

**MINUTES
CITY OF ST. CHARLES, IL
GOVERNMENT OPERATIONS COMMITTEE
MONDAY, APRIL 21, 2014**

1. Opening of Meeting

The meeting was convened by Chair. Turner at 7:47 p.m.

2. Roll Call

Members Present: Chair. Turner, Ald. Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Martin, Krieger, Bessner, and Lewis

3. Omnibus Vote

Budget Revisions – March 2014.

Motion by Ald. Krieger second by Bessner to approve the omnibus vote as presented.

Voice Vote: Unanimous; Nays: None; Chrmn. Turner did not vote as Chairman. **Motion Carried.**

Chrmn. Turner moved item 6 up to the front of the agenda.

4. Mayor's Office

- a. Consideration of a request for a Class A Liquor License for a Drive-Thru Grocery Store to be located at south-east corner of Randall Road and IL Route 38, St. Charles (former Quick Lube location).**

Ald. Stellato – recused himself from this discussion.

Mayor Rogina: Peter Bogle, founder of the Drive Thru LLC went before the Liquor Control Commission in February 18, 2014 to discuss his proposal for the Drive Thru Grocery Store to be located at the south-east corner of Randall Road and IL. Rt. 38, St. Charles, IL. Mr. Bogle's request is for a Class A liquor license to sell beer and wine. The results of the Liquor Control Commission was two yes's and two no's and I broke the tie in support of this concept. You have a couple of attachments in your packet referencing the City code. My comment is if you want this project to go forward, staff is in a position to work with you to make the concept happen via the ordinance route. Also attached is a letter of support from the Shodeen Group agreeing to a potential drive-thru grocery, beer/wine store at this said location. I am going to introduce Mr. Bogle to talk to you and when he is done I have some comments to add.

Mr. Bogle, 92 S Randall Road, St. Charles: If you had a chance to read the packet and the theme that we, as a City, are trying to have St. Charles lead the way; this is certainly a concept that would be on the front end of that model vs. trailing behind in watching another city take

advantage of a great business concept. As mentioned, I presented in February to the Liquor Commission, there was good discussion; and I put before Council an aerial view of the current site outlined in red to show a traffic pattern of a car's staging area. This would be in the existing Quick Lube facility as shown in the diagram. It is certainly inviting, its clean and refreshing for a depress area we have there today. With the grocery store, beer/wine, and dry goods it will bring some needed life to this section of town that needs a little shot in the arm.

I grew up on the east coast and this is a big convenience that you see back east, through some of the mid-west, and west coast. You see primary in dairy or with beer/wine/liquor but I think blending the two really helps satisfy a need in the City in terms of being convenient for families and individuals who are home by themselves to make a quick run out and not have to park their car and go to the dairy section of the local grocery store to pick up a gallon of milk, or loaf of bread, and everything else in between. This is based on an expressed market style. The key takeaway is this does not replace the weekly/bi-weekly grocery store run that people will do anyways. This is for convenience.

Ald. Lewis: This is in the 5th Ward and I'm the 5th Ward alderman. I discuss this with you in February at the Liquor Control Commission and I did poll many members of my constituency and I didn't find support for this concept of a Drive-Thru Convenience Store but I think you said you were going to have 50% beer/wine and 50% food items – correct?

Mr. Bogle: I think we were talking about the financial model. It could be 50/50 in looking at the space in terms of dry goods and can items and that could be sodas, waters, and beer/wine.

Ald. Lewis: This seems like an odd location to me that this is what you would choose for this business because you're sandwiched between two other businesses in a strip mall with yours being in the middle of it with an animal hospital on one side and the Merlin Muffler on the other side. As you would go through those doors it appears to me that you would run right into a brick wall when the cars come out. Have you thought about that at all?

Mr. Bogle: You're talking about exiting the building? The aerial picture shows that – so the beauty upon exiting the building is that immediately to your right you can go east or take a quick left and right and go north, or go down further to the light at Bricher and go north/south/ east/ west. This is something I've actually been working on since early 2000's in terms of location. So far as location goes, this model actually works because of the ease of access in and out.

Ald. Lewis: What about the pedestrians from the animal hospital? Apparently they do a lot of their dog walking back in that area that you would want to turn out and go left. Have you taken that into consideration?

Mr. Bogle: We've talked to some of the local businesses to make them aware of what we're trying to do in the City and the support was great and I think there might be more awareness than just that section.

Ald. Lewis: I'm not sure that the animal hospital is supportive of this concept. Have you talked to them?

Mr. Bogle: Specifically no – not to them.

Ald. Lewis: The other concern I have is that we do not have a single drive through in Kane County and I doubled checked that fact again today – there is not a one. I wonder why we would give a license because we did turn one down for the Lundeen Liquor store who have been in the liquor business for 35 years. I don't think it would be prudent on our part to give a liquor license to someone who has never held one to start a business when we have already denied one for someone who has been in business that long. I don't think liquor needs to be made convenient and I'm not able to be supportive of this. I appreciate you coming and wanting to open a business. You also stated the last time we met that if you did not get the liquor license that this business would probably not open. So it all hinges on you getting the liquor license which makes me think it's not really a convenience store – it's more of a drive through liquor store. I also called down to Macom County Clerk this morning because in Decatur they had a referendum last month because they wanted to put a ban on any more drive through liquor stores in the city of Decatur. It was an advisory referendum, but it over-whelmingly passed. I also found out they just recently put a ban in the City of Springfield on opening any more drive through convenience liquor stores. So I'm confused that other communities are trying to get rid of the ones they have and not open any more, but yet we're entertaining the idea that maybe we'll open one up. Can you address that?

Mr. Bogle: Back to the Lundeen comment, I did what homework I could find that was public information and I think there was a little bit more than just granting a liquor license. There were some variances as far as the building and codes and relations to schools and apartments and family homes. One reason why this building is perfect is that the PUD really speaks to what we are trying to do with alcohol and mixed groceries, dairy, beer and wine. In my business plan I got two of the drive-thrus in a consolatory position because they've been doing this for 30 years in those cities and have had a lot of success.

Ald. Lewis: What cities?

Mr. Bogle: In Ohio. Not knowing the example of what you just stated; the fact they don't want any more drive-thrus tells me that they've had success there with the handful they got and that it's a good business model. That's just me looking at it from my perspective. I am a 20+ year resident of St. Charles and I want to make St. Charles better and that's a big thing to continue to highlight our great city.

Ald. Lewis: I appreciate you trying to make St. Charles a success - we all do. This is not a model we want as we are trying to move forward and present a different image of our community and opening up a drive-thru liquor is just not something we want – you might be in the wrong place at the wrong time right now, but I'm not going to be able to support it.

Mr. Bogle: We are calling this a drive-through grocery store that sells beer/wine and dry goods. That's important to state and that's our main focus supporting local dairy which we already have a contract in place with Illinois Dairy – so that's a big area for us to support local businesses as well.

Ald. Lewis: If you don't have a liquor license, you feel that you'll not be able to open this up?

Mr. Bogle: You asked that question in February and my answer from a business perspective is we can't wait 7-8 years for a return on our investment when that is substantially reduced when we offer beer and wine.

Ald. Bessner: I'm not necessarily against the use, more so referring to the alcohol side of it. I think my hesitation lies that we did have a local business follow that application for a similar type of use, there might be some discrepancies, but it was a drive-up type of facility. We never got to the point of approving or denying that application but at the same time I believe there was conversation amongst us as a Council or Committee that we were going to take that thought because the application never made it, talk to staff at some point, and review what this policy might look like down the road, not just for one applicant or yourself, but to see if that was viable to create this type of policy. We didn't get to that point yet in my opinion. That's where I have some hesitation, and it's not pinning owner against another, it's coming up with a policy that is going to work for whatever number we deem at some point and if we do that should be allowable for that type of use in the City of St. Charles.

Ald. Krieger: You said this was a big success in Ohio. A former resident and neighbor of mine moved to Ohio and saw this in the newspaper and called me and said this is not the kind of thing we want. I can't support this and I am opposed to liquor licenses anyways.

Ald. Martin: My answer is no under any circumstances.

Ald. Silkaitis: This is an interesting concept and we've discussed this before with the previous applicant. I'm not totally opposed to the concept but there are issues to deal with for carding, all kinds of enforcement issues, and the fact this is your first liquor license and we've had some problems with liquor in St. Charles – that's the reality of it. But in general I'm not opposed to the concept but would have to see how it progresses through the system.

Ald. Payleitner: I am on the record of opposing drive through liquor from our previous discussions back in February, but I applaud the drive through grocery idea. I think that would be interesting to pursue, but I just don't see the need for liquor purchases to be convenient. It needs and deserves that extra step.

Ald. Lemke: I think you would have to be selling an awful lot of liquor to make this work. I'm not convince of the traffic pattern and queuing; if this was successful, it's not apparent to me how this would work. I wouldn't approve this for a well-established business in town and I'm not sure I see enough reason to add liquor to this site the way it is.

Ald. Bancroft: Were you also looking at prepared foods in this concept?

Mr. Bogle: We did talk about that and we've been contacted by some local restaurants that are on a smaller scale and said they would like to pick a day of the week to have a Mexican or Italian theme. Their food would be cooked that day and prepackaged highlighting that restaurant and I thought that was a great way to support local businesses and maybe have a theme day as the week goes on.

Mayor Rogina: I get the sense from listening from my colleagues that this could be a very popular idea, but I would be remiss if I at least didn't present another view and as Mayor I am going to do so. First, for the record, no one has ever voted on the Lundeen issue. We talk about towns like Decatur and Springfield; I would like to talk about a bigger community. The state of Illinois is ranked 48th in GDP in this country. As we consider ideas on how do we grow business in our state or our city, we have to ask ourselves the question "what do we do to be creative and thought provoking?" As I listen to this conversation you think you were talking about selling illegal merchandise and we're not talking about that. I trust the staff to work with the tenant, landlord, and whoever is necessary to make sure there is an orderly process out here for all the businesses in that particular area so they are successful. In speaking of this particular area, we have an inactive building in an area where a large grocery store is now shuttered. As to Ald. Krieger's comment about Ohio, there may be people in Ohio that don't like this concept but there are plenty of people who do like it because they are successful in Ohio, and successful in other parts of the east coast as well and in the south. We've been talking for the last several months of filling up empty spaces and I recall in the conversation of the Comprehensive Plan in this particular area. The discussion was I like to see commercial in this particular area. I don't know if all of you can wait around to pick and choose when we have an entrepreneur who wants to come forward and try to present a plan. Most of you have particular concerns with nuances of the plan. If you would engage staff they could talk to you of ways that things can get accomplished in this particular area. I respect all of you but I think we should make an attempt here in the spirit of cooperation with the landlord, tenant, and our staff to make this corner a vibrant corner in our community for commercial use.

Motion by Ald. Martin, second by Krieger that the request for a Class A liquor license be denied.

Tom Kay: I am not a resident of St. Charles but I am a visitor that spends money here and I've actually seen this concept on the east coast and I don't see it being any different than a gas station setup that sells beer. This is a convenience for your community, your professionals, your moms and dads that have too many stops and not enough time and I think it's a great concept. You talk about commerce and encouraging new business – here's a great opportunity.

Philip Kessler, 345 S Second Street, St. Charles: I sent a letter to everyone on the council of my support. I know Mr. Bogle and a lot of things have been said that I mentioned in that letter. I'm here as an advocate for business in the spirit that Mayor Rogina was speaking to. The fact is that we're trying to get businesses started in town here. We have a lot of empty store fronts and buildings and we have an entrepreneur here that is willing to invest in the community. He's not

asking for incentives, it's in an area that's blighted, there are no schools, churches, or residences in the immediate vicinity; so I think that again in the spirit that Mayor Rogina was saying if we could give these businesses a chance to put their efforts in and help make our community better I would appreciate it if you could do that extra consideration.

Ald. Lewis: I think it's a bigger issue than just filling empty store fronts and buildings. It's changing ordinances and I too trust staff. I think they do a wonderful job on anything we ask them to do, but this is changing a whole concept and when we change it for you – we change it for everyone. I don't think we should sit here and pick and choose, and say it will work here but it won't work here, etc. There's an ordinance put in place that says this is what we want in St. Charles, how we want to run St. Charles, and it doesn't include drive through liquor stores. I see that a different issue than trying to fill empty store fronts.

Ald. Payleitner: Clarification from our first guest's comments. We don't currently allow liquor sales in gas stations – correct?

Chrmn. Turner: This has been moved and seconded and a yes vote means we will deny the liquor license.

Roll Call: Ayes: Lewis, Payleitner, Lemke, Bancroft, Martin, Krieger, Bessner; Nays: Silkaitis. Chrmn. Turner did not vote as Chairman. **Motion Carried to deny liquor license.**

Ald. Stellato rejoined Committee at 8:21 p.m.

5. Community/Economic Development Department

a. Recommendation to approve Sales Tax Revenue Sharing Agreement for SC 3800 Main LLC (The Quad).

Matt O'Rourke: Staff in conjunction with the applicant of 3800 Main LLC, the development team that is working on developing The Quad are presenting the terms of a draft Sales Tax Incentive Agreement for your consideration. The commercial activity at the mall has been declining over the last several years. There is a noticeable decrease in activity. Vacancies have risen to the point where, excluding the anchor tenants, it is closed to 100%. It still has a reputation as a not so desirable place for new businesses to relocate and it's created some issues. In the fall of last year staff started working with the applicant and they have come forward with entitlements and plans and have presented on several occasions here to this committee and at the P&D Committee where they are bringing physical plans to revitalize the mall, reposition it, right size it to make it a commercially viable and successful entity on our east gateway to make it thrive.

With that they have also submitted an application for Sales Tax Consent of Sharing Agreement. This agreement is to help them mitigate some of the extreme costs that are associated with repositioning a mall. This is broken down into two categories: the improvements related to the physical aspects which includes demolition, regrading the site, reworking things, and trying to do this while keeping certain access points available to the existing tenants because while they're

redoing this they want access to the existing anchor stores and the theatre. This takes additional costs of what we would normally see with the Greenfield Development. The second part is that they are proposing extra inducements to lure some of those tenants back. It's going to take a little more effort and inducements to basically buy back some of that good will and get people interested in wanting to get over the reputation that the mall currently has. They want to come back and feel good about what they're investing in. With that they worked with staff on the terms of the draft agreement being presented tonight for your consideration. I will highlight a few of the main salient points.

The agreement is set up as contingent and does not take effect until the mall is redeveloped and the mall is once again open after all the redevelopment has taken place. The City will retain 100% of the sales tax that it's currently generating. This means a number will be generated based on sales tax returns – whatever the City gets now will come back to the City's coffers and none of that will be shared with the developer. Anything produced by the redevelopment in particular after that point will be split 50/50 with the developer. This is in addition to the amount of sales tax already received by the City. Sharing doesn't commence until the grand re-opening of the mall and the mall has been redeveloped. Basic length of the agreement in terms is a \$20M capped present value dollars and it will be spaced out over 20 years. So as we go through the next 20 years half of that new sales tax increment will go back to help the developer pay for those inducements and extra costs we've mentioned.

Daniel Krausz, 44 Montgomery Street, San Francisco, CA: Thank you for allowing me to be here tonight to discuss our request for this incentive package. With all the challenges that the mall faces, despite these challenges in front of us, I hope you understand that our team is very excited about the project. Part of our optimism arises from the commitment we've witnessed from the community and this Council for the mall's success. This council's frustration with the status quo is clear and the commissioned of market studies and working groups to try and find a path of success for the property induces to us the importance of this project to the City.

The goals for the mall as we understand them from the City's point of view are clear. You wish to avoid blight and we believe that without major repositioning we are looking at a 100% empty property, anchors and all within the next five years if nothing is done to reposition this center. We understand it's an important goal of the City to preserve a retail use of this type in large part because it's the retail use that generates the sale taxes that funds quite a bit of what the City needs to do on a daily basis. Equally or not, more importantly, there's been a strong desire expressed by the Council and community to create a sense of place. We want a destination in St. Charles that the City can be proud of instead of our residents and shoppers fleeing to other grounds. We want to be a destination here in St. Charles to bring in shoppers from neighboring communities.

In no particular terms, what does the City want? The City wants something radical, you want something more than mortar, paint, carpet, or a skating rink. I've looked at past minutes over the years from this council discussing past efforts on this mall and I came across comments, one of which was from Ald. Stellato that basically said, "if we want to put our political future on the line, any request for support (requests for these types of incentives) would have to be a really

different idea – something stupendous.” Well we think we are bringing you something stupendous. We agree that the mall needs a radical transformation. Without a major redevelopment, the retailers that were there in the past and might otherwise join this project, might not come back. We also believe this is an all or nothing proposition. We go all out and redevelop the mall, make it visible that this has change to make it say this is a destination, or we don’t do anything. We don’t see a halfway solution to fix the center. At the same time that radical transformation is going to be expensive. The City is well familiar with our plans for the project, but at the same time the scope of the improvements that are necessary for this project to succeed is significantly greater than what we first anticipated when we looked at the center. Don’t get me wrong. At the time we bought the center we understood what we had in hand and we are very enthusiastic about this process. The scope is more significant than you would find if this was a ground up project or if this project didn’t have the history that it does.

One of the things we found is that the expenses here are higher than if we were developing this project from scratch. The original site cost, demolition cost, but more importantly in business terms the site has negative good will. The reputation has been destroyed over the last 10 years, namely in the year that this project was taken over by special services, when the project went into foreclosure in 2005. As a result the inducements that we have to put forward to bring tenants back to the center are more expensive and have to be lengthier than they would be if we had a brand new project of the same demographics. Altogether these extraordinary costs exceed \$22M over what it would cost to deliver this project on a clean site. This project remains risky. Without the request of financial assistance this project does not meet our required investment criteria given the level of risk. We believe we are asking for no more, no less, than the amount of support we believe is the minimum needed to meet our best in criteria based on all of our best projections for the mall.

When we started discussing our options for working with the City to get this project off the ground, we looked at different alternatives that are often used to finance a project of this type. Initially options that were proposed were a business district which this idea had been floated by this Council at some point in the past. We looked at the idea of a Tax Increment Finance plan but in the end we decided both of these plans were unsuitable for this site and this community for a variety of reasons. First, a business district imposes a new tax on the area served and the last thing we want to do right now is create a dis-incentive for our shoppers to come here and make the cost of business any higher than other ones are. The other main drawback we saw in either of those arrangements was that both of them required a large upfront payment from the City in exchange for a promise from us, the developer. For as long as we’ve been working with you, we are still new, and you have your reasons to be skeptical given what’s happened in the last 20 years of this project. We recognized this and have elected to ask for help by means of a Sales Tax Revenue Sharing Agreement. The benefits of this type of arrangement are that there are no upfront costs to the City. We believe this presents a resource to the City as a pay as you go model. It doesn’t compromise any of the existing budget or existing city revenue. For every penny paid to the developer, there’ll be an additional penny, additional revenue paid to the City to spend on community needs. There’ll be no additional costs to our tenants or our shoppers, no property or sale tax increase which will make the property less competitive. There’ll be no new general obligations of the City. The City’s existing tax revenues are preserved, and payments

can only be made out of incremental tax revenues based on the success of the site. This arrangement will facilitate the preservation of the existing tax base that we believe would otherwise disappear.

We are coming before you for this help because we believe this project is good for St. Charles and we believe you believe this project is good for St. Charles. We've worked long and hard with staff to develop a package that works well for both the City and for us as the developer. We very much look forward to making this project a reality but in order for that to happen we do need this incentive agreement to pass. I appreciate your consideration of this request and welcome any questions.

Ald. Payleitner: I whole heartedly support this. Already just the rumors and pictures of what's going to happen at the mall have proved themselves as an economic engine on the east side as we saw even before bulldozers were in place. We've seen the new buyers of Pheasant Run comment that the redevelopment of the mall is the reason they have moved forward. The strip mall across the street where Borders was has been recently purchased. They also said because of what they see as promising development at the mall they took the step forward. So I already see before anything is even done it's proven itself.

Ald. Lemke: I concur with what Rita says. We once had the most successful Chili's before the stores closed and I think this is akin to other restaurants in the area. Our hope is perhaps there is some opportunity for restaurant out buildings at the site; so I would say that if this Charlestowne glass was half empty – it's getting half full and getting more full every day. This is really good news for us. Economically hearing this presentation I'm not sure on how does that work out for us, and before we go to City Council I will be asking our Finance Director to speak to what you mean by "present value" and perhaps development staff would speak to it the same. We can't say enough about the work you are doing in looking at the underneath soil, drainage, HVAC, etc. These are not small things. The mall didn't die because of landscaping. It was an intentional kill by the wrong group and we are glad to have you here and are encouraged that you meet with us to talk over your plans.

Chris Minick: This refers to the point that we would be paying interest as is called out in the agreement that was in packet. The US Treasury won't rate a 10-year note rate plus 200 basis points. That's what the present value refers to. So they get \$20M value over the 20-year life of the agreement. That's what that phrase refers to.

Ald. Lemke: The money goes in now, more or less, then comes back as a net present value. And I read it is capped?

Chris: The rate and the amount is capped.

Ald. Stellato: Thank you for being creative. We had just come off of a very lengthy discussion with this Council on a TIF that is our newest TIF in the area. The good news about that TIF is it is a pay as you go and the way you set this up as a sales tax rebate is the same. It looks like you're getting three payments a year. We're going to look at the books every four months to

determine what the rate and amount is. And basically if you make money, we make money as well. At this point in time, it's safe to say we are at least protected with our base. We are looking at today's tax generation from this site, we're going to freeze that amount and continue to get that, and we are just going to work with the number over and above that. So the pay as you go, I am very comfortable with. The fact that its sale tax is it's really just a rebate. There's no commitment from the City up front because if you never do anything, we don't have to pay anything. The only deviation is some of the terms are a little longer but at the same time a lot bigger model than a lot of people have seen. You've seen 5 or 10-year terms – this is a lot bigger project.

Mr. Krausz: To address the term of the agreement, we did explore the concept of a shorter term in exchange for a heavier share of those incremental sales taxes up front. The fact is even as well as we expect this project to do, it will take some time to earn back the \$20M with an even split; that 20 years was our best approximation. If the project takes off, the term can be shortened based on how the payments actually come in.

Ald. Silkiaitis: In a perfect world I really wouldn't want to do this, but I understand the situation and fully support it. You have to spend money to make money – that's what it boils down to for me.

Ald. Bancroft: Great job – I fully support it.

Ald. Martin: No comment.

Ald. Krieger: I support it and your website is convincing a lot of my neighbors. They are asking is this really coming?

Ald. Bessner: Have we taken on any kind of agreement of this size and scope over the last 5/10/15 years? Even if it was in yesterday's dollars.

Chris: In terms of the length, if you think about the Lexington agreement and that TIF district – that's a 20-year life. We issued bonds supported by sales tax related to the Costco Store back when we were just entering into the great recession. I believe those were 20-year bonds as well. The principal amount of this particular one is a little bit more than those other two instances; however as Ald. Stellato noted the size and scope of this development is also greater than either of those developments. This is a long winded way to say there is precedence for this type of an arrangement, at least in terms of the term.

Ald. Bessner: Is there a model that was used that would estimate an equal amount of sales tax revenue to be generated in the future once this open per year; or does it continue to rise up based on having a 20-year period – does it work backwards from that?

Chris: There were projections that were generated, we looked at three/four different scenarios, and I believe they all showed a continued ramping up of sales tax revenue throughout the life of the agreement. That's going to happen as we see in our sales tax generally, just simply because

of inflation and pressure on prices and things of that nature. Because the sales tax is a percentage of the sales price, it does tend to drive the revenue up on an annual basis just by the normal inflation cost. Our goal would be to continue to develop not only the mall property but also some of the other properties adjacent that were mentioned previously as well.

Ald. Lewis: We talk about out lots, does that include that sales tax also, or is it just the mall proper?

Mr. Krausz: This has been drafted to incorporate the entire area that is subject to the mall PUD. So any restaurants or incremental sales from our current anchors included.

Ald. Stellato: I was more comfortable when I saw the fact that you had taken the 20-year term, but if we reach that milestone sooner, the term ends and we're generating full sales tax from that point.

Mr. Krausz: That's correct.

Motion by Ald. Lemke, second by Bancroft to recommend approval of a Sales Tax Revenue Sharing Agreement for SC 3800 Main LLC (The Quad).

Roll Call: Ayes: Lewis, Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Martin, Krieger, Martin; Nay: none. Chrmn. Turner did not vote at Chairman. **Motion carried.**

b. Recommendation to approve a General Amendment to the Title 17 of the City Code (Zoning Ordinance) Regarding Regulations for Medical Cannabis Uses.

Matt O'Rourke: Staff is here to present a general amendment regarding the regulation of medical cannabis related uses. The state, last year, signed into law the compassionate use of Medical Cannabis Pilot Program Act and then it became law first of January, 2014. Essentially the law has a lot of provisions in it – it's a lengthy bill, but there are three main ones that pertain to zoning. 1) There's a general clause that says the City can enact reasonable zoning standards, so you can amend your zoning ordinance to create regulations for these and 2) is the definition of two uses: one called Medical Cannabis Cultivation Centers – these are the locations that grow medical cannabis and the other is the Medical Cannabis Dispensing Organization where a patient would go to purchase said medical cannabis. There were a few new standards incorporated into the State act. The most significant is related to medical cannabis facilities. It has to be located 2,500 feet away from any residentially zoned property – that's statewide. When staff took on this analysis the first thing we looked at was do we even have any properties that would meet that criteria? On the map it shows overlays/buffers of 2,500 feet from residentially zone property and that basically incorporates the whole of St. Charles except for one small area in the M2 manufacturing zoning district. This isn't 100% accurate as there are residential properties in the south-east corner that are not in the City, so they didn't appear on our GIS information when this map was generated. There is only a limited set of properties on Kautz – just west of the area.

The other definition is a provision for the dispensing organizations – this did not have requirements strictly from residential zoning districts. What it did say was these uses have to be 1,000 feet from any school, daycare, or anything related to child education and/or daycare use (made reference to map). They don't encompass as much of the City and there is also a provision in the State statute that says you cannot have a medical cannabis dispensing organizations on any property where residential use zoning is occurring.

With that, staff did the analysis and look at some other communities and decided that as long as this is an initial thing, it's a new use based on how its defined, we came up with a proposal that limited both types of uses: the medical cannabis cultivation centers and dispensing organizations to the M2 zoning district as a permitted use which is the brown area (referenced on the map) on the east side of town.

The reason why this was the only area that cultivation centers could feasibly go was based on the state law, so staff decided, looking at this from an administration standpoint, it would be easier if we knew that all these uses in this one zoning district would be easier to administered in the future for any issues that might come up, and made it easier for us to track these uses while we are still in the pilot phase.

Staff presented this to the Plan Commission over a couple of meetings. The Plan Commission had a slightly different take on this, passed the general recommendation to approve the general amendment with the provision that is it also being allowed in the BR (Business Regional) commercial zoning district. They felt this created a more convenient use for patients especially going to commercial areas rather than to our industrial area. Staff is still bringing forward the proposal as originally brought forward to the Plan Commission where it is just limited to the M2 area so there is a slight discrepancy in what the Plan Commission thought from the staff recommendations. Putting the use in BR was based on the legal opinion from our attorney which said that if any residential use is allowed in the zoning district; therefore you cannot have a cannabis dispensing organization in there. Since that opinion was rendered by our attorney, State has defined their rules through the Department of Revenue. One of the state agencies who is regulating this basically said "no." Residential use means any zoning district specifically set aside for residential uses. Therefore, the dispensing organizations could be extended to more commercial zoning districts in addition to BR as recommended by the Plan Commission, but we didn't have that information at that time; so that encompasses basically the primary points of the amendment and I'll take any questions.

Chrmn. Turner: This a zoning ordinance change which we are putting it on the books in case somebody wants to come here and do this? Right now nobody is coming forward.

Matt: Correct. We've had inquiries if the City is proposing a zoning ordinance regulation where it would be located, so we refer them to this ordinance, but essentially it's just having regulations in place to regulate these uses of where they can go in town.

Ald. Stellato: Are they allowed to dispense from a cultivation facility?

Matt: My understanding is no. The dispensing organizations can only buy from the cultivation center and be distributed to patients at a dispensing organization.

Ald. Stellato: The districts that there are allowing, the 22 police districts as they are calling them, we would have one in an area of four counties for cultivation? Dispensing is like three per district.

Matt: These rules are being constantly worked by the state organizations that are regulating those different parts of the state. (Refer to map Lake, McHenry, DeKalb, Kane and DuPage).

Ald. Stellato: That's a big area for one cultivation facility in that entire area and possibly up to 3 or 4 dispensing centers in that area.

Matt: They are taking a look at population and it's not going to be evenly dispersed amongst all those. The state agencies are defining it that it may be possibly three in Kane county based on population.

Ald. Stellato: So our issue tonight is whether it's just M2 and BR zoning. Got it.

Ald. Silkaitis: Do we have to do this? Are we required to have this happen in our city?

Matt: Essentially there is a state law that allows this.

Ald. Silkaitis: I'm reading what is written here and it says "may allow" it doesn't say "must allow" if someone applies. Do we have to do it? There are a lot of towns that are not doing this yet because the state has not finalized the regulations yet – correct?

Matt: Yes that's correct. There are some cities that are waiting. The way staff has interpreted the ordinance is that this would be a similar use as akin to an adult use that is protected. You can't basically say no to it.

Ald. Silkaitis: Fine, if you can't say no, then I say put it where you are recommending it. I have no problem with it. But I stress if we have to do it, then it should be in the manufacturing area.

Matt: It's staff opinion that we have to accommodate this in some form. It's very specific in the state statute that you can't deny this, but you can reasonably make zoning standards.

Ald. Silkaitis: Directing this to our attorney, I was reading your response about the taxing of it. You are not sure about the taxing of it yet because you haven't seen the final rules. Would any sales tax apply? Would it be state and local?

Matt: There have been some amendments to the state taxing ordinances as part of the pilot act and it looks like they are creating a new tax category that it's a subset of sales tax. I didn't quite understand every bit of the nuance of it. This is something through the state department that the rules will get clarified as we move forward.

Ald. Silkaitis: If this comes to pass, we do liquor checks on liquor stores; are we going to be able to that with this?

Atty. McGuirk: This is a state statute and I don't know what the rules will provide in terms of inspections but they'll be some type of inspection.

Matt: I know the state has proposed policing activities because these are permitted, but I don't know if there is a clear answer to that question.

Chief Huffman: When all the rules are finally in place we'll be working with the State Police on enforcement and inspection, and set schedules for compliance.

Ald. Lewis: In your opinion do you think they would put both the dispensing and cultivation in the same municipality, same location?

Matt: We've had inquiries in the general sense from folks looking to locate both types of facilities. The likelihood of the cultivation centers is probably less because of the policing districts and how few of them will be in the state, but it's certainly possible.

Jayce Murray, Murray Commercial, St. Charles: I'm representing an experience client in the real estate arena in the Chicago area who has been looking at other municipalities for dispensary use. I touched base with Matt several weeks ago and mentioned this would be up in front of the committee last week. This is continuing to evolve. Just last week the state put out new regulations that further defined the residential use only for dispensaries within 1,000 feet of daycare and the like; and then further defined residential use as an area used exclusively for residential use...

The Plan Commission recommended BR zoning, my only comment for our sites in town is that it could make a very strong case for dispensary not only in the BR but also in the BC districts. The only residential use in BC district is assisted living as best to my knowledge in looking at the permitted uses. So the BC is not exclusive residential use which it speaks to. So that might help better define the concern that the legal opinion had in allowing dispensaries in commercial zonings but exclusive to residential use. My comment tonight on behalf of my client and in benefit for the City and other real estate properties in town is to be an asset to the community there are other zoning districts that this makes sense in than just BR – so I would suggest BC as well as BR. As for cultivation I don't necessarily see that in St. Charles, but dispensary I do. I think staff is pro-active as well as other municipalities are. There are some municipalities that aren't doing anything and I think being ahead of the curve makes sense. Staff is doing a good job with that. The comment on sales tax – that's still evolving. My client suggested additional incentives to the municipalities, but the way it's currently written – I don't think there is sales tax allowed back to the City. It's highly regulated by the state for life safety issues and there's data inventory that needs to be filed, etc.

Ald. Krieger left at 8:57 p.m.

Chrmn. Turner: Do we need a recommendation for this as written and we can amend it later as the state goes on?

Matt: Based on what staff has proposed there won't be a lot of amendments that will affect the zoning. It will have more to do with the regulations in how people get permitted and those fees and things associated with more of the mechanics of the state administering this.

Motion by Ald. Silkaitis, second by Bessner to approve the ordinance limiting it to the M2, manufacturing district only for cultivation and dispensing.

Ald. Stellato: One other question – if Jayce comes up with any other zoning issue, he comes up with a specific use or specific location, he would still have the right to come up in front of us and say I want to put this here. The door is still open?

Matt: Yes and then there would be another general amendment to what's proposed tonight if that situation happens.

Ald. Lewis: For clarification a yes vote will approve it in manufacturing only?\

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Chrmn. Turner: Yes it does.

Roll Call: Ayes: Lewis, Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Martin, Bessner; Nays: none; Absent: Krieger. Chrmn. Turner did not vote as Chair. **Motion carried.**

6. Inventory Control Division

a. Recommendation to approve a Resolution to Award 2014/2015 Asphalt Bids to Allied Asphalt and Superior Asphalt.

Mike Shortall: We submitted the 2014/15 asphalt bid to two vendors: Allied Asphalt and Superior Asphalt – any questions?

Motion by Ald. Stellato, second by Silkaitis to recommend approval of a Resolution to Award 2014/2015 Asphalt Bids to Allied Asphalt and Superior Asphalt.

Voice Vote: Unanimous; Nays: None; Chrmn. Turner did not vote as Chairman. **Motion carried.**

b. Recommendation to approve a Resolution to Accept the Extension of the 2013/2014 Line Clearing Contracts (Electric Division) Awarded to Skyline Tree Service and to DeMar Tree & Landscape (St. Charles) to 2014/2015.

Mike Shortall: This is an extension of last year's contract. Both members have agreed to hold their pricing for one year and we're expecting to go out for bid next year on this. This is just for the line crew – not Public Works.

Motion by Ald. Stellato, second by Silkaitis to recommend approval of a Resolution to Accept the Extension of the 2013/2014 Line Clearing Contracts (Electric Division) Awarded to Skyline Tree Service and to DeMar Tree & Landscape (St. Charles) to 2014/2015.

Voice Vote: Unanimous; Nays: None; Chrmn. Turner did not vote as Chairman. **Motion carried.**

c. Recommendation to approve a Resolution Authorizing the Sale of Scrap Wire and Various Material Owned by the City of St. Charles.

Mike Shortall: This is being auction off through the City's auction site publicsurplus.com and this will be awarded to the highest bidder.

Motion by Ald. Stellato, second by Silkaitis to recommend approval of a Resolution Authorizing the Sale of Scrap Wire and Various Material Owned by the City of St. Charles.

Voice Vote: Unanimous; Nays: None; Chrmn. Turner did not vote as Chairman. **Motion carried.**

d. Recommendation to approve an Ordinance Authorizing the Sale of Items Personal Property Owned by the City of St. Charles (Miscellaneous Items).

Mike Shortall: This will also be auction off on publicsurplus.com and its miscellaneous items including one vehicle.

Motion by Stellato, second by Silkaitis to recommend approval of an Ordinance Authorizing the Sale of Items Personal Property Owned by the City of St. Charles (Miscellaneous Items).

Voice Vote: Unanimous; Nays: None; Chrmn. Turner did not vote as Chairman. **Motion carried.**

e. Recommendation to approve a Resolution Authorizing the Mayor and the City Clerk of the City of St. Charles to Approve the Award of the 2014-15 Office Supplies Bid to Warehouse Direct for Routine Office Supplies.

Mike Shortall: I went out for bids and had five vendors that reported back. Warehouse Direct was the most responsible and fair bidder and we recommend approval of this for the upcoming fiscal year.

Motion by Stellato, second by Silkaitis to recommend approval of a Resolution Authorizing the Mayor and the City Clerk of the City of St. Charles to Approve the Award of the 2014-15 Office Supplies Bid to Warehouse Direct for Routine Office Supplies.

Voice Vote: Unanimous; Nays: None; Chrmn. Turner did not vote as Chairman. **Motion carried.**

- f. Recommendation to waive the bid procedure and approve a Resolution Authorizing the Mayor and the City Clerk of the City of St. Charles to Accept the Blanket Cable Quote from HD Supply for Okonite Cable for Fiscal Year 2014/15.**

Mike Shortall: We do this every year. The Electric Division uses Okonite cable and we are set up for that cable. This is a blanket agreement through Okonite and HD.

Ald. Lemke: Is there any other quotes or is this a sole order?

Mike: This is brand specific and sole distributor of Okonite cable.

Motion by Ald. Stellato, second by Silkaitis to recommend waiving the bid procedure and approve a Resolution Authorizing the Mayor and the City Clerk of the City of St. Charles to Accept the Blanket Cable Quote from JHD Supply for Okonite Cable for Fiscal Year 2014/15.

Voice Vote: Unanimous; Nays: None; Chrmn. Turner did not vote as Chairman. **Motion carried.**

7. Executive Session - None

- Personnel
- Pending Litigation
- Probable or Imminent Litigation
- Property Acquisition
- Collective Bargaining
- Review of Minutes of Executive Sessions

Motion by Ald. Stellato, second by Silkaitis to enter into Executive Session to discuss Land Acquisition at 9:00 p.m.

Roll Call: Ayes: Lewis, Stellato, Silkaitis, Payleitner, Lemke, Bancroft, Martin, Bessner; Nays: none; Absent: Krieger. Chrmn. Turner did not vote as Chair. **Motion carried.**

Motion by Ald. Lemke, second by Bessner to come out of executive session at 9:12 p.m.

Voice Vote: Unanimous; Nays: None, Absent: Krieger. Chrmn. Turner did not vote as Chairman. **Motion carried.**

8. Additional Items

None.

9. Adjournment

Motion by Ald. Lemke, second by Bessner to adjourn meeting at 9:15 p.m.

Voice Vote: Unanimous; Nays: None; Absent: Krieger. Chrmn. Turner did not vote as Chairman. Motion **carried**.