

**PROCEEDINGS OF A WORKSHOP MEETING
OF THE VILLAGE BOARD OF TRUSTEES**

Monday, August 2, 2021, at 6:30 PM

Present:

Mayor: Alysa Plummer
Lili Lanphear
Renee Stetzer
Dan Keating
Justin Leitgeb

Recording Secretary: Dorothea M. Ciccarelli

Deputy Clerk: Marina Pacheco

CALL TO ORDER

Motion by Mayor Plummer, and seconded by Trustee Stetzer, to call the meeting to order.

Vote: Plummer – yes; Lanphear – yes; Keating – yes; Stetzer – yes; Leitgeb - yes. *Motion Carries.*

CONFLICTS OF INTEREST DISCLOSURE

The Board members indicated that they had no conflicts of interest to report.

The Village Clerk reviewed guidelines for public comment for all attendees.

Discussion is had amongst Board members regarding the public comment period.

PUBLIC COMMENT

John Kelly, 9 Washington Rd. – Expressed support for the marijuana legalization and explained how he came into using marijuana for medical reasons. Recommended that the Village get a dispensary if possible as it may deter residents from growing their own and causing an odor issue in the Village. Further recommended that the dispensary could be located by the Pickle Factory.

John Limbeck, 52 State St. – Expressed opposition to expansion of the tavern overlay district at Northfield Commons. Stated that expansion will endanger the residents. Concerned that the overlay will extend up to his backyard. Noted that Copper Leaf is not a brewpub or tavern, but an agricultural processor. Cited issues regarding their site plan and failure to adhere to the process. Cited issues with parking availability. Cited issues with maintenance of dumpsters.

Trustee Keating asked if Mr. Limbeck had any complaints about noise from nearby businesses. Mr. Limbeck stated that he did not.

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Bruce Hummel, 20 Grove St. – Expressed support for outdoor seating for all businesses. Stated that it will enhance the atmosphere and charm of the Village.

Margaret Caraberis, 81 S. Main St. – Presented a letter. The Village Clerk stated that the letter will be attached to the minutes. Ms. Caraberis stated that if the point of extending the tavern overlay is to allow Copper Leaf to have outdoor seating, there are other avenues to achieve that. Referenced the Comprehensive Plan and how the tavern overlay district was carefully determined to fall in line with the plan. Cited pg. 98 of the Comprehensive Plan. Stated that State St. residences should be considered carefully. Stated that she believes the map provided in the packet is incorrect. Submitted an amended map used by the PZBA in the approval of Lock 32. Also submitted a copy of the old zoning map and recommended that the Town GIS administrator be approached to update the map. Stated in closing that the focus of the Board tonight should be the MRTA decision, recommended that the Board opt out for now to allow time to review and plan.

Mayor Plummer and the Village Clerk explained that all correspondence received from the public relating to issues on the agenda are read by the Board members, entered into the record, and attached to the minutes. Explained the purpose of the public comment period at the beginning of the meeting.

David Marshall, 67 S. Main St. – Advocated opting out of the marijuana program in order to gather further public input. Expressed concerns that the walkability of the Village may factor in and concerns about the effects of marijuana on children. Believes that the commercialization of marijuana would be more appropriate in a larger commercial district elsewhere. Stated that he would like to see the decision of opting in or out to be put to a referendum allowing the residents to vote on the matter. Supported comments by Ms. Caraberis regarding the tavern overlay district and stated that further thought should be put into its expansion. Would prefer to see greater accommodations for bars and restaurants by Four Corners instead. Expressed concerns for residents along State St.

Emily Diaz, 81 South St. – Advocated for opting into the marijuana program. Believes that everyone is at the same place with figuring how to roll out marijuana legislation and that opting out would send a signal that the Village is “anti-business” Described opting out as a missed opportunity to receive the tax revenue from it.

TAVERN OVERLAY DISTRICT

Mayor Plummer stated that the tavern overlay matter is a much broader discussion and not specific to any one business. Believes there is opportunity to expand at the N. Main end of Schoen place.

Trustee Stetzer agreed with Mayor Plummer’s statements. Expressed concerns about how to handle Via Girasole as it is not in the district. Asked if they would have any issues considering that they are not in the overlay district.

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Mayor Plummer responded that it could be discussed, agreed that Via Girasole should be included in the district.

Trustee Keating explained that Via Girasole was left out of the district because it abuts a residence.

Trustee Stetzer asked if the Board could be putting itself at risk for leaving them out of the district.

Mayor Plummer reminded all that the conversation is regarding the entire district. Noted that there is some commercial space on Main Street that should be considered as well.

Trustee Keating stated that one of the spots that the Mayor referred to is where Blades was located. Noted that Blades is not up against a residence, and it has parking, so it could be a good spot for a bar, but it is not currently in the tavern overlay district.

Mayor Plummer stated that another similar spot would be the Wiltsie building, which formerly housed Embrasse Moi, and the bank building. Would like to bring up areas like these for discussion.

Trustee Keating suggested marking up a map as a next step. Mayor Plummer seconded the idea.

Trustee Lanphear noted that the tavern overlay district set out in the Comprehensive Plan was the result of public input, research, and committee work. All Boards were involved. Stated that she did not expect this type of discussion tonight. The Comprehensive Plan was put together in 2019 and the Village has not yet had sufficient time to “test” it in all of its applications. Stated that Schoen Place was split into two areas very specifically.

Mayor Plummer responded that she is not intending to change everything, but believes tweaks can be made and the language can be worked on. Noted that she served on the Comprehensive Plan committee and that when COVID hit, it created a completely different environment than what was expected.

Trustee Keating stated that 50 State Street that the Comprehensive Plan is very articulate about supporting businesses and that if the tavern overlay district were to be changed it would be changed by following the Comprehensive Plan.

Trustee Lanphear, in regard to Copper Leaf, stated that a lot of correspondence had been received in support of allowing outdoor seating at Copper Leaf. Further stated that Copper Leaf should go back to the Planning & Zoning Board because they are the Board that issued the permit. Explained that if Copper Leaf wished to have outdoor seating in this summer season it would be faster for them to go back to the PZBA rather than for the Trustees to look at changing the tavern overlay district.

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Trustee Leitgeb agreed that it is a good idea to review the tavern overlay district, but admitted that it could have been confusing with the conversation about Copper Leaf being had at the last meeting.

Trustee Keating, in regard to having Copper Leaf go before the PZBA for outdoor seating, stated that that option was thrown out for a reason. Mayor Plummer explained that they would be going before the PZBA on a hardship basis, and because Copper Leaf is categorized differently, it would be extremely difficult to prove hardship. Hardship matters are not common before the PZBA. Pursuing a hardship avenue may take just as long as changing the district.

Mayor Plummer noted that the Building Inspector reached out to emergency services to ask about Copper Leaf having tables in front of their establishment. Emergency services had no issues.

Trustee Keating asked who is charged with making the decision to allow Copper Leaf to have outdoor seating. Mayor Plummer explained that there is no procedure or component in the Village code by which Copper Leaf can go back before the PZBA for outdoor seating, other than possibly hardship. Cited it as a small part of a larger issue.

Board members discuss Copper Leaf's categorization under the Village Code. Reviewed the history of how Copper Leaf obtained its special permit.

Trustee Leitgeb discussed spot zoning and that it must be avoided in terms of zoning to accommodate one building and/or zoning in a manner contrary to the Comprehensive Plan. Noted that holding a "charette" is important due to proximity to residences.

Mayor Plummer responded that having been in several charettes before, that the Board should bring ideas as a starting point for people to react to. Trustee Stetzer agreed that a future charette could follow the same framework used initially in creation of the Comprehensive Plan.

Mayor Plummer to follow up with Town of Pittsford to research software that can be used and to see if they have space available where the meeting could be held.

Board members discussed the previous charette held at the library for the Comprehensive Plan and the controls employed to keep the information organized.

Trustee Keating noted the previous issues of spot zoning and defining proximity that were had at the prior Comp Plan meetings.

OUTSIDE SEATING

Mayor Plummer explained that like the Tavern Overlay discussion, the outside seating discussion is not limited to any one business, but should be reviewed so there is procedure for businesses that would like to have outdoor seating. Noted the success of the pavilion.

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Trustee Stetzer stated that the current resolution is set to expire in October unless there is another emergency order. Does not seem appropriate to renew indefinitely and should be addressed in Village code.

Trustee Lanphear noted that the public right-of-way must be considered as 5 ft. of sidewalk space must be maintained for public safety. Some businesses may not be able to have outdoor seating because of this.

Mayor Plummer stated that there are businesses operating in the Village without special use permits, some businesses pre-date them. Also noted that as it stands, businesses without special use permits could not have outdoor seating. Further stated that a better system of tracking special use permits should be utilized.

Trustee Keating stated that outside seating has been a success when discretionally approved by the Building Inspector on a case-by-case basis.

Trustee Leitgeb asked if because the outdoor seating came about as an extension of executive orders issued in response to COVID if the Board is able to extend outdoor seating. Mayor Plummer answered that the Board is discussing putting outdoor seating provisions into the Village code for that reason.

Trustee Leitgeb stated that a lot of correspondence was received about Copper Leaf in particular, and, that Copper Leaf is currently unable to move forward with outdoor seating. Stated that the Board is left with the options of extending the tavern overlay district or Copper Leaf may apply to the PZBA for a use variance.

Mayor Plummer responded that the discussion is not centered around any one business and explained that the tavern overlay could be adjusted to allow for outdoor seating, or another type of amendment to the code can be made to allow that.

Trustee Stetzer noted that a big piece of the outdoor seating that was allowed by the executive resolution was that seating was allowed in parking spaces. Suggested that parking lots could be considered if outdoor seating provisions were codified. Cited Rachel's as a successful example.

Mayor Plummer identified one action item as figuring out which businesses have a special permit, and which do not.

Board members briefly discussed certain businesses where it was unclear if a special use permit was issued or not, the effects of changes in ownership, and pre-existing non-conforming businesses.

Trustee Keating stated that currently businesses without a special use permit were to come before the Board to request outdoor seating have no mechanism to do so. Asked if businesses that choose to not obtain a special use permit are precluded from having outdoor seating as well.

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The Village Clerk responded that if the business was changing the way that they are operating they would have to come before the Board anyway.

Trustee Keating explained that he is unsure how to create the incentive for businesses to obtain a special use permit. Mayor Plummer replied that if the businesses do not intend to come in for a change, then the point is moot.

The Village Clerk explained the need for better internal housekeeping with regards to the special use permits. Further stated that the application form is outdated and should be updated to reflect a greater variety of types of uses, requests for outdoor seating, music, etc.

Mayor Plummer identified the action items as researching to determine what businesses in the Village have a special use permit and also to examine how parking could be used as outdoor seating space.

MARIJUANA LEGALIZATION

Mayor Plummer stated that many public comments have been received regarding the legislation and that it is important for the public to understand that the Village is already opted-in until the Board decides to opt-out. If the Board were to remain opted-in, it means that they begin to review code to accommodate it. Opting-out means that the Village would have no part in the legislation at all, but would have the opportunity to opt back in. Asked the Board what the pros and cons of opting in or out would be. Noted that a limited number of dispensaries will be built throughout New York State and that they would be awarded regionally, therefore it is very unlikely that the Village will have a dispensary. If the Village opts-out, residents may still grow personal plants and recreationally use marijuana. The discussion is centered around consumption sites and retail businesses.

Trustee Stetzer explained that there are two facets that the Village may opt-out of; the first is adult use retail dispensaries and the second is on-site consumption licenses. Board members were unsure if that was the case and agreed that further research was needed.

Trustee Keating identified a distinction between the regional dispensaries, which are unlikely to be located in the Village, versus retail dispensaries, which could be.

The Village Clerk explained that the Board could opt-in for retail dispensaries and opt-out of consumption sites. Mayor Plummer asked if the Village Clerk could send that information to the rest of the Board.

Trustee Lanphear suggested using a referendum at the next Village election in order to allow enough time to create thorough policy. Mayor Plummer responded that the Board may be subject to legal restraints in that regard. The Village Clerk added that the deadline to decide is December 31st and that a referendum is required whether the Board opts out and waits for a referendum or opts in and pushes the referendum forward.

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Trustee Leitgeb asked if the Board opts out if they are permanently opted out. Mayor Plummer and the Village Clerk explained that it was the opposite, if the Board opts in, they are opted in permanently.

Board members briefly discuss possible locations for marijuana retail facilities. Trustee Keating noted that Schoen Place would likely not be a good location for a dispensary or retail establishment due to parking constraints. Suggested near the MUEC by Talbots, the VGB, and by the Pickle Factory as possible locations.

Trustee Keating and Trustee Lanphear discussed timelines. Trustee Lanphear suggested opting out to allow enough time for thorough research and to gather public input. Trustee Keating suggested opting in as there will be plenty of time for research and public input before establishments are allowed to open in 2023. Mayor Plummer responded that the timelines will be roughly the same no matter what the Board decides. Also noted that there will be a new revenue stream associated with opting in.

Trustee Leitgeb added that opting out can be temporary and stated that to permanently opt in might preclude some residents who do not support the legislation. Aired on the side of opting out. Trustee Leitgeb added that he polled some residents and discussed his findings.

Board members discussed the procedure that would need to be taken for opting out and for opting in and holding the public referendum.

Trustee Keating commented that education is an important piece in the decision as the public must understand that opting out means that the Village will not receive tax revenue from marijuana sales. Board members agreed to follow up with the Village Attorney to determine further logistics.

NYCOM CONFERENCE

The Village Clerk explained that Board authorization is needed to send herself, Brooklyn Thomas, Marina Pacheco, and Mayor Plummer to the NYCOM annual conference. Further explained that the training is highly essential for new employees. Requesting to use contingency funds to pay for the hotel rooms, conference tickets, and other associated fees.

Trustee Keating asked what the dates of the conference were. The Village Clerk responded it will be from September 20th through September 24th. Explained that there will be coverage in the office while the aforementioned staff is at conference.

Trustee Keating and the Village Clerk briefly discussed funding for the conference. The Village Clerk explained that \$2,000 had been budgeted for conferences and is requesting another \$5,000 which can be budgeted from contingency.

Trustee Leitgeb asked if precedent would be set by sending an elected official. The Village Clerk explained that the previous Mayor has attended this conference before.

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The Village Clerk briefly explained what the conference entails.

Trustee Keating asked if the anticipated costs could be outlined. The Village Clerk responded that she would prepare that information.

Motion by Trustee Keating, and seconded by Trustee Stetzer, to authorize registration for 4 employees (Alysa Plummer, Dorothea Ciccarelli, Brooklyn Thomas, and Marina Pacheco) to attend the NYCOM 2021 Conference.

Vote: Plummer – yes; Lanphear – yes; Keating – yes; Stetzer – yes; Leitgeb - yes. *Motion Carries.*

Trustee Stetzer asked if any further steps needed to be taken in regard to the marijuana legislation at the next regular Village Board meeting. The Village Clerk responded that she and Mayor Plummer are following up with the agency that handles polling and will bring that information to the meeting. Further stated that they will also be talking to the Village Attorney about the opt-in/opt-out options and the scheduling of a referendum.

Mayor Plummer identified the Village Clerk as the point of contact for questions regarding the marijuana legislation. Briefly discussed the form that the referendum could take.

Motion by Mayor Plummer, and seconded by Trustee Keating, to adjourn the meeting.

Vote: Plummer – yes; Lanphear – yes; Keating – yes; Stetzer – yes; Leitgeb - yes. *Motion Carries.*

Marina Pacheco-Walker, Recording Secretary