an amendment to Aldr. Turner's earlier motion.

Aldr. Stellato said we can always introduce a motion later to add M2 and have another public hearing as a backup.

**Aldr. Turner withdrew his previous motion. Seconded by Aldr. Vitek.**

**Aldr. Turner made a new motion read by Ms. Tungare to approve allowing recreational cannabis dispensaries as a special use in the BC and BR zoning districts in St. Charles, with the limitation of 250 ft. minimum buffer distance requirement from schools, day-cares and single-family residential. 2 dispensaries will be allowed, 1 on the east side of the river and 1 on the west side of the river; 1 dispensary is to have a minimum of 1 year experience operating a medical dispensary within the corporate limits of St. Charles, the 2<sup>nd</sup> dispensary will have a minimum of 1 year experience operating a medical dispensary within the state of Illinois, and to prohibit any onsite consumption, cultivation, production facilities and all other types of uses other than recreational dispensaries. Seconded by Aldr. Vitek.**

Aldr. Lewis asked if places that hold outside youth activities such as dance, etc. are included when we say schools, because if Zen Leaf starts selling recreational at their current location, there's a dance

school right there. Ms. Tungare said those are a separate use category and this motion applies only for BC and BR districts.

**Roll was called:**

**Ayes:** Bancroft, Vitek, Pietryla, Bessner, Stellato, Turner

**Absent:**

**Recused:**

**Nays:** Lewis, Silkaitis, Lemke

**Motion carried** 6-3

**5. ADDITIONAL BUSINESS - None**

**6. EXECUTIVE SESSION - None**

**7. ADDITIONAL ITEMS FROM MAYOR, COUNCIL, STAFF OR CITIZENS-None.**

**8. ADJOURNMENT - Aldr. Stellato made a motion to adjourn at 9:12pm. Seconded by Aldr. Pietryla. Approved unanimously by voice vote. Motion Carried.**