

VI. QUESTIONS FROM THE PUBLIC

Public Hearing – Proposed Smoking Ban Ordinance

Mayor Murphy stated that the Board will be conducting a Public Hearing on the proposed Smoking Ban Ordinance, a verbatim transcript of which is attached to this set of minutes. Mayor Murphy noted that there are to be two components of the Public Hearing this evening. He stated that the first component is a Public Hearing on a proposed Smoking Ban Ordinance. He stated that the second component of the Public Hearing will allow for an opportunity for residents and guests to ask questions or make comments on items not on the pre-printed agenda.

Mayor Murphy noted that this Public Hearing is being convened for the purpose of hearing public comment on the proposed Smoking Ban. He stated that this is a Hearing to listen to the public and business community. He emphasized that the Board's role this evening is to listen and not to answer questions or debate one position or another. Mayor Murphy indicated to those present that the Board welcomes their comments both pro and con and noted that these comments help the Board to make a decision.

Mayor Murphy reviewed the following procedural aspects of the Public Hearing:

1. The Mayor will chair the Public Hearing.
2. The Mayor may regulate the conduct of the proceeding, and may disallow any testimony or evidence in accordance with the Rules.
3. All persons addressing the Village Board shall be given an opportunity to testify and present evidence.
4. At this point the Mayor will not impose a time constraint or constriction on speakers, but reserves the right to do so as we proceed so that everyone that wants to address the Board would have an opportunity to do so in a relatively timely manner. Mayor Murphy asked that those that would like to address the Board to convey their thoughts with a degree of brevity and to try and not repeat what previous speakers have said.

Mayor Murphy stated that he will first allow all members of other governmental bodies to address the Board, followed by representatives of the Woodridge Area Chamber of Commerce, owners of businesses in the community and residents and guests.

Testimonies from Other Governmental Bodies – None present

Testimonies from the Woodridge Business Community

Rich Moore, Wheaton IL, addressed the Board. He stated that he is the owner of Shanahan's of Woodridge. He thanked the Board for the opportunity to speak and recognized the time and effort that they have committed to addressing this issue. He noted that he has broken his presentation into three (3) sections: First, the concerns he has for his business; second, the smoking ban and implementation; and third, the freedom of choice and free enterprise.

Mr. Moore stated that the Shanahan's location at 1999 West 75th Street has existed for approximately seven (7) years. He indicated that the location itself has been there for more than 20 years. He explained that each of the restaurants that were there previously has had a different theme, but all attracted the same kind of customer. He described that customer as a local customer coming a short distance. He pointed out that the customers have always been smoking customers. Mr. Moore explained that about 50% of all new restaurants that open fail within their first 18 months. He stated that something must be going right in this location.

Mr. Moore explained that seven (7) years ago when he opened this restaurant he called it the Corner Clubhouse. He stated that there were very few large restaurants in town at that time. He stated that, today, Woodridge has about 38 restaurants and about 30 of them are franchises and unable to comment on the proposed smoking ban because their corporate offices will not allow them to do so. He stated that as a Chamber Board member he made many calls trying to get opinions from these restaurants, and they had no comment.

Mr. Moore explained that people have an abundance of choices when selecting a restaurant and this includes a smoking or non-smoking restaurant. He stated that almost 100% of people who eat at Shanahan's are smokers. He noted that all of Shanahan's sales are generated between 9:00 p.m. and close. He indicated that many of the golfers from Village Greens make his establishment their 19th Hole. He described his restaurant as a good place to have a burger, beer and a cigarette, all of which are legal products.

Mr. Moore explained that his business plan was to make Shanahan's a family restaurant. He stated that he started his businesses by creating a family atmosphere with everyday specials. He noted that this business plan did not click. He explained that he changed the menu to attract a different kind of customer. He stated that he has changed the name and menu of his Woodridge location to match what is offered in his Ogden Avenue location. He noted that non-smokers tend to avoid Shanahan's because it attracts mainly smokers.

Mr. Moore explained that, in an effort to attract a lunch and dinner business, Shanahan's has prohibited smoking in the dining room until 9:00 p.m. He stated that this has not increased the lunch and dinner business. He expressed his concern for his business and the lack of response to this program. Mr. Moore informed the Board that he has a tobacco license. He stated that he has not sold

tobacco in over five (5) years. He explained that his customers go to Stop 24 to purchase cigarettes.

Mr. Moore discussed the many fundraising events at Shanahan's throughout the year. He stated that in 2006, Shanahan's raised \$60,000 for various causes. He stated that \$15,000 was sent to cancer research, \$17,000 went to the Rotary Club for an auction fundraiser, \$10,000 went to an educational fund for a local widow. He stated that Shanahan's also organized three fundraisers for District 99 School Board Candidates who support the Woodridge Keep Green Spaces Green group. He explained that most of the money was generated by the smoking customers who eat hamburgers and drink beer. He indicated that, if you take away the smokers, you take away the burgers and, if you take away the burgers, you take away the beer and he is left with no business.

Mr. Moore stated that the proposed smoking ban will destroy a community gathering place where people get together for years to discuss problems, talk politics and to band together to help one another. He noted that Shanahan's is a place where everyone knows your name. He explained that he has found a niche market that no one else wanted in town.

Mr. Moore explained that, when government removes the choice that people have to decide where they want to go dine and whether they want to go to a smoking or non-smoking facility, it becomes a socialist economy and private enterprise disappears. He indicated that it took seven (7) years for him to enjoy success and to be able to give back to the community. He stated that he put his life savings on the line. He noted that eliminating the smoking from Shanahan's takes away the niche market that he has found.

Mr. Moore explained that the proposed smoking ban, if implemented, should be fair to everyone involved. He noted that, in the current draft, the ban eliminates indoor smoking entirely. He stated that this is not democratic and takes away the freedom of choice. He indicated that everyone is concerned about second hand smoke, but that smokers are often not concerned. He explained that keeping indoor smokers in a separate room gives people the choice to or not to enter that room. He likened this choice to the choice that people make going into a tobacco shop. He noted that customers would know the risk involved.

Mr. Moore referenced the February 1, 2007 Board Workshop minutes where the Village Board proposed an exemption for tobacco shops in the proposed smoking ban. He explained that most individuals who patronize those tobacco shops take their purchases out of the tobacco shop to smoke them. He noted the exception for tobacco shops with an enclosed bar where patrons can sample tobacco products and enjoy purchases from the bar. He explained that an exemption in this situation would not be logical because most tobacco shops do not spend money on vitalization systems whereas most bars have. He noted that the risks in tobacco shops are the same as in restaurants and asked that the Board grant an

exemption to restaurant facilities with tobacco licenses that have separate smoking rooms. He explained that this would allow non-smokers to be in a room with non-smokers while smokers would still be allowed to smoke. He offered the alternative of banning smoking in the Village of Woodridge. He asked why tobacco sales would be permitted in a Village that does not allow smoking.

Mr. Moore pointed out that, if the smoking ban goes forward, it must be fair to all involved. He asked that Woodridge not create an unfair marketplace. He indicated that surrounding communities still allow smoking. He cited some examples of municipalities that enacted smoking bans in areas that were surrounded by non-smoking ban municipalities. He gave examples of lost businesses due to customers patronizing smoking facilities in nearby communities without smoking bans. He noted that Batavia, Geneva and St. Charles made an agreement to move forward in this issue together. He asked that Woodridge move forward with surrounding communities so that businesses are not hurt. He noted that, if Woodridge enacts a smoking ban, his customers can go to a neighboring community and find a smoking establishment. He also asked that Woodridge survey restaurant owners to find out what their needs are. He suggested that this survey be a mandatory part of business license renewals. He also asked that a survey be sent to the people of Woodridge. He noted that the public comment line that the Village set up only had around 200 respondents. He explained that this number is not representative of the community and should not be enough to put a policy in place.

Mr. Moore cited the following a possible survey questions:

1. What percentage of your overall sales are generated by smoking customers?
2. Do you have a door separating your dining room from the enclosed bar?
3. What is your average ticket price?

Mr. Moore noted that a person that spends \$25 to \$35 on a dinner will not likely smoke during that dinner. He explained that, when you charge \$6.95 for a hamburger and the customer has four (4) beers, your liquor bill is higher than your dinner bill. He explained that people smoke, eat and drink at the same time.

4. What kind of ventilation system do you have?
5. Describe the economic impact your business would face if a smoking ban was enacted.

He explained that many survey questions should be directed to knitch markets. He volunteered to spend his time helping the Village to develop a questionnaire.

He asked the Board to consider the following ideas:

1. Establish a realistic time table to implement a smoking ban which is fair to all concerned.

2. Develop a survey or questionnaire for restaurants and owners and citizens of Woodridge concerning the smoking ban which would provide important details which can be used in drafting an ordinance that would be fair to all concerned.
3. Grant exemptions to restaurant owners based on the real needs that do not destroy civil liberties and free enterprise systems.
4. Look at the possibility of allowing smoking in our town after 9:00 p.m. in all enclosed bars. Most families are finished with dining and out of the area and people who gather together are choosing to be in a smoking environment.
5. Consider a smoking tax to be imposed upon businesses that are exempted from the smoking ban. This tax money can be used to provide non-smoking clinics free to the citizens of Woodridge who would like to quit smoking.
6. Slow down the process so that we get it right. Make sure all surrounding communities agree before implementing a ban.
7. If the Board chooses to pass a smoking ordinance, grant Shanahan's an exemption. The basis for this exemption is the time and money invested in the business to appeal to a knitch market. This market was established by previous owners and enhanced by the ability to attract customers that smoke, eat hamburgers and drink beer. If the customers who smoke are removed, the value of the business is diminished. He asked that this exemption be extended to businesses that can provide a separate room for smoking such as hotels and tobacco shops. He cited examples of exemptions such as this in surrounding communities.
8. Reconsider the 25 foot proximity ban distance. He explained that his store front does not allow for 25 feet between doors.
9. Consider the rights of property owners and lease holders who are obligated financially on the lease. They have rights to choose the kind of customer that they enters their establishment.

In closing, Mr. Moore stated that our society has gained many rights, the right to vote, the right to drive a car at age 16, the right to smoke, the right to drink at age 21. He explained that women have fought hard and long under Roe v. Wade and now they have the right choice to do what they choose to with their body. He noted that people make choices every day as to what to eat, what car to drive. He explained that we are smart to be able to make these decisions. He asked the Board what makes them think that people in Woodridge cannot make the decision regarding where to eat, where to smoke and where to work. He asked the Board to remember that Woodridge borders Bolingbrook and Will County who do not have a smoking ban on the table at the moment. He stated that Woodridge is not Naperville. He noted that Naperville's revenue stream is \$250,000,000. He stated that when people dine in Naperville, they park their cars, walk around and find a restaurant. He pointed out that this is not the case in Woodridge. He noted that in Woodridge, the restaurant is the destination.

Mr. Moore noted that most of his employees smoke and are not worried about second hand smoke. He asked where his employees would work if his business

closes due to the smoking ban. He noted that snuffing out the smoking ban in Woodridge may not be the politically correct thing to do, but it is the right thing to do.

Mr. Moore closed with a quote from Ben Franklin stating, "They that can give up an essential liberty to obtain a little temporary safety deserve neither liberty nor safety." He thanked the Board for the opportunity to speak.

Ted Bulthaupt, Hollywood Boulevard, addressed the Board. He identified himself as the owner of the Hollywood Boulevard Theater in Woodridge. He stated that people come from all over the State to events in his theater and that his customers like the theater and the ability to smoke at the bar. He noted that there are 35 other screens in Woodridge and individuals have the option to go to a theater that does not allow smoking, but that they come to his theater. He indicated that his theater is not a public facility and should not be controlled by a public body. He reviewed the loss in sales in his Indianapolis theater after a smoking ban was enacted in Indianapolis. He explained that the loss in revenue after this smoking ban was enacted was catastrophic and caused his business to close down. He noted that our surrounding municipalities would love to see a smoking ban enacted in Woodridge because they would gain the customers that Woodridge would lose.

Louise Filipis, _____ addressed the Board. She explained that she is the owner of Nonnie's Pizza in Woodridge. She stated that she has owned this Woodridge business since 1985. She explained that her location on 75th Street is a new location and that about 1/3 of the facility is smoking. She noted that some of her regular clientele for the past 23 years are smokers. She noted that people have the freedom to choose to smoke and that it would be devastating to her business if a ban is put in place.

Michael Morin, _____ in Hanover Park, addressed the Board. He stated that he is speaking as a representative for Buffalo Wild Wings Restaurant on Rout 53 and that Buffalo Wild Wings is against the smoking ban in Woodridge as currently proposed. He indicated that Buffalo Wild Wings believes it is unfair to smokers and unfair to businesses that allow patrons to smoke. He explained that he feels this ban will have a negative impact on businesses in Woodridge by forcing smoking guests to find new places to enjoy their lifestyle. He indicated that if there was a ban, that would make a level playing field for everyone, Buffalo Wild Wings would be supportive. He stated that Buffalo Wild Wings would also be supportive of a flex ban, where smoking was allowed after a specific time in a designated area. He noted that, in his business, the belief is that the ban would create an economic hardship on the establishment. He explained that surrounding towns such as Aurora, Lisle, Bolingbrook, Geneva, Romeoville and Plainfield, who have no smoking bans, would give current smoking guests who enjoy Buffalo Wild Wings the opportunity to drive a short distance to one of these towns, three of which have a Buffalo Wild Wings.

Mr. Morin stated that his franchise is not insensitive when it comes to smoking. He explained that less than 20% of his restaurant is smoking, and, in each restaurant, Buffalo Wild Wings has installed two state of the art smoke eaters directly above the smoking sections. He stated that all of the executive managers are non-smokers, but, as business operators, feel that this would create a loss of revenue and jobs. He explained that restaurant trends have shown sales increases over the last two (2) years and that a smoking ban would mean a loss of revenue, which would have an affect on the staffing of his restaurant. He pointed out that Buffalo Wild Wings has salaried managers who have families to support, along with servers and bartenders who work to pay student loans and support themselves. He stated that all guests who smoke or do not smoke have had the right to chose whether or not to patronize Buffalo Wild Wings. He closed by saying that a smoking ban would take away the choice for one sector of Buffalo Wild Wing's current customer base.

Testimonies from the Woodridge Area Chamber of Commerce

Kiersten Regelin, President/CEO Woodridge Area Chamber of Commerce, addressed the Board. She explained that she has had the opportunity to discuss the smoking ban issue with Chamber members and other Woodridge businesses. She noted that there is a cause for concern. She stated that, when the Village approached the Chamber last year requesting feedback from the business community on a potential smoking ban, the recommendation was to not move forward unless the surrounding municipalities are all on board in order not to cause a competitive disadvantage. She stated that Woodridge is surrounded by communities that are not considering smoking bans that would take effect at the same time as the proposed ban in Woodridge. She noted that the Board has heard testimonies from a number of Chamber members that own private businesses, but that she has also spoken with a number of corporate franchises and that these businesses are concerned as well. She stated that, if you take away the smoking sections in Bennigan's or Carabba's, customers can go across the street to Chili's or just down the street to TGI Fridays. She indicated that the Chamber is aware that Woodridge participated in the DuPage County Smoke Free Task Force, but that it appears that surrounding communities are not following the timeline developed by that Task Force. She asked that the Board slow the process, focus on a more regional ban and ideally support a state-wide ban.

Public Comment – Woodridge Residents that spoke in opposition to the smoking ban:

John Nicholas Augustine,
Donna Ruyter,
Kathrine Stepp,
Kimberly Pisciotto,
Dan Luciano,

Matt Logan,
Phil Labak

Public Comments – Non Woodridge Residents that spoke in opposition to the smoking ban:

Jeffery Sonsedek,
Jessica Coair,
Lauren Guzior,
Vanessa Guzior,
Kathrine Connelly,
Helene Denhamer,
William Terenzi,
Laurie Campo,

Public Comments – Non Woodridge Residents that spoke in support of the smoking ban:

Jessica Gerdes,

Adjournment of the Public Hearing – Proposed Smoking Ban Ordinance

Mayor Murphy thanked those present for their comments. He extended special thanks to the Woodridge business community and the Woodridge Area Chamber of Commerce for their presence and comments. He noted that, as the Village goes through the process of considering a smoking ban, there has been an emphasis on the part of the Village to be supportive of a state-wide ban. He noted that the Village has lobbied with their legislators on that regard. He explained that there has also been an ongoing focus, in the absence of a state-wide ban, to take a regional approach to the smoking ban. He stated that the Village was not trying to look at this matter in isolation. He indicated that there have been informal discussions on the part of the Mayors in the area including the municipalities of Naperville, Downers Grove, Lisle, Westmont, Clarendon Hills, Willowbrook and Darien regarding the implementation of smoking bans and that Hinsdale and Burr Ridge have already implemented bans. He explained that these discussions have taken place over the span of one (1) year.

Mayor Murphy described Woodridge's active participation in the DuPage County Smoke Free Task Force. He explained that the goal of the Task Force was to draft a model Ordinance for consideration in the municipalities in DuPage County and DuPage County itself. He indicated that one of the main focuses of the Task Force was to take a regional approach in this matter. He concluded the Public Hearing by saying that the Village welcomes public comments on this matter. He acknowledged the individuals that contacted the Village on the public comment line and through written correspondence. He noted that the Board will take those comments, and the comments from this evening into consideration as the Village moves forward.